

House Bill 1407

By: Representatives Leverett of the 123<sup>rd</sup>, Gullett of the 19<sup>th</sup>, Reeves of the 99<sup>th</sup>, and Gunter of the 8<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 6 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated,  
2 relating to trials under the "Civil Practice Act," so as to provide for scheduling of civil trials;  
3 to provide for trial calendars for certain civil actions; to provide for related matters; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 6 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to trials  
8 under the "Civil Practice Act," is amended by revising Code Section 9-11-40, relating to time  
9 and place of trials, as follows:

10 "9-11-40.

11 (a) **Time of trial.** All ~~civil cases, including~~ divorce and other domestic relations cases,  
12 shall be triable any time after the last day upon which defensive pleadings were required  
13 to be filed therein; provided, however, that the court shall in all such cases afford to the  
14 parties reasonable time for discovery procedures, subsequent to the date that defensive  
15 pleadings were required to be filed; provided, further, that, in divorce cases involving  
16 service by publication, service shall occur on the date of the first publication of notice

17 following the order for service of publication pursuant to subparagraph (f)(1)(C) of Code  
18 Section 9-11-4, and such divorce cases shall be triable any time after 60 days have elapsed  
19 since the date of the first publication of notice. All other civil cases shall be triable and  
20 may appear on a trial calendar only after the court has ruled on all dispositive motions or  
21 after the deadline for filing dispositive motions has passed without any such motions being  
22 filed.

23 (b) **Trial in chambers.** The judges of any courts of record may, on reasonable notice to  
24 the parties, at any time and at chambers in any county in the circuit, hear and determine by  
25 interlocutory or final judgment any matter or issue where a jury trial is not required or has  
26 been waived. However, nothing in this subsection shall authorize the trial of any divorce  
27 case by consent or otherwise until after the last day upon which defensive pleadings were  
28 required by law to be filed therein.

29 (c) **Assignment of cases for trial.** The courts shall provide for the placing of actions upon  
30 the trial calendar:

31 (1) Without request of the parties but upon notice to the parties; or

32 (2) Upon request of a party and notice to the other parties.

33 Except for cause, cases shall be placed upon the calendar in chronological order in  
34 accordance with filing dates. Precedence shall be given to actions entitled thereto by any  
35 statute.

36 (d) **Trial calendar for actions to be tried to a jury.** In all cases except for divorce and  
37 other domestic relations cases:

38 (1) An action may not be tried by jury until it appears on a trial calendar. A trial  
39 calendar must state the place of trial and the date and time during which the actions  
40 thereon may be tried. The time during which the actions appearing on any single trial  
41 calendar may be tried shall not exceed three weeks. No more than 30 actions may appear  
42 on any single trial calendar;

43 (2) A trial calendar shall be filed and served through the court's electronic filing service  
44 no less than 120 days prior to the session of court at which the actions thereon are to be  
45 tried. At the same time a trial calendar is filed and served through the court's electronic  
46 filing service, it shall also be served on each pro se party via email if said party has  
47 provided an email address to the court or via regular mail if no email address has been  
48 provided to the court;

49 (3) If requested by any party, the assigned judge shall conduct a pretrial conference for  
50 the action or actions in which such party is named on a trial calendar at least 14 days  
51 before the first day of the trial calendar;

52 (4) If the assigned judge has not issued written rulings on all motions in limine, all other  
53 pretrial motions, and all other pretrial matters by the time of the pretrial conference, the  
54 action shall be automatically continued from the trial calendar and placed on the court's  
55 next available trial calendar;

56 (5) The parties to each action on a trial calendar shall submit to the assigned judge a  
57 proposed consolidated pretrial order after the pretrial conference and no less than seven  
58 days before the first day of the trial calendar;

59 (6) No action may appear on consecutive trial calendars unless the later-filed trial  
60 calendar is filed and served as provided in paragraph (2) of this subsection at least 30  
61 days after the earlier-filed trial calendar is filed and served as provided in such paragraph;  
62 and

63 (7) If all parties in an action consent to the action being continued from a trial calendar,  
64 the action shall be automatically continued from the trial calendar upon the parties' filing  
65 of a stipulation of continuance; provided, however, that a stipulation of continuance must  
66 be filed no less than 14 days before the first day of the trial calendar. If the parties timely  
67 file a stipulation of continuance, the court shall place the action on its next available trial  
68 calendar.

69 (e) Scheduling trial for actions to be tried to a jury. In all cases except for divorce and  
70 other domestic relations cases:

71 (1) Within 14 days after receiving the trial calendar provided for in paragraph (2) of  
72 subsection (d) of this Code section, the parties shall file a joint report containing the  
73 following information:

74 (A) Whether any party, any attorney of record, or any witness whose in-person  
75 testimony is necessary for trial, as determined by the party on whose behalf the witness  
76 will be called to testify, resides outside the state or outside a 100-mile radius of the  
77 courthouse where the action will be tried;

78 (B) A brief, nonargumentative description of the nature of the action and any  
79 complexities associated with it;

80 (C) An estimate of how long the trial is expected to take; and

81 (D) The likelihood of settlement;

82 (2) Within 30 days after filing and serving the trial calendar provided for in paragraph (2)  
83 of subsection (d) of this Code section, the assigned judge shall file and serve, in the same  
84 manner as provided in such paragraph, an update to the trial calendar setting forth the  
85 order in which each action thereon shall be called for trial based on the following  
86 considerations:

87 (A) For all actions on a trial calendar for which all parties, all attorneys of record, and  
88 all witnesses whose in-person testimony is necessary for trial, as determined by the  
89 party on whose behalf the witness will be called to testify, reside within a 100-mile  
90 radius of the courthouse where the actions will be tried, the assigned judge shall  
91 schedule each action for trial giving consideration to the nature of the action, the  
92 complexity of the action, where the parties, attorneys of record, and witnesses reside,  
93 and the reasonable time requirements of the action for trial;

94 (i) Once the assigned judge has determined the order in which each such action on  
95 a trial calendar shall be called for trial, no such action may be called for trial out of

96 order except upon at least seven days' notice to the parties and their attorneys of  
97 record pursuant to an update to the trial calendar that is filed and served in the same  
98 manner as provided in paragraph (2) of subsection (d) of this Code section;  
99 (ii) The parties and their attorneys of record for the first such action on the trial  
100 calendar shall appear ready for trial, as specified in the trial calendar or any update  
101 thereto; and  
102 (iii) The parties and their attorneys of record for all other such actions on the trial  
103 calendar shall appear ready for trial, as specified in the trial calendar or any update  
104 thereto, only after having received notice of at least 24 hours; and  
105 (B) For any action on a trial calendar for which any party, any attorney of record, or  
106 any witness whose in-person testimony is necessary for trial, as determined by the party  
107 on whose behalf the witness will be called to testify, resides outside the state or outside  
108 a 100-mile radius of the courthouse where the action will be tried, the assigned judge  
109 shall specially schedule the action for trial;  
110 (3) Once every two weeks following the filing and service of the updated trial calendar  
111 provided for in paragraph (2) of this subsection and continuing to the end of the trial  
112 calendar, the assigned judge shall notify all attorneys of record and all unrepresented  
113 parties in all actions via email or via regular mail if an email address is not available of  
114 any actions that have been continued or otherwise removed from the trial calendar;  
115 (4) If any attorney of record has more than one action on the same trial calendar, the  
116 actions that are not first in priority shall be automatically continued to the assigned  
117 judge's next available trial calendar; and  
118 (5) If any attorney of record has multiple actions on different trial calendars that are filed  
119 and served as provided in paragraph (2) of subsection (d) of this Code section within 30  
120 days of each other, the action on the earlier filed trial calendar shall be deemed to be first  
121 in priority, and the action on the later filed trial calendar shall be automatically continued  
122 to the assigned judge's next available trial calendar."

123

**SECTION 2.**

124 All laws and parts of laws in conflict with this Act are repealed.