

The Senate Committee on Judiciary offered the following substitute to SB 163:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 3 of Title 38 of the Official Code of Georgia
2 Annotated, relating to judicial emergency, so as to provide for the suspension of statutory
3 speedy trial requirements when compliance with such statutory speedy trial requirements
4 becomes impracticable following a judicial emergency; to provide for applicable
5 circumstances; to provide for requirements; to provide for notice; to provide for intervention
6 by the Chief Justice of the Supreme Court; to provide for a sunset date; to provide for related
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 2 of Article 3 of Chapter 3 of Title 38 of the Official Code of Georgia Annotated,
11 relating to judicial emergency, is amended by revising subsection (b) of Code Section
12 38-3-61, relating to declaration of judicial emergency, duration of judicial emergency
13 declaration, and designation of alternative facility in lieu of court, as follows:

14 "(b) Except as provided in subsection (b) of Code Section 38-3-62, an ~~An~~ order declaring
15 the existence of a judicial emergency shall be limited to an initial duration of not more
16 than 30 days; provided, however, that the order may be modified or extended for no more

than two periods not exceeding 30 days each unless a public health emergency exists as set forth in Code Section 38-3-51, in which case the Chief Justice of the Supreme Court of Georgia may extend the emergency order for so long as such emergency exists, as declared by the Governor. Any modification or extension of the initial order shall require information regarding the same matters set forth in subsection (a) of this Code section for the issuance of the initial order."

SECTION 2.

Said part is further amended by revising Code Section 38-3-62, relating to suspension or tolling of deadlines and time schedules in event of judicial emergency, as follows:

38-3-62.

(a) An authorized judicial official in an order declaring a judicial emergency, or in an order modifying or extending a judicial emergency order, is authorized to suspend, toll, extend, or otherwise grant relief from deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters, including, but not limited to:

(1) A statute of limitation;

(2) The time within which to issue a warrant;

(3) The time within which to try a case for which a demand for speedy trial has been filed;

(4) The time within which to hold a commitment hearing;

(5) A deadline or other schedule regarding the detention of a juvenile;

(6) The time within which to return a bill of indictment or an accusation or to bring a matter before a grand jury;

(7) The time within which to file a writ of habeas corpus;

(8) The time within which discovery or any aspect thereof is to be completed;

(9) The time within which to serve a party;

(10) The time within which to appeal or to seek the right to appeal any order, ruling, or other determination; and

(11) Such other legal proceedings as determined to be necessary by the authorized judicial official.

(b)(1) As used in this subsection, the term 'statutory speedy trial requirements' means all speedy trial deadlines, time schedules, or filing requirements imposed by Code Section 17-7-170 or 17-7-171.

(2)(A) A chief judge of a Georgia superior court judicial circuit or a chief judge of a Georgia state court may suspend, toll, extend, modify, or otherwise grant relief from statutory speedy trial requirements following a judicial emergency if compliance with such requirements is impracticable, subject to the requirements under subparagraph (B) of this paragraph.

(B) Relief under this subsection shall be authorized if a chief judge certifies that under the totality of the circumstances arising from the preceding judicial emergency, compliance with statutory speedy trial requirements is impracticable in the applicable county or court following a judicial emergency due to one or more of the following factors:

(i) A pending criminal case volume that is substantially above the average pending criminal case volume at the end of each of the three full calendar years preceding the judicial emergency;

(ii) An annualized criminal case clearance rate in the current calendar year that is substantially below the average criminal case clearance rate for each of the three full calendar years preceding the judicial emergency;

(iii) The number of speedy trial demands pending within one month of the date of certification;

(iv) The number of jury trials held during the last full term of court;

(v) Ongoing space limitations or other health or safety concerns regarding the use of the facilities available to conduct criminal trials and related activities;

(vi) The limited availability of judges, courtroom personnel, prosecutors, public defenders, expert witnesses, forensic analysis, law enforcement officers, or other relevant persons;

(vii) The extent of efforts made by prosecuting attorneys and the court to reduce the number of criminal defendants held in custody awaiting trial; or

(viii) Other relevant facts that justify ongoing relief from statutory speedy trial requirements.

(3) An order granting relief under this subsection shall be accompanied by a certification that compliance with statutory speedy trial requirements is impracticable in the applicable county or court. Each time a chief judge issues an order granting relief under this subsection, he or she shall:

(A) Certify that compliance with statutory speedy trial requirements is impracticable in the applicable county or court; or

(B) Attach such certification provided by either:

(i) A majority of the superior court judges in his or her judicial circuit pursuant to paragraph (6) of this subsection; or

(ii) A majority of the state court judges in his or her county pursuant to paragraph (8) of this subsection.

(4) Each certification issued pursuant to paragraph (3) of this subsection shall include the following:

(A) Supporting statistical data and findings of fact to justify relief under paragraph (2) of this subsection; and

(B) A plan to resolve cases in which a statutory speedy trial demand has been filed as expeditiously as possible. The plan shall establish an order of priority in which such cases will be called for trial, giving highest priority to such cases of defendants who

have been held in custody for the longest time as a result of the charges in the case.
The plan shall also state the number of trial weeks scheduled for each judge in the
applicable county or court during the period of relief granted under this subsection.

(5) A chief judge of a superior court judicial circuit acting under this subsection:

(A) May act independently of any emergency declared by the Governor;

(B) May grant relief from statutory speedy trial requirements in a superior court for a
county in his or her judicial circuit;

(C) May act in his or her own discretion; and

(D) Shall act upon the request of a majority of the active superior court judges in his
or her judicial circuit pursuant to paragraph (6) of this subsection.

(6) A chief judge of a superior court judicial circuit shall grant relief from speedy trial
requirements in a superior court for a county in his or her judicial circuit if such action
is requested by a majority of the active superior court judges in his or her judicial circuit.
Any such request shall be in writing and be accompanied by the certification required in
paragraph (3) of this subsection.

(7) A chief judge of a state court acting under this subsection:

(A) May act independently of any emergency declared by the Governor;

(B) May grant relief from statutory speedy trial requirements in his or her state court;

(C) May act in his or her own discretion; and

(D) Shall act upon the request of a majority of the active state court judges in his or her
county pursuant to paragraph (8) of this subsection.

(8) A chief judge of a state court shall grant relief from speedy trial requirements in his
or her state court if such action is requested by a majority of the active state court judges
in his or her county. Any such request shall be in writing and be accompanied by the
certification required in paragraph (3) of this subsection.

(9) Each period of relief granted under this subsection:

(A) Shall not exceed a total of eight months; and

123 (B) Shall end on the last day of a term of court.

124 (10) The total period of relief granted under this subsection shall not exceed twice the
125 total duration of the preceding judicial emergency.

126 (11) Each time a chief judge issues an order granting relief under this subsection, he or
127 she shall provide notice of such action to judicial officials and the public in the same
128 manner provided in Code Section 38-3-63, except that such notice shall also include the
129 certification required under paragraph (3) of this subsection.

130 (12) The Chief Justice of the Georgia Supreme Court may, by order and in his or her sole
131 discretion, reinstate any statutory speedy trial requirement subject to an order granting
132 relief under this subsection. The Chief Justice shall provide notice of such action to
133 judicial officials and the public in the same manner provided in Code Section 38-3-63.
134 If the Chief Justice takes such action, a chief judge shall not grant subsequent relief from
135 statutory speedy trial requirements in the applicable county or court following the same
136 judicial emergency unless subsequent relief is reauthorized by the Chief Justice.

137 (13) Nothing in this subsection shall relieve the state of its constitutional obligation to
138 provide for a speedy and public criminal trial.

139 (14) This subsection shall be in effect until June 30, 2023, and no order granting relief
140 under this subsection shall be issued after such date."

141 **SECTION 3.**

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