

House Bill 635 (COMMITTEE SUBSTITUTE)

By: Representatives Leverett of the 33<sup>rd</sup>, Wilensky of the 79<sup>th</sup>, and Efstoration of the 104<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 provide that each judge of the superior court, state court, and probate court and each  
3 magistrate shall have authority to perform any lawful judicial act regardless of where he or  
4 she is physically located at the time of such act; to amend Title 17 of the Official Code of  
5 Georgia Annotated, relating to criminal procedure, so as to provide for the issuance of arrest  
6 warrants by a judge regardless of where such judge is physically located; to revise standards  
7 for holding a court of inquiry; to amend Article 1 of Chapter 6 of Title 15 of the Official  
8 Code of Georgia Annotated, relating to general provisions regarding superior courts, so as  
9 to revise when superior courts are authorized to use alternative locations; to provide for  
10 criteria; to provide for related matters; to provide for an effective date; to repeal conflicting  
11 laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 635 (SUB)

**PART I****SECTION 1-1.**

15 Title 15 of the Official Code of Georgia Annotated, relating to general provisions regarding  
16 courts, is amended by revising Code Section 15-6-16, relating to no authority when absent  
17 from state, as follows:

18 "15-6-16.

19 ~~No~~ Each judge of the superior ~~courts~~ court shall have authority to perform any judicial act  
20 ~~required of him by law when he is beyond the jurisdiction of this state~~ which he or she is  
21 lawfully entitled to perform, regardless of where such judge is located when such judicial  
22 act is performed."

**SECTION 1-2.**

23  
24 Said title is further amended by adding a new subsection to Code Section 15-7-4, relating to  
25 jurisdiction, to read as follows:

26 "(c) Each judge of the state court shall have authority to perform any judicial act which he  
27 or she is lawfully entitled to perform, regardless of where such judge is located when such  
28 judicial act is performed."

**SECTION 1-3.**

29  
30 Said title is further amended by adding a new subsection to Code Section 15-9-30, relating  
31 to subject matter jurisdiction, powers and duties generally, and copy of Official Code of  
32 Georgia Annotated furnished for each judge, to read as follows:

33 "(d) Each judge of the probate court shall have authority to perform any judicial act which  
34 he or she is lawfully entitled to perform, regardless of where such judge is located when  
35 such judicial act is performed."

36 **SECTION 1-4.**

37 Said title is further amended by revising Code Section 15-9-82, relating to terms of court and  
38 place for court, as follows:

39 "15-9-82.

40 (a) The probate court shall be held at the place prescribed for the superior court or in the  
41 office of the judge of the probate court in each county, by the judge thereof, on the first  
42 Monday in January, April, July, and October and shall continue in session from day to day  
43 as the business of the court may require. If the first Monday in a given term should happen  
44 to fall on a legal holiday, the probate courts throughout this state shall convene on the  
45 following day.

46 (b) Nothing in this Code section shall be construed to restrict the judge of the probate court  
47 from having the authority to engage in any judicial act which he or she is lawfully entitled  
48 to perform, regardless of where the judge is located when the act is performed."

49 **SECTION 1-5.**

50 Said title is further amended by revising Code Section 15-10-2, relating to general  
51 jurisdiction, as follows:

52 "15-10-2.

53 (a) Each magistrate court and each magistrate thereof shall have jurisdiction and power  
54 over the following matters:

- 55 (1) The hearing of applications for and the issuance of arrest and search warrants;  
56 (2) Issuance of warrants and related proceedings as provided in Article 4 of Chapter 6  
57 of Title 17, relating to bonds for good behavior and bonds to keep the peace;  
58 (3) The holding of courts of inquiry;  
59 (4) The trial of charges of violations of county ordinances and penal ordinances of state  
60 authorities;

- 61 (5) The trial of civil claims including garnishment and attachment in which exclusive  
62 jurisdiction is not vested in the superior court and the amount demanded or the value of  
63 the property claimed does not exceed \$15,000.00, provided that no prejudgment  
64 attachment may be granted;
- 65 (6) The issuance of summons, trial of issues, and issuance of writs and judgments in  
66 dispossessory proceedings and distress warrant proceedings as provided in Articles 3 and  
67 4 of Chapter 7 of Title 44;
- 68 (7) The punishment of contempts by fine not exceeding \$200.00 or by imprisonment not  
69 exceeding ten days or both;
- 70 (8) The administration of any oath which is not required by law to be administered by  
71 some other officer;
- 72 (9) The granting of bail in all cases where the granting of bail is not exclusively  
73 committed to some other court or officer;
- 74 (10) The issuing of subpoenas to compel attendance of witnesses in the magistrate court  
75 and subpoenas for the production of documentary evidence before the magistrate court;
- 76 (11) Such other matters as are committed to their jurisdiction by other general laws;
- 77 (12) The trial and sentencing of misdemeanor violations of Code Section 16-9-20,  
78 relating to criminal issuance of bad checks, as provided by Article 10 of this chapter;
- 79 (13) The execution or subscribing and the acceptance of written waivers of extradition  
80 in the same manner provided for in Code Section 17-13-46;
- 81 (14) The trial and sentencing of misdemeanor violations of other Code sections as  
82 provided by Article 13 of this chapter;
- 83 (15) The foreclosure of liens on animals as established in Title 4;
- 84 (16) The foreclosure of liens on abandoned mobile homes as established in Article 6 of  
85 Chapter 7 of Title 44; and
- 86 (17) The foreclosure of liens on abandoned motor vehicles as established in Article 1A  
87 of Chapter 11 of Title 40, 'The Abandoned Motor Vehicle Act.'

88 (b) Each magistrate shall have authority to perform any judicial act which he or she is  
89 lawfully entitled to perform, regardless of where such magistrate is located when such  
90 judicial act is performed."

91 **SECTION 1-6.**

92 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
93 amended by revising subsection (a) of Code Section 17-4-47, relating to issuance of warrants  
94 by video conference, testimony, initial bond hearings, and oaths , as follows:

95 "(a) A judge of any court in this state authorized to issue arrest warrants pursuant to Code  
96 Section 17-4-40 may, as an alternative to other laws relating to the issuance of arrest  
97 warrants, conduct such applications for the issuance of arrest warrants by video conference.  
98 The issuance of an arrest warrant by video conference shall be valid irrespective of the  
99 physical location of the judge at the time of the video conference, provided that the judge  
100 issuing the warrant is authorized by law to issue such warrant, ~~and, at the time such warrant~~  
101 ~~is issued, he or she is physically located within this state."~~

102 **SECTION 1-7.**

103 Said title is further amended by revising subsection (a) of Code Section 17-5-21.1, relating  
104 to issuance of search warrants by video conference, as follows:

105 "(a) A judge of any court in this state authorized to issue search warrants pursuant to Code  
106 Section 17-5-21 may, as an alternative to other laws relating to the issuance of search  
107 warrants, conduct such applications for the issuance of search warrants by video  
108 conference. The issuance of a search warrant by video conference shall be valid  
109 irrespective of the physical location of the judge at the time of the video conference,  
110 provided that the judge issuing the warrant is authorized by law to issue such warrant, ~~and,~~  
111 ~~at the time such warrant is issued, he or she is physically located within this state."~~

112 **SECTION 1-8.**

113 Said title is further amended by revising Code Section 17-7-20, relating to persons who may  
 114 hold court of inquiry and procedure where offense committed in county which is member of  
 115 regional jail authority, as follows:

116 "17-7-20.

117 Any judge of a superior or state court, judge of the probate court, magistrate, or officer of  
 118 a municipality who has the criminal jurisdiction of a magistrate may hold a court of inquiry  
 119 to examine ~~into~~ an accusation against a person legally arrested and brought before him or  
 120 her. The time and place of the inquiry shall be determined by such judicial officer. ~~Should~~  
 121 ~~the county in which the offense is alleged to have been committed be a member of a~~  
 122 ~~regional jail authority created under Article 5 of Chapter 4 of Title 42, the 'Regional Jail~~  
 123 ~~Authorities Act,' the Such judge may order the court of inquiry to be conducted~~  
 124 ~~alternatively in the county in which the offense is alleged to have been committed or in~~  
 125 ~~facilities available at the regional jail or by audio-visual communication between the two~~  
 126 ~~locations and between~~ the accused, the court, the attorneys, and the witnesses."

127 **PART II.**

128 **SECTION 2-1.**

129 Article 1 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to  
 130 general provisions regarding superior courts, is amended by repealing Code Section 15-6-18,  
 131 relating to alternative locations, in its entirety and replacing such Code section with a new  
 132 Code Section 15-6-18 to read as follows:

133 "15-6-18.

134 (a) Except as provided in subsection (b) of this Code section, if for any cause it shall be  
 135 impracticable to hold any session of any superior or state court at the courthouse or other  
 136 place provided by law therefor, it shall be lawful to hold such court at an alternative facility

137 that the governing authority of the county or counties for such county or circuit, by  
138 appropriate resolution, deem would be in the best interest of the public with considerations  
139 for transportation burden being paramount; provided, however, that:

140 (1) No such court may be held at any place that is outside the county or an adjoining  
141 county or that is not open to and accessible by the public, including, but not limited to,  
142 members of the public who:

143 (A) Have a physical or mental impairment that substantially limits one or more major  
144 life activities;

145 (B) Have a record of such an impairment; or

146 (C) Are regarded as having such an impairment; and

147 (2) Criminal jury trials may be conducted in alternative locations so long as the  
148 governing authority owns the facility or has a contractual relationship with such  
149 alternative location for such use.

150 (b)(1) This subsection shall apply only in a county in which there exists a state court with  
151 one or more courtrooms regularly utilized by the state court outside the county site. In  
152 any such county any session of superior court may be held outside the county site in a  
153 courtroom of the state court, subject to the following conditions and limitations:

154 (A) The chief judge of superior court enters a written order for such session of superior  
155 court to be so held outside the county site, and such order shall incorporate a written  
156 finding that it is impracticable for the session of court to be held at the county site;

157 (B) A judge of the state court must enter a written order consenting for such session  
158 of superior court to be held in the courtroom of the state court;

159 (C) The holding of superior court sessions shall not affect the place of filing of  
160 documents to be filed with the superior court, except for documents filed in open court  
161 which may be filed where the session of court is held; and

162 (D) Any state court making courtroom space available to the superior court under this  
163 subsection shall be authorized under the same rules to hold sessions of state court in  
164 facilities of the superior court.

165 (2) In each county of this state where the county site is located in an unincorporated area  
166 of the county and the governing authority of such county determines by appropriate  
167 resolution that the best interest of the citizens of such county would be served by the  
168 construction of a courthouse annex or satellite courthouse outside the county site, it shall  
169 be lawful to hold any session of superior or state court or grand jury and to conduct all  
170 other related business of the courts at such annex or satellite courthouse.

171 (c) All acts of a superior court or state court done at a place provided by this Code section,  
172 other than at the county courthouse or other place of holding such court as fixed by law,  
173 shall have the same force and effect as if the same had been done at the regular courthouse  
174 or other place fixed by law for the holding of such court, including the satisfaction of the  
175 requirements of Code Section 15-6-17."

176 **PART III.**

177 **SECTION 3-1.**

178 This Act shall become effective upon its approval by the Governor or upon its becoming law  
179 without such approval.

180 **SECTION 3-2.**

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