

House Bill 179 (COMMITTEE SUBSTITUTE)

By: Representatives Smith of the 18<sup>th</sup>, Hong of the 103<sup>rd</sup>, Leverett of the 123<sup>rd</sup>, Gunter of the 8<sup>th</sup>, and Evans of the 57<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated,  
2 relating appellate practice, so as to provide for the digital recording of certain trial  
3 proceedings; to amend Code Section 9-11-30 of the Official Code of Georgia Annotated,  
4 relating to depositions upon oral examination, so as to expand the manner in which court  
5 testimony is recorded; to amend Article 2 of Chapter 14 of Title 9 of the Official Code of  
6 Georgia Annotated, relating to procedure for persons under sentence of state court of record,  
7 so as to provide for digital recording of certain felony trial proceedings; to amend Title 15  
8 of the Official Code of Georgia Annotated, relating to courts, so as to provide for the digital  
9 recording of certain Georgia State-wide Business Court proceedings; to provide for the  
10 utilization and regulation of digital recording systems; to provide for definitions; to provide  
11 for related matters; to provide for an effective date; to repeal conflicting laws; and for other  
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 179 (SUB)

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

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15  
16 Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to  
17 appellate practice, is amended by revising Code Section 5-6-41, relating to reporting,  
18 preparation, and disposition of transcript, correction of omissions or misstatements,  
19 preparation of transcript from recollections, filing of disallowed papers, filing of stipulations  
20 in lieu of transcript, and reporting at party's expense, as follows:

21 "5-6-41.

22 (a) For any felony trial; for any post-indictment evidentiary hearing in a felony case  
23 excluding arraignments, guilty pleas, bond hearings, and any hearings in which no witness  
24 testifies; and for all proceedings in a case in which the prosecuting attorney has filed a  
25 notice of intent to seek the death penalty. ~~In all felony cases,~~ the transcript of evidence and  
26 proceedings shall be reported and prepared by a court reporter as provided in Code Section  
27 17-8-5 or as otherwise provided by law. In all other felony proceedings, the transcript of  
28 evidence and proceedings shall either be reported and prepared by a court reporter as  
29 provided in Code Section 17-8-5 or as otherwise provided by law or, except as provided  
30 in Code Section 5-6-41, in the judge's discretion, be recorded via a digital recording  
31 system, as defined in Code Section 15-14-22, and as provided for by uniform court rules  
32 adopted and published by order of the Supreme Court with the advice and consent of the  
33 council of the affected class or classes of trial courts.

34 (b) In all misdemeanor cases, the trial judge may, in the judge's discretion, require the  
35 reporting and transcribing of the evidence and proceedings by a court reporter on terms  
36 prescribed by the trial judge, or, except as provided in Code Section 5-6-41, may require  
37 the recording of the evidence and proceedings via a digital recording system, as defined in  
38 Code Section 15-14-22, and as provided for by uniform court rules adopted and published

39 by order of the Supreme Court with the advice and consent of the council of the affected  
40 class or classes of trial courts.

41 (c) In all civil cases tried in the superior and city courts, in the Georgia State-wide  
42 Business Court, and in any other court, the judgments of which are subject to review by the  
43 Supreme Court or the Court of Appeals, the trial judge thereof may require the parties to  
44 have the proceedings and evidence reported by a court reporter, the costs thereof to be  
45 borne equally between them, or, except as provided in Code Section 5-6-41, recorded via  
46 a digital recording system, as defined in Code Section 15-14-22, and as provided for by  
47 uniform court rules adopted and published by order of the Supreme Court with the advice  
48 and consent of the council of the affected class or classes of trial courts; and, where an  
49 appeal is taken which draws in question the transcript of the evidence and proceedings, it  
50 shall be the duty of the appellant to have the transcript prepared at the appellant's expense.  
51 Where it is determined that the parties, or either of them, are financially unable to pay the  
52 costs of reporting or transcribing, and the proceeding was not recorded by a digital  
53 recording system, as defined in Code Section 15-14-22, the judge may, in the judge's  
54 discretion, authorize trial of the case unreported; and, when it becomes necessary for a  
55 transcript of the evidence and proceedings to be prepared, it shall be the duty of the moving  
56 party to prepare the transcript from recollection or otherwise.

57 (d) Where a trial in any civil or criminal case is reported by a court reporter or recorded  
58 via a digital recording system, as defined in Code Section 15-14-22, and as provided for  
59 by uniform court rules adopted and published by order of the Supreme Court with the  
60 advice and consent of the council of the affected class or classes of trial courts, all motions,  
61 colloquies, objections, rulings, evidence, whether admitted or stricken on objection or  
62 otherwise, copies or summaries of all documentary evidence, the charge of the court, and  
63 all other proceedings which may be called in question on appeal or other posttrial  
64 procedure shall be reported or recorded; and, where the report or recording is transcribed,  
65 all such matters shall be included in the written transcript, it being the intention of this

66 article that all these matters appear in the record. Where matters occur which were not  
67 reported or recorded, such as objections to oral argument, misconduct of the jury, or other  
68 like instances, the court, upon motion of either party, shall require that a transcript of these  
69 matters be made and included as a part of the record. The transcript of proceedings shall  
70 not be reduced to narrative form unless by agreement of counsel; but, where the trial is not  
71 reported or recorded or the transcript of the proceedings for any other reason is not  
72 available and the evidence is prepared from recollection, it may be prepared in narrative  
73 form.

74 (e) Where a civil or criminal trial is reported by a court reporter or recorded via a digital  
75 recording system, as defined in Code Section 15-14-22, and as provided for by uniform  
76 court rules adopted and published by order of the Supreme Court with the advice and  
77 consent of the council of the affected class or classes of trial courts, and the evidence and  
78 proceedings are transcribed, ~~the~~ a court reporter shall complete the transcript and file the  
79 original and one copy thereof with the clerk of the trial court, together with the court  
80 reporter's certificate attesting to the correctness thereof. In criminal cases where the  
81 accused was convicted of a capital felony, an additional copy shall be filed for the Attorney  
82 General, for which the court reporter shall receive compensation from the Department of  
83 Law as provided by law. The original transcript shall be transmitted to the appellate court  
84 as a part of the record on appeal; and one copy will be retained in the trial court, both as  
85 referred to in Code Section 5-6-43. Upon filing by the court reporter, the transcript shall  
86 become a part of the record in the case and need not be approved by the trial judge.

87 (f) Where any party contends that the transcript or record does not truly or fully disclose  
88 what transpired in the trial court and the parties are unable to agree thereon, the trial court  
89 shall set the matter down for a hearing with notice to both parties and resolve the difference  
90 so as to make the record conform to the truth. If anything material to either party is omitted  
91 from the record on appeal or is misstated therein, the parties by stipulation, or the trial  
92 court, either before or after the record is transmitted to the appellate court, on a proper

93 suggestion or of its own initiative, may direct that the omission or misstatement shall be  
94 corrected and, if necessary, that a supplemental record shall be certified and transmitted by  
95 the clerk of the trial court. The trial court or the appellate court may at any time order the  
96 clerk of the trial court to send up any original papers or exhibits in the case, to be returned  
97 after final disposition of the appeal.

98 (g) Where a proceeding is recorded via a digital recording system, as defined in Code  
99 Section 15-14-22, and as provided for by uniform court rules adopted and published by  
100 order of the Supreme Court with the advice and consent of the council of the affected class  
101 or classes of trial courts, such recording shall not be considered the record of the  
102 proceeding unless it is transcribed and certified pursuant to subsection (b) of Code Section  
103 15-14-5. Such transcript shall not be created if the recorded proceeding is also taken down  
104 and transcribed by a court reporter.

105 (g)(h) Where a trial is not reported or recorded as referred to in subsections (b) and (c) of  
106 this Code section or where for any other reason the transcript of the proceedings is not  
107 obtainable and a transcript of the evidence and proceedings is prepared from recollection,  
108 the agreement of the parties thereto or their counsel, entered thereon, shall entitle such  
109 transcript to be filed as a part of the record in the same manner and with the same binding  
110 effect as a transcript filed by the court reporter as referred to in subsection (e) of this Code  
111 section. In case of the inability of the parties to agree as to the correctness of such  
112 transcript, the decision of the trial judge thereon shall be final and not subject to review;  
113 and, if the trial judge is unable to recall what transpired, the judge shall enter an order  
114 stating that fact.

115 (h)(i) Where any amendment or other pleading or paper which requires approval or  
116 sanction of the court in any proceeding before being filed of record is disallowed or  
117 sanction thereof is refused, the amendment, pleading, or paper may nevertheless be filed,  
118 with notation of disallowance thereon, and shall become part of the record for purposes of  
119 consideration on appeal or other procedure for review.

120 (i)(j) In lieu of sending up a transcript of record, the parties may by agreement file a  
 121 stipulation of the case showing how the questions arose and were decided in the trial court,  
 122 together with a sufficient statement of facts to enable the appellate court to pass upon the  
 123 questions presented therein. Before being transmitted to the appellate court, the stipulation  
 124 shall be approved by the trial judge or the presiding judge of the court where the case is  
 125 pending.

126 (j)(k) In all cases, civil or criminal, any party may as a matter of right have the case  
 127 reported by a court reporter at the party's own expense."

### 128 SECTION 1-2.

129 Code Section 9-11-30 of the Official Code of Georgia Annotated, relating to depositions  
 130 upon oral examination, is amended by revising paragraph (4) of subsection (b) as follows:

131 "(4) **Recording of deposition.** Unless the court orders otherwise, the testimony at a  
 132 deposition must be recorded by ~~stenographic means~~ any means permitted by the Board  
 133 of Court Reporting of the Judicial Council, and may also be recorded by sound or sound  
 134 and visual means in addition to ~~stenographic~~ any means permitted by the Board of Court  
 135 Reporting of the Judicial Council, and the party taking the deposition shall bear the costs  
 136 of the recording. A deposition shall be conducted before an officer appointed or  
 137 designated under Code Section 9-11-28. Upon motion of a party or upon its own motion,  
 138 the court may issue an order designating the manner of recording, preserving, and filing  
 139 of a deposition ~~taken by nonstenographic means~~, which order may include other  
 140 provisions to assure that the recorded testimony will be accurate and trustworthy. Any  
 141 party may arrange for a transcription to be made from the recording of a deposition ~~taken~~  
 142 ~~by nonstenographic means~~. With prior notice to the deponent and other parties, any party  
 143 may designate another method to record the deponent's testimony in addition to the  
 144 methods specified by the person taking the deposition. The additional record or transcript  
 145 shall be made at that party's expense unless the court otherwise orders. The appearance

146 or demeanor of deponents or attorneys shall not be distorted through camera or sound-  
147 recording techniques. Notwithstanding the foregoing provisions of this paragraph, a  
148 deposition may be taken by telephone or other remote electronic means only upon the  
149 stipulation of the parties or by order of the court. For purposes of the requirements of this  
150 chapter, a deposition taken by telephone or other remote electronic means is taken in the  
151 state and at the place where the deponent is to answer questions."

152 **SECTION 1-3.**

153 Article 2 of Chapter 14 of Title 9 of the Official Code of Georgia Annotated, relating to  
154 procedure for persons under sentence of state court of record, is amended by revising Code  
155 Section 9-14-50, relating to transcription of proceedings, as follows:

156 "9-14-50.

157 All trials held under this article shall be recorded via a digital recording system, as defined  
158 in Code Section 15-14-22, and as provided for by uniform court rules adopted and  
159 published by order of the Supreme Court with the advice and consent of the council of the  
160 affected class or classes of trial courts and transcribed by a court reporter, or taken down  
161 and transcribed by a court reporter, as designated by the superior court hearing the case."

162 **PART II**

163 **SECTION 2-1.**

164 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
165 Code Section 15-5A-14, relating to the employment and compensation of other personnel,  
166 as follows:

167 "15-5A-14.

168 The judge of the Georgia State-wide Business Court may employ and fix the salaries of  
169 stenographers, clerical assistants, and such other employees as may be deemed necessary

170 by the court; and the salaries therefor shall be paid by the clerk from the amount  
 171 appropriated by the General Assembly for such purposes. Except as provided in subsection  
 172 (k) of Code Section 5-6-41, the judge may also provide for the recording of cases via a  
 173 digital recording system, as defined in Code Section 15-14-22, and as provided for by  
 174 uniform court rules adopted and published by order of the Supreme Court with the advice  
 175 and consent of the Georgia State-wide Business Court."

176 **SECTION 2-2.**

177 Said title is further amended by revising subsection (a) of Code Section 15-7-47, relating to  
 178 court reporters, waiver, and compensation relative to state courts, as follows:

179 ~~"(a) Court reporting personnel~~ State courts shall make available for the reporting of civil  
 180 and criminal trials a court reporter, as defined in Code Section 15-14-22, or a digital  
 181 recording system, as defined in Code Section 15-14-22, and as provided for by uniform  
 182 court rules adopted and published by order of the Supreme Court with the advice and  
 183 consent of The Council of State Court Judges of Georgia shall be made available for the  
 184 ~~reporting of civil and criminal trials in state courts,~~ subject to the laws governing same in  
 185 the superior courts of this state, or both. Except as provided in subsection (k) of Code  
 186 Section 5-6-41, the judge shall have discretion as to whether to use a digital recording  
 187 system, as defined in Code Section 15-14-22."

188 **SECTION 2-3.**

189 Said title is further amended by revising subsection (f) of and by adding a new subsection to  
 190 Code Section 15-12-83, relating to oath of court reporter attending grand jury proceeding,  
 191 compensation, and role and responsibilities, to read as follows:

192 "(f) The district attorney may utilize a digital recording system, as defined in Code Section  
 193 15-14-22, and as provided for by uniform court rules adopted and published by order of the

194 Supreme Court with the advice and consent of the council of the affected class or classes  
195 of trial courts to record grand jury proceedings.

196 (g) Except as otherwise provided in this Code section, a recording, any court reporter's  
197 notes, and any transcript prepared from such recording or notes shall be provided solely to  
198 the district attorney, who shall retain control of such recording, notes, and transcript. The  
199 district attorney may use such materials to the extent such use is appropriate to the proper  
200 performance of his or her official duties, including compliance with Article 1 of Chapter  
201 16 of Title 17."

#### 202 SECTION 2-4.

203 Said title is further amended by revising Code Section 15-14-1, relating to power of superior  
204 court judges to appoint and remove, oath, and duties, as follows:

205 "15-14-1.

206 The judges of the superior courts shall have power to appoint and, at their pleasure, to  
207 remove a court reporter, as defined in ~~Article 2 of this chapter~~ Code Section 15-14-22, for  
208 the courts of their respective circuits. The court reporter, before entering on the duties of  
209 the court reporter's office, shall be duly sworn in open court to perform faithfully all the  
210 duties required of the court reporter by law. It shall be the court reporter's duty to attend  
211 all courts in the circuit for which such court reporter is appointed and, when directed by the  
212 judge, to record exactly and truly or take stenographic notes of the testimony and  
213 proceedings in the case tried, except the arguments of counsel. Except as provided for in  
214 subsection (k) of Code Section 5-6-41, the judges may provide for the recording of cases  
215 and proceedings via a digital recording system, as defined in Code Section 15-14-22, and  
216 as provided for by uniform court rules adopted and published by order of the Supreme  
217 Court with the advice and consent of The Council of Superior Court Judges of Georgia  
218 when such recording is authorized pursuant to Code Section 5-6-41."

219 **SECTION 2-5.**

220 Said title is further amended by revising subsection (a) of Code Section 15-14-2, relating to  
221 power of city court judges to appoint and compensation, as follows:

222 "(a) The judges of the city courts of this state having concurrent jurisdiction with the  
223 superior courts of this state to try misdemeanor cases and to try civil cases where the  
224 amount involved exceeds \$500.00, where not otherwise specifically provided for by law,  
225 may appoint an official court reporter, as defined in ~~Article 2 of this chapter~~ Code Section  
226 15-14-22, whose compensation for reporting criminal and civil cases and for attendance  
227 upon court shall be the same as provided by the Judicial Council pursuant to Code Section  
228 15-5-21. Except as provided in subsection (k) of Code Section 5-6-41, the judges may also  
229 provide for the recording of cases via a digital recording system, as defined in Code  
230 Section 15-14-22, and as provided for by uniform court rules adopted and published by  
231 order of the Supreme Court with the advice and consent of the council of the affected class  
232 or classes of trial courts. The court reporter reporting and transcribing civil cases shall be  
233 paid by the party or parties requesting the reporting or transcribing."

234 **SECTION 2-6.**

235 Said title is further amended by revising Code Section 15-14-5, relating to duty to transcribe  
236 and certificate, as follows:

237 "15-14-5.

238 (a) It shall be the duty of each court reporter to transcribe the evidence and other  
239 proceedings of which he has taken notes as provided by law whenever requested so to do  
240 by counsel for any party to such case and upon being paid the legal fees for such  
241 transcripts. The reporter, upon delivering the transcript to such counsel, shall affix thereto  
242 a certificate signed by him or her reciting that the transcript is true, complete, and correct.  
243 Subject only to the right of the trial judge to change or require the correction of the  
244 transcript, the transcript so certified shall be presumed to be true, complete, and correct.

245 (b) When a court proceeding has been recorded via a digital recording system, as defined  
 246 in Code Section 15-14-22, and as provided for by uniform court rules adopted and  
 247 published by order of the Supreme Court with the advice and consent of the council of the  
 248 affected class or classes of trial courts, if requested or required by law, a transcript shall be  
 249 prepared by a certified court reporter. If a court reporter receives such recording from the  
 250 court, the court reporter shall transcribe the recording completely and accurately in  
 251 accordance with rules promulgated by the Judicial Council of Georgia or any applicable  
 252 uniform rules. The court reporter, upon delivering the transcript to the requesting party or  
 253 upon filing it with the clerk, shall affix thereto a signed certificate reciting that the  
 254 transcript is true, complete, and correct. Subject only to the right of the trial judge to  
 255 change or require the correction of the transcript, a transcript so certified shall be presumed  
 256 to be true, complete, and correct."

257 **SECTION 2-7.**

258 Said title is further amended by revising Code Section 15-14-22, relating to definitions  
 259 relative to training and certification of court reporters, as follows:

260 "15-14-22.

261 As used in this article, the term:

262 (1) 'Board' means the Board of Court Reporting of the Judicial Council.

263 (2) 'Certified court reporter' means any person certified under this article to practice  
 264 verbatim reporting.

265 (3) 'Court reporter' means any person who is engaged in the practice of court reporting  
 266 as a profession as defined in this article. ~~The term 'court reporter'~~ Such term shall include  
 267 not only those who actually report judicial proceedings in courts but also those who make  
 268 verbatim records as ~~defined~~ described in paragraph (4) of this Code section.

269 (4) 'Court reporting' means the making of a verbatim record by means of manual  
 270 shorthand, machine shorthand, closed microphone voice dictation silencer, or by other

271 means of personal verbatim reporting of any testimony given under oath before, or for  
272 submission to, any court, referee, or court examiner or any board, commission, or other  
273 body created by statute, or by the Constitution of this state or in any other proceeding  
274 where a verbatim record is required. The taking of a deposition is the making of a  
275 verbatim record as ~~defined~~ described in this article. Such term shall not include the  
276 operation of a digital recording system aside from those methods of making a verbatim  
277 record that require the passage of an examination accepted by the board pursuant to Code  
278 Section 15-14-30.

279 (5) 'Digital recording system' means any method for creating an electronic audio or  
280 audiovisual recording of a court proceeding for the purpose of creating a verbatim  
281 transcript as provided for by uniform court rules adopted and published by order of the  
282 Supreme Court with the advice and consent of the council of the affected class or classes  
283 of trial courts."

284 **PART III**  
285 **SECTION 3-1.**

286 This Act shall become effective on January 1, 2026.

287 **SECTION 3-2.**

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