

Senate Bill 204

By: Senators Jones II of the 22nd, Rhett of the 33rd, Parent of the 44th, James of the 28th and Rahman of the 5th

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-7-70.1 of the Official Code of Georgia Annotated, relating to trial
2 upon accusations in certain felony and misdemeanor cases and trial upon plea of guilty or
3 nolo contendere, so as to allow for offenses that are not serious violent felonies, sexual
4 felonies, or other certain offenses to be charged by accusation of the district attorney; to
5 provide for definitions; to provide for conditions; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 17-7-70.1 of the Official Code of Georgia Annotated, relating to trial upon
10 accusations in certain felony and misdemeanor cases and trial upon plea of guilty or nolo
11 contendere, is amended by revising subsection (a) and adding a new subsection to read as
12 follows:

13 "(a) As used in this subsection, the term:

14 (1) 'Serious violent felony' shall have the same meaning as set forth in Code
15 Section 17-10-6.1.

16 (2) 'Sexual felony' shall have the same meaning as set forth in Code Section 16-5-21.

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- 17 ~~(1) In felony cases involving violations of the following:~~
- 18 ~~(A) Code Sections 16-8-2, 16-8-14, 16-8-18, 16-9-1, 16-9-20, 16-9-31, 16-9-33,~~
- 19 ~~16-9-37, 16-10-52, and 40-5-58;~~
- 20 ~~(B) Article 1 of Chapter 8 of Title 16, relating to theft;~~
- 21 ~~(C) Chapter 9 of Title 16, relating to forgery and fraudulent practices;~~
- 22 ~~(D) Article 3 of Chapter 10 of Title 16, relating to escape and other offenses related to~~
- 23 ~~confinement;~~
- 24 ~~(E) Code Section 16-11-131, relating to possession of a firearm by a convicted felon~~
- 25 ~~or first offender probationer; or~~
- 26 ~~(F) Code Section 16-13-30, relating to the purchase, possession, manufacture,~~
- 27 ~~distribution, or sale of controlled substances or marijuana,~~
- 28 ~~in which defendants have either been bound over to the superior court based on a finding~~
- 29 ~~of probable cause pursuant to a commitment hearing under Article 2 of this chapter or~~
- 30 ~~have expressly or by operation of law waived a commitment hearing, the district attorney~~
- 31 ~~shall have authority to prefer accusations, and the defendants shall be tried on such~~
- 32 ~~accusations according to the same rules of substantive and procedural laws relating to~~
- 33 ~~defendants who have been indicted by a grand jury.~~
- 34 ~~(2) All laws relating to rights and responsibilities attendant to indicted cases shall be~~
- 35 ~~applicable to cases brought by accusations signed by the district attorney.~~
- 36 ~~(3) The accusation need not be supported by an affidavit except in those cases in which~~
- 37 ~~the defendant has not been previously arrested in conjunction with the transaction~~
- 38 ~~charged in the accusation or when the accusation is to be used as the basis for the~~
- 39 ~~issuance of an arrest warrant.~~
- 40 (a.1)(1) Notwithstanding any other law to the contrary, the district attorney shall have
- 41 the authority to prefer accusations, and the accused shall be tried on such accusations
- 42 according to the same rules of substantive and procedural laws relating to defendants who
- 43 have been indicted by a grand jury for any felony other than a serious violent felony, a

44 sexual felony, or violations of Code Section 16-14-4 or 16-15-4, in which the accused
45 has:
46 (A) Been bound over to the superior court based on a finding of probable cause
47 pursuant to a commitment hearing under Article 2 of this chapter;
48 (B) Expressly or by operation of law waived a commitment hearing; or
49 (C) Been released on bond pending a commitment hearing.
50 (2) All laws relating to the rights and responsibilities attendant to indicted cases shall be
51 applicable to cases charged by accusation signed by the district attorney.
52 (3) The accusation need not be supported by affidavit except in cases where the
53 defendant has not been previously arrested in conjunction with the actions alleged in the
54 accusation or when the accusation is to be used as the basis for the issuance of an arrest
55 warrant."

56

SECTION 2.

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