

House Bill 1255

By: Representatives Smith of the 18<sup>th</sup>, Hong of the 103<sup>rd</sup>, Leverett of the 123<sup>rd</sup>, and Panitch of the 51<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 17 and Article 2 of Chapter 13 of Title 24 of the Official Code of Georgia  
2 Annotated, relating to criminal procedure and subpoenas and notice to produce, respectively,  
3 so as to modify provisions relating to motions and discovery in criminal cases; to modernize  
4 discovery processes; to provide for notice of accusations and indictments; to provide for  
5 definitions; to provide for reciprocal discovery information by the accused in certain  
6 misdemeanor cases; to provide for procedures; to revise provisions relating to expert  
7 witnesses and disclosures; to revise provisions relating to service of subpoenas; to amend  
8 Code Section 35-3-151 of the Official Code of Georgia Annotated, relating to responsibilities  
9 of the Division of Forensic Sciences, so to correct a cross-reference; to provide for related  
10 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for  
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure is  
15 amended by revising Code Section 17-7-54, relating to form of indictment by grand jury, by  
16 adding a new subsection to read as follows:

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17 "(c) An indictment substantially complying with the forms provided in this Code section  
18 shall in all cases be sufficient and a copy of an indictment filed with the court shall be  
19 mailed to the defendant and his or her attorney of record, if known, within five days of such  
20 filing, unless such defendant's arraignment is scheduled to occur within such five-day  
21 period."

22 **SECTION 2.**

23 Said title is further amended by revising subsection (c) of Code Section 17-7-70.1, relating  
24 to trial upon accusations in certain felony and misdemeanor cases and trial upon plea of  
25 guilty or nolo contendere, as follows:

26 "(c) An accusation substantially complying with the ~~form~~ forms provided in subsections  
27 (d) and (e) of Code Section 17-7-71 shall in all cases be sufficient and a copy of an  
28 accusation filed with the court shall be mailed to the defendant and his or her attorney of  
29 record, if known, within five days of such filing, unless such defendant's arraignment is  
30 scheduled to occur within such five-day period."

31 **SECTION 3.**

32 Said title is further amended by revising Code Section 17-7-110, relating to time for filing  
33 pretrial motions, as follows:

34 "17-7-110.

35 All Unless the time for filing is extended by the court, all pretrial motions, including  
36 demurrers and special pleas, shall be filed within ten days after the date of arraignment;  
37 ~~unless the time for filing is extended by the court; provided, however, that, when the~~  
38 accused has opted into discovery pursuant to Article 1 of Chapter 16 of this title, such  
39 pretrial motions shall be filed within 30 days of the state's or prosecuting attorney's  
40 compliance with its discovery obligations and not later than 30 days prior to trial."

41 **SECTION 4.**

42 Said title is further amended by revising Articles 1 and 2 of Chapter 16, relating to  
43 definitions and felony cases relative to discovery and misdemeanor cases relative to  
44 discovery, respectively, as follows:

## 45 "ARTICLE 1

46 17-16-1.

47 As used in this chapter, the term:

48 (1) 'Law enforcement agency' means an agency responsible for ensuring compliance with  
49 the laws and ordinances enacted by federal, state, and local governing authorities,  
50 including a private person, private entity, or nonprofit entity that assists in the  
51 performance of a law enforcement service or function.

52 (2) 'Possession, custody, or control of the state or prosecution prosecuting attorney'  
53 means an item which is within the possession, custody, or control of the state or  
54 prosecuting attorney or any law enforcement agency involved in the investigation of the  
55 case being prosecuted.

56 (2)(3) 'Statement of a witness' means:

57 (A) A written or recorded statement, or copies thereof, made by the witness that is  
58 signed or otherwise adopted or approved by the witness;

59 (B) A substantially verbatim recital of an oral statement made by the witness that is  
60 recorded contemporaneously with the making of the oral statement and is contained in  
61 a stenographic, mechanical, electrical, body-worn or in-vehicle video or audio camera  
62 recording, or other recording or a transcription thereof; or

63 (C) A summary of the substance of a statement made by a witness contained in a  
64 memorandum, report, or other type of written document but ~~does~~ shall not include notes  
65 or summaries made by counsel.

66 ~~(3)~~(4) 'Witness' ~~does~~ shall not include the defendant.

67 (5) 'Written scientific reports' shall include, but shall not be limited to, reports, including  
68 any underlying data related to such reports, from the Division of Forensic Sciences of the  
69 Georgia Bureau of Investigation; an autopsy report by the coroner of a county or by a  
70 private pathologist; blood alcohol test results done by a law enforcement agency or a  
71 private physician; forensic interviews or analysis done by child advocacy centers or a  
72 nonprofit entity; and similar types of reports that would be used as scientific evidence by  
73 the state or prosecuting attorney in its case-in-chief or in rebuttal against the defendant  
74 or the defendant in its case.

75 17-16-2.

76 (a)(1) This article shall apply to all criminal cases ~~in which at least one felony offense~~  
77 ~~is charged in the event that at or prior to arraignment, or at such time as the court permits,~~  
78 in state or superior courts when the defendant provides written notice to the state or  
79 prosecuting attorney that such defendant elects to have this article apply to the  
80 defendant's case, and once such election has been made it shall not be revoked.

81 (2) When one defendant in a multidefendant case demands discovery under this ~~article~~  
82 chapter, the provisions of this ~~article~~ chapter shall apply to all defendants in the case,  
83 unless a severance is granted.

84 (b) Except as provided in subsection (c) of this Code section, this article shall not apply  
85 to juvenile court proceedings.

86 (c) This article shall be deemed to have been automatically invoked, without the written  
87 notice provided for in subsection (a) of this Code section, when a defendant has sought  
88 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to  
89 Part 8 of Article 6 of Chapter 11 of Title 15, or pursuant to the Uniform Rules for the  
90 Juvenile Courts of Georgia ~~where~~ when such discovery material is the same as the

91 discovery material that may be provided under this article when a written notice is filed  
92 pursuant to subsection (a) of this Code section.

93 (d) Except as provided under Code Section 17-16-8, this ~~article~~ chapter is not intended to  
94 authorize discovery or inspection of attorney work product.

95 (e) ~~This article shall apply also to all criminal cases in which at least one felony offense~~  
96 ~~is charged which was docketed, indicted, or in which an accusation was returned prior to~~  
97 ~~January 1, 1995, if both the prosecuting attorney and the defendant agree in writing that the~~  
98 ~~provisions of this article shall apply to the case.~~

99 (f) Except as provided in paragraph (3) of subsection (b) of Code Section 17-16-4, if a  
100 defendant has elected to have the provisions of this article apply, the provisions of this  
101 article shall also apply to sentencing hearings and the sentencing phase of a death penalty  
102 trial.

103 (f) Article 2 of this chapter shall apply to all misdemeanor cases in city, municipal,  
104 recorder's, probate, and any other court wherein a jury cannot be empaneled unless the state  
105 or prosecuting attorney and the defendant agree in writing that this article shall apply.

106 17-16-3.

107 Prior to or at arraignment, the state or prosecuting attorney shall furnish every person  
108 charged with a criminal offense ~~shall be furnished~~ with a copy of the indictment or  
109 accusation and a list of witnesses. Such witness list ~~that~~ may be supplemented pursuant to  
110 ~~the~~ other provisions of this article.

111 17-16-4.

112 (a)(1) The state or prosecuting attorney shall, no later than ten days prior to trial within  
113 30 days of the defendant's arraignment but no later than 30 days prior to trial, or at such  
114 time as the court orders, disclose to the defendant, furnish a copy of, and make available  
115 for inspection, copying, or photographing any relevant written or recorded statements

116 made by the defendant, ~~or copies thereof~~, within the possession, custody, or control of the  
117 state or ~~prosecution~~ prosecuting attorney and that portion of any written record containing  
118 the substance of any relevant oral statement made by the defendant, whether before or  
119 after arrest, in response to interrogation by any person then known to the defendant to be  
120 a law enforcement officer or member of the prosecuting attorney's staff. The state or  
121 prosecuting attorney shall also disclose to the defendant, and furnish a copy of the  
122 substance of any other relevant oral statement made by the defendant, before or after  
123 arrest, in response to interrogation by any person then known by the defendant to be a law  
124 enforcement officer or member of the prosecuting attorney's staff ~~if the state intends to~~  
125 ~~use that statement at trial~~. The state or prosecuting attorney shall also disclose to the  
126 defendant and furnish a copy of the substance of any other relevant written or oral  
127 statement made by the defendant while in custody, whether or not in response to  
128 interrogation. Statements of coconspirators that are attributable to the defendant ~~and~~  
129 ~~arguably admissible against the defendant at trial also~~ shall be disclosed under this Code  
130 section. ~~Where~~ When the defendant is a corporation, partnership, association, or labor  
131 union, the court may grant the defendant, upon its motion, discovery of any similar such  
132 statement of ~~any~~ a witness who was:

133 (A) At the time of the statement, so situated as an officer or employee as to have been  
134 legally able to bind the defendant in respect to conduct constituting the offense; or

135 (B) At the time of the offense, personally involved in the alleged conduct constituting  
136 the offense and so situated as an officer or employee as to have been legally able to  
137 bind the defendant in respect to that alleged conduct in which the witness was involved.

138 (2) The state or prosecuting attorney shall, ~~no later than ten days prior to trial~~ within 30  
139 days of the defendant's arraignment but no later than 30 days prior to trial, or as otherwise  
140 ordered by the court, furnish to the defendant a copy of the defendant's Georgia Crime  
141 Information Center criminal history, if any, as is within the possession, custody, or

142 control of the state or ~~prosecution~~ prosecuting attorney. Nothing in this Code section  
143 shall affect the provisions of Code Section 17-10-2.

144 (3)(A) Except as provided in subparagraph (B) of this paragraph, the state or  
145 prosecuting attorney shall, no later than ten days prior to trial within 30 days of the  
146 defendant's arraignment but no later than 30 days prior to trial, or as otherwise ordered  
147 by the court, ~~provide the defendant with copies of~~ permit the defendant at a time agreed  
148 ~~to by the parties or ordered by the court to inspect and copy or photograph books;~~  
149 ~~papers;~~ ~~documents;~~ ~~photographs;~~ ~~tangible objects;~~ ~~audio and visual tapes, including~~  
150 ~~tapes created by third parties and data from posted security cameras or automated~~  
151 ~~license readers, films; and recordings, or copies or portions thereof and to inspect and~~  
152 ~~photograph buildings or places which are within the possession, custody, or control of~~  
153 ~~the state or prosecution~~ prosecuting attorney and are material to preparing the defense,  
154 intended for use by the state or prosecuting attorney as evidence in whole or in part in  
155 the prosecution's state's or prosecuting attorney's case-in-chief or rebuttal at the trial,  
156 or were obtained from or belong to the defendant so long as such items are capable of  
157 being copied; provided, however, that, when any such item is not capable of being  
158 copied, the state or prosecuting attorney shall permit the defendant at a time agreed to  
159 by the parties or ordered by the court to inspect and copy or photograph such items.  
160 The state or prosecuting attorney shall also allow the defendant to inspect and  
161 photograph buildings or places which are within the possession, custody, or control of  
162 the state or prosecuting attorney and are material to preparing the defense, intended for  
163 use by the state or prosecuting attorney as evidence in whole or in part in the state's or  
164 prosecuting attorney's case-in-chief or rebuttal at the trial, or were obtained from or  
165 belong to the defendant. Evidence that is within the possession, custody, or control of  
166 the Forensic Sciences Division of the Georgia Bureau of Investigation or other  
167 laboratory for the purpose of testing and analysis may be examined, tested, and  
168 analyzed at the facility where the evidence is being held pursuant to reasonable rules

169 and regulations adopted by the Forensic Sciences Division of the Georgia Bureau of  
170 Investigation or the laboratory where the evidence is being held.

171 (B) With respect to any books; papers; documents; photographs; tangible objects;  
172 audio and visual tapes, including tapes created by third parties and data from posted  
173 security cameras and automated license readers; films; and recordings, or copies or  
174 portions thereof which are within the possession, custody, or control of the state or  
175 prosecution prosecuting attorney and are material to preparing the defense or intended  
176 for use by the state or prosecuting attorney as evidence in whole or in part in the  
177 prosecution's state's or prosecuting attorney's case-in-chief or rebuttal at the trial of any  
178 violation of Part 2 of Article 3 of Chapter 12 of Title 16, such evidence shall, ~~no later~~  
179 ~~than ten days prior to trial,~~ within 30 days of the defendant's arraignment but no later  
180 than 30 days prior to trial, or as otherwise ordered by the court, be allowed to be  
181 inspected by the defendant but shall not be allowed to be copied.

182 (4)(A) The state or prosecuting attorney shall, ~~no later than ten days prior to trial,~~  
183 within 30 days of the defendant's arraignment but no later than 30 days prior to trial, or  
184 as otherwise ordered by the court, ~~permit the defendant at a time agreed to by the~~  
185 ~~parties or ordered by the court to inspect and copy or photograph a report~~ furnish copies  
186 of reports of any physical or mental examinations and of written scientific reports, tests,  
187 or experiments, ~~including a summary of the basis for the expert opinion rendered in the~~  
188 ~~report, or copies thereof,~~ if the state or prosecuting attorney knows or through due  
189 diligence could know the item exists and the item is material to preparing the defense  
190 or the state or prosecuting attorney intends to introduce in evidence in whole or in part  
191 in its case-in-chief or in rebuttal the results of the physical or mental examination or  
192 written scientific reports, test tests, or experiment experiments. If no such report exists  
193 at the time of arraignment, such report shall be furnished to the defendant within ten  
194 days of its receipt but not later than 30 days prior to trial. If the report is oral or  
195 partially oral, the state or prosecuting attorney shall reduce all relevant and material oral

196 portions of such report to writing and shall serve ~~opposing counsel~~ the defendant with  
197 such portions no later than ~~ten~~ 30 days prior to trial. Nothing in this Code section shall  
198 require the disclosure of any other material, note, or memorandum relating to the  
199 psychiatric or psychological treatment or therapy of any victim or witness.

200 (B) With respect to expert witnesses, the state or prosecuting attorney shall disclose to  
201 the defendant, in writing, within 30 days of arraignment but no later than 30 days prior  
202 to trial, or as otherwise ordered by the court, the following:

203 (i) A complete statement of all opinions that the state or prosecuting attorney will  
204 elicit from the witness pursuant to Code Section 24-7-702, 24-7-703, or 24-7-705 in  
205 its case-in-chief, or during its rebuttal to counter testimony that the defendant has  
206 timely disclosed;

207 (ii) The bases and reasons for the opinions, including a summary of the basis for such  
208 opinion;

209 (iii) All technical notes and data supporting conclusions, results, or findings of such  
210 witness;

211 (iv) All documents relating to any peer review, examination, consultation, or other  
212 verification provided for any conclusions, results, or findings by such witness;

213 (v) All standards, protocols, policies, procedures, manuals, and guidelines serving as  
214 the basis of such witness's opinion;

215 (vi) The witness's qualifications, including a list of all publications authored by such  
216 witness in the previous ten years; and

217 (vii) A list of all other cases in which, during the previous four years, the witness has  
218 testified as an expert at trial or by deposition.

219 (C) When the defendant has elected to have this article apply to the defendant's case,  
220 failure by the state or prosecuting attorney to furnish the defendant with a copy of any  
221 written scientific report or summary of an expert's opinion shall result in such report or

222 summary, and any related expert testimony, being excluded and suppressed from  
223 evidence in the state's case-in-chief or in rebuttal.

224 (5) The state or prosecuting attorney shall, no later than ~~ten~~ 30 days prior to trial, or at  
225 such time as the court orders but in no event later than the beginning of the trial, provide  
226 the defendant with notice of any evidence in aggravation of punishment that the state or  
227 prosecuting attorney intends to introduce in sentencing.

228 (b)(1) The defendant shall, within ~~ten~~ 30 days of timely compliance by the state or  
229 prosecuting attorney but no later than five days prior to trial, or as otherwise ordered by  
230 the court, ~~shall permit the prosecuting attorney at a time agreed to by the parties or as~~  
231 ~~ordered by the court to inspect and copy or photograph~~ furnish copies of books; papers;  
232 documents; photographs; tangible objects; audio and visual tapes, including tapes  
233 created by third parties and data from posted security cameras or automated license  
234 readers; films; and recordings, or copies or portions thereof and permit the state or  
235 prosecuting attorney at a time agreed to by the parties or ordered by the court to inspect  
236 and photograph buildings or places, which are within the possession, custody, or control  
237 of the defendant and which the defendant intends to introduce as evidence in the defense's  
238 ~~case-in-chief or rebuttal~~ case at the trial.

239 (2)(A) The defendant shall, within ~~ten~~ 30 days of timely compliance by the state or  
240 prosecuting attorney but no later than five days prior to trial, or as otherwise ordered  
241 by the court, ~~permit the prosecuting attorney at a time agreed to by the parties or as~~  
242 ~~ordered by the court to inspect and copy or photograph~~ furnish copies of a report of any  
243 physical or mental examinations and of scientific tests or experiments, including a  
244 summary of the basis for the expert opinion rendered in the report, or copies thereof,  
245 if the defendant intends to introduce in evidence in the defense's ~~case-in-chief or~~  
246 ~~rebuttal~~ case the results of the physical or mental examination or scientific test or  
247 experiment. If the report is oral or partially oral, the defendant shall reduce all relevant  
248 and material oral portions of such report to writing and shall serve opposing counsel

249 with such portions no later than five days prior to trial. Nothing in this Code section  
250 shall require the disclosure of any other material, note, or memorandum relating to the  
251 psychiatric or psychological treatment or therapy of any defendant or witness.

252 (B) With respect to expert witnesses, the defendant shall disclose to the state or  
253 prosecuting attorney, in writing, within 30 days of timely compliance by the state or  
254 prosecuting attorney but no later than five days prior to trial, or as otherwise ordered  
255 by the court, the following:

256 (i) A complete statement of all opinions that the defendant will elicit from the witness  
257 pursuant to Code Section 24-7-702, 24-7-703, or 24-7-705 in its case;

258 (ii) The bases and reasons for the opinions, including a summary of the basis for such  
259 opinion;

260 (iii) All technical notes and data supporting conclusions, results, or findings of such  
261 witness;

262 (iv) All documents relating to any peer review, examination, consultation, or other  
263 verification provided for any conclusions, results, or findings by such witness;

264 (v) All standards, protocols, policies, procedures, manuals, and guidelines serving as  
265 the basis of such witness's opinion;

266 (vi) The witness's qualifications, including a list of all publications authored by such  
267 witness in the previous ten years; and

268 (vii) A list of all other cases in which, during the previous four years, the witness has  
269 testified as an expert at trial or by deposition.

270 (C) When the defendant has elected to have this article apply to the defendant's case,  
271 failure by the defendant to furnish the state or prosecuting attorney with a copy of any  
272 written scientific report or summary of an expert's opinion shall result in such report or  
273 summary, and any related expert testimony, being excluded and suppressed from  
274 evidence in the defendant's case.

275 (3)(A) ~~The~~ Unless otherwise ordered by the court, the defendant shall, no later than the  
276 announcement of the verdict of the jury or if the defendant has waived a jury trial at the  
277 time the verdict is published by the court, serve upon the state or prosecuting attorney  
278 all books;<sub>2</sub> papers;<sub>2</sub> documents;<sub>2</sub> photographs;<sub>2</sub> tangible objects;<sub>2</sub> audio and visual tapes,  
279 including tapes created by third parties and data from posted security cameras or  
280 automated license readers; films; and recordings, or copies or portions thereof and to  
281 inspect and photograph buildings or places which are within the possession, custody,  
282 or control of the defendant and which the defendant intends to introduce as evidence  
283 in the presentence hearing.

284 (B) ~~The~~ Unless otherwise ordered by the court, the defendant shall, no later than the  
285 announcement of the verdict of the jury or if the defendant has waived a jury trial at the  
286 time the verdict is published by the court, serve upon the state or prosecuting attorney  
287 all reports of any physical or mental examinations and scientific tests or experiments,  
288 including a summary of the basis for the expert opinions rendered in the reports, or  
289 copies thereof, if the defendant intends to introduce in evidence in the presentence  
290 hearing the results of the physical or mental examination or scientific test or  
291 experiment. If the report is oral or partially oral, the defendant shall reduce all relevant  
292 and material oral portions of such report to writing and shall serve opposing counsel  
293 with such portions.

294 (C) The defendant shall, no later than five days before the trial commences, serve upon  
295 the state or prosecuting attorney a list of witnesses that the defendant intends to call as  
296 a witness in the presentence hearing. No later than the announcement of the verdict of  
297 the jury or if the defendant has waived a jury trial at the time the verdict is published  
298 by the court, the defendant shall produce for the opposing party counsel any statement  
299 of ~~such witnesses~~ a witness that is in the possession, custody, or control of the  
300 ~~defendants~~ defendant or the defendant's counsel that relates to the subject matter of the  
301 testimony of such ~~witnesses~~ witness unless such statement is protected from disclosure

302 by the privilege contained in paragraph (5), (6), (7), or (8) of subsection (a) of Code  
303 Section 24-5-501.

304 (c) If prior to or during trial a party discovers additional evidence or material previously  
305 requested or ordered which is subject to discovery, disclosure, or inspection under this  
306 article, such party shall promptly notify the other party of the existence of the additional  
307 evidence or material, correct its disclosure, and make this additional evidence or material  
308 available as provided in this article.

309 (d) Upon a sufficient showing that a discovery required by this article would create a  
310 substantial threat of physical or economic harm to a witness, the court may at any time  
311 order that the discovery or inspection be denied, restricted, or deferred or make such other  
312 order as is appropriate. Upon motion by a party, the court may permit the party to make  
313 such showing, in whole or in part, in the form of a written statement to be inspected by the  
314 judge alone. If the court enters an order granting relief following such an ex parte showing,  
315 the entire text of the party's statement shall be sealed and preserved in the records of the  
316 court subject to further order of the court and to be made available to the appellate court  
317 in the event of an appeal.

318 (e) Discovery with respect to alibi witnesses shall be as provided for in Code  
319 Section 17-16-5.

320 17-16-5.

321 (a) Upon written demand by the state or prosecuting attorney within ~~ten~~ 30 days after  
322 arraignment, or at such time as the court permits, stating the time, date, and place at which  
323 the alleged offense was committed, the defendant shall serve within ten days of the demand  
324 of the state or prosecuting attorney or ten days prior to trial, whichever is later, or as  
325 otherwise ordered by the court, upon the state or prosecuting attorney a written notice of  
326 the defendant's intention to offer a defense of alibi. Such notice by the defendant shall state  
327 the specific place or places at which the defendant claims to have been at the time of the

328 alleged offense and the names, addresses, dates of birth, and telephone numbers of the  
329 witnesses, if known to the defendant, upon whom the defendant intends to rely to establish  
330 such alibi unless previously supplied.

331 (b) The state or prosecuting attorney shall serve upon the defendant within five days of the  
332 defendant's written notice but no later than five days before trial, whichever is later, a  
333 written notice stating the names, addresses, dates of birth, and telephone numbers of the  
334 witnesses, if known to the state or prosecuting attorney, upon whom the state or  
335 prosecuting attorney intends to rely to rebut the defendant's evidence of alibi unless  
336 previously supplied.

337 (c) If prior to or during trial, a party learns of an additional witness whose identity, if  
338 known, should have been included in the information furnished under subsection (a) or (b)  
339 of this Code section, the party shall promptly notify the other party of the existence and  
340 identity of such additional witness.

341 (d) Upon a showing that a disclosure required by this Code section would create a  
342 substantial threat of physical or economic harm to a witness, the court may grant an  
343 exception to any of the requirements of subsections (a) through (c) of this Code section.

344 (e) If the defendant withdraws the notice of intention to rely upon an alibi defense, the  
345 notice and intention to rely upon an alibi defense are not admissible. ~~However, provided,~~  
346 however, that the state or prosecuting attorney may offer any other evidence regarding  
347 alibi.

348 17-16-6.

349 If at any time during the course of the proceedings it is brought to the attention of the court  
350 that the state or prosecuting attorney has failed to comply with the requirements of this  
351 article, the court may order the state or prosecuting attorney to permit the discovery or  
352 inspection, interview of the witness, grant a continuance, or, upon a showing of prejudice  
353 and bad faith, prohibit the state or prosecuting attorney from introducing the evidence not

354 disclosed or presenting the witness not disclosed, or may enter such other order as it deems  
355 just under the circumstances. If at any time during the course of the proceedings it is  
356 brought to the attention of the court that the defendant has failed to comply with the  
357 requirements of this article, the court may order the defendant to permit the discovery or  
358 inspection, interview of the witness, grant a continuance, or, upon a showing of prejudice  
359 and bad faith, prohibit the defendant from introducing the evidence not disclosed or  
360 presenting the witness not disclosed, or may enter such other order as it deems just under  
361 the circumstances. The court may specify the time, place, and manner of making the  
362 discovery, inspection, and interview and may prescribe such terms and conditions as are  
363 just.

364 17-16-7.

365 ~~No later than ten days prior to trial~~ Within 30 days of the defendant's arraignment but no  
366 later than 30 days prior to trial, or at such time as the court permits, or at the time of any  
367 post-indictment pretrial evidentiary hearing other than a bond hearing, the ~~prosecution state~~  
368 or prosecuting attorney or the defendant shall produce for the opposing party any statement  
369 of ~~any~~ a witness that is in the possession, custody, or control of the state or ~~prosecution~~  
370 prosecuting attorney or in the possession, custody, or control of the defendant or the  
371 defendant's counsel that relates to the subject matter concerning the testimony of the  
372 witness that the party in possession, custody, or control of the statement intends to call as  
373 a witness at trial or at such post-indictment pretrial evidentiary hearing.

374 17-16-8.

375 (a) The ~~state or prosecuting attorney~~ shall, not later than ten days before trial within ten  
376 days of the defendant's arraignment, and the defendant's attorney, within ten days after  
377 compliance by the ~~state or prosecuting attorney~~ but no later than five days prior to trial, or  
378 as otherwise ordered by the court, ~~shall~~ furnish to the opposing counsel as an officer of the

379 court, in confidence, the names, current locations, dates of birth, and telephone numbers  
380 of that party's witnesses, unless for good cause the judge allows an exception to this  
381 requirement, in which event the counsel shall be afforded an opportunity to interview such  
382 witnesses prior to the witnesses being called to testify.

383 (b) Nothing in this Code section shall be construed to require the state or prosecuting  
384 attorney to furnish the home address, date of birth, or home telephone number of a witness  
385 who is a law enforcement officer or a nonsworn employee of a law enforcement agency.  
386 Instead, in such cases, the state or prosecuting attorney shall furnish to the attorney for the  
387 accused, or, if pro se, to the accused, the current work location and work phone number of  
388 the law enforcement officer or nonsworn employee of a law enforcement agency, and any  
389 email address designated by a law enforcement unit for service of a subpoena as set forth  
390 in Code Section 24-13-24.

391 (c) Any formerly employed or retired law enforcement officer or nonsworn employee of  
392 a law enforcement agency may use the address and phone number of the last agency where  
393 he or she was employed as his or her contact information for purposes of this Code section.  
394 Use of this subsection by an officer or employee shall constitute a waiver of any claim by  
395 such officer or employee as to any defect of service or notice of hearing if the service or  
396 notice was provided to the designated law enforcement agency and shall impose an  
397 affirmative obligation on such officer or employee to keep current his or her personal  
398 address and phone number information with such agency, and any email address designated  
399 by a law enforcement unit for service of a subpoena as set forth in Code Section 24-13-24.

400 ~~17-16-9.~~

401 ~~Any party providing documents or statements to another party under this article shall be~~  
402 ~~reimbursed for the actual cost incurred in providing such documents. If the court has~~  
403 ~~determined the defendant to be indigent, the court shall determine the means of~~  
404 ~~reimbursement.~~

405 ~~17-16-10:~~ 17-16-9.

406 The defendant need not include in materials and information furnished to the state or  
 407 prosecuting attorney under this article any material or information which the state or  
 408 prosecuting attorney has already furnished to the defendant under this article. The state or  
 409 prosecuting attorney need not include in materials and information furnished to the  
 410 defendant under this article any material or information which that defendant has already  
 411 furnished to the state or prosecuting attorney under this article. Either party may call as a  
 412 witness any person listed on ~~either~~ the state's, prosecuting attorney's, or defendant's witness  
 413 list.

414 ARTICLE 2

415 17-16-20.

416 ~~The provisions of this~~ This article shall apply only to misdemeanor cases ~~or to felony cases~~  
 417 ~~docketed, indicted, or in which an accusation was returned prior to January 1, 1995, if in~~  
 418 city, municipal, recorder's, probate, and any other court wherein a jury cannot be  
 419 empaneled, unless the state or prosecuting attorney and the defendant ~~do not~~ agree in  
 420 writing that the provisions of Article 1 of this chapter shall apply.

421 17-16-21.

422 (a) Prior to arraignment, every person charged with a criminal offense shall be furnished  
 423 with a copy of the indictment or accusation and, on demand, with a list of the witnesses on  
 424 whose testimony the charge against such person is founded. Without the consent of the  
 425 defendant, no witness shall be permitted to testify for the state whose name does not appear  
 426 on the list of witnesses as furnished to the defendant unless the prosecuting attorney shall  
 427 state that the evidence sought to be presented is newly discovered evidence which the state

428 or prosecuting attorney was not aware of at the time of its furnishing the defendant with a  
429 list of the witnesses.

430 (b) Nothing in this Code section shall be construed to require any person charged with a  
431 criminal offense to be furnished the home address, date of birth, or home telephone number  
432 of a witness who is a law enforcement officer or a nonsworn employee of a law  
433 enforcement agency. Instead, in such cases, such person shall be furnished with the current  
434 work location and work phone number of the law enforcement officer or nonsworn  
435 employee of a law enforcement agency, and any email address designated by a law  
436 enforcement unit for service of a subpoena as set forth in Code Section 24-13-24.

437 (c) Any formerly employed or retired law enforcement officer or nonsworn employee of  
438 a law enforcement agency may use the address and phone number of the last agency where  
439 he or she was employed as his or her contact information for purposes of this Code section.  
440 Use of this subsection by an officer or employee shall constitute a waiver of any claim by  
441 such officer or employee as to any defect of service or notice of hearing if the service or  
442 notice was provided to the designated law enforcement agency and shall impose an  
443 affirmative obligation on such officer or employee to keep current his or her personal  
444 address and phone number information with such agency, and any email address designated  
445 by a law enforcement unit for service of a subpoena as set forth in Code Section 24-13-24.

446 17-16-22.

447 (a) At least ten days prior to the trial of the case, the defendant shall be entitled to have a  
448 copy of any statement given by the defendant while in police custody. The defendant may  
449 make such request for a copy of any such statement, in writing, within any reasonable  
450 period of time prior to trial.

451 (b) If the defendant's statement is oral or partially oral, the prosecution state or prosecuting  
452 attorney shall furnish, in writing, all relevant and material portions of the defendant's  
453 statement.

454 (c) Failure of the prosecution state or prosecuting attorney to comply with a defendant's  
455 timely written request for a copy of such defendant's statement, whether written or oral,  
456 shall result in such statement being excluded and suppressed from the prosecution's state's  
457 or prosecuting attorney's use in its case-in-chief or in rebuttal.

458 (d) If the defendant's statement is oral, no relevant and material, incriminating or  
459 inculpatory, portion of the statement of the defendant may be used against the defendant  
460 unless it has been previously furnished to the defendant, if a timely written request for a  
461 copy of the statement has been made by the defendant.

462 (e) This Code section shall not apply to evidence discovered after a request has been filed.  
463 If a request has been filed, such evidence shall be produced as soon as possible after it has  
464 been discovered.

465 17-16-23.

466 (a) ~~As used in this Code section, the term 'written scientific reports' includes, but is not~~  
467 ~~limited to, reports from the Division of Forensic Sciences of the Georgia Bureau of~~  
468 ~~Investigation; an autopsy report by the coroner of a county or by a private pathologist;~~  
469 ~~blood alcohol test results done by a law enforcement agency or a private physician; and~~  
470 ~~similar types of reports that would be used as scientific evidence by the prosecution in its~~  
471 ~~case-in-chief or in rebuttal against the defendant.~~

472 (b) In all criminal trials under this article the defendant shall be entitled to have a complete  
473 copy of any written scientific reports in the possession of the prosecution state or  
474 prosecuting attorney which will be introduced in whole or in part against the defendant by  
475 the prosecution state or prosecuting attorney in its case-in-chief or in rebuttal. The request  
476 for a copy of any written scientific reports shall be made by the defendant in writing at  
477 arraignment or within any reasonable time prior to trial. If such written request is not made  
478 at arraignment, it shall be within the sound discretion of the trial judge to determine in each  
479 case what constitutes a reasonable time prior to trial. If the scientific report is in the

480 possession of or available to the state or prosecuting attorney, the state or prosecuting  
481 attorney must shall comply with this Code section at least ten days prior to the trial of the  
482 case.

483 ~~(c)~~(b) Failure by the ~~prosecution~~ state or prosecuting attorney to furnish the defendant with  
484 a copy of any written scientific report, when a proper and timely written demand has been  
485 made by the defendant, shall result in such report being excluded and suppressed from  
486 evidence in the ~~prosecution's~~ state's or prosecuting attorney's case-in-chief or in rebuttal."

487 **SECTION 5.**

488 Article 2 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating to  
489 subpoenas and notice to produce, is amended by revising subsection (a) of Code  
490 Section 24-13-23, relating to a subpoena for production of documentary evidence and motion  
491 to quash or modify, as follows:

492 "(a) A subpoena may also command the person to whom it is directed to produce the  
493 evidence designated therein. Such subpoena shall be served in accordance with Code  
494 Section 24-13-24."

495 **SECTION 6.**

496 Said article is further amended by revising Code Section 24-13-24, relating to service of  
497 subpoenas, as follows:

498 "24-13-24.

499 (a) As used in this Code section, the term:

500 (1) 'Child advocacy center' shall have the same meaning as set forth in Code  
501 Section 49-5-40.

502 (2) 'Electronic transmission' means any form of communication that does not directly  
503 involve the physical transmission of paper and that creates a record that may be retained,  
504 retrieved, and reviewed by a recipient thereof and that may be directly reproduced in

505 paper form by such a recipient through an automated process. Such term includes, but  
506 is not limited to, email, facsimile transmissions, and electronic filing systems utilized by  
507 a court.

508 (3) 'Law enforcement support personnel' shall have the same meaning as set forth in  
509 Code Section 35-8-2.

510 (4) 'Law enforcement unit' shall have the same meaning as set forth in Code  
511 Section 35-8-2.

512 (5) 'Peace officer' shall have the same meaning as set forth in Code Section 35-8-2.

513 (b) Any law enforcement unit employing peace officers or law enforcement support  
514 personnel or utilizing a child advocacy center or other multidisciplinary investigative and  
515 diagnostic team whose purpose is to conduct forensic interviews at the direction of or in  
516 cooperation with a law enforcement unit shall:

517 (1) Designate one or more individuals upon whom subpoenas for peace officers, law  
518 enforcement support personnel, child advocacy center staff, or other multidisciplinary  
519 team members may be served;

520 (2) Make such designation in writing; and

521 (3) Immediately provide notice to any person upon request, orally or in writing, of the  
522 designated individual or individuals.

523 (c) A subpoena may be served by:

524 (1) Any any sheriff, by his or her deputy, or by any other person not less than 18 years  
525 of age, and proof of such service. Proof may be shown by return or certificate endorsed  
526 on a copy of the subpoena. Subpoenas may also be served by registered;

527 (2) Registered or certified mail or statutory overnight delivery, and the return receipt  
528 shall constitute prima-facie proof of service; or

529 (3) Electronic transmission to an individual designated pursuant to subsection (b) of this  
530 Code section. If utilizing electronic filing with the clerk of the court issuing the  
531 subpoena, a statement of the date, manner of service, and name of the individual served,

532 certified by the person who made such service, shall constitute prima-facie proof of  
533 service. If utilizing email, a copy of the email shall constitute prima-facie proof of  
534 service.

535 (d) Service upon a party may be made by serving his or her counsel of record.

536 (e) Service upon peace officers, law enforcement support personnel, child advocacy center  
537 staff, or other multidisciplinary team members may be made by serving the designated  
538 individual at such individual's employing or connected agency."

539 **SECTION 7.**

540 Code Section 35-3-151 of the Official Code of Georgia Annotated, relating to responsibilities  
541 of the Division of Forensic Sciences, is amended by revising paragraph (4), as follows:

542 "(4) Shall facilitate independent testing or analysis of evidence within the possession,  
543 custody, or control of the division as provided in ~~paragraph (3)~~ of subsection (a) of Code  
544 Section 17-16-4, relating to discovery in criminal cases;"

545 **SECTION 8.**

546 This Act shall become effective on July 1, 2026, and shall apply to any motion made or  
547 hearing or trial commenced on or after such date.

548 **SECTION 9.**

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