

The House Committee on Judiciary, Non-Civil offers the following substitute to HB 1255:

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:

H. B. 1255 (SUB)

17 "(c) An indictment substantially complying with the forms provided in this Code section
18 shall in all cases be sufficient and the state shall mail or email a copy of an indictment filed
19 with the court to the defendant and his or her attorney of record, if known, within five days
20 of such filing, unless such defendant's arraignment is scheduled to occur within such
21 five-day 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
27 subsections (d) and (e) of Code Section 17-7-71 shall in all cases be sufficient and the state
28 shall mail a copy of an accusation filed with the court to the defendant and his or her
29 attorney of record, if known, within five days of such filing, unless such defendant's
30 arraignment is 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. If the
41 state or prosecuting attorney serves discovery within 30 days of trial, the state shall file a

42 notice with the court identifying such items served. The court shall determine whether the
 43 defendant may file additional motions based upon the items disclosed in the state's notice
 44 and shall set a deadline for the filing of any such motions."

45 **SECTION 4.**

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

49 "ARTICLE 1

50 17-16-1.

51 As used in this chapter, the term:

52 (1) '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) '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; or

66 (D) A forensic interview of a witness.

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

68 (4) 'Written scientific reports' shall include, but shall not be limited to, reports, including
69 any underlying data related to such reports, from the Division of Forensic Sciences of the
70 Georgia Bureau of Investigation; an autopsy report by the coroner of a county or by a
71 private pathologist; blood alcohol test results done by a law enforcement agency or a
72 private physician; and similar types of reports that would be used as scientific evidence
73 by 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.

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 (3) An election, once made, shall not be revoked, except as such election relates to a
85 defendant automatically included in an election pursuant to paragraph (2) of this
86 subsection who did not make an election for his or her own case.

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

89 (c) This article shall be deemed to have been automatically invoked, without the written
90 notice provided for in subsection (a) of this Code section, when a defendant has sought
91 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to

92 Part 8 of Article 6 of Chapter 11 of Title 15, or pursuant to the Uniform Rules for the
93 Juvenile Courts of Georgia ~~where~~ when such discovery material is the same as the
94 discovery material that may be provided under this article when a written notice is filed
95 pursuant to subsection (a) of this Code section.

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

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

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

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

109 17-16-3.

110 Prior to or at arraignment, the state or prosecuting attorney shall furnish every person
111 charged with a criminal offense ~~shall be furnished with~~ a copy of the indictment or
112 accusation, unless such indictment or accusation was previously furnished pursuant to
113 Code Section 17-7-54 or Code Section 17-7-70.1, and a list of witnesses. Such witness list
114 ~~that~~ may be supplemented pursuant to ~~the~~ other provisions of this article.

115 17-16-4.

116 (a)(1) The state or prosecuting attorney shall, no later than ten days prior to trial within
117 30 days of the defendant's arraignment but no later than 30 days prior to trial, or at such
118 time as the court orders, disclose to the defendant, furnish a copy of, and make available
119 for inspection, copying, or photographing any relevant written or recorded statements
120 made by the defendant, ~~or copies thereof~~, within the possession, custody, or control of the
121 state or ~~prosecution~~ prosecuting attorney and that portion of any written record containing
122 the substance of any relevant oral statement made by the defendant, whether before or
123 after arrest, in response to interrogation by any person then known to the defendant to be
124 a law enforcement officer or member of the prosecuting attorney's staff. The state or
125 prosecuting attorney shall also disclose to the defendant, and furnish a copy of the
126 substance of any other relevant oral statement made by the defendant, before or after
127 arrest, in response to interrogation by any person then known by the defendant to be a law
128 enforcement officer or member of the prosecuting attorney's staff ~~if the state intends to~~
129 ~~use that statement at trial~~. The state or prosecuting attorney shall also disclose to the
130 defendant and furnish a copy of the substance of any other relevant written or oral
131 statement made by the defendant while in custody, whether or not in response to
132 interrogation. Statements of coconspirators that are attributable to the defendant ~~and~~
133 ~~arguably admissible against the defendant at trial also~~ shall be disclosed under this Code
134 section. ~~Where~~ When the defendant is a corporation, partnership, association, or labor
135 union, the court may grant the defendant, upon its motion, discovery of any similar such
136 statement of ~~any~~ a witness who was:

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

142 (2) The state or prosecuting attorney shall, no later than ten days prior to trial within 30
143 days of the defendant's arraignment but no later than 30 days prior to trial, or as otherwise
144 ordered by the court, furnish to the defendant a copy of the defendant's Georgia Crime
145 Information Center criminal history, if any, as is within the possession, custody, or
146 control of the state or ~~prosecution~~ prosecuting attorney. Nothing in this Code section
147 shall affect the provisions of Code Section 17-10-2.

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

169 possession, custody, or control of the ~~Forensic Sciences Division~~ Division of Forensic
170 Sciences of the Georgia Bureau of Investigation or other laboratory for the purpose of
171 testing and analysis may be examined, tested, and analyzed at the facility where the
172 evidence is being held pursuant to reasonable rules and regulations adopted by the
173 ~~Forensic Sciences Division~~ Division of Forensic Sciences of the Georgia Bureau of
174 Investigation or the laboratory where the evidence is being held.

175 (B) With respect to any books; papers; documents; photographs; tangible objects;
176 audio and visual tapes, including tapes created by third parties and data from posted
177 security cameras and automated license readers; films; and recordings, ~~or copies or~~
178 ~~portions thereof~~ which are within the possession, custody, or control of the state or
179 ~~prosecution~~ prosecuting attorney and are intended for use by the state or prosecuting
180 attorney as evidence in whole or in part in the prosecution's state's or prosecuting
181 attorney's case-in-chief or rebuttal at the trial of any violation of Part 2 of Article 3 of
182 Chapter 12 of Title 16, such evidence shall, no later than ten days prior to trial, within
183 30 days of the defendant's arraignment but no later than 30 days prior to trial, or as
184 otherwise ordered by the court, be allowed to be inspected by the defendant but shall
185 not be allowed to be copied.

186 (4)(A) The state or prosecuting attorney shall, ~~no later than ten days prior to trial,~~
187 within 30 days of the defendant's arraignment but no later than 30 days prior to trial, or
188 as otherwise ordered by the court, ~~permit the defendant at a time agreed to by the~~
189 ~~parties or ordered by the court to inspect and copy or photograph a report~~ furnish copies
190 of reports of any physical or mental examinations and of written scientific reports, tests,
191 or experiments, ~~including a summary of the basis for the expert opinion rendered in the~~
192 ~~report, or copies thereof~~; if the state or prosecuting attorney intends to introduce in
193 evidence in whole or in part in its case-in-chief or in rebuttal the results of the physical
194 or mental examination or written scientific reports, test tests, or experiment
195 experiments. If no such report exists at the time of arraignment, such report shall be

196 furnished to the defendant within ten days of its receipt but not later than 30 days prior
197 to trial. If the report is oral or partially oral, the state or prosecuting attorney shall
198 reduce all relevant and material oral portions of such report to writing and shall serve
199 ~~opposing counsel~~ the defendant with such portions no later than ~~ten~~ 30 days prior to
200 trial. Nothing in this Code section shall require the disclosure of any other material,
201 note, or memorandum relating to the psychiatric or psychological treatment or therapy
202 of any victim or witness.

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

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

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

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

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

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

218 (vi) The witness's qualifications, including a list of all publications authored by such
219 witness in the previous ten years; provided, however, that this division shall not apply
220 to witnesses from the Division of Forensic Sciences of the Georgia Bureau of
221 Investigation; and

222 (vii) A list of all other cases in which, during the previous four years, the witness has
223 testified as an expert at trial or by deposition; provided, however, that this division
224 shall not apply to witnesses from the Division of Forensic Sciences of the Georgia
225 Bureau of Investigation.

226 (C) When the defendant has elected to have this article apply to the defendant's case,
227 failure by the state or prosecuting attorney to furnish the defendant with a copy of any
228 written scientific report or summary of an expert's opinion shall, unless the court
229 determines an alternative remedy is warranted under the circumstances, result in such
230 report or summary, and any related expert testimony, being excluded and suppressed
231 from evidence in the state's case-in-chief or in rebuttal.

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

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

247 (2)(A) The defendant shall, within ~~ten~~ 30 days of timely compliance by the state or
248 prosecuting attorney but no later than ~~five~~ 10 days prior to trial, or as otherwise ordered

249 by the court, ~~permit the prosecuting attorney at a time agreed to by the parties or as~~
250 ~~ordered by the court to inspect and copy or photograph~~ furnish copies of a report of any
251 physical or mental examinations and of scientific tests or experiments, including a
252 summary of the basis for the expert opinion rendered in the report, or copies thereof,
253 if the defendant intends to introduce in evidence in the defense's ~~case-in-chief or~~
254 ~~rebuttal~~ case the results of the physical or mental examination or scientific test or
255 experiment. If the report is oral or partially oral, the defendant shall reduce all relevant
256 and material oral portions of such report to writing and shall serve opposing counsel
257 with such portions no later than ~~five~~ ten days prior to trial. Nothing in this Code section
258 shall require the disclosure of any other material, note, or memorandum relating to the
259 psychiatric or psychological treatment or therapy of any defendant or witness.

260 (B) With respect to expert witnesses, the defendant shall disclose to the state or
261 prosecuting attorney, in writing, within 30 days of timely compliance by the state or
262 prosecuting attorney but no later than ten days prior to trial, or as otherwise ordered by
263 the court, the following:

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

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

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

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

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

274 (vi) The witness's qualifications, including a list of all publications authored by such
275 witness in the previous ten years; provided, however, that this division shall not apply

276 to witnesses from the Division of Forensic Sciences of the Georgia Bureau of
277 Investigation; and

278 (vii) A list of all other cases in which, during the previous four years, the witness has
279 testified as an expert at trial or by deposition; provided, however, that this division
280 shall not apply to witnesses from the Division of Forensic Sciences of the Georgia
281 Bureau of Investigation.

282 (C) When the defendant has elected to have this article apply to the defendant's case,
283 failure by the defendant to furnish the state or prosecuting attorney with a copy of any
284 written scientific report or summary of an expert's opinion shall, unless the court
285 determines an alternative remedy is warranted under such circumstances, result in such
286 report or summary, and any related expert testimony, being excluded and suppressed
287 from evidence in the defendant's case.

288 (3)(A) ~~The~~ Unless otherwise ordered by the court, the defendant shall, no later than the
289 announcement of the verdict of the jury or if the defendant has waived a jury trial at the
290 time the verdict is published by the court, serve upon the state or prosecuting attorney
291 all books; papers; documents; photographs; tangible objects; audio and visual tapes,
292 including tapes created by third parties and data from posted security cameras or
293 automated license readers; films; and recordings, or copies or portions thereof and to
294 inspect and photograph buildings or places which are within the possession, custody,
295 or control of the defendant and which the defendant intends to introduce as evidence
296 in the presentence hearing.

297 (B) ~~The~~ Unless otherwise ordered by the court, the defendant shall, no later than the
298 announcement of the verdict of the jury or if the defendant has waived a jury trial at the
299 time the verdict is published by the court, serve upon the state or prosecuting attorney
300 all reports of any physical or mental examinations and scientific tests or experiments,
301 including a summary of the basis for the expert opinions rendered in the reports, or
302 copies thereof, if the defendant intends to introduce in evidence in the presentence

303 hearing the results of the physical or mental examination or scientific test or
304 experiment. If the report is oral or partially oral, the defendant shall reduce all relevant
305 and material oral portions of such report to writing and shall serve opposing counsel
306 with such portions.

307 (C) The defendant shall, no later than five days before the trial commences, serve upon
308 the state or prosecuting attorney a list of witnesses that the defendant intends to call as
309 a witness in the presentence hearing. No later than the announcement of the verdict of
310 the jury or if the defendant has waived a jury trial at the time the verdict is published
311 by the court, the defendant shall produce for the opposing party counsel any statement
312 of ~~such witnesses~~ a witness that is in the possession, custody, or control of the
313 ~~defendants~~ defendant or the defendant's counsel that relates to the subject matter of the
314 testimony of such ~~witnesses~~ witness unless such statement is protected from disclosure
315 by the privilege contained in paragraph (5), (6), (7), or (8) of subsection (a) of Code
316 Section 24-5-501.

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

322 (d) Upon a sufficient showing that a discovery required by this article would create a
323 substantial threat of physical or economic harm to a witness, the court may at any time
324 order that the discovery or inspection be denied, restricted, or deferred or make such other
325 order as is appropriate. Upon motion by a party, the court may permit the party to make
326 such showing, in whole or in part, in the form of a written statement to be inspected by the
327 judge alone. If the court enters an order granting relief following such an ex parte showing,
328 the entire text of the party's statement shall be sealed and preserved in the records of the

329 court subject to further order of the court and to be made available to the appellate court
330 in the event of an appeal.

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

333 17-16-5.

334 (a) Upon written demand by the state or prosecuting attorney within ~~ten~~ 30 days after
335 arraignment, or at such time as the court permits, stating the time, date, and place at which
336 the alleged offense was committed, the defendant shall serve within ten days of the demand
337 of the state or prosecuting attorney or ten days prior to trial, whichever is later, or as
338 otherwise ordered by the court, upon the state or prosecuting attorney a written notice of
339 the defendant's intention to offer a defense of alibi. Such notice by the defendant shall state
340 the specific place or places at which the defendant claims to have been at the time of the
341 alleged offense and the names, addresses, dates of birth, and telephone numbers of the
342 witnesses, if known to the defendant, upon whom the defendant intends to rely to establish
343 such alibi unless previously supplied.

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

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

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

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

361 17-16-6.

362 Except as provided in subparagraphs (a)(4)(C) and (b)(2)(C) of Code Section 17-16-4, If
363 if at any time during the course of the proceedings it is brought to the attention of the court
364 that the state or prosecuting attorney has failed to comply with the requirements of this
365 article, the court may order the state or prosecuting attorney to permit the discovery or
366 inspection, interview of the witness, grant a continuance, or, upon a showing of prejudice
367 and bad faith, prohibit the state or prosecuting attorney from introducing the evidence not
368 disclosed or presenting the witness not disclosed, or may enter such other order as it deems
369 just under the circumstances. If at any time during the course of the proceedings it is
370 brought to the attention of the court that the defendant has failed to comply with the
371 requirements of this article, the court may order the defendant to permit the discovery or
372 inspection, interview of the witness, grant a continuance, or, upon a showing of prejudice
373 and bad faith, prohibit the defendant from introducing the evidence not disclosed or
374 presenting the witness not disclosed, or may enter such other order as it deems just under
375 the circumstances. The court may specify the time, place, and manner of making the
376 discovery, inspection, and interview and may prescribe such terms and conditions as are
377 just.

378 17-16-7.

379 ~~No later than ten days prior to trial~~ Within 30 days of the defendant's arraignment but no
380 later than 30 days prior to trial, or at such time as the court permits, or at the time of any
381 post-indictment pretrial evidentiary hearing other than a bond hearing, the ~~prosecution state~~
382 or prosecuting attorney or the defendant shall produce for the opposing party any statement
383 of ~~any~~ a witness that is in the possession, custody, or control of the state or ~~prosecution~~
384 prosecuting attorney or in the possession, custody, or control of the defendant or the
385 defendant's counsel that relates to the subject matter concerning the testimony of the
386 witness that the party in possession, custody, or control of the statement intends to call as
387 a witness at trial or at such post-indictment pretrial evidentiary hearing.

388 17-16-8.

389 (a) The ~~state or~~ prosecuting attorney shall, ~~not later than ten days before trial~~ within ten
390 days of the defendant's arraignment, and the defendant's attorney, within ten days after
391 compliance by the ~~state or~~ prosecuting attorney but no later than ~~five~~ ten days prior to trial,
392 or as otherwise ordered by the court, ~~shall~~ furnish to the opposing counsel as an officer of
393 the court, in confidence, the names, current locations, dates of birth, and telephone numbers
394 of that party's witnesses, unless for good cause the judge allows an exception to this
395 requirement, in which event the counsel shall be afforded an opportunity to interview such
396 witnesses prior to the witnesses being called to testify.

397 (b) Nothing in this Code section shall be construed to require the ~~state or~~ prosecuting
398 attorney to furnish the home address, date of birth, or home telephone number of a witness
399 who is a law enforcement officer or a nonsworn employee of a law enforcement agency.
400 Instead, in such cases, the ~~state or~~ prosecuting attorney shall furnish to the attorney for the
401 accused, or, if pro se, to the accused, the current work location and work phone number of
402 the law enforcement officer or nonsworn employee of a law enforcement agency.

403 (c) Any formerly employed or retired law enforcement officer or nonsworn employee of
404 a law enforcement agency may use the address and phone number of the last agency where
405 he or she was employed as his or her contact information for purposes of this Code section.
406 Use of this subsection by an officer or employee shall constitute a waiver of any claim by
407 such officer or employee as to any defect of service or notice of hearing if the service or
408 notice was provided to the designated law enforcement agency and shall impose an
409 affirmative obligation on such officer or employee to keep current his or her personal
410 address and phone number information with such agency.

411 17-16-9.

412 Any party providing documents or statements to another party under this article shall be
413 reimbursed for the actual cost incurred in providing such documents. If the court has
414 determined the defendant to be indigent, the court shall determine the means of
415 reimbursement.

416 17-16-10.

417 The defendant need not include in materials and information furnished to the state or
418 prosecuting attorney under this article any material or information which the state or
419 prosecuting attorney has already furnished to the defendant under this article. The state or
420 prosecuting attorney need not include in materials and information furnished to the
421 defendant under this article any material or information which that defendant has already
422 furnished to the state or prosecuting attorney under this article. Either party may call as a
423 witness any person listed on ~~either~~ the state's, prosecuting attorney's, or defendant's witness
424 list.

425

ARTICLE 2

426 17-16-20.

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

432 17-16-21.

433 (a) Prior to arraignment, every person charged with a criminal offense shall be furnished
434 with a copy of the indictment or accusation and, on demand, with a list of the witnesses on
435 whose testimony the charge against such person is founded. Without the consent of the
436 defendant, no witness shall be permitted to testify for the state whose name does not appear
437 on the list of witnesses as furnished to the defendant unless the prosecuting attorney shall
438 state that the evidence sought to be presented is newly discovered evidence which the state
439 or prosecuting attorney was not aware of at the time of its furnishing the defendant with a
440 list of the witnesses.

441 (b) Nothing in this Code section shall be construed to require any person charged with a
442 criminal offense to be furnished the home address, date of birth, or home telephone number
443 of a witness who is a law enforcement officer or a nonsworn employee of a law
444 enforcement agency. Instead, in such cases, such person shall be furnished with the current
445 work location and work phone number of the law enforcement officer or nonsworn
446 employee of a law enforcement agency.

447 (c) Any formerly employed or retired law enforcement officer or nonsworn employee of
448 a law enforcement agency may use the address and phone number of the last agency where
449 he or she was employed as his or her contact information for purposes of this Code section.

450 Use of this subsection by an officer or employee shall constitute a waiver of any claim by
451 such officer or employee as to any defect of service or notice of hearing if the service or
452 notice was provided to the designated law enforcement agency and shall impose an
453 affirmative obligation on such officer or employee to keep current his or her personal
454 address and phone number information with such agency.

455 17-16-22.

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

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

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

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

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

474 17-16-23.

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

481 (b) In all criminal trials under this article the defendant shall be entitled to have a complete
482 copy of any written scientific reports in the possession of the prosecution state or
483 prosecuting attorney which will be introduced in whole or in part against the defendant by
484 the prosecution state or prosecuting attorney in its case-in-chief or in rebuttal. The request
485 for a copy of any written scientific reports shall be made by the defendant in writing at
486 arraignment or within any reasonable time prior to trial. If such written request is not made
487 at arraignment, it shall be within the sound discretion of the trial judge to determine in each
488 case what constitutes a reasonable time prior to trial. If the scientific report is in the
489 possession of or available to the state or prosecuting attorney, the state or prosecuting
490 attorney must shall comply with this Code section at least ten days prior to the trial of the
491 case.

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

496 **SECTION 5.**

497 Article 2 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating to
498 subpoenas and notice to produce, is amended by revising subsection (a) of Code

499 Section 24-13-23, relating to a subpoena for production of documentary evidence and motion
500 to quash or modify, as follows:

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

504 **SECTION 6.**

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

507 "24-13-24.

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

509 (1) 'Child advocacy center' shall have the same meaning as set forth in Code Section
510 49-5-40.

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

513 (3) 'Law enforcement unit' shall have the same meaning as set forth in Code
514 Section 35-8-2.

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

516 (b) Any law enforcement unit employing peace officers, law enforcement support
517 personnel, or child advocacy centers whose purpose is to conduct forensic interviews at the
518 direction of or in cooperation with a law enforcement unit shall:

519 (1) Designate one or more individuals upon whom subpoenas shall 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; or~~
 527 (2) Registered or certified mail or statutory overnight delivery, and the return receipt
 528 shall constitute prima-facie proof of service.

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

530 (e) Service upon peace officers, law enforcement support personnel, or child advocacy
 531 center staff may be made by serving the individual designated under subsection (b) of this
 532 Code section."

533 **SECTION 7.**

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

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

539 **SECTION 8.**

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

542 **SECTION 9.**

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