

Senate Bill 604

By: Senators Cowser of the 46th, Dolezal of the 27th and Gooch of the 51st

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 18 Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding prosecuting attorneys, so as to give the Attorney
3 General, in certain circumstances, the option of being appointed in the place of a disqualified
4 district attorney prior to any other potential appointee; to amend Chapter 1 of Title 16 of the
5 Official Code of Georgia Annotated, relating to general provisions regarding crimes and
6 offenses, so as to allow for a district attorney to request the assistance of the Attorney
7 General in the prosecution of certain offenses and violations; to provide for related matters;
8 to provide for an effective date and applicability; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 18 Title 15 of the Official Code of Georgia Annotated, relating to
13 general provisions regarding prosecuting attorneys, is amended in Code Section 15-18-5,
14 relating to appointment of substitute for absent or disqualified district attorney, by revising
15 subsection (a) as follows:

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16 "(a) When a district attorney's office is disqualified from interest or relationship to engage
17 in a prosecution, the district attorney shall notify the executive director of the Prosecuting
18 Attorneys' Council of the State of Georgia of the disqualification. Upon receipt of such
19 notification, the executive director of the Prosecuting Attorneys' Council of the State of
20 Georgia shall:

21 (1) Request the services of and thereafter appoint a district attorney, a solicitor-general,
22 a retired prosecuting attorney as provided in Code Section 15-18-30, or an attorney
23 employed by the Department of Law; provided, however, that, except in the event of the
24 voluntary recusal of a district attorney for any offense or violation provided for in Code
25 Section 16-1-13, the executive director shall first notify the Attorney General of the
26 disqualification of a district attorney and shall give the Attorney General the option of
27 having the Attorney General or an attorney employed by the Department of Law
28 appointed to engage in a prosecution prior to any other attorney provided for in this Code
29 section;

30 (2) Designate an attorney from the Prosecuting Attorneys' Council of the State of
31 Georgia; or

32 (3) Appoint a competent attorney to act as district attorney pro tempore in place of the
33 district attorney."

34 **SECTION 2.**

35 Chapter 1 of Title 16 of the Official Code of Georgia Annotated, relating to general
36 provisions regarding crimes and offenses, is amended by adding a new Code section to read
37 as follows:

38 "16-1-13.

39 Notwithstanding any other provision of this title to the contrary, a district attorney may
40 request the assistance of the Attorney General in the prosecution of:

41 (1) Murder or felony murder, as defined in Code Section 16-5-1;

- 42 (2) Armed robbery, as defined in Code Section 16-8-41;
43 (3) Kidnapping, as defined in Code Section 16-5-40;
44 (4) Rape, as defined in Code Section 16-6-1;
45 (5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,
46 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section
47 16-6-4;
48 (6) Aggravated sodomy, as defined in Code Section 16-6-2;
49 (7) Aggravated sexual battery, as defined in Code Section 16-6-22.2;
50 (8) Violation of Code Section 16-13-31, relating to trafficking in cocaine, illegal drugs,
51 marijuana, or methamphetamine and penalties;
52 (9) Violation of an offense in Article 5 of Chapter 11 of this title, relating to offenses
53 involving illegal aliens; or
54 (10) Violation of an offense in Chapter 14 of this title, relating to racketeering influenced
55 and corrupt organizations."

56 **SECTION 3.**

57 This Act shall become effective upon its approval by the Governor or upon its becoming law
58 without such approval and shall apply to all prosecutions initiated on or after such date.

59 **SECTION 4.**

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