

ADOPTED

Senators Robertson of the 29th and Jones II of the 22nd offered the following amendment #1:

1 *Amend the House substitute to SB 173 (LC 48 1612S) by inserting after "such copies;" on*
2 *line 8 the following:*

3 ; to amend Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
4 relating to general provisions relative to the juvenile code, so as to establish the right of
5 parties to obtain a full and complete record of proceedings under the juvenile code; to
6 establish the right of the Department of Human Services to obtain a full and complete record
7 of proceedings under the juvenile code in which it has been permitted to participate by the
8 juvenile court; to amend Chapter 16 of Title 17 of the Official Code of Georgia Annotated,
9 relating to discovery, so as to change provisions relating to discovery in misdemeanor cases;
10 to provide for a defendant to opt into reciprocal discovery similar to provisions in felony
11 cases; to require the defendant to provide the prosecuting attorney with a list of witness and
12 alibi information; to provide for procedure; to provide for sanctions; to amend Chapter 6A
13 of Title 35 of the Official Code of Georgia Annotated, relating to the Criminal Justice
14 Coordinating Council, so as to establish a grant program to provide financial assistance to
15 law enforcement agencies to equip certain motor vehicles with bullet-resistant features; to
16 provide a definition; to establish criteria and procedures for such grants; to require reporting
17 from grant recipients;

18 *By inserting after line 38 the following:*

19

SECTION 2.

20 Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
21 general provisions relative to the juvenile code, is amended by revising Code Section
22 15-11-19, relating to rights of parties to proceedings, as follows:

23 "15-11-19.

24 (a) A party has the right to be present, to be heard, to present evidence material to the
25 proceedings, to cross-examine witnesses, to examine pertinent court files and records, and
26 to appeal the orders of the court; provided, however, that the court shall retain the
27 discretion to exclude a child from any part or parts of any proceeding under Article 3 of
28 this chapter if the court determines that it is not in such child's best interests to be present.
29 An attorney for an excluded child shall not be excluded from the proceedings.

30 (b) A person afforded rights under this chapter shall be advised of such rights at that
31 person's first appearance before the court.

32 (c) A party shall have the right to the full and complete record of any proceeding under
33 this chapter and shall not be required to obtain or produce a court order to receive any such
34 full and complete record.

35 (d) The department shall have the right to the full and complete record of any proceeding
36 under this chapter in which the court has allowed its participation and such department
37 shall not be required to obtain or produce a court order to receive any such full and
38 complete record.

39 (e) Unless otherwise required by law, creation of a full and complete record as set forth
40 in this Code section shall not require a transcript to be reported and prepared by a court
41 reporter. A full and complete record of the proceedings may be created utilizing any of the
42 means set forth in Code Section 15-11-17."

43 **SECTION 3.**

44 Chapter 16 of Title 17 of the Official Code of Georgia Annotated, relating to discovery, is
45 amended by revising Article 2, relating to discovery in misdemeanor cases, as follows:

46 "ARTICLE 2

47 17-16-20.

48 (a) The provisions of this article shall apply only to misdemeanor cases or to felony cases
49 docketed, indicted, or in which an accusation was returned prior to January 1, 1995, if the
50 prosecuting attorney and the defendant do not agree in writing that the provisions of Article
51 1 of this chapter shall apply when at or prior to arraignment, or at such time the court
52 permits, the defendant provides written notice to the prosecuting attorney that such
53 defendant elects to have this article apply to the defendant's case. When one defendant in
54 a multidefendant case demands discovery under this article, the provisions of this article
55 shall apply to all defendants in the case, unless a severance is granted.

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

58 (c) This article shall be deemed to have been automatically invoked, without the written
59 notice provided for in subsection (a) of this Code section, when a defendant has sought
60 discovery pursuant to Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' pursuant to
61 Part 8 of Article 6 of Chapter 11 of Title 15, or pursuant to the Uniform Rules for the
62 Juvenile Courts of Georgia when such discovery material is the same as the discovery
63 material that may be provided under this article when a written notice is filed pursuant to
64 subsection (a) of this Code section.

65 (d) This article is not intended to authorize discovery or inspection of attorney work
66 product.

67 17-16-21.

68 (a) Prior to or at arraignment, every person charged with a criminal offense the defendant
69 shall be furnished with a copy of the indictment or accusation and, on demand, with a list
70 of the witnesses on whose testimony the charge against such person is founded. Without
71 the consent of the defendant, no witness shall be permitted to testify for the state whose
72 name does not appear on the list of witnesses as furnished to the defendant unless the

73 ~~prosecuting attorney shall state that the evidence sought to be presented is newly~~
74 ~~discovered evidence which the state was not aware of at the time of its furnishing the~~
75 ~~defendant with a list of the witnesses.~~

76 (b) If a defendant elects to have this article apply, the prosecuting attorney, not later than
77 ten days before trial, or as otherwise ordered by the court, shall provide the defendant with
78 a list of witnesses that the state intends to call as witnesses at trial. Such list shall include
79 the names, address and current locations, dates of birth, and telephone numbers of the
80 state's witnesses, unless for good cause the court allows an exception to this requirement,
81 in which event the defendant shall be afforded an opportunity to interview such witnesses
82 prior to the witnesses being called to testify. If the witness is a law enforcement officer,
83 the prosecuting attorney shall furnish the defendant with such officer's current work
84 location and work phone number.

85 (c) Within ten days after the prosecuting attorney provides a list of witnesses, but no later
86 than five days prior to trial, or as otherwise ordered by the court, the defendant shall furnish
87 the prosecuting attorney with a list of witnesses that the defendant intends to call at trial.
88 Such list shall include the names, address and current locations, dates of birth, and
89 telephone numbers of the defendant's witnesses, unless for good cause the court allows an
90 exception to this requirement, in which event the prosecuting attorney shall be afforded an
91 opportunity to interview such witnesses prior to the witnesses being called to testify.

92 (d) If prior to or during trial the prosecuting attorney or defendant learns of additional
93 witnesses whose identity, if known, should have been included in the information furnished
94 pursuant to this Code section, the discovering party shall notify the other party of the
95 existence and identity of such additional witnesses.

96 (e) The prosecuting attorney or defendant may call as a witness any individual listed on
97 either witness list.

98 ~~(b)(f)~~ Nothing in this Code section shall be construed to require any person charged with
99 a criminal offense to be furnished the home address, date of birth, or home telephone

100 number of a witness who is a law enforcement officer or a nonsworn employee of a law
101 enforcement agency. Instead, in such cases, such person shall be furnished with the current
102 work location and work phone number of the law enforcement officer or nonsworn
103 employee of a law enforcement agency.

104 ~~(e)~~(g) Any formerly employed or retired law enforcement officer or nonsworn employee
105 of a law enforcement agency may use the address and phone number of the last agency
106 where he or she was employed as his or her contact information for purposes of this Code
107 section. Use of this subsection by an officer or employee shall constitute a waiver of any
108 claim by such officer or employee as to any defect of service or notice of hearing if the
109 service or notice was provided to the designated law enforcement agency and shall impose
110 an affirmative obligation on such officer or employee to keep current his or her personal
111 address and phone number information with such agency.

112 17-16-22.

113 (a) At If the defendant elects to have this article apply, the prosecuting attorney shall, at
114 least ten days prior to the trial of the case, disclose to the defendant shall be entitled to have
115 a copy of any statement given by the defendant while in police custody. The defendant
116 may make such request for a copy of any such statement, in writing, within any reasonable
117 period of time prior to trial.

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

121 ~~(c) Failure of the prosecution to comply with a defendant's timely written request for a~~
122 ~~copy of such defendant's statement, whether written or oral, shall result in such statement~~
123 ~~being excluded and suppressed from the prosecution's use in its case-in-chief or in rebuttal.~~
124 If the defendant elects to have this article apply, the prosecuting attorney shall, at least ten
125 days prior to the trial of the case, make available for inspection or copying by the defendant

126 copies of the police incident report and all supplemental police reports, if any, regarding
127 the occurrence which forms the basis of the charges.

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

132 ~~(e)~~(d) This Code section shall not apply to evidence information subject to disclosure
133 pursuant to this Code section which is discovered after a request has been filed. If a
134 request has been filed, such evidence information shall be produced as soon as possible
135 after it has been discovered.

136 17-16-23.

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

143 ~~(b) In all criminal trials the defendant shall be entitled to have~~ If the defendant elects to
144 have this article apply, the prosecuting attorney shall, at least ten days prior to trial of the
145 case, disclose to the defendant a complete copy of any written scientific reports in the
146 possession of the prosecution which will be introduced in whole or in part against the
147 defendant by the ~~prosecution in its~~ prosecuting attorney in the prosecution's case-in-chief
148 or in rebuttal. ~~The request for a copy of any written scientific reports shall be made by the~~
149 ~~defendant in writing at arraignment or within any reasonable time prior to trial. If such~~
150 ~~written request is not made at arraignment, it shall be within the sound discretion of the~~
151 ~~trial judge to determine in each case what constitutes a reasonable time prior to trial. If the~~

152 ~~scientific report is in the possession of or available to the prosecuting attorney, the~~
153 ~~prosecuting attorney must comply with this Code section at least ten days prior to the trial~~
154 ~~of the case.~~

155 ~~(c) Failure by the prosecution to furnish the defendant with a copy of any written scientific~~
156 ~~report, when a proper and timely written demand has been made by the defendant, shall~~
157 ~~result in such report being excluded and suppressed from evidence in the prosecution's~~
158 ~~case-in-chief or in rebuttal.~~

159 17-16-24.

160 If the defendant elects to have this article apply, the prosecuting attorney shall permit the
161 defendant at a time agreed to by the parties or ordered by the court to inspect and copy or
162 photograph books, papers, documents, photographs, tangible objects, or copies or portions
163 thereof and to inspect audio and visual tapes or copies or portions thereof that are within
164 the possession, custody, or control of the state or prosecution and are intended for use by
165 the prosecuting attorney as evidence in the prosecution's case-in-chief or rebuttal at the
166 trial.

167 17-16-25.

168 (a) If the defendant elects to have this article apply, when the prosecuting attorney
169 provides a discovery response that includes the time, date, and place at which the alleged
170 offense was committed, the defendant shall serve upon the prosecuting attorney, within ten
171 days of the discovery response from the prosecuting attorney or ten days prior to trial,
172 whichever is later or as ordered by the court, a written notice of the defendant's intention
173 to offer a defense of alibi. Such notice by the defendant shall state the specific place or
174 places at which the defendant claims to have been at the time of the alleged offense and the
175 names, addresses, dates of birth, and telephone numbers of the witnesses, if known to the

176 defendant, upon whom the defendant intends to rely to establish such alibi unless
177 previously supplied.

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

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

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

190 (e) If the defendant withdraws the notice of intention to rely upon an alibi defense, the
191 notice and intention to rely upon an alibi defense are not admissible. However, the
192 prosecuting attorney may offer any other evidence regarding alibi.

193 17-16-26.

194 If at any time during the course of the proceedings it is brought to the attention of the court
195 that the state has failed to comply with the requirements of this article, the court may order
196 the state to permit the discovery or inspection, grant a continuance, or, upon a showing of
197 prejudice and bad faith, prohibit the state from introducing the evidence not disclosed or
198 presenting the witness not disclosed, or may enter such other order as it deems just under
199 the circumstances. If at any time during the course of the proceedings it is brought to the
200 attention of the court that the defendant has failed to comply with the requirements of this
201 article, the court may order the defendant to permit the discovery or inspection, interview

202 of the witness, grant a continuance, or, upon a showing of prejudice and bad faith, prohibit
203 the defendant from introducing the evidence not disclosed or presenting the witness not
204 disclosed, or may enter such other order as it deems just under the circumstances. The
205 court may specify the time, place, and manner of making the discovery, inspection, and
206 interview and may prescribe such terms and conditions as are just.

207 17-16-27.

208 Nothing in this article shall supersede the prosecuting attorney's duty to disclose all
209 evidence, known or that may become known to him or her, favorable to the defendant and
210 material either to guilt or punishment."

211 **SECTION 4.**

212 Chapter 6A of Title 35 of the Official Code of Georgia Annotated, relating to the Criminal
213 Justice Coordinating Council, is amended by adding a new Code section to read as follows:

214 "35-6A-18.

215 (a) As used in this Code section, the term 'peace officer' shall have the same meaning as
216 set forth in Code Section 35-8-2.

217 (b) The council shall be authorized to establish a grant program to provide financial
218 assistance to law enforcement agencies to equip motor vehicles used by peace officers with
219 certain bullet-resistant components. The grant program shall include funding, subject to
220 appropriations by the General Assembly, for grants to law enforcement agencies to
221 purchase and install bullet-resistant windshields, side windows, rear windows, and door
222 panels on such law enforcement agencies' motor vehicles used by peace officers in the
223 discharge of official duties.

224 (c) The council shall establish and administer:

225 (1) Eligibility and selection criteria for grant applicants;

226 (2) Grant application procedures;

- 227 (3) Guidelines relating to grant amounts;
228 (4) Procedures for evaluating grant applications; and
229 (5) Procedures for monitoring the use of a grant awarded under the program and ensuring
230 compliance with any conditions of a grant.
- 231 (d) A law enforcement agency receiving a grant under this Code section shall, as soon as
232 practicable after spending the grant money, provide to the council proof of purchase and
233 installation, as applicable, of bullet-resistant windshields, side windows, rear windows, or
234 door panels paid for in whole or in part using grant funds."

235 *By redesignating Section 2 as Section 5.*