The following is a summary of the Bills and Resolutions impacting prosecutors or the criminal justice system that passed during the 2012 Session of the Georgia General Assembly and, in the case of Bills, were approved by the Governor.

There were 653 Bills and 1129 Resolutions introduced in the House during the 2012 session; in the Senate 221 Bills and 730 Resolutions were introduced. To these must be added the 868 Bills and Resolutions that were introduced in 2011 but were carried over to 2012. Of these 1556 Bills and 2045 Resolutions, 166 contained provisions that could have an impact on prosecutor's offices or the criminal justice system. Only 71 managed to make it all the way through the process. One passed both the House and Senate but was vetoed by the Governor.

We have provided a brief analysis by the contributing authors shown above for each of the 71 Bills and Resolutions that passed. These summaries are intended to give the reader an idea of what is contained in the new law; they are not a substitute for reading the actual text of the Bill. In a few instances where the authors concluded that the legislative short title adequately described the contents of the Bill or Resolution, no summary is provided.

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**HB 46  Uniform Interstate Depositions and Discovery Act; enact**
Jacobs, Mike 80th
Approved by Governor 5/1/12; effective 7/1/12 [See Note].

HB 46 enacts the 2007 version of the Uniform Interstate Depositions and Discovery Act which was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). It replaces the older (1920) Uniform Foreign Depositions Act that Georgia adopted in 1959, O.C.G.A. § 24-10-110, et seq. (24-13-11, et seq. in the new Evidence Code). HB 46 replaces the older law in both the current and the new Code. It will allow litigants in civil cases to conduct discovery and take deposition of witnesses in any other state, US territory or Native American jurisdiction that has adopted the Uniform Interstate Depositions and Discovery Act (currently California, Colorado, Delaware, District of Columbia, Idaho, Indiana, Kansas, Kentucky, Maryland, Mississippi, Montana, Nevada, New Mexico, New York, North Carolina, Oregon, South Carolina,

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1 Source: Office of Legislative Counsel.
Subsection (e) of the new O.C.G.A. § 24-1-113 (24-13-112) provides that it does not apply to criminal cases, but it could apply to forfeiture cases.

[NOTE REGARDING EFFECTIVE DATE: Section 3-1 provides that the Act is effective 7/1/11 and applies to proceedings after that date. While HB 46 passed both the Senate and the House in 2011, it did not receive final approval by both Houses until 1/23/2012. When the Bill received final approval by the House and Senate in 2012, Section 3-1 was left unchanged. Because the Georgia Constitution prohibits both ex post facto and retroactive laws (as well as laws impairing the obligations of contracts), Ga. Const., Art. I, Sect. I, Para. X; see *Wilder v. Lumpkin*, 4 Ga. 208, 210-221 (1848). In similar situations when the General Assembly has passed legislation that contained a specified effective date that was in the past, the law was construed as being governed by O.C.G.A. § 1-3-4. Ga. Op. Att'y Gen. 76-76. Applying this principle, to HB 46 would make the Bill effective 7/1/12.]

**HB 93**  
**Code enforcement boards; code enforcement officers; change definition**  
Taylor, Tom 79th  
Approved by Governor 4/16/2012; Effective 7/1/12.  

HB 93 amends various code sections in Title 36 to change the official title of the local official who conducts health, safety, or welfare inspections and can issue citations from "code inspector" to "code enforcement officer."

**HB 100**  
**Georgia Tax Court; create**  
Peake, Allen 137th  
Approved by Governor 4/19/2012; Effective 1/1/13.  

HB 100 originally would have created a stand alone court to hear all tax cases, possibly including criminal cases. As passed, it creates an "independent and autonomous division within the Office of State Administrative Hearings" that will hear contested tax cases. It does not affect criminal prosecution of tax cases.

**HB 237**  
**Residential mortgage fraud; mortgage lending process; revise definition**  
Golick, Rich 34th  
Approved by Governor 5/1/12; Effective 7/1/12.
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HB 237 amends the current criminal statute on residential mortgage fraud. A provision in the original Bill that would have given the Attorney General and District Attorneys investigative subpoena powers in such cases was removed by the Senate, and the House accepted the Bill as passed by the Senate.

HB 250  Georgia Judicial Retirement System; revised survivor's benefit option; provisions
Weldon, Tom 3rd
Approved by Governor 5/1/12; Effective 7/1/12 - if funded

HB 250 makes several changes to the Judicial Retirement System. Section 1 adds a new O.C.G.A. § 47-23-84 that addresses what happens if a member, or if there is a surviving covered spouse, dies before all of the member's accumulated contributions have been paid out in benefits. As enacted, the remainder will be paid either to a designated person or, if no one has been designated by the member, the member's estate. Section 2 amends O.C.G.A. § 47-23-105 to add a new subsection (b)(3) that will allow a current member of JRS who rejected spousal benefits to reapply to have a spouse covered. The member must pay for any accrued actuarial liability that may result. Section 3 adds a new O.C.G.A. § 47-23-105.1 creates a new optional spousal benefit.

HB 297  Retirement and pensions; public systems prohibited from expending fund for certain purposes; provide
Maxwell, Howard 17th
Approved by Governor 5/1/12; Effective 7/1/12.

HB 297 enacts a new O.C.G.A. § 47-1-16 that prohibits any public retirement system in Georgia from acquiring what is called "dead peasant insurance" that would pay a benefit to the retirement system if a covered member dies.

HB 351  Probate Courts Retirement Fund of Georgia; probate court fines and fees; provide
Maxwell, Howard 17th
Approved by Governor 5/1/12; Effective 7/1/12.

HB 351 amends O.C.G.A. § 47-11-51 and raises the add-on fee charged by probate courts in criminal cases to $3.00. The fee is used to fund the Probate Courts Retirement Fund.

HB 397  State government; open meetings and records; revise provisions
Powell, Jay 171st
HB 397 comprehensively revises the Open Meetings Act, O.C.G.A. § Ch. 50-14 and the Open Records Act, O.C.G.A. § 50-18-70, et seq. [NOTE: Based on earlier AG opinions and court cases, the Open Meetings Law has been held not to apply to officials, agencies and courts in the Judicial Branch. During meetings on this Bill, the Attorney General indicated that he thought that the same rule would apply with regard to the Open Records Act. However, neither Act contains statutory language that expressly states that the Judicial Branch is exempt.]

Section 1 deals with Open Meetings. In O.C.G.A. § 50-14-1, the term “agency” is amended to include the term “office” in the definition (see Exemptions below). In addition, the definition of a “meeting” is extensively revised to make it clearer what is and what is not considered to be subject to the Open Meetings requirements. There are new requirements for the posting of notices of meetings and voting. O.C.G.A. § 50-14-6 has been amended to add civil penalties that can be imposed by a superior court based on an action brought by the Attorney General.

Exemptions. There are a number of changes to the types of meetings that are exempt from the Open Meetings Act. In particular, O.C.G.A. § 50-14-3(a)(3) exempts meetings of "of the Georgia Bureau of Investigation or any other law enforcement or prosecutorial agency in the state, including grand jury meetings."

Section 2 amends the Open Records Act (ORA), O.C.G.A. § 50-18-70, et seq. The definitions for “agency,” and “public record” have been revised. Records still must be made available within three business days, but if the records cannot be produced within three days, the agency can provide a description of the records and a time line for making them available. Agencies are also allowed to designate a records custodian to receive ORA requests. Requests for records may be submitted orally, in writing or electronically but only written requests (physical or electronic) can be enforced.

The fee for copying records has been lowered from 25¢ to 10¢ per page. If the total cost of providing access and copies is under $25, agencies are supposed to provide the records and bill the requester. If the cost is between $25 but not more than $500, records may be withheld until the requester agrees to pay. If the requester doesn’t pay the bill, the agency can initiate debt collection procedures, which include suing the requester. The other remedy if they don't pay is that they can't get any more records until they pay for the first batch of records. Only if the total cost will exceed $500 can prepayment be demanded. The net effect is that it appears to do away with the current rule that if an individual

The Bill provides that if records that are sought as part of or for use in any ongoing civil or administrative litigation against an agency, a copy of the ORA request must be provided to counsel for the agency and agency counsel is entitled to a duplicate set of the records. No similar protection is afforded records that are sought for use in criminal cases.

For the most part, the exemptions contained in O.C.G.A. § 50-18-72 remain the same but a number of them have been consolidated. In O.C.G.A. § 50-18-72(a)(3), the standard for withholding records compiled for law enforcement or prosecution purposes has been changed from “would” to “is reasonably likely to disclose” a confidential source, investigative or prosecution material. Other exemptions that have been consolidated and revised include the ones exempting disclosure of SSN and other personal information of private individuals and public employees and dealing with trade secrets.

**HB 456**  **Georgia Government Accountability Act; enact**
Byrd, Charlice 20th
**Vetoed by Governor 5/4/12.**

*HB 456* would have enacted the “Georgia Government Accountability Act” which would have created a Legislative Sunset Advisory Committee that would review and evaluate all of the agencies in the Executive Branch to determine their productivity, efficiency, and responsiveness. If the committee recommends that an agency be abolished, it is supposed to happen automatically if the General Assembly adopts a resolution declaring that the state laws applicable to such agency have been repealed, revised, or reassigned. It is similar to "sunset" legislation that was adopted in the late 1970's but later repealed.

**HB 514**  **Distilled spirits; free tastings on premises; authorize**
Kidd, E. Culver Rusty 141st
Approved by Governor 5/1/12; Effective 7/1/12.

*HB 514* enacts a new O.C.G.A. § 3-4-180 which authorizes distillers to include free tastings of distilled spirits as a part of educational and promotional tours of the distillery if they obtain a permit from the Commissioner of Revenue.

**HB 541**  **Obstruction of public administration; threaten or intimidate officer or official; provide for offense**
Epps, James 140th
Approved by Governor 5/1/12; Effective 7/1/12.
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HB 541 amends O.C.G.A. § 16-10-97, threatening or intimidating an officer or official. It adds the word "action" to subsection (a) and adds a new subsection (c) which reads: "(c) A person who by threat or force or by any threatening action, letter, or communication endeavors to intimidate any law enforcement officer, outside the scope and course of his or her course of employment, or his or her immediate family member in retaliation or response to the discharge of such officer's official duties shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed $5,000.00, or both."

HB 642 Abolish State Personnel Administration; Transfer Functions
Collins, Doug 27th
Approved by Governor 5/1/12; Effective 7/1/12.

HB 642 abolishes the State Personnel Administration (formerly known as the “State Merit System”) and transfers some of the remaining functions to the Department of Administrative Services. It amends Code Titles 45 and 50 as well as numerous other Code sections to extensively revise references to personnel administration within the Executive Branch but also changes references to the State Personnel Administration that are found in Title 15.

[NOTE: One of the Code sections that is revised and reenacted is O.C.G.A. § 45-7-4, which sets the salaries for all of the state constitutional officers. Rather than just amending subsection (b) of O.C.G.A. § 45-7-4 to change the reference, it reenacts the entire Code section, including the salaries as they existed in 2008, prior to the last cost-of-living raises that went into effect (example: the current salary paid district attorneys is $114,353.77. In HB 642 it is $107,905.00). Since the Title of the Bill doesn't mention that it is affecting the salaries of constitutional officers, this section may violate Ga. Const. Art. V., Sect. V, Para III if it were construed to roll back salaries to the 2008 levels.]

HB 665 Clerk of superior court offices; modernize provisions
Maddox, Billy 127th
Approved by Governor 4/16/2012; Effective 7/1/12.

HB 665 modernizes many of the provisions in the Code relating to the duties of the clerk of superior court, including by allowing the use of digital records, dockets, maps, plats, etc., under certain circumstances. It changes the provisions dealing with removing a clerk from office and dealing with a vacancy in the position in general; by allowing clerks to serve as clerks in other courts. It also dramatically raises the required bond amount and requiring that deputy clerks be bonded. It sets uniform office hours and provides for
personnel training. There is an expressed new provision that no one can take clerk’s records out of the office/courthouse without written approval of the clerk except the judge or the judge’s designee.

**HB 685** Animals; dangerous and vicious dogs; extensively revise provisions  
Maddox, Gene 172nd  
Approved by Governor 5/3/12; Effective 7/1/12.

HB 685 enacts the “Responsible Dog Ownership Law.” It revises parts of O.C.G.A. § 4-8-1, et seq., and totally replaces O.C.G.A. § 4-8-20, et seq. HB 685 is intended to “establish minimum standards for the control and regulation of dogs and to establish state crimes for violations of such minimum standards.” The standards set forth are minimum and local governing authorities may adopt more restrictive regulations. It defines dangerous and vicious dogs and sets standards for such classification; requires owners of such dogs to obtain a certificate of registration and sets criteria for its issuance; provides for appointment of a local dog control officer and defines the responsibilities, duties and authority for such officer; outlines duties and responsibilities of the owners of such dogs; provides for notice and hearing for owners of such dogs which have been so designated or seized; sets standards for the control of such animal both on and off the property of the owner; and, set standards and procedures to euthanize such dogs. Most of the violations are misdemeanors or high and aggravated misdemeanors except that there is a 1 – 5 year felony if a classified dog owned by someone who has a prior conviction for a violation of this law, “causes serious injury to a human being under circumstances constituting another violation.”

**HB 711** Evidence; privileges; change provisions  
Lindsey, Edward 54th  
Approved by Governor 4/16/12; Effective 1/1/13.

HB 711 amends the new Evidence Code. **Section 1** amends O.C.G.A. § 24-5-503, to expand the exceptions to spousal privilege. Privilege shall not apply when a spouse is charged with a crime against the other spouse; spouse destruction of common property of the marriage; spouse destruction of the property of the other spouse; or crime against the spouse which occurred prior to marriage. The existing exception to spousal privilege based on one spouse having committed "a crime against the person of a child under the age of 18" was not changed.

Section 2 deals with family violence shelters and rape crisis centers at a Criminal Justice Coordinating Council victim assistance program. It does not apply to programs that are under the “supervision of a law enforcement agency, prosecuting attorney's office, or a
government agency.” It makes privileged, information obtained from a victim that is necessary to enable the agent to “render service.” The privilege belongs to the victim and may be waived. If the victim is incompetent, the privilege shifts to the guardian who may waive. The privilege applies in both civil and criminal proceedings. The mere presence of a third party does not waive the privilege if the victim reveals the information in a setting in which the victim has a “reasonable expectation of privacy.” The privilege terminates upon death of the victim. It does not apply if the agent is a witness to the crime charged. In a criminal proceeding, upon notice, 10 days before trial or as directed by the Court, either party may move to compel evidence that is privileged under this section. The motion shall be heard and determined prior trial. Grant of the motion is at the discretion of the Court; the standard is a preponderance of the evidence; the proponent must show that the evidence sought is: material and relevant; does apply only to the victim’s character, unless evidence is prior inconsistent statement; not available to, or already obtained by the moving party; and, the “probative value substantially outweighs the negative effect on the victim.” If the Court orders disclosure, the evidence has to be forwarded to the Court under seal for an in camera review. Disclosure of all or any part of the requested evidence is at the discretion of the Court.

HB 733 **Family violence; holdover provisions for appointees; add**
Hightower, Dustin 68th
Approved by Governor 4/16/2012; Effective 4/16/12.

HB 733 amends O.C.G.A. § 19-13-32 and adds a provision that will allow members of the State Commission on Family Violence to hold-over at the end of the term of appointment until the Governor names a replacement or appoints the incumbent to a new term. (Members can serve no more than two consecutive terms.)

HB 741 **Supplemental appropriations; State Fiscal Year July 1, 2011 - June 30, 2012**
Ralston, David 7th
Approved by Governor 3/15/12; Effective 3/15/12.

HB 741 amends the budget for FY 2012. In amended fiscal year 2012, the district attorneys program received $1,028,127 to offset the adjustment in the SHBP. In the PAC program, $72,838 was restored for rent, while $1,741 was reduced as an adjustment in telecommunications expenses. As is always the case with amended year funding these amounts are one-time funding and do not become part of the base budget.

HB 742 **General appropriations; State Fiscal Year July 1, 2012 - June 30, 2013**
Ralston, David 7th
Approved by Governor 5/8/12; Effective 7/1/12.
HB 742 sets the budget for fiscal year 2013. Section 8 of the Bill contains the appropriation for Prosecuting Attorneys and is divided into three sections: District Attorneys, Prosecuting Attorneys Council (PAC) and Council of Superior Court Clerks. The Clerks portion remained at $187,455.

The District Attorneys portion increased $803,677 to cover increased costs in the employer share of the State Health Benefit Plan from 27.363% to 29.781%. Another increase was for deferred promotions approved by DA’s in FY 2009 in the amount of $271,150. Lastly, there was an increase of $104,522 for additional ADAs associated with the creation of two new judgeships in the Bell-Forsyth and Piedmont Judicial Circuits that take effect on 1/1/2013. The total appropriation for the DAs is $54,684,092.

PAC’s portion increased $42,299 to cover increased costs in the employer share of the State Health Benefit Plan from 27.363% to 29.781%. The Prosecuting Attorneys Council received an increase of $72,838 to cover the cost of rent that was taken out of last year’s appropriation, which will now become part of the base appropriation. Additional increases of $1,131,097 for employer’s share to ERS, in Worker’s Comp costs $75,634, unemployment insurance $44,328, general liability $191,474 and PeopleSoft billings $4,729. PAC appropriation was reduced by $1,740 as an adjustment in telecommunications expenses. Total PAC appropriation is $7,005,291.

[NOTE: The Governor vetoed several line items in HB 742, none of which affected criminal justice.]

HB 756  Putnam County; State Court of; law provisions updated and consolidated; provide
Channell, Mickey 116th
Approved by Governor 3/5/12; Effective 3/5/12

HB 756 is local legislation that updates the law creating the State Court of Putnam County. Ga. L. 1997, p. 3839.

HB 822  Georgia Taxpayer Protection False Claims Act; enact
Lindsey, Edward 54th
Approved by Governor 4/16/2012; Effective 7/1/12.

HB 822 enacts the Ga. Taxpayer Protection False Claims Act. It amends the equitable remedies and procedures chapter of Title 23 and the State False Medicaid Claims Act in Title 49. The Change to Title 23 is adds a new Article 6 to Chapter 3 which is generally the same procedure, and remedies set out in the State False Medicaid Claims Act. The difference is that the new Article 6 would allow civil suits by individuals seeking to
redress false and fraudulent claims made for any State or local funds. The Bill is based on the Common Law qui tam action, see *O'Kelly v. Athens Mfg. Co.*, 36 Ga. 51 (1867). It also appears to be modeled on the Federal False Claims Act and similar laws that have been passed in Alabama, Kansas and Virginia. There is a provision that provides that the Attorney General may delegate the responsibility for pursuing civil remedies to the district attorney if the fraud was committed against a local government. However, there nothing in the language of the Bill that appears to require the district attorney to accept the delegated responsibilities.

**HB 827** Traffic offenses; fleeing or attempting to elude a pursuing police vehicle; modify provisions  
Hembree, Bill 67th  
Approved by Governor 5/1/12; Effective 7/1/12.

House Bill 827 alters the language of O.C.G.A. § 40-6-395 such that fines imposed as part of a sentence for Fleeing or Attempting to Elude must be actually assessed and collected, and are not to be conditionally waived or reduced below the statutory minimums. In addition O.C.G.A. § 40-6-395(b)(5)(A) is amended such that defendants who (i) drive more than 20 mph over the speed limit; (ii) strike or collide with another vehicle or a pedestrian; (iii) flee in traffic conditions that place the general public at risk of receiving serious injuries; (iv) have a BAC over .08; or (v) leave the state while fleeing or eluding police are guilty of a felony regardless of whether the reason they are fleeing is to escape arrest.

**HB 861** Drug testing of applicants for TANF  
Harden, Michael 28th  
Approved by Governor 4/16/12; Effective 7/1/12.

HB 861 enacts a new O.C.G.A. § 49-4-193 that requires the Department of Human Services to conduct drug tests on applicants for temporary assistance for needy families (TANF). The results of the drug test cannot "be used as a part of a criminal investigation or criminal prosecution" and cannot be disclosed in a civil action without the consent of the person tested.

**HB 865** Georgia Motor Common and Contract Carrier Act of 2012; enact  
Powell, Alan 29th  
Approved by Governor 5/1/12; Effective 7/1/12.

House Bill 865 transfers regulatory authority—including enforcement authority—over motor carriers (“every person owning, controlling, operating, or managing any motor carrier”) to the Department of Transportation. The Department of Transportation may promulgate rules and regulations necessary to carry out this new authority.
Summary of Legislation Enacted During the 2012 Georgia General Assembly

vehicle . . . used in the business of transporting for hire persons, household goods, property, or engaged in the business of nonconsensual towing for hire over any public highway in this state”) and limousine carriers from the Georgia Public Service Commission to the Georgia Department of Public Safety Motor Carrier Compliance Division. The Motor Carrier Compliance Division is split into two sections; the Motor Carrier Compliance Enforcement Section (which replaces the old Motor Carrier Compliance Division and which is specifically designated as being comprised of law enforcement officers) and the Motor Carrier Regulation Compliance Section.

O.C.G.A. § 40-1-128 makes it a misdemeanor for officers, agents, and employees of corporations and any other persons to accept kickbacks or rebates from rates and fares established by the Motor Carrier Compliance Division. Also, O.C.G.A. § 40-1-129 makes any person, firm, or corporation that advertises as a household goods carrier for hire without having a valid certificate issued by the DPS guilty of a misdemeanor. New O.C.G.A. § 40-5-39 requires a special endorsement on the drivers’ license of limousine chauffeurs, and establishes the qualifications for persons seeking the endorsement.

[NOTE: HB 865 contains a new OCGA40-1-55 which purports to make violations of certain "order, rule, or regulation of the Department of Public Safety" a misdemeanor. The problem is that the Georgia Supreme Court has repeatedly held that the General Assembly cannot make a violation of a regulation adopted by a state agency a crime, Sundberg v. State, 234 Ga. 482 (1975); Howell v. State, 238 Ga. 95, 95-96 (1976), unless the General Assembly adopts legislation adopting the specific regulations as statute law. Ward v. State, 248 Ga. 60, 61-62 (1981). Thus, that portion of 40-1-55 that purports to make violations of regulations adopted by the Department of Public Safety a misdemeanor is unconstitutional ab initio until such time as the General Assembly enacts a statute adopting those rules.]

HB 869  Natural Resources, Board of; rules and regulations; revise certain provisions
Lane, Roger 167th
Approved by Governor 5/1/12; Multiple effective dates.

HB 869 revises several provisions in Titles 27 and 52 and has multiple effective dates.

Effective 5/1/12.

Sections 1, 29 and 30 amend O.C.G.A. § 27-1-39, 52-7-26 and 52-7-51 to provide that the rules of the Department of Natural Resources related to game and fish and watercraft that were in effect on January 1, 2012 can be prosecuted as crimes because they have been adopted by the legislature. See Ward v. State, 248 Ga. 60, 61-62 (1981).
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Effective 1/1/13.

Title 27 is amended by repealing: O.C.G.A. § 27-4-35 (sport shad fishing); 27-4-72 (commercial eel fishing); 27-4-72 (commercial eel fishing); 27-4-112 (lawful methods of commercial salt water fishing); 27-4-113 (lawful commercial salt-water fishing gear); 27-4-114 (use of purse seines); 27-4-115 (commercial catfishing); 27-4-130.1 and 27-4-130.2 (open seasons, creel and possession limits and minimum size limits); 27-4-170 (sport bait shrimping); 27-4-172 (protections for horseshoe crabs, catch limits and exceptions).

A new O.C.G.A. § 27-2-20.1 is added stating that it is unlawful for anyone who has a fishing license to fish in salt waters without participating in the Saltwater Information program.

O.C.G.A. § 27-4-5 is amended to delete bow nets for use in fishing for game fish in fresh waters but to allow dip nets and cast nets for bait nongame fish.

O.C.G.A. § 27-4-7 is amended so that gill nets are not authorized at any time except for the taking of shad by licensed fishermen.

O.C.G.A. § 27-4-10 has been revised to reflect new limits for number of fresh water fish taken and the size at which fish must not be taken and also adds additional types of fish that may be taken.

O.C.G.A. § 27-4-12 is amended to give the Board authority to make rules and regulations and adds a new reporting requirement to the legislative committees. The General Assembly may override any rule or regulation promulgated by the Board which affects salt-water finfish fisheries.

O.C.G.A. § 27-4-34 adds a new subsection giving the Board authority to make rules relating to taking salt water fish by bow and arrow.

O.C.G.A. § 27-4-50 makes it illegal to fish for trout in waters designated as trout waters by any means other than one pole and line held in hand.

O.C.G.A. § 27-4-71 makes it illegal to fish for shad, American eels, and catfish in saltwater or horseshoe crabs without a valid commercial license and a valid commercial fishing boat license.

O.C.G.A. § 27-4-71 (d), (e), (f) and (g) are deleted.
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O.C.G.A. § 27-4-91 is amended to delete the use of sturgeon nets in commercial fresh water fishing.

O.C.G.A. § 27-4-118 is amended to reflect that it is unlawful for any commercial fisherman landing seafood to fail to maintain specific records.

O.C.G.A. § 27-4-130 is repealed in its entirety and a new O.C.G.A. § 27-4-130 is inserted to allow the commissioner the power to close all or any portion of salt waters of the state for a period not to exceed six months. This applies only to state waters, not federal waters. Public notice of such closures must be made.

O.C.G.A. § 27-4-132 is revised to give the Board authority to establish seasons, methods of fishing and disposition, and size and possession limits for noncommercial fishing for shrimp.

O.C.G.A. § 27-4-133 is amended to include jelly fish as one of the fish that may be caught by power-drawn nets during certain seasons.

O.C.G.A. § 27-4-171 is repealed and a new Code Section 27-4-171 is enacted to require that any person fishing for shrimp for bait to be sold must have a bait dealer license, and must file a bond of $2,000.00 with the commissioner. It is unlawful to sell bait shrimp for human consumption. The department shall inspect bait dealer facilities within 30 days from time of application for license to ensure facilities meet code requirements. Heads off shrimp are prima facie evidence that shrimp is for human consumption.

O.C.G.A. § 27-4-190 is amended to include mandate for all commercially licensed vessels engaged in commercial shellfish harvest or transport to have a portable marine toilet on board.

HB 872 Commerce and trade; secondary metals recyclers; provide comprehensive revision of provisions
Shaw, Jason 176th
Approved by Governor 4/16/12; Effective 7/1/12.

HB 872 fundamentally changes O.C.G.A. § 10-1-350 through 10-1-363 to reflect the theft of materials, particularly copper, and puts in place procedures for prevention of theft and misuse of copper products, among other type of products. It contains detailed procedures a secondary metals recycler must complete to include requiring registration with a Sheriff’s Office as well as required dealers to keep detailed records. O.C.G.A. § 10-1-351 & 352 have been totally changed and now explains explicitly from whom a
secondary metals recycler can purchase coil, copper wire, burial objects, and what documentation is required for the purchase. “Regulated metal property” has been changed to mean any item composed primarily of any ferrous metals or nonferrous metals, and includes aluminum property, copper property and catalytic converters but shall not include batteries, aluminum beverage containers, used beverage containers, or similar beverage containers. O.C.G.A. § 10-1-361 describes penalties for recyclers who do not follow the proper procedure and possible penalties for any person who buys or sells regulated metal property in violation of any provision of this article. O.C.G.A. § 10-1-362 defines the terms “crime,” “proceeds,” and “property” and describes what is contraband (it tracks the drug forfeiture statute in O.C.G.A. § 16-13-49 as to what is contraband). Forfeitures under this Code section will use the procedures of the drug forfeiture statute. Also, in HB 872, Article 1 of Chapter 8 of Title 16, relating to theft, is amended by revising paragraph (9) to reflect penalties of theft of regulated metal property.

**HB 895**  
**Sexual Offender Registration Review Board; gathering information relating to sexual offenders; provide more effective methods**  
Carter, Amy 175th  
Approved by Governor 5/2/12; Effective 7/1/12.

HB 895 requires the GBI to provide information to the Sexual Offender Registration Review Board to assist it in determining a sexual offender’s risk assessment classification. It also transfers the investigators who were employed by the Board to the GBI.

**HB 900**  
**Motor vehicles; cancellation of a certificate of title for scrap metal, dismantled or demolished trailers; provide**  
Rice, Tom 51st  
Approved by Governor 4/16/2012; Effective 7/1/12.

House Bill 900 expands the statutory procedure in O.C.G.A. § 40-3-36 for cancellation of certificates of title for scrap, dismantled, or demolished vehicles to include trailers that are at least 12 model years old and valued at $1,700 or less.

**HB 928**  
**Peace Officer’s Annuity and Benefit Fund; board of trustees authorized to employ a hearing officer; provide**  
Riley, Lynne 50th  
Approved by Governor 5/1/12; Effective 7/1/12.
HB 928 deals with how hearings are conducted when there is a dispute over benefits by a member of the Peace Officer's Annuity and Benefit Fund. It removes the language about such hearings from O.C.G.A. § 47-17-81 and enacts a new O.C.G.A. § 47-17-27.

HB 929 Judicial circuits; assistant district attorney for certain populations; repeal office
O’Neal, Larry 146th
Approved by Governor 4/11/12; Effective 7/1/12.

HB 929 repeals a population act (Ga. L. 1976, p. 3584, as amended by Ga. L.1992, p. 1679) that originally required counties within each judicial circuit having a population of not less than 103,000 and not more than 135,000 according to the 1970 census or any future such census to fund an assistant district attorney for those circuits. It was amended in 1992 by Ga. L. 1992, p. 1679 so that it applied to those judicial circuits having a population of not less than 135,000 nor more than 142,000 according to the 1990 census or any future such census. The original law applied to the Lookout Mountain Judicial Circuit, but based on the 2010 Census, it would now apply to the Atlantic (138,978) and Blue Ridge (141,903) Judicial Circuits.

HB 942 Official Code of Georgia; revise, modernize and correct errors or omissions
Willard, Wendell 49th
Approved by Governor 5/1/12; Effective 5/1/12 [See Summary].

HB 942 is the annual Bill that makes technical and typographical corrections to the Official Code of Georgia, Annotated, as determined by the Code Revisions Commission. It is effective upon approval by the Governor except the sections that deal with Titles 24 (Evidence) and 29 (Guardian & Ward) which will be effective January 1, 2013.

HB 954 Abortion; criminal abortion; change certain provisions
McKillip, Doug 115th
Approved by Governor 5/1/12; Effective 1/1/13.

HB 954 amends O.C.G.A. §§ 16-12-140, 16-12-141, 31-9A-6.1 and 31-9A-2. It also enacts new Code sections 31-9B-1 through 31-9B-3. The significant change made by HB 954 is that no abortion is authorized or shall be performed if the probable gestational age of the unborn child is 20 weeks or more unless:

(1) The pregnancy is diagnosed as medically futile, or the abortion is necessary to avert the death of the mother or avert serious or irreversible physical impairment of major bodily function of the mother (these conditions do not exist if they are based on mental or emotional condition of mother or that mother will purposefully engage...
in conduct which she intends to result in her death or in substantial and irreversible physical impairment of major bodily function); or

(2) To preserve the life of an unborn child. Once an abortion is performed, for whatever reason, if the child is capable of sustained life, medical aid must be rendered.

The new O.C.G.A. § 31-9B-1 includes all of the explanation of terms such as abortion, medical emergency, medically futile and probable gestational age of the unborn child. O.C.G.A. § 31-9B-2 and 31-9B-3 describe the requirements of reporting abortions and the justifications for abortions exceeding 20 weeks.

HB 985 Motor Vehicles; temporary license plates; modify provisions
Powell, Alan 29th
Approved by Governor 5/1/12; Effective 7/1/12.

House Bill 985 requires new and used car dealers to issue temporary license plates to all vehicle purchasers, whether they apply for the transfer of their existing tag or not. Extension of the expiration dates on a temporary tag is permitted upon application by the dealer, the purchaser, or the transferee if an extension of the purchaser's initial registration period has been granted as provided by O.C.G.A. § 40-2-20. The cosmetic requirements for decals for persons with disabilities and for temporary permits for temporarily disabled persons are changed. O.C.G. A. § 40-5-2(f) is broadened to allow DDS to disseminate drivers’ license information to the Georgia Department of Revenue for use in the detection and prevention of fraudulent tax returns.

HB 991 Sheriffs; how vacancies are filled; change provisions
Maddox, Billy 127th
Approved by Governor 5/1/12; Effective 7/1/12.

HB 991 amends O.C.G.A. § 15-16-8 which deals with vacancies in the office of Sheriff. It allows the chief deputy to become the acting sheriff automatically upon there being a vacancy. If there is less than 6 months remaining in the former sheriff's term of office, the chief deputy serves for the remainder of the term. If there is more than 6 months remaining, the chief deputy serves until the special election. If there is no chief deputy, the judge of the probate court appoints "a qualified person to serve as the interim sheriff."
HB 997  Crimes and offenses; new crime of false lien statements against public officers; provide
Pak, B.J. 102nd
Approved by Governor 4/16/2012; Effective 7/1/12.

HB 997 creates new O.C.G.A. § 16-10-20.1 making it a 10-year felony ($10,000 fine) to knowingly file a false lien against the real or personal property of a public officer or public employee. The new offense is also added to the list of predicate offenses for RICO violations.

HB 1048  Civil practice; who may serve process; change provisions
Willard, Wendell 49th
Approved by Governor 5/1/12; Effective 7/1/12.

House Bill 1048 amends O.C.G.A. § 9-11-4 to delete the requirement that a certified process server under O.C.G.A. § 9-11-4.1 obtain permission to serve process from the sheriff of the county in which the process is to be served.

HB 1093  Crimes and offenses; removal of shopping carts and required posting of Code section in stores and markets; change provisions
Braddock, Paulette 19th
Approved by Governor 4/16/2012; Effective 7/1/12.

HB 1093 amends O.C.G.A. § 16-8-21 to remove the requirement that signs be posted warning not to remove shopping carts.

HB 1114  Homicide; offering to assist in commission of suicide
Setzler, Ed 35th
Approved by Governor 5/1/12; Effective 5/1/12.

HB 1114 repeals O.C.G.A. § 16-5-5 relating to assisted suicides and replaces it with a new 16-5-5 that provides that “any person with actual knowledge that a person intends to commit suicide who knowingly and willfully assists such person in the commission of such person’s suicide shall be guilty of a felony…” The penalty is 1 -10 years. It also provides exceptions to the offense in greater detail than the statute it replaced. Additionally, the bill amends the RICO provisions of 16-14-3 to provide that 16-5-5 is included under the list of predicate offenses.
HB 1171  Macon-Bibb County; create and incorporate new political body corporate  
Randall, Nikki 138th  
Approved by Governor 4/20/2012; Effective 4/20/2012; Requires Referendum  

HB 1171 is local legislation that creates a consolidated government for Macon and Bibb County, if it is approved by the voters. The original Bill contained provisions that would have affected the courts, the district attorney and the solicitor-general in Bibb County, but those provisions were deleted.

HB 1176  2011 Special Council on Criminal Justice Reform for Georgians; enact recommended provisions  
Golick, Rich 34th  
Approved by Governor 5/2/12; Multiple Effective Dates [See Summary]  

HB 1176 resulted from some, but not all, of the recommendations of the 2011 Special Council on Criminal Justice Reform for Georgians. It is a 59–page Bill, which is divided into nine Parts that address a number of different issues. Because the Bill contains multiple effective dates, this analysis breaks up different parts of the Bill based on when they will go into effect.

*Effective 7/1/12 and applicable to crimes committed after 7/1/12*

**Part I** contains two sections that amend O.C.G.A. §§ 5-7-1 and 5-7-2. In O.C.G.A. § 5-7-1(7), prosecutors in state and juvenile courts are given the right to appeal the grant of a motion for new trial or an extraordinary motion for new trial. The change to O.C.G.A. § 5-7-2 (b) (2) provides that a decision of a court dismissing less than all counts of an indictment or accusation is directly appealable. This amendment legislatively “overrules” the decision in *State v. Outen*, 289 Ga. 579 (2011).

**Part II** deals with drug and mental health courts. The amendments to O.C.G.A. § 15-1-15 and 15-1-16 are designed to standardize the operations of drug and mental health courts by requiring the Judicial Council to promulgate standards and practices for both types of programs and to institute a certification process by 2013. [NOTE: The Appropriations Bill for FY 2012 (HB 742) includes an appropriation of $11,633,682 to the Criminal Justice Coordinating Council "for a grant program for local entities for new and existing Accountability Courts."]

**Part II** also contains an amendment to O.C.G.A. § 15-18-80 which will allow the fee for prosecution–based pretrial and diversion programs to increase the fee from $300 to $1000. Another provision amends O.C.G.A. § 15-21-100 and 15-21-101.
Part III makes several major changes in Title 16.

**Burglary.** The first major change is made in O.C.G.A. § 16-7-1, burglary, which is divided into two degrees. Burglary in the first degree applies to burglary of residential property which is punishable by imprisonment for 1 to 20 years. For repeat offenders, the maximum penalty is increased for the third or subsequent offense to 25 years.

All other burglaries are covered by burglary in the second degree, which carries a penalty of 1 to 5 years imprisonment. For repeat offenders, the minimum penalty is increased and the maximum penalty a second or subsequent offense is increased to 8 years.

**Theft by Taking.** Some of the penalties for theft by taking have been changed based on the value of the property taken.

<table>
<thead>
<tr>
<th>Property value</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than $24,999.99</td>
<td>2 to 20 years, not reducible to a misdemeanor.</td>
</tr>
<tr>
<td>$5,000.00 to less than 25,000.00</td>
<td>1 to 10 years reducible to a misdemeanor.</td>
</tr>
<tr>
<td>$1,500.01 to $4,999.99</td>
<td>1 to 5 years reducible to a misdemeanor.</td>
</tr>
<tr>
<td>$1,500 or less</td>
<td>Misdemeanor</td>
</tr>
</tbody>
</table>

Three or more convictions for Theft by Taking raises the penalty for a misdemeanor Theft by Taking conviction to 1 - 5 years.

**Theft by Shoplifting.** The dividing line between a misdemeanor and felony is raised to $500.00. Prosecutors are allowed to aggregate the value of multiple shopliftings committed over a 180–day period, and, if the value exceeds $500.00, prosecute it as a felony.

**Counterfeiting Universal Product Codes.** The dividing line between a misdemeanor and felony is raised to $500.00. Prosecutors are still allowed to aggregate the value.

**Forgery.** There will be four degrees of forgery. O.C.G.A. § 16-9-1 contains the elements of the crimes and O.C.G.A. § 16-9-2 contains the punishments.

**Deposit Account Fraud.** The dividing line between a misdemeanor and felony is raised to $1,500.00. Below $1,500, there is a range of misdemeanor penalties.
Controlled Substances. Here things get a bit complicated because there are changes being made to O.C.G.A. § 16-13-30 that will transition Georgia to a weight-based system over a three-year period. Section 3-7A amends O.C.G.A. § 16-13-30 and it is not weight based. It becomes effective 7/1/12 but only remains in effect only until 7/1/13. It amends O.C.G.A. § 16-13-30 so that:

1. The penalty for the purchase or possession of a Schedule I or II controlled substance goes down to 1 - 15 years. In addition, the provision for enhanced punishment for a 2nd or consecutive conviction is removed.

2. The penalty for the purchase or possession of a Schedule III, IV, or V controlled substance drops to 1 - 3 years with a 3rd or subsequent offense being punishable by 1 - 5 years.

3. The penalty for possession of a counterfeit controlled substances goes down to 1 - 2 years. Possession with intent to distribute (PWID), sale, dist., making, etc., of a counterfeit substance stays at 1 - 10 years.

4. The penalty for the purchase or possession of flunitrazepam (street names: R-2, Mexican Valium, rophies, roofies, circles) is 1 - 15 years but there is no enhanced punishment for subsequent offenses.

Sections 3-7B and 3-7C also amend O.C.G.A. § 16-13-30 but do not take effect on 7/1/12 and are analyzed below.

Section 3-8 amends O.C.G.A. § 16-13-31(h) to clear up some confusing language in the existing Code section concerning the minimum and maximum penalties in trafficking cases. The amended O.C.G.A. § 16-13-31(h) specifies that “the applicable mandatory minimum punishment” for the drug applies.

Part IV contains Sections 4-1, 4-2 and 4-3. Sections 4-1 and 4-2 change the statute of limitations in O.C.G.A. § 17-3-1 and 17-3-2.1. In particular, the statute of limitations is removed for certain sex crimes committed on or after 7/1/12 that involve victims under age 16. Section 17-10-1 is amended to differentiate between “active probation” and probation.

Part V amends O.C.G.A. § 19-7-5, which is the Code section dealing with reporting of child abuse. The list of mandatory reporters has been revised to make it clear that both employees and volunteers at child service organizations are mandatory reporters. It also adds to the list of mandatory reporters the clergy, pregnancy resource centers, reproductive health care facilities, and schools. Clergy are required to report information concerning child abuse that they learn other than during confession or a similar communication.
Part VI deals with what has been previously known as expungement (a term that is removed from the O.C.G.A.) but it does not take effect until 7/1/13 and so is analyzed below.

Part VII amends Title 42 to require the Department of Corrections to make an annual report to the Executive and Legislative branches of state government on recidivism to ensure that “evidence based practices” guide decisions related to inmate release and management of probationers. It also provides for graduated sanctions, risk and needs assessment and additional conditions of probation such as wearing a GPS tracking device and substance abuse and mental health treatment. It caps sentences to probation detention centers to not exceed 180 days. It also puts in place automatic review by the judge of continued probation supervision after two years of supervision.

Part VIII contains provisions that amend various parts of the Code that are directly impacted by the other Parts of HB 1176. The key changes are:

Section 8-1 is effective 7/1/13 so it is addressed below.

Section 8-2 amends O.C.G.A. § 15-10-260 to revise the jurisdiction of magistrate courts to change the wording so the magistrate courts have concurrent jurisdiction over any misdemeanor theft by shoplifting case.

Section 8-3 amends O.C.G.A. § 15-11-30.3 so that any degree of burglary committed a third time by a juvenile will remain a designated felony.

Section 8-4 is effective 7/1/13.

Sections 8-5, 8-7, 8-8, 8-10, 8-11, 8-12, 8-15 amend O.C.G.A. § 16-11-131(e), 16-16-1(2), 17-6-1(a)(11), 17-10-9.1(a)(10), 17-10-30(b)(2), and 42-5-85(a)(2), respectively to change references to “burglary” to “burglary in any degree.”

Section 8-6, 8-12 and 8-13 amend O.C.G.A. § 16-14-3(9)(A)(viii), 31-7-250(2)(G) and 31-7-350(2)(K) respectively to change references to “forgery” to “forgery in any degree” or “felony” forgeries.

Section 8-9 removes a reference to O.C.G.A. § 16-9-2.

Section 8-14 amends O.C.G.A. § 36-32-9 to revise the jurisdiction of municipal courts to change the wording so the municipal courts have concurrent jurisdiction over any misdemeanor theft by shoplifting case.
Effective 7/1/13.

HB 1176 contains three sections that are effective on 7/1/13.

Section 3-7B becomes effective 7/1/13 and remains in effect until 7/1/14. It begins the transition to weight or volume based penalties.

[NOTE: Based on the U.S. Supreme Court decision Apprendi v. New Jersey, 530 U.S. 466 (2000), the weight/volume of the drug becomes an element of the offense that must be alleged in the indictment and proved at trial because it enhances punishment.]

(1) The penalty for possession or purchase of a Schedule I controlled substance or a narcotic in Schedule II depends on the amount:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than a gram or milliliter (if liquid)</td>
<td>1-3 years;</td>
</tr>
<tr>
<td>1 to 4 gr. or 1 to 4 ml.</td>
<td>1-8 years</td>
</tr>
<tr>
<td>4 to 28 gr. or 4 to 28 ml.</td>
<td>1-15 yrs [except morphine, heroin, or opiate, which is governed by 16-13-31].</td>
</tr>
</tbody>
</table>

(2) The penalty for the possession or purchase of non-narcotic Schedule II depends on the weight or volume:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 2 gr. or 2 ml.</td>
<td>1-3 years</td>
</tr>
<tr>
<td>2 to 4 gr. or 2 to 4 ml.</td>
<td>1-8 years</td>
</tr>
<tr>
<td>4 to 28 gr. or 4 to 28 ml.</td>
<td>1-15 years</td>
</tr>
</tbody>
</table>

(3) The penalty for a 3rd or subsequent possession or purchase of Schedule I or II, is for a term of imprisonment to exceed twice the length of the penalty for a 1st offense.

(4) The penalty for possession or purchase of Schedule III, IV, V is 1-3 yrs; For the 3rd offense it is 1 to 5 yrs.

(5) The penalty for possession or purchase of flunitrazepam is 5-30 yrs; for the 2nd or subsequent offense it is 10-40 yrs.
**Summary of Legislation Enacted During the 2012 Georgia General Assembly**

**Part VI** deals with what has been previously known as expungement (a term that is removed from the O.C.G.A.). It totally rewrites O.C.G.A. § 35-3-37 and puts in place a totally new procedure which will require that most criminal history records be automatically restricted so they cannot be accessed by the public (especially employers) unless the arrest resulted in a conviction. These procedures will also apply to some indicted/accused cases that are nol prossed, dismissed for legal reasons, or reversed on appeal.

Once the criminal history record is restricted, the individual can apply to have the court records sealed so that they are only accessible by criminal justice agencies and the JQC. Section 8-1 adds a provision to O.C.G.A. § 5-6-34(a) that will allow expungement decisions to be directly appealable. Section 8-4 amends O.C.G.A. § 15-11-83 to remove the words “expunged records” and replace it with “criminal history record information restricted.”

*Effective 7/1/14.*

HB 1176 contains one section that is effective 7/1/14.

Section 3-7C becomes effective 7/1/14 and expands application of sentences based on the weight/volume of the drugs. It amends O.C.G.A. § 16-13-30.

1. The penalty for the purchase/possess of a Schedule I or Schedule II narcotic depends on weight/volume:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 1 gr. or 1 ml.</td>
<td>1 - 3 yrs.</td>
</tr>
<tr>
<td>1 - 4 gr. or ml.</td>
<td>1 - 8 yrs.</td>
</tr>
<tr>
<td>4 - 28 gr. or ml.</td>
<td>1 - 15 yrs. [except morphine, heroin, or opiate which are governed by 16-13-31].</td>
</tr>
</tbody>
</table>

2. The penalty for the purchase/possession of a non-narcotic Schedule II drug is based on the weight/volume:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 2 gr. or ml.</td>
<td>1 - 3 yrs.</td>
</tr>
<tr>
<td>2 - 4 gr. or ml.</td>
<td>1 - 8 yrs.</td>
</tr>
<tr>
<td>4 - 28 gr. or ml.</td>
<td>1 - 15 yrs.</td>
</tr>
</tbody>
</table>
Summary of Legislation Enacted During the 2012 Georgia General Assembly

(3) The penalty for a 3rd or subsequent conviction purchase or possession of a Schedule I or II is twice the punishment for original conviction.

(4) The penalty for the purchase/possession of a Schedule III, IV or V Controlled Substance is 1 - 3 yrs. A 3rd or subsequent conviction is 1 - 5 yrs.

(5) The penalty for possession of a counterfeit controlled substance is punishable by 1 - 2 years. The PWID, sale, dist., making, etc., carries a sentence of 1 - 10 years.

(6) The penalty for the purchase/possess flunitrazepam is based on weight

<table>
<thead>
<tr>
<th>Amount</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2 gr. or ml.</td>
<td>1 - 3 yrs.</td>
</tr>
<tr>
<td>2 - 4 gr, or ml.</td>
<td>1 - 8 yrs.</td>
</tr>
<tr>
<td>4 or more gr. or ml.</td>
<td>1 - 15 yrs.</td>
</tr>
</tbody>
</table>

HB 1217  Habersham County State Court; provide that January 1, 2015, judge and solicitor shall be full-time positions
Rogers, Terry 10th
Approved by Governor 4/11/2012; Effective May 1, 201

HB 1304  Southern Judicial Circuit; director of pretrial release program and other staff members make arrests and certain other powers; provide
Carter, Amy 175th
Approved by Governor 4/11/2012; Effective 4/11/2012.

HB 1304 is a General Law but it does not amend the O.C.G.A. It gives the director and other members of the staff of the pretrial release program in the Southern Judicial Circuit the same power to make arrests; to execute and return all warrants, rules, orders, and processes of any kind; to serve as a peace officer and perform the same duties as may be performed by a sheriff.

HR 341  Celebratory gunfire; promote public awareness; urge
Henson, Michele 87th

In HR 341, the Georgia House of Representatives “urges both governmental and private entities to promote an increased public awareness of the dangers of celebratory gunfire and further urges state and local governments and law enforcement agencies to better educate Georgians regarding the serious threat created by firing a weapon into the air
during a celebration.” The Resolution was adopted in honor of Marquel Peters, who was killed by a stray bullet while sitting in church on New Years Day.

**HR 1151 Joint Human Trafficking Study Commission; create**
Brockway, Buzz 101st
Does not require Approval of Governor; Effective 3/29/12

HR 1151 creates the Joint Human Trafficking Study Commission which is to conduct a study of human trafficking in Georgia and study of the need for improvements to services provided to victims of human trafficking in Georgia as well as recommend appropriate action or legislation. The Commission is to be composed of three members of the Senate; three members of the House; a local police chief appointed by the Georgia Association of Chiefs of Police; a district attorney appointed by the Prosecuting Attorneys' Council of the State of Georgia; a juvenile court judge appointed by the Council of Juvenile Court Judges; a superior court judge appointed by the Council of Superior Court Judges of Georgia; a public defender appointed by the Georgia Public Defender Standards Council; an individual with expertise in advocacy for sexually exploited children appointed by the Governor's Office for Children and Families; and an individual with expertise in advocacy for adult victims of human trafficking appointed by the Governor's Office for Children and Families. The Commission is to make its report by 12/31/12 and is abolished on 1/1/13.

**HR 1731 House Comprehensive Motor Vehicle and Traffic Reform Study Committee; create**
Rice, Tom 51st
Does not require Approval of Governor; Effective 3/26/12

HR 1731 establishes the House Comprehensive Motor Vehicle and Traffic Reform Study Committee. It will be composed of “seven members of the House of Representatives to be appointed by the Speaker of the House of Representatives.” The Committee is charged with conducting a "a comprehensive study of Georgia's motor vehicle and traffic code." The stated goal is "to enhance public safety, provide for greater efficiencies and consistencies, reduce ambiguities, hold violators more accountable, and lower state expense."

Unlike many legislative study committees, this one does not have a specified date when it is required to submit its report and recommendations. It also does not have a sunset date.
Summary of Legislation Enacted During the 2012 Georgia General Assembly

SB 33  Waste Reduction Act of 2011; Zero-Base Budgeting Act; application to the budget process; analysis of departmental/program objectives
Shafer, David 48th
Approved by Governor 5/2/12; Effective 5/2/12.

SB 33 amends the Budget Act to require zero-base budgeting in the budget process within the Executive Branch (the judicial branch is encouraged to participate in the zero-base budgeting process). It will apply to the budget report presented to the legislature January of 2013 and each year thereafter until the year 2020. Agencies will be selected to submit a zero-base budget at least once every 8 - 10 years, but not more often than once every eight years. It provides for what agencies are to include in the budget estimate if they are selected to submit a zero-base budget.

SB 37  State Properties Commission; multiyear lease agreements; provide for termination of certain rental/lease agreements
Carter, Earl Buddy 1st
Approved by Governor 5/2/12; Effective 1/1/13 if Constitutional amendment ratified.

SB 37 will authorize the State Properties Commission, Board of Regents and Department of Labor to enter into multi-year leases without obligating current year State funds for the whole amount of the lease and to provide for termination of the lease in the event of insufficient funds. It has provisions for the Commission to compile an annual report to the Executive Branch and Leadership of the Legislative Branch regarding the total sum of all leasing obligations and all revenues collected from the previous fiscal year. This bill becomes effective January 1, 2013 in the event the companion constitutional amendment is adopted by the citizens of Georgia.

SB 50  Courts; add certain fees for funding of local victim assistance programs
Hamrick, Bill 30th
Approved by Governor 5/2/12; Effective 7/1/12.

SB 50 amends O.C.G.A. § 15-6-95 and changes the priority in which fines and fees are paid out to the various programs that are funded by fines, fees and forfeitures. The 5% local victim assistance fund moves to 7th on the list followed by county law libraries (8th). The House added an amendment that also amends O.C.G.A. § 15-6-18(a)(1) to remove a little-known provision of law that requires the consent of the accused if a criminal trial is moved out of the county courthouse in counties with a population of less than 50,000.
Summary of Legislation Enacted During the 2012 Georgia General Assembly

SB 92  Elections; provide limitations on when in-person absentee balloting may be conducted; period of advance voting
McKoon, Joshua 29th
Approved by Governor 5/2/12; Multiple effective dates.

SB 92 amends the election code, changing provisions and dates for nonpartisan elections and nonpartisan municipal elections. It has multiple effective dates. It provides a procedure for when a candidate withdraws as a candidate before and after close of qualifying and will allow the party to reopen the qualifying period. It also provides dates and times for filing notice of candidacy and paying qualifying fee. It changes provisions relating to write-in candidacies. It allows a person convicted of a felony to serve as a registrar if their rights have been restored and 10 years have elapsed from completion of sentence without subsequent felony convictions involving moral turpitude. No one ever convicted of a crime involving fraud shall serve as a registrar. This bill changes provisions relating to absentee ballots. It allows for electronic voter registration. It authorizes county registrars to use obituaries, death certificates and other verifiable sources to purge names from the voter lists who are deceased. It provides for the transfer of voter registration to another county where the voter has moved. It provides an exception to the prohibition of use of photographic or other electronic monitoring devices in a polling place. The bill provides for the filling of vacancies in the General Assembly. It amends the code relating to drivers’ license information, making it available for use in verifying voter or voter applicant identity.

SB 181  Attorney General; prohibit contingent compensation under certain circumstances
Bethel, Charlie 54th
Approved by Governor 5/2/12; Effective 7/1/12 [See Note].

SB 181 amends O.C.G.A. § 13-1-11 and enacts a new O.C.G.A. § 16-1-12. Section 1 amends O.C.G.A. § 13-1-11 which relates to the payment of attorney's fees in civil actions involving notes or other evidence of indebtedness. Section 2 creates a new O.C.G.A. § 16-1-12, which provides that any special AAG, ADA, or other attorney appointed to represent the state in a forfeiture action brought pursuant to Title 16 cannot be paid on a contingent fee basis either as a percentage of forfeited property or in any other manner that is contingent upon successful prosecution of the action.

[NOTE REGARDING EFFECTIVE DATE: Section 3 of SB 181 provides: "This Act shall become effective on July 1, 2011, and Section 1 of this Act shall apply to contracts entered on or after July 1, 2011." While SB 131 passed both the Senate and the House in 2011, it did not receive final approval by both Houses until the 40th day of the 2012 session. When the Bill passed the Senate in 2011,
the current Section 2 was Section 1. What is now Section 1, was added by the House but no change was made to the wording of the effective date provision which became Section 3. When the Bill received final approval by the House and Senate in 2012, Section 3 was left unchanged. The Georgia Constitution prohibits both ex post facto and retroactive laws (as well as laws impairing the obligations of contracts), Ga. Const., Art. I, Sect. I, Para. X; see *Wilder v. Lumpkin*, 4 Ga. 208, 210-221 (1848). In similar situations when the General Assembly has passed legislation that contained a specified effective date that was in the past, the law was construed as being governed by O.C.G.A. § 1-3-4. Ga. Op. Att'y Gen. 76-76. Applying this principle, to SB 181 would make the Bill effective 7/1/12.]

**SB 231**  
**Probation; provide additional offenses for which first offender status shall not be granted**  
Tippins, Lindsey 37th  
Approved by Governor 4/16/2012; Effective 7/1/12.

SB 231 amends O.C.G.A. § 42-8-60 so that the following offenses do not qualify for First Offender treatment if committed on a peace officer while engaged in official duty: (1) Aggravated assault in violation of Code Section 16-5-21; (2) Aggravated battery in violation of Code Section 16-5-24; or (3) Obstruction of a law enforcement officer in violation of subsection (b) of Code Section 16-10-24, if such violation results in serious physical harm or injury to the officer.

**SB 236**  
**Driver's Licenses; persons convicted under the influence; allow certain drivers with suspended licenses; limited driving permits**  
Cowsert, Bill 46th  
Approved by Governor 4/16/2012; Effective 1/1/13

Senate Bill 236 amends O.C.G.A. § 20-2-142 to permit and encourage parent / guardian participation in the mandatory alcohol and drug impaired driving course for high school students. O.C.G.A. § 40-5-57.7 is amended such that defendants under the age of 21 who have their driver’s license suspended as a result of a D.U.I. conviction are subject to the following suspension periods:

- Six months for the first conviction within 5 years, unless the defendant’s BAC exceeded .08 grams, in which case the suspension period is 12 months.
- 18 months for the second conviction within 5 years.
- Habitual violator treatment for the third conviction within five years.
Licenses suspended under O.C.G.A. § 40-5-57.1 based upon D.U.I. convictions cannot be reinstated until the offender has completed a Risk Reduction Program and paid the applicable reinstatement fee. The Ignition Interlock requirement for defendants convicted of a second and subsequent D.U.I. is modified such that the device is no longer required as a mandatory term of probation, but is instead made part of the terms and restrictions of an “Ignition Interlock Limited Driving Permit or Probationary License” that is granted by DDS upon the applicant’s completion of certain requirements (including obtaining a certificate of eligibility from the sentencing court). Administrative penalties are established for defendants whose probation is revoked based upon violations of the conditions of Ignition Interlock Limited Driving Permits or Probationary Licenses.

SB 309  
*Taylor's Law; authorize issuance of special hunting privileges to persons with a terminal illness*
Jeffares, Rick 17th
Approved by Governor 5/1/12; Effective 7/1/12.

SB 319  
*State Parks; use of boats; revise certain provisions*
Jeffares, Rick 17th
Approved by Governor 5/2/12; Effective 7/1/12.

SB 343  
*State Accounting Office; designate as the Comptroller General; transfer the office*
Heath, Bill 31st  
Awaiting approval by Governor; Effective 7/1/12.

SB 343 removes the State Insurance Commissioner from holding the historic position which was created in 1799 and made a constitutional office in 1861, as the State's Comptroller General and re-creates the position as a separate statutory office within the State Accounting Office.

SB 350  
*Crimes and Offenses; disposition of firearms by law enforcement*
Balfour, Don 9th
Approved by Governor 5/2/12; Effective 5/2/12.

Senate Bill 350 amends O.C.G.A. § 17-5-51 relating to forfeiture or abandonment of weapons to provide that firearms shall be returned to innocent owners; defines firearms; defines innocent owners without providing procedure for disputes as to innocent ownership; requires notification of innocent owners without providing method of notification; requires the cost of return of firearms to innocent owners to be borne by the innocent owner.
Summary of Legislation Enacted During the 2012 Georgia General Assembly

It creates a new Section O.C.G.A. § 17-5-52.1 which overrides the provisions relating to the defense of innocent owner for owners of firearms in all other forfeiture statutes; provides procedure for disposition (mostly through sale to licensed firearms dealers and collectors) and distribution of forfeited and abandoned firearms, which procedure overrides all other forfeiture statutes; and provides for the keeping of records of all firearms disposed of and distributed pursuant to this section. In addition it amends 17-5-54(a) to seemingly allow certain personal property that was used as evidence at trial to be retained until the conclusion of the motion for new trial or appeal if the personal property is likely to be needed in post-trial review.

SB 351  Municipal Courts; require same training for all judges of courts exercising municipal court jurisdiction
Crosby, John 13th
Approved by Governor 5/2/12; Effective 7/1/12.

SB 352  Prosecuting Attorneys; District Attorneys, Solicitors-General & Municipal Prosecutors
Crosby, John 13th
Approved by Governor 4/11/12; Effective 4/11/12.

SB 353 started out as a Bill to authorize local governing authorities to appoint solicitors for probate and municipal courts. In the Senate, the probate courts were eliminated and the House transformed the Bill so that it now deals with district attorneys, solicitors-general and municipal prosecuting attorneys and drug related objects.

Section 1 amends O.C.G.A. § 15-18-6(5) to give the district attorneys the authority to bring civil actions to enforce passing a school bus camera legislation, O.C.G.A. § 40-6-163.

Section 2 amends O.C.G.A. § 15-18-66(b)(4) to do the same thing for the solicitors-general. Section 3 creates a new O.C.G.A. § 15-18-70.1 that will eliminate the interregnum that currently occurs in the period between the date when a solicitor-general dies, resigns or is removed from office and the Governor appoints a replacement. Under former law, no one, including any assistants that may be working in the office, technically was authorized to prosecute cases during the gap. Subsection (a) of the new O.C.G.A. § 15-18-70.1 will authorize the chief assistant solicitor-general, or the senior assistant solicitor-general if there is no chief assistant, to be in change and prosecute cases until the Governor appoints a successor. Subsection (b) will apply to counties with state courts where there are no assistant solicitors-general. In those counties, the judge
of the state court may request the district attorney of the judicial circuit or another solicitor-general to prosecute cases until the Governor appoints a new solicitor-general.

Section 4 creates a new Article 5 in O.C.G.A. § Chapter 15-18 consisting of new Codes sections 15-18-90 through 15-18-99. These sections address the appointment, compensation, oath of office, duties, and authority of the prosecuting attorney in a municipal court, who is to have the title of "prosecuting attorney of the municipal court." It authorizes the appointment of staff to assist the prosecuting attorney. It also provides that in lieu of creating a municipal prosecuting attorney, municipalities may contract with the district attorney or the solicitor-general to provide a prosecuting attorney for municipal courts. It also authorizes assistant district attorneys or assistant solicitors-general to be appointed to be a municipal prosecuting attorney with the approval of the district attorney or the solicitor-general. It also clarifies the authority of a municipal prosecuting attorney vis-á-vis a district attorney or solicitor-general when the municipal court is acting as a committal court on felonies or misdemeanors. Section 5 adds a new O.C.G.A. § 36-32-6.1 which will give municipal courts jurisdiction to try misdemeanor drug related objects cases under O.C.G.A. § 16-13-32.

SB 356 Superior Courts; add judge to the Bell-Forsyth & Piedmont Judicial Circuits
Murphy, Jack 27th
Approved by Governor 4/16/2012; Effective 1/1/13.

SB 356 adds a new Superior Court judge to the Bell-Forsyth and Piedmont Judicial Circuits. The new judges would take office 1/1/2013. By operation of law, it will also add an additional assistant district attorney to each of those circuits effective 7/1/2013. It also contains provisions dealing with the chief judge in the Gwinnett Judicial Circuit.

SB 365 Attorneys - Unauthorized Practice of Law
Hamrick, Bill 30th
Approved by Governor 5/2/12; Effective 7/1/12.

SB 365 creates a new misdemeanor in O.C.G.A. § 44-14-13 for "Any individual, corporation, partnership, or other entity" to conduct the settlement and disbursement of loan funds "when he, she, or it is not the settlement agent . . ."
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**SB 366**  
**Juvenile Justice Dept.; revise restrictions; possessions of contraband at juvenile detention centers**  
Grant, Johnny 25th  
Approved by Governor 5/2/12; Effective 7/1/12.

HB 366 deals with contraband at juvenile detention facilities. It removes subsection (d) and (e) from O.C.G.A. § 49-4A-11 and enacts new O.C.G.A. § 49-4A-15 through 49-4A-18.

**SB 370**  
**Controlled Substances; Schedule I and V controlled substance; "dangerous drug"; provisions**  
Carter, Earl Buddy 1st  
Approved by Governor; Effective 3/27/12

SB 370 is the annual legislation that updates the Controlled Substances Act and the Dangerous Drug Act. This year’s Bill is to be known as “Chase’s Law.”

Section 3 of the Bill revises O.C.G.A. § 16-13-25(12), which is the part of the CSA that deals with "synthetic marijuana," a/k/a K2, Spice, "bath salts," etc. The laundry list of multi-syllabic chemicals included were specifically suggested by the crime lab and by the Ga. Drugs and Narcotics Agency.

**SB 402**  
"Employees' Retirement System of Georgia Enhanced Investment Authority Act"; define certain terms relating to certain types of investments  
Golden, Tim 8th  
Approved by Governor 4/16/12; Effective 7/1/12.

SB 402 allows ERS & other large government pension systems in Georgia, other than the Teachers Retirement System (TRS), to invest up to 1% per year of accumulated retirement funds in alternative instruments, private placements and other private investments up to a maximum of 5%. It also limits the percentage of alternative instruments, etc., that the retirement system can hold to 20% of the investment pool.

**SB 431**  
**Gambling - Internet Cafes**  
Hill, Judson 32nd  
Approved by Governor 5/2/12; Effective 5/2/12.

SB 431 began as legislation to add medical identity fraud to the provisions relating to identity fraud. The House transformed it in a substitute so that it now deals with so-called
“internet cafes” and provides additional regulation of bona fide coin operated game machines. [NOTE: The original short title referencing medical identity fraud will appear when looking this Bill up on-line.]

Senate Bill 431 amends O.C.G.A. § 10-1-393(b)(16)(N) of the Fair Business Practices Act to provide that any promotion of a product or service by use of a computer, mechanical device or electronic device is an unlawful lottery under 16-12-20 and an unlawful business practice. It excepts bona fide coin operated game machines as provided for under 16-12-35 from the definition of lottery and unlawful business practice. It then amends the definition of lottery under O.C.G.A. § 16-12-20 to make unlawful the playing of no-skill games of chance to win a prize on a computer, mechanical device or electronic device. It provides exceptions for national or regional contests or sweepstakes. Finally, it amends the Revenue Code (Title 48) concerning Class A and Class B video game machines with regard to the awarding of prizes and accrual of points. It also authorizes county or municipal governing authorities to enact and enforce ordinances regulating bona fide coin operated amusement machines.

SB 432 Crimes and Offenses; define a certain term; political subdivision shall not enact any ordinance more restrictive of sale/possession of knife than general law
Heath, Bill 31st
Approved by Governor 5/2/12; Effective 7/1/12.

SB 432 amends part 3 of Article 4 of Chapter 11 of Title 16 by adding a new code section 16-11-136 reiterating definitions of “courthouse, government building and knife” as defined in 16-11-127 and 16-11-125.1. The new code section also directs that no county, municipality, or consolidated government shall pass any rule or ordinance more restrictive than this law concerning knives

SB 441 Obstruction of Public Administration; establish the offense of unlawful pointing of a laser device at a law enforcement officer; penalties
Crosby, John 13th
Approved by Governor 5/2/12; Effective 7/1/12.

SB 441 creates new O.C.G.A. § 16-10-34 making it a high and aggravating misdemeanor to knowingly point a laser pointer at a law enforcement officer, including a peace officer (as defined), a probation or parole officer, a jailer or guard at city/county detention facility, or a DJJ correctional officer. It also creates O.C.G.A. § 16-11-45 which makes it a misdemeanor to point a laser pointer at an aircraft.
Summary of Legislation Enacted During the 2012 Georgia General Assembly

**SB 464** Fish and Fishing; limit the number of commercial crabbing licenses issued  
Ligon, Jr., William 3rd  
Approved by Governor 5/2/12; Effective 7/1/12.

HB 464 creates a one-day salt-water shore fishing license and sets the price at $5.00. It revises the criteria for obtaining a commercial crabbing license; revises the criteria for transfer of such licenses; limits the number of such licenses after May 1, 2013; and sets penalties for the use of crab traps by anyone other than the licensee or his or her designee; violation is misdemeanor of high and aggravated nature; max “1 year” and max $2,000 fine or both plus - 1st offense: 3 month suspension of license; 2nd offense: 6 month suspension of license; and 3rd offense: permanent revocation of license and prohibition of owning future license.

**SB 523** Recorder's Court of Gwinnett County; provide for the appointment of the judges of such court  
Balfour, Don 9th  
Approved by Governor 4/13/2012; Effective 7/1/12.

**SR 84** General Assembly; authorize state entities to enter into multiyear rental agreements; procedures, conditions, and limitations  
Carter, Earl Buddy 1st  
Constitutional Amendment - requires ratification in November, 2011.

SR 84 amends the State Constitution to allow the General Assembly to authorize the State Properties Commission, the Board of Regents, and the Georgia Department of Labor to enter into multi-year contracts. Currently, state government agencies are limited to single-year contracts.

**SR 504** Prevent Child Abuse Awareness Month; recognize April  
Butterworth, Jim 50th

**SR 635** Mothers Against Drunk Driving Georgia; recognize  
James, Donzella 35th

**SR 713** State of Georgia Police Chiefs and Heads of Law Enforcement Agencies; recognize  
Grant, Johnny 25th
Summary of Legislation Enacted During the 2012 Georgia General Assembly

SR 767  End the Commercial Sexual Exploitation of Children Day; recognize February 1, 2012
Unterman, Renee 45th

SR 858  U.S. Congress; urge to permit the use of "cellular jammers" for the prevention of illegal cell phone use in prisons, jails, youth detention facilities
Grant, Johnny 25th