



# Legislative Update

For the week of: January 30-February 3  
Legislative Days: 10-14

*Prepared By: Administrative Office of the Courts  
Governmental and Trial Court Liaison*

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## Week 3 of the 2012 Legislative Session

The Georgia General Assembly met for week three of the 2012 legislative session. This week the House passed the amended FY 2012 budget in record setting time with no dissention. To view the House's version of the AFY 2012 budget, please [click here](#).

The following newsletter provides a brief overview of legislation affecting the Georgia judiciary. To follow legislation online, you can visit <http://legislation.georgiacourts.gov>.

## Legal Services for Indigents

The House Judiciary (Non-Civil) Committee took up **HB 648** and **HR 977** this week, both of which deal with the issue of providing legal services for indigents. HB 648 amends Title 15 and Chapter 12 of Title 17 of the O.C.G.A., relating to the courts and the legal defense of indigents. It requires a portion of the funds paid into the court registry, as well as cash bonds deposited by the sheriff, be distributed to the Georgia Public Defender Standards Council for the defense of indigents. Should a defendant be represented by a public defender, who is paid for entirely by the state, be convicted, that person may be subject to probation costs of paying for legal defense if the payment would not impose hardship on the defendant or the defendant's dependents. This payment would then be distributed to the Georgia Public Defender Standards Council. HR 977 supplements HB 648, proposing an amendment to the Constitution authorizing the donation of existing fees to provide funding for the defense of these indigents. Chairman Rich Golick (R- Smyrna) acknowledged that the Georgia State Bar strongly supported HB 648 and HR 977, as the defense of indigents has been a top priority for them. While no one was present in the committee meeting to speak for the Bar, both pieces of legislation passed through the committee with no contention.

HB 648 and HR 977 are now in the House Rules Committee.

## Jury Composition

On Tuesday, January 30<sup>th</sup>, the House passed **HB 763** out of its chamber. HB 763 provides cleanup language for last year's HB 415 - the Jury Composition bill, by reinserting language of the prior Code which was inadvertently deleted in **HB 415**. It clarifies those who are ineligible to serve as trial or grand jurors, barring those who have been convicted of a felony in state or federal court, or those declared mentally incompetent. On and after July 1, 2012, in each county, upon court order, the clerk shall choose a random list of persons from the county master jury list to comprise the venire; provided, however, that jurors summoned prior to July 1, 2012, shall remain eligible to comprise the venire.

HB 763 is now in the Senate Judiciary Committee.

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## Legislative Log

### **SB 13 - Rules of the Road; driving under influence with a child in a motor vehicle is a felony**

SB 13 provides that any person who drives under the influence of alcohol or drugs while transporting a child under the age of 16, formally 14, is guilty of the separate offense of endangering a child by driving under the influence of alcohol or drugs. Upon conviction, the offender shall be guilty of a felony and fined not less than \$1,000.00 nor more than \$5,000.00 or shall be imprisoned for not less than one year nor more than three years, or both fined and imprisoned.

**NO ACTION was taken on SB 13 by the Senate Special Judiciary Committee**

### **SB 41 - Traffic Offenses; person convicted of endangering a child by driving under the influence; ignition interlock device**

SB 41 amends Article 15 of Chapter 6 of Title 40 of the O.C.G.A., relating to serious traffic offenses. This bill provides that a person convicted of endangering a child by driving under the influence of alcohol or drugs shall only have his or her driving privileges restored if he or she provides proof of installation of an ignition interlock device. For the first conviction, the ignition interlock device must remain in the vehicle for at least six months. For a second and each subsequent conviction, the device must remain for at least one year. A period of six months shall be added to the time a person is restricted if any of the following apply: 1) His or her conviction is for a violation of subsection (l) of Code Section 40-6-391; 2) He or she refused to consent to a test under Code Section 40-5-67.1 and is subsequently convicted; or 3) He or she was convicted of a violation of Code Section 40-6-391 and was driving with a revoked or suspended license at the time of the offense.

**SB 41 was TABLED by the Senate Special Judiciary Committee**

**SB 107 - Superior Courts; increase penalties that can be imposed for contempt of court**

SB 107 relates to jurisdiction and power of the superior courts, so as to increase penalties that can be imposed for contempt of court. Fines will increase to \$1,000.00 and imprisonment to 30 days.

**NO ACTION was taken on SB 107 by the Senate Special Judiciary Committee**

**SB 136 - Property; provide for transfer of control of a condominium association in certain circumstances**

SB 136 amends Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to specialized land transactions, so as to provide for transfer of control of a condominium association in certain circumstances and to set out public policy concerning the standing of condominium associations to file suit. The right to control a condominium association may pass from the declarant to the unit owners prior to the usual expiration of the declarant's right to control the association, if the declarant fails to do any of the following: 1) Incorporate the association; 2) Appoint the board of directors and arrange for the election of officers; 3) Maintain a list of the board members' names and addresses; 4) Call meetings according to the association's bylaws, at least annually; or 5) Prepare an annual operating budget, establish the annual assessment, and distribute such to the owners. Any owner may send the declarant notice of a failure to comply with one of these requirements. If the declarant fails to cure the deficiency within 30 days, the owner may file a petition in superior court for an order granting the owners control of the association. This bill also announces a public policy that the statutory powers of a condominium association cannot be waived, modified nor removed by any contract or document created before the expiration of the declarant's right to control the association.

**SB 136 PASSED BY SUBSTITUE out of the Senate**

**SB 225 - Criminal Offenses; provide for new offense of transmitting a false report; penalties**

SB 225 amends Article 2 of Chapter 10 of Title 16 of the Official Code of Georgia Annotated, relating to obstruction of public administration and related criminal offenses, by providing for a new offense of transmitting a false report of a crime. A person who knowingly and intentionally sends a false claim shall be guilty of the felony offense of transmitting a false report of a crime, and shall be punished by imprisonment of not less than one nor more than five years, or a fine of not more than \$10,000.00, or both. In addition, the court shall impose restitution against the offender to be paid to the investigating law enforcement agency in an amount proven in any hearing on the matter of restitution to reimburse the agency for the costs of investigating the falsely reported crime.

**SB 225 PASSED out of the Senate by a vote of 47-0**

**SB 236 - Drivers' Licenses; persons convicted under the influence; allow certain drivers with suspended licenses; limited driving permits**

SB 236 allows a judge, at his or her discretion, to allow a participant in a Drug/DUI Court program a limited driving permit. The bill expands the places that a person with a limited driving permit may drive. The extreme hardships for which an ignition interlock limited driving permit may be used shall be limited to places of employment and a college or school at which the individual is regularly enrolled as a student. Holder of ignition interlock limited driving permits also may drive to attend drug or alcohol treatment and for monthly monitoring visits to their ignition interlock service providers. It also reduces the time a participant in a Drug/DUI Court program must use an interlock device, at the Judge's discretion, and provides for penalties for violating the limited driving permit or ignition interlock provisions.

**SB 236 received a Do PASS by COMMITTEE SUBSTITUTE from the House Judiciary (Non-Civil) Setzler Subcommittee**

**SB 301 - Hunting; authorize the use of silencers on hunting firearms under certain circumstances**

SB 301 amends Part 1 of Article 1 of Chapter 3 of Title 27 of the Official Code of Georgia Annotated, relating to general provisions regarding hunting. This bill authorizes the use of silencers on firearms that are otherwise permitted to be used for hunting. The hunting privileges of any person shall be suspended for three years if he or she is convicted of hunting without landowner permission, hunting in an area that is closed for hunting, or hunting big game out of season or at night with a firearm equipped with a silencer.

**SB 301 PASSED out of the Senate.**

**SB 307 - Game and Fish; create a one-day salt-water shore fishing license**

SB 307 amends Code Section 27-2-23 of the O.C.G.A., relating to licenses, permits, tags, and stamp fees, so as to create a one-day salt-water shore fishing license and assessing a \$5.00 fee.

**SB 307 PASSED out of the Senate.**

**SB 309 - Taylor's Law; authorize issuance of special hunting privileges to persons with a terminal illness**

SB 309 amends Article 1 of Chapter 2 of Title 27 of the O.C.G.A., by authorizing the issuance of special hunting privileges, to hunt big game or alligators, to any person under 21 years of age who has been diagnosed with a terminal illness by a licensed doctor of medicine. A person who receives special authorization to hunt must conduct all hunting under the direct supervision of a licensed adult hunter.

**SB 309 PASSED out of the Senate**

**SB 316 - Civil Practice; increase the tolling period for limitations for tort actions while a criminal prosecution is pending**

SB 316 amends Article 5 of Chapter 3 of Title 9 of the O.C.G.A., relating to limitations of actions. Beginning July 1, 2012, and thereafter, the running period of limitations of the crimes of cruelty to children in the first degree, rape, sodomy, aggravated sodomy, statutory rape, child molestation, aggravated child molestation, enticing a child for indecent purposes, or incest shall be tolled from the date of commission to the final date of prosecution, providing that time does not exceed 20 years past the victims 18<sup>th</sup> birthday. The bill ascertains that if a crime is committed between July 1, 1992 and June 30, 2012 in which the victim is the subject of cruelty to children, rape, sodomy, aggravated sodomy, statutory rape, child molestation, enticing a child, or incest, then the applicable period of prosecution shall not run until the child has reached 16 or the crime has been reported. For crimes committed on and after July 1, 2012 in which the victim is subject to the same crimes mentioned above, the applicable period of prosecution shall not run until the child has reached 18 and shall be extended 10 years after the 18<sup>th</sup> birthday, except in the case of rape in which it will be extended 15 years after the victims 18<sup>th</sup> birthday.

**NO ACTION was taken on SB 316 by the Senate Judiciary Committee**

**SB 348 - Civil Practice; personal service of a summons on a corporation; provisions**

SB 348 amends Code Section 9-11-4 of the O.C.G.A., by changing provisions relating to personal service of a summons on a corporation. It provides that service shall be made by delivering a copy of the summons attached to a copy of the complaint to a registered agent of the corporation.

**SB 348 received a DO PASS by COMMITTEE SUBSTITUTE as amended by the Senate Special Judiciary Committee**

**SB 351 - Municipal Courts; require same training for all judges of courts exercising municipal court jurisdiction**

SB 351 amends Chapter 32 of Title 36 of the O.C.G.A., by requiring all judges exercising municipal court jurisdiction to complete mandatory training. This shall not apply to any magistrate judge or probate judge or any judge of a court of record who presides in a court exercising municipal court jurisdiction.

**Amendment 1:** Changes “shall” to “may” on line 21 giving the Judicial Qualifications Commission discretion when removing a judge from office.  
**Amendment Adopted**

**Amendment 2:** Adds “probate judge” on line 52 as a class of court which is exempted.  
**Amendment Adopted**

**SB 351 received a DO PASS by COMMITTEE SUBSTITUTE from the Senate Judiciary Committee**

**SB 352 - Prosecuting Attorneys; provide; probate courts, municipal courts, and courts exercising municipal court jurisdiction; process of such employment**

SB 352 authorizes courts of limited jurisdiction the power to employ prosecuting attorneys; provided, however, that the decision be vested solely in the governing authority of the city served by the court.

**Amendment 1:** Removes probate courts. **Amendment Adopted**

**Amendment 2:** Removes “county” allowing the decision be vested solely in the governing authority of the city served by the court. **Amendment Adopted**

**Amendment 3:** Strikes language in paragraph (c) of the bill. **Amendment Adopted**

**SB 352 received a DO PASS by COMMITTEE SUBSTITUTE from the Senate Judiciary Committee.**

**SB 355 - Domestic Relations; child abuse; expand mandatory reporting requirements; provide for procedure; exception**

SB 355 amends Code Section 19-7-5 of the O.C.G.A., relating to the reporting of child abuse. It requires an oral report be filed to the authorities no later than 36 hours from the time when a person has reasonable cause to believe a child to be abused. This report shall include any relevant information including the name and address of the child, the identity of the perpetrator, the child’s age, and the nature of the child’s injuries. This shall not apply to privileged communications between an attorney and his/her client.

**NO ACTION was taken on SB 355 by the Senate Judiciary Committee**

**SB 366 - Juvenile Justice Dept.; revise restrictions; possessions of contraband at juvenile detention centers**

SB 366 amends Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department of Juvenile Justice, so as to revise restrictions regarding possession of contraband at juvenile detention centers. The bill restricts an individual from coming onto the grounds of a juvenile detention center to sell, buy, give, provide, barter, exchange, or trade any contraband with any youth assigned to a juvenile detention center. Any person found to be in violation shall be guilty of a felony and, upon conviction punished by imprisonment for not less than one nor more than five years.

**NO ACTION was taken on SB 366 by the Senate Public Safety Committee**

### **HB 23 - Foster Children's Psychotropic Medication Monitoring Act; enact**

HB 23, known as the "Foster Children's Psychotropic Medication Monitoring Act," requires the Department of Human Services to establish regulations governing the use of psychotropic medications for foster children in state custody. The terms "child" or "children" are defined as any person under the age of 18 who is in the custody of the Department of Human Services, but not also in the custody of the Department of Juvenile Justice. "Psychotropic medication" is medication for which the prescribed intent is to affect or alter thought processes, mood, or behavior. The regulations that the Department of Human Services shall establish shall include: 1) Provisions regarding the administration of psychotropic medications to children; 2) Provisions addressing informed consent and notifications related to the administration of psychotropic medications; and 3) Reporting and tracking requirements related to the provision of mental health services and the administration of psychotropic medications.

**NO ACTION was taken on HB 23 by the House Health and Human Services Committee.**

### **HB 242 - American Laws for Georgia Courts Act; enact**

HB 242 amends Chapter 12 of Title 9 of the O.C.G.A regarding verdict and judgment. It establishes that no court, administrative agency, or other tribunal shall enforce a foreign law that violates or conflicts a person's guaranteed constitutional right of both the United States and Georgia Constitutions.

**HB 242 received a DO PASS by COMMITTEE SUBSTITUTE as AMENDED from the House Judiciary (Non-Civil) Setzler Subcommittee.**

### **HB 342 - Stalking; family violence order; define**

HB 342 amends Article 7 of Chapter 5 of Title 16 of the O.C.G.A. that relates to stalking, so as to define "family violence order." Family violence order is defined as any restraining order, temporary/permanent protective order, probation, or pretrial incurred as a result of an act of family violence. The bill indicates that any person who violates the terms of a family violence order knowingly and in a non-violent way is guilty of a misdemeanor. Any person observed violating this order by an officer can be arrested.

**HB 342 received a DO PASS by COMMITTEE SUBSTITUTE from the House Judiciary Committee (Non-Civil)**

### **HB 542 - Employees' Retirement System of Georgia; transfer service credit; provide**

HB 542 amends Article 5 of chapter 2 of Title 47 of O.C.G.A., regarding service creditable toward retirement benefits under the Employee's Retirement System of Georgia. If a member has not withdrawn his or her employee contributions from the Georgia Judicial Retirement System, the Judicial Retirement System will transfer to the board of trustees of this retirement system all employer and employee contributions paid by or on behalf of the employee, together with regular interest. If a member has withdrawn his or her employee contributions from the Georgia Judicial Retirement System, then the member will pay to the board of trustees of this retirement system the total of such contributions, together with regular interest.

**HB 542 PASSED out of the House by a vote of 160-1**

### **HB 648 - Legal services for indigents; certain fees to fund accused; change provisions**

HB 648 amends Title 15 and Chapter 12 of Title 17 of the O.C.G.A., relating to the courts and the legal defense of indigents. It requires a portion of the funds paid into the court registry, as well as cash bonds deposited by the sheriff, be distributed to the Georgia Public Defender Standards Council for the defense of indigents. Should a defendant be represented by a public defender, who is paid for entirely by the state, be convicted, that person may be subject to probation costs of paying for legal defense if the payment would not impose hardship on the defendant or the defendant's dependents. This payment would then be distributed to the Georgia Public Defender Standards Council.

**HB 648 received a DO PASS by the House Judiciary Committee (Non-Civil)**

### **HB 663 - Georgia Crime Information Center; inspection or modifying criminal records; change provisions**

HB 663 amends Article 2 of Chapter 3 of Title 35 of the O.C.G.A., by providing for changes to be made relating to the inspection, purging, modifying or supplementing of criminal records relating to the Georgia Crime Information Center. HB 663 details the process that an individual can pursue to inspect and if need be amend said persons criminal record. It also provides that the fee for inspection of said criminal history cannot exceed \$15.00; this monetary does not include the cost of the security measures that may be taken to ensure proper identity. HB 663 provides a 60 day time limit for notifying the entity in control of the record in question if said information in the criminal record is found to be incorrect and said individual wishes to amend, correct, modify or supplement such information. If the entity in control of the record does not act or declines to act within 60 days of the request or the individual feels the entity's decision regarding the matter to be unsatisfactory, the individual can appeal within 30 days after the 60 day period. HB 663 also lists restrictions to access of said individual's criminal history record information, it goes on to state that under special circumstances that are not previously met in the bill that the court can have said individuals criminal history permanently sealed if the court deems it necessary.

**NO ACTION was taken on HB 663 by the House Judiciary (Non-Civil) Setzler Subcommittee.**

**HB 683 - Garnishment proceedings; filing of certain answers may be done by authorized officers or employees; provisions**

HB 683 amends Chapter 4 of Title 18 of the O.C.G.A., relating to garnishment proceedings. As used in this code section, the bill defines "entity" as a corporation, limited liability company, partnership, limited partnership, professional corporation, firm, or other business entity other than a natural person or public corporation. "Public corporation" is defined as the State of Georgia, any department, agency, branch of government, State of Georgia political subdivision, or any public board, bureau, commission, or authority created by the General Assembly.

HB 683 provides that when a garnishment proceeding is filed in a court under any provision of this chapter involving an entity as garnishee, the execution and filing of a garnishee answer may be done by an entity's authorized officer or employee and shall not constitute the practice of law. If a traverse or claim is filed to the entity's garnishee answer in a court of record, an attorney shall be required to represent the entity in further garnishment proceedings. In addition, an entity's payment into court of any property, money, or other effects of the defendant, or property or money which is admitted to be subject to garnishment, may be done by an entity's authorized officer or employee and shall not constitute the practice of law.

This bill amends Code Section 18-4-23, relating to the manner of service of summons of garnishment on corporations, by requiring the method of services of summons of garnishment be made as provided in Code Section 9-11-4.

HB 683 also increases the amount of attorney's fees a garnishee may deduct from the sums paid into court from \$25.00 to \$50.00, or 10 percent of the amount paid into court, whichever is greater, but not to exceed \$100.00, as reasonable attorney's fees or expenses.

**HB 683 received a DO PASS from the Senate Judiciary Committee**

**HB 707 - Elections; valid student identification card with photograph to vote; provide**

HB 707 amends code section 21-2-417 of the O.C.G.A., relating to presentation of identification to poll workers by allowing a valid student identification card containing a photograph of the elector and issued by an eligible postsecondary institution to constitute as proof of identity in order to vote.

**HB 707 received a DO PASS from the House Governmental Affairs Committee**

### **HB 711 - Evidence; privileges; change provisions**

HB 711 amends Chapter 5 of Title 24 of the O.C.G.A., relating to spousal privilege in criminal proceedings. It adds additional exceptions to which a husband and wife shall be compellable to give evidence in a criminal proceeding for or against each other to include: 1. The husband or wife is charged with a crime against his or her spouse or their marital or separate property; 2. The husband and wife are alleged to have acted jointly in the commission of the crime charged or 3. The alleged crime occurred prior to the lawful marriage of the husband and wife. In addition, the bill ascertains that a waiver of confidentiality be provided along with the admissibility of certain information regarding criminal proceedings of victims of family violence or sexual assault.

**HB 711 received a DO PASS by Committee Substitute from the House Judiciary (Civil) Committee**

### **HB 725 - Elections; selection and qualification of candidates and presidential electors; provisions**

HB 725 amends provisions relating to the election and qualification of candidates and presidential electors. In any case where an incumbent files notice of candidacy and has paid the qualifying fee in a nonpartisan election to succeed himself or herself, but withdraws as a candidate prior to the end of the applicable qualifying period. The qualifying period will be reopened for candidates other than the incumbent at 9:00 A.M. on the following Monday and shall be closed at 5:00 P.M. on the Tuesday immediately following the reopening, notwithstanding the fact that any such days may be legal holidays. In the event of the death of a candidate or the withdrawal of a qualifying candidate after the close of qualifying, but prior to the date of a political party primary, qualification may be reopened for the office sought by the deceased or withdrawn candidate for a period of one to three days.

**HB 725 received a DO PASS from the House Governmental Affairs Committee**

### **HB 741 - Supplemental appropriations; State Fiscal Year July 1, 2011 - June 30, 2012**

HB 741 is the Supplemental Budget for FY 2012. To view the version of the bill as passed by the House Appropriations Committee, please [click here](#).

**HB 741 was PASSED by the House**

### **HB 756 - Putnam County; State Court of; law provisions updated and consolidated; provide**

HB 756 amends an Act to revise, modernize, and consolidate the provisions of local laws in relation to the Putnam County State Court. HB 756 details the elections, qualifications for holding judgeship as well as other positions and details the rules for the day to day operation of the Putnam County State Court. HB 756 also details that the resources deemed necessary by the judge for the day to day operations of the Putnam County State Court are to be provided and paid for by the county treasury and said resources are to be kept up to date.

**HB 756 PASSED out of the House**

**HB 763 - Juries; certain persons ineligible to serve as trial or grand jurors; clarify**

HB 763 amends Chapter 12 of Title 15 of the O.C.G.A., relating to juries. The bill clarifies those who are ineligible to serve as trial or grand jurors, barring those who have been convicted of a felony in state or federal court, or those declared mentally incompetent. On and after July 1, 2012, in each county, upon court order, the clerk shall choose a random list of persons from the county master jury list to comprise the venire; provided, however, that jurors summoned prior to July 1, 2012, shall remain eligible to comprise the venire.

**HB 763 received a DO PASS from the House Judiciary (Civil) Committee**

**HB 814 - Local option sales tax proceeds; annual reporting of expenditures; expand matters**

HB 814 amends code section 48-8-122 of the O.C.G.A., relating to county sales and use tax. HB 814 expands the items that must be reported in the annual report of the expenditure of special purpose sales tax proceeds. Along with previous requirements for reporting expenditure of special purpose sales tax proceeds the report must now include surplus funds which have not been expended, estimated completion date for special projects and the actual cost of completion.

HB 814 creates a new Code section, 48-8-124 of the O.C.G.A., which allows the state superior court the power to grant injunctions or other equitable relief with regard to the aforementioned code section. The Attorney General is also given the authority to bring either criminal or civil enforcement actions to enforce compliance with the aforementioned code section.

**HB 814 PASSED out of the House**

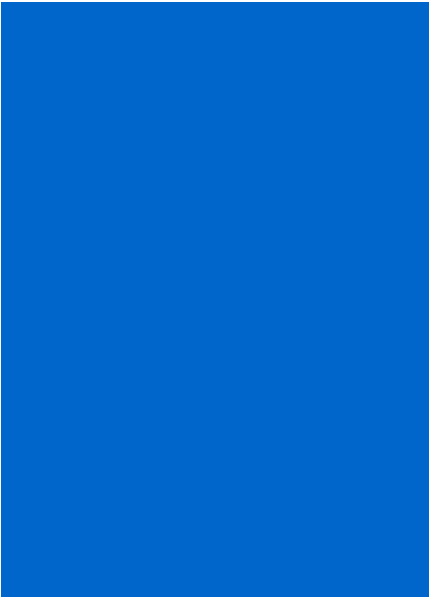
**HR 977- Legal services for indigent; dedicate existing fees; provide**

A resolution proposing an amendment to the Constitution so as to authorize the General Assembly to provide by law for dedication of certain existing fees and assessments for the purpose of funding legal services for indigent persons accused of crimes and delinquent acts.

**HR 927 received a DO PASS by COMMITTEE SUBSTITUTE from the House Judiciary Committee (Non-Civil)**

**HR 1151 - Joint Human Trafficking Study Commission; create**

HR 1151 creates the Joint Human Trafficking Study Commission. The commission shall undertake a study of the conditions, needs, issues, and problems of human trafficking in Georgia and recommend any action or legislation which it deems necessary or appropriate. The commission will be composed of 13 members. The Senate Committee on Assignments shall appoint three members of the Senate as members of the commission. The Speaker of the House of Representatives shall appoint three members of the House of Representatives as members of the commission. One member shall be a local police chief appointed by the Georgia Association of Chiefs of Police. One member shall be a district attorney appointed by the Prosecuting Attorneys' Council of the State of Georgia. One member shall be a juvenile court judge appointed by the Council of Juvenile Court Judges. One member shall be a superior court judge appointed by the Council of Superior Court Judges of Georgia. One member shall be a public defender appointed by the Georgia Public Defender Standards Council. One member shall be an individual with expertise in advocacy for children who are



sexually exploited appointed by the Governor's Office for Children and Families. One member shall be an individual with expertise in advocacy for adult victims of human trafficking appointed by the Governor's Office for Children and Families.

**HR 1151 received a DO PASS by COMMITTEE SUBSTITUTE as AMENDED from the House Judiciary (Civil) Committee**

**HR 1238 - Adjournment Resolution**

HR 1238 amends an error made in [HR 1140](#). HR 1238 changes February 20, 2012 to a date of adjournment and February 24, 2012 to a date of House session.

**HR 1238 was PASSED out of the Senate**