



Legislative Update

For the week of: February 28- March 4
Legislative Days: 20- 24

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Week 8 of the 2011 Legislative Session

During week eight of the 2011 session, the General Assembly adopted an adjournment resolution – **HR 493**, which sets a calendar up to Legislative Day 34. **Crossover Day** – Day 30 is scheduled for Wednesday, March 16th.

Friday, March 4 –Day 24	Thursday, March 17-Recess
Saturday, March 5- Recess	Friday, March 18-Recess
Sunday, March 6-Recess	Saturday, March 19-Recess
Monday, March 7-Day 25	Sunday, March 20-Recess
Tuesday, March 8-Day 26	Monday, March 21-Day 31
Wednesday, March 9-Recess	Tuesday, March 22-Day 32
Thursday, March 10-Day 27	Wednesday, March 23- Day 33
Friday, March 11-Day 28	Thursday, March 24-Recess
Saturday, March 12-Recess	Friday, March 25- Recess
Sunday, March 13-Recess	Saturday, March 26- Recess
Monday, March 14-Day 29	Sunday, March 27-Recess
Tuesday, March 15-Recess	Monday, March 28-Day 34
Wednesday, March 16-Day 30 (Crossover Day)	

The Jury Reform Act of 2011, the result of the work of the Supreme Court Committee on Jury Composition, has been dropped in both houses: **HB 415** in the House and **SB 191** in the Senate. HB 415 has been assigned to the House Judiciary Committee and SB 191 has been assigned to the Senate Judiciary Committee.

The following newsletter provides a brief overview of the committee meetings thus far. Legislation supported by the Judicial Council and various court proposals are moving through the process as we start the second half of the session. To follow legislation on the web, you can visit <http://www.ciclt.net/aoc>.

Legislative Log

SB 19 - Forgery/Fraudulent Practices; definitions; medical identity fraud; provide punishment

SB 19 would make the misuse of identity information for purposes of obtaining medical services, prescription drugs or financial gain a felony and expressly provide for a civil remedy for the victim of that fraud.

Any person who commits the offense of medical identity fraud shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than two nor more than ten years, a fine not to exceed \$100,000.00, or both. Any person who is convicted upon the second or subsequent conviction shall be guilty of a felony and shall be punished by imprisonment for not less than three nor more than 15 years, a fine not to exceed \$250,000.00, or both.

Any victim who is injured by reason of any violation of this article shall have a cause of action for the actual damages sustained and, where appropriate, punitive damages. The victim may also recover attorney's fees in the trial and appellate courts and the costs of investigation and litigation reasonably incurred.

SB 19 PASSED out the Senate by a vote of 53-0.

SB 33 - Waste Reduction Act of 2011; Zero-Base Budgeting Act; application to the budget process; analysis of departmental/program objectives

SB 33 adds a new code section, 45-12-75.1, to the "Budget Act". The new code section requires that the Governor in preparing his or her budget report, and budget units in preparing their budget estimates under Code Section 45-12-78 (which includes the judicial branch agencies), make use of zero-base budgeting. The requirements shall apply with respect to the budget report presented to the General Assembly in January of 2012 and each year thereafter.

In any given year the Governor's budget report shall include zero-base budgeting for no more than one-third nor less than one-quarter of all the programs in the most recently passed General Appropriations Act. The Office of Planning and Budget will determine which programs will submit zero-base budget recommendations in each year. No program shall use zero-base budgeting more often than once every four years.

In the years in which zero-base budgeting applies, each budget unit must include in its budget estimate an analysis summarizing past and proposed spending plans by program and revenue source. The information presented must include a statement of the budget unit's departmental and program purposes, effectiveness, efficiency, equity measures and program size indicators;

SB 33 PASSED as AMENDED out of the Senate by a vote of 51-10.

SB 40 - Public Contracts; provide penalties for the failure of a public employer to utilize the federal work authorization program

SB 40 amends Article 3 of Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to security and immigration compliance, so as to provide penalties for the failure of a public employer to utilize the federal work authorization program

SB 40 received a DO PASS by COMMITTEE SUBSTITUTE from the Senate Judiciary Committee.

SB 80 - Evidence; provide for DNA analysis of persons arrested for felony offenses

SB 80 provides for the assessment of a fee for certain DNA testing as a condition of bond. Prior to releasing a person arrested for a felony offense on bond or his or her own recognizance, the entity releasing the person is required to charge and collect a \$100.00 fee from the person. The fee is to be remitted to the Georgia Bureau of Investigation (GBI) for deposit into the general fund if the state treasury.

In addition, On and after July 1, 2011, any person who is arrested for a felony offense shall have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. After a determination by a magistrate or a grand jury that probable cause exists for the arrest, but prior to the person's release from custody, the arresting law enforcement agency shall be responsible for collecting the sample. The court or magistrate shall make the provision of a specimen a condition of the person's release on bond or recognizance if bond or recognizance is granted.

NO ACTION was taken on SB 80 by the Senate State Institutions and Property Committee.

SB 83 - Rachel's Law; provide for parameters regarding the use of confidential informants; definitions; exceptions

SB 83 amends Title 35 of the O.C.G.A., relating to law enforcement officers and agencies. A law enforcement agency shall not use a person as a confidential informant in a law enforcement undercover operation if that person is currently participating in a court ordered drug or substance treatment program unless the law enforcement agency receives express approval from the chief judge of the court for the circuit in which the informant would be prosecuted. When determining whether the person may be used as a confidential informant, the judge will consider whether the person's participation as a confidential informant may jeopardize the success of his or her treatment program. A law enforcement agency also shall not use a person as an informant if the person is voluntarily enrolled in a drug or substance abuse treatment program unless the law enforcement agency receives the express approval from the prosecuting attorney of the circuit in which the law enforcement agency is located. Before approving this person's participation as a confidential informant, the prosecuting attorney will consult with the person's treatment provider and reasonably determine whether the person's participation as a confidential informant may jeopardize the success of his or her treatment program.

An informant also cannot be used if he or she is currently on parole or probation, unless the law enforcement agency receives the express approval from the prosecuting attorney in the circuit in which the law enforcement agency is located and the approval of the parole or probation officer supervising the parole or probationer.

NO ACTION was taken on SB 83 by the Senate Public Safety Committee.

SB 88 - Motor Vehicles; increase the age requirements for use of child restraint systems

SB 88 increases the age requirement for use of child restraint systems from six to eight years of age. This bill is similar to HB 279.

SB 88 PASSED out the Senate.

SB 92 - Elections; provide limitations on when in-person absentee balloting may be conducted; period of advance voting

SB 92 expands the period of advance voting to 12 days, and decreases the 45 day in-person request for absentee ballots to 14 days.

SB 92 PASSED out of the Senate.

SB 94 - Firearms; carrying/possession; change certain definitions

SB 94 amends Code Section 16-11-125.1 of the O.C.G.A., relating to definitions relative to carrying and possession firearms. It defines handgun as a firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged by an action of an explosive where the length of the barrel, not including any revolving, detachable, or magazine breech, does not exceed 12 inches. The term 'handgun' shall not include a gun which discharges a single shot of .46 centimeter or less in diameter which can be discharged by an action of an explosive. SB 94 defines "long gun" as means a firearm other than a sawed-off rifle or a sawed-off shotgun, as designed or made and intended to be fired from the shoulder and designed or made to use the energy of the explosive in a fixed manner. The term "long gun" shall not include a gun which discharges a single shot of .46 centimeter or less in diameter which can be discharged by an action of an explosive.

SB 94 PASSED as AMENDED out the Senate.

SB 102 - Firearms; carrying/possession; definitions; penalties; issuance/qualifications for firearms licenses; provisions

SB 102 amends Title 16 of the O.C.G.A., relating to crimes and offenses. It amends title 16 of the O.C.G.A. and article 27 of Chapter 2 of Title 20 of the O.C.G.A., relating to loitering at or disrupting schools. It amends chapter 38 of Title 43 of the O.C.G.A., relating to operators and private security businesses. No person shall carry, whether openly or concealed, a weapon, rifle, or shot gun, whether the firearm is loaded or unloaded, on or about the person without a valid weapons carry license unless he or she meets one of the exceptions to having a license. Places of worship have the authority to decide if weapons are allowed or not. He or she will be guilty of a misdemeanor for a first offense. In a second offense, within five years, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, and for subsequent offense, he or she shall be guilty of a felony and, upon conviction, shall be imprisoned for not less than two years and not more than five years.

For the process of renewing a license, a judge of a probate court shall cause a criminal history records check from the Georgia Crime Information Center and the Federal Bureau of Investigation's National Instant Criminal Background Check System to determine the eligibility of the license holder for a renewal license.

NO ACTION was taken on SB 102 by the Public Safety Subcommittee.

SB 105 - Juvenile Justice Dept.; provide for parole of children committed for commission of designated felony acts; certain circumstances

SB 105 provides for the parole of children committed to the Department of Juvenile Justice for the commission of designated felony acts under certain circumstances. It establishes that the Department of Juvenile Justice will provide parole services for children and youth carried out by a juvenile parole panel.

NO ACTION taken on SB 105 by the Senate 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.

SB 107 received a DO PASS from the Senate Special Judiciary Committee.

SB 112 - Military Parents Rights Act; procedures governing parental rights in the event one parent is subject to military deployment

SB 112 amends Article 2 of Chapter 9 of the O.C.G.A., relating to the Child Custody Intrastate Jurisdiction Act. It provides that if a deployed parent is required to be separated from a child, a court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until 90 days after the deployment ends, unless the modification is agreed to by the deploying parent. Upon motion of a deploying or non-deploying parent, the court shall enter a temporary order modifying parental rights and responsibilities or parent-child contact during the period of deployment or mobilization. It also provides that either parent may file a motion to modify the temporary order upon the return of the deploying parent and that the court shall allow the deploying parent to present testimony and evidence by electronic means with respect to parental rights and responsibilities of parent-child contact if reasonable advance notice is given. When determining whether a parent has failed to exercise parent-child contact, the court shall not consider any time period during which the parent did not exercise any contact due to the parent's military duties.

The court may award attorney's fees and costs if the court considers that there was unreasonable failure and delay caused by either party to resolve parental rights and responsibilities or parent-child contact matters or failure of either party to provide timely information about income and earnings to the other party.

NO ACTION taken on SB 112 by the Senate Judiciary Committee.

SB 115 - Child Support; exclude foster care payments from the calculations of gross income for determination of child support obligations

SB 115 amends Code Section 19-6-15 of the O.C.G.A., by excluding foster care payments paid by the Department of Human Services from the calculation of gross income for determining child support obligations.

SB 115 PASSED out of the Senate.

SB 118 - Georgia Crime Information Center; inspection, purging, modifying, or supplemental criminal records; provisions

SB 118 amends Article 2 of Chapter 3 of Title 35 of the O.C.G.A, relating to the Georgia Crime Information Center. It changes provisions relating to inspection, purging, modifying, or supplementing criminal records. If an individual believes his or her criminal records to be inaccurate or incomplete, he or she may request the original agency having custody of the detail records to purge, modify, or supplement them and to notify the center of such changes. If the agency declines to act within 60 days of the request the individual or their attorney, within 30 days of the decision, may enter an appeal to the superior court of the county of his or her residence or to the court in the county where the agency exists. The court shall conduct a de novo hearing and may order relief as it finds to be required by law, including, ordering that all records in the custody of the court be sealed and removed from public disclosure. If the court declines to expunge, modify, or supplement an individual's criminal record, or if the court's order is contrary to the desires of the agency or prosecuting attorney, a party may file an action in the superior court where the agency is located. The ruling of the court shall not be reversed absent a showing of an abuse of discretion.

The defendant in an indictment or accusation which was placed on the dead docket or nolle prossed that was found not guilty of the charges by a judge or jury, was successful in completing a pretrial diversion program, or was convicted of an offense, but the conviction was reversed by an appellate court and the decision has been made final and the prosecuting attorney has elected not to pursue the charges further may request the original agency in writing to expunge all of the records of the arrest, including any fingerprints or photographs of the individual taken in conjunction with the arrest from the agency files. Upon receipt of a copy of the request to expunge a criminal record, the prosecuting attorney shall promptly review the request to determine if it meets the criteria for expungement within 60 days of the date of receiving the request and shall object in writing to the request within the 60 day period. The prosecuting attorney shall be deemed to have consented to the request if he or she fails to object to the request in the requisite period of time. The prosecuting attorney shall serve the individual seeking the expungement with a copy of the objection. If no objection is filed in the requisite period of time, the prosecuting attorney shall review the records of the arrest to determine if any of the material contained therein must be preserved in order to protect the constitutional rights of an accused under *Brady v. Maryland*. If an objection is filed in the requisite period of time, the individual shall have the right to appeal. Any individual whose record was expunged shall not have to disclose the fact of the arrest or record on an application for employment.

NO ACTION was taken on SB 118 from the Senate Special Judiciary Committee.

SB 125 - Magistrate Court of Jasper County; clerk of the Superior Court shall serve as clerk of the magistrate court; appointment; compensation

HB 125 provides that the clerk of the Superior Court of Jasper County shall serve as the clerk of the Magistrate Court of Jasper County if the clerk of superior court consents to do so. In the event that the clerk of superior court does not consent to serve as clerk of the magistrate court, the judges of the Superior Courts of the Ocmulgee Judicial Circuit shall, by majority vote, select a person to serve as the clerk of the magistrate court.

SB 125 PASSED out of the Senate by a vote of 5-0.

SB 127 - Juvenile Proceedings; revise provisions

SB 127 requires that a set of specified services be provided to all eligible foster youth up to age 23, and it increases the number of permanency planning hearings for children in foster care. The bill also establishes a new set of provisions to provide a program of treatment, care, guidance, counseling, structure, supervision, and rehabilitation for children considered to be unruly or habitually disobedient and therefore “in need of services”

NO ACTION taken on SB 127 by the Senate Judiciary Committee.

SB 134 - Guardianship; make technical corrections, correct terminology and update cross-references reflecting the enactment; legislative sessions

SB 134 amends Title 29, Chapter 9 of Title 34, and Chapter 12 of Title 53 of the Official Code of Georgia Annotated, relating to guardian and ward, workers' compensation, and trusts by making technical corrections, correct terminology, and updating cross-references reflecting the enactment of the guardianship and trust codes in recent legislative sessions. It also allows natural guardians of children to consent on behalf of a beneficiary if there is no conflict of interest.

SB 134 PASSED out the Senate by a vote of 48-0.

SB 139 - Appellate Practice; provide for appeals involving nonmonetary judgments in child custody cases

HB 139 provides for appeals involving nonmonetary judgments in child custody cases; changes provisions relating to judgments and ruling deemed directly appealable; and changes provisions relating to cases requiring application for appeal. Where an appeal is taken for a judgment or order granting nonmonetary relief in a child custody case, the judgment or order shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order.

SB 139 received a DO PASS from the Senate Judiciary Committee.

SB 162 - Rules of the Road; provide driving under influence of alcohol/drugs by illegal alien is a felony

SB 162 establishes driving under the influence of alcohol or drugs by a person who is an illegal alien to be a felony.

SB 139 received a DO PASS from the Senate Judiciary Committee.

HB 24 - Evidence; revise, supersede, and modernize provisions; provide definitions

HB 24 is a rewrite of the Evidence Code of Georgia, Title 24, to provide that Georgia law track federal evidence rules more closely. The bill includes a provision on court foreign language interpreters and interpreters for the hearing impaired. The Supreme Court may establish fees to be paid by persons desiring certification to cover the costs of certifying, regulating, and training court qualified interpreters.

HB 24 PASSED out of the House.

HB 33- Budget Act; zero-base budgeting; provide

HB 33 requires the Governor or any government agency, making a budget report to the General Assembly after January 2012, abide by the new zero-base budgeting regulations. The Joint Fiscals Affair Subcommittee shall require each agency to use zero-base budgeting at least once every six years and shall not require any agency or program to use zero-base budgeting more than once every four years. In the years in which zero-base budgeting applies, each budget shall include in its budget estimate an analysis summarizing the prior two fiscal years and proposed spending plans by program, object class, and revenue sources.

HB 33 also authorizes the creation of the Joint Legislative Budget Office as a successor to the Senate Budget Office and the House Budget Office.

HB 33 received a DO PASS from the from the House Budget and Fiscal Affairs Oversight Committee.

HB 64 - Attorney fees; validity and enforcement; change provisions

HB 64 amends Code Section 13-1-11 of the O.C.G.A., relating to the validity and enforcement of obligations to pay attorney's fees upon notes or other evidence of indebtedness. If the note or other evidence of indebtedness provides for the payment of reasonable attorney's fees without specifying any specific percent, the provision shall be construed to mean an amount found by the court to be reasonable and necessary for asserting the rights of the aggrieved party. The bill includes a subsection that grants those required to pay fees in excess of \$10,000.00 in a civil matter an opportunity to file an affidavit with the courts to determine reasonableness of the attorney's fees.

HB 64 PASSED as AMENDED out of the House.

HB 87 - Illegal Immigration Reform and Enforcement Act of 2011; enact

HB 87 is the Illegal Immigration Reform and Enforcement Act of 2011. This bill requires all employers including private employers to use the employment eligibility verification system. Use of the verification system aims help with the prevention of illegal immigration. Any agency or official found in violation will be fined with not less than 1,000.00 or more than 5,000.00 for each separate violation. The court will be able to collect and remit these penalties for payment to any law enforcement agency within the court's jurisdiction for the purpose of training in matters related to enforcement of immigration law.

Any local governing body shall have 30 days from the date of service of a claim alleging any specific violation of this code to correct the allegation and take reasonable measures to implement and follow the stated requirements. If after 30 days a claimant has a good faith basis for claiming that the violation has not been corrected a civil action filing may proceed.

A person seeking for employment who commits the offense of aggravated identity fraud when he or she willfully and fraudulently uses any counterfeit or fictitious identifying information concerning a real, fictitious, or deceased person shall be punishable by imprisonment for not less than one nor more than 15 years and/or a fine not to exceed \$250,000.00 and the sentence shall run consecutively to any other sentence which the person has received.

A person convicted of transporting an illegal alien who moves seven or fewer illegal aliens at the same time will be guilty of a misdemeanor and if convicted shall be

punished with a fine up to 1,000.00 or imprisonment of 12 months or both. This does not include any government employee transporting or moving of illegal alien as part of his or her law enforcement duties. A person convicted for a second or subsequent offense of transporting or moving eight or more aliens at the same time shall be guilty of a felony and upon conviction shall be punished with a fine of not less than \$5,000.00 or more than \$20,000.00, and/or imprisonment of not less than one or more than five years. A person who commits the offense of transporting or moving illegal aliens with the intent of making profit or receiving anything of value shall be guilty of a felony and punished with a fine of not less than \$5,000.00 or more than \$20,000.00, and/or imprisonment of not less than one or more than five years

HB 87 allows employers time to become familiar with the law. The requirement time for individuals to know the law will begin on September 1, 2011 for employers with 500 or more employees, January 1, 2012 for those with 100 or more and July 1, 2012 for those with fewer than five employees.

HB 87 PASSED as AMENDED out of the House.

HB 92 - Elections; in-person absentee balloting; provide limitations

HB 92 amends Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections generally. The superintendent shall, at least 45 days prior to any general primary or general election other than a municipal general primary or general election, as soon as possible prior to a runoff, and at least 21 days prior to any municipal general primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election.

There shall be a period of advance voting that shall commence on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff and shall end on the Friday immediately prior to each primary, election, or runoff. Voting shall be conducted during normal business hours on weekdays during such period and shall be conducted on the second Saturday prior to a primary or election during the hours of 9:00 A.M. through 4:00 P.M. Except as otherwise restricted, counties and municipalities may extend the hours for voting beyond regular business hours and may provide for addition voting locations to suit the needs of the electors of the jurisdiction at their option.

NO ACTION was taken on HB 92 by the Senate State and Local Governmental Operations Committee.

HB 98 - Macon-Bibb, Georgia; provide unified government

HB 98 establishes the unified government of Macon-Bibb, Georgia. The judge of the probate court of Bibb County in office on the effective date of this charter shall be the judge of the probate court of Macon-Bibb, Georgia. The Superior Court of Bibb County, including the office of the district attorney, shall continue its operations without interruption resulting from the adoption of this charter. The State Court of Bibb County, including the office of the solicitor-general, shall continue its operations without interruption resulting from the adoption of this charter.

The Juvenile Court of Bibb County, the Probate Court of Bibb County, and the Magistrate Court of Bibb County shall continue its operations without interruption from the adoption of this charter. Six months after the effective date of this charter, the Municipal Court of the City of Macon shall stand abolished. Any cases pending before the municipal court on that date shall be transferred to the State Court of Macon-Bibb. Thereafter, all jurisdiction of the former Municipal Court of the City of Macon shall be transferred to the State Court of Macon-Bibb, Georgia.

HB 98 PASSED out of the House.

HB 110 - Mortgages and liens; vacant property registry; provisions

HB 110 amends 44-14-1 of the O.C.G.A., relating generally to mortgages, conveyances to secure debt, and liens, so as to provide for a vacant property registry. The administrative procedures adopted pursuant to a county or municipal ordinance shall include the right to appeal to the municipal or recorder's court in the city where the vacant real property is located or to the magistrate or recorder's court of the county in which the property is located.

HB 110 received a DO PASS as AMENDED by COMMITTEE SUBSTITUTE from the House Judiciary (Civil) Committee.

HB 123 - Weapon removal from public official; include stun guns and tasers; clarify

HB 123 amends Code Section 16-10-33 of the O.C.G.A., relating to removal or attempted removal of a weapon from a public official and punishment. This bill includes stun guns and tasers under the term "firearm".

HB 123 PASSED out of the House.

HB 129- Conveyances; future conveyance of real property; prohibit fee

HB 129 amends Code Section 44-14-1 of the O.C.G.A., relating generally to mortgages, conveyances to secure debt, and liens, so as to prohibit a fee for a future conveyance of real property except under limited circumstances. It provides that the fee charged to transfer real property should be eliminated except under limited circumstances. The fee can only be required when it is associated with the conveyance of the property to be paid to an association with the purposes of exercising the powers of any condominium, or a property owners' association with the purposes of exercising the powers of property owners. The fees should only be used to pay common expenses for the operation of the association.

HB 129 PASSED by COMMITTEE SUBSTITUTE out of the House.

HB 135 - Timber; unauthorized cutting and carrying away; change provisions

HB 135 changes provisions relating to the unauthorized cutting and carrying away of timber. A person who partakes in unauthorized cutting and carrying away of timber will be charged with a misdemeanor. A plaintiff who recovers for timber cut and carried away from his or her property shall be entitled to damages based on the difference in property value before and after the removal of trees. In addition to the diminished property value, a plaintiff may recover punitive damages or attorney's fees or both.

NO ACTION taken on HB 135 by House Judiciary (Civil) Lane Subcommittee.

HB 142 - Official Code of Georgia Annotated; revise, modernize, and correct errors or omissions

HB 142 revises, modernizes, and corrects errors or omissions in the Official Code of Georgia Annotated and amends portions of the Code that have become obsolete, unconstitutional or have been preempted or superseded by subsequent laws.

HB 143 PASSED out of the House.

HB 143 - Elections; revise, modernize, and correct errors or omissions

HB 143 amends Title 21 of the O.C.G.A., relating to elections, so as to revise, modernize, and correct errors or omissions of the Code.

HB 143 PASSED out of the House.

HB 144 - Retirement and pensions; revise, modernize, and correct errors or omissions

HB 144 amends Title 47 of the O.C.G.A., relating to retirement, so as to revise, modernize, and correct errors, omissions and portions of the Code that have become obsolete, unconstitutional or have been preempted or superseded by subsequent laws.

HB 144 PASSED out of the House.

HB 149 - Magistrates; termination under certain circumstances; provide

HB 149 amends Code Section 15-10-20 of the O.C.G.A., so as to provide for the termination of magistrates under certain circumstances. Magistrates other than the chief magistrate shall be appointed by the chief magistrate with the consent of the judges of the superior court. The term of a magistrate elected pursuant to local law shall be provided in the law. Notwithstanding any local law to the contrary with respect to a magistrate's term of office, upon the expiration of the term of office of a magistrate who is serving on July 1, 2011, whether the magistrate was appointed pursuant to local law or pursuant to this code section, the magistrate's future terms of office shall be one year. The one-year term shall commence on the day after the expiration of the current term of office. The magistrate shall be eligible to succeed himself or herself.

NO ACTION was taken on HB 149 by the House Judiciary (Civil) Committee.

HB 162 - Sexual offender registry; photograph minor without parent permission; prohibit

HB 162 amends Code Section 42-1-2 of the O.C.G.A., relating to the sexual offender registration review board. It prohibits any person who is required to register on the state sexual offender registry from photographing a minor without the permission of the minor's parent. Any person who knowingly violates this code section shall be found guilty of a misdemeanor of a high and aggravated nature.

HB 162 PASSED out of the House.

HB 180 - Motor vehicles; leave safe distance between vehicle and bicycle when passing; require

HB 180 amends Article 3 of Chapter 6 of Title 40 of the O.C.G.A., by requiring the operator of a motor vehicle to leave a safe distance of not less than three feet between the motor vehicle and a bicycle when the vehicle is passing the bicycle.

HB 180 received a DO PASS from the House Public Safety & Homeland Security Committee.

HB 184 - Controlled substances; Electronic Database Review Advisory Committee; establish provisions

HB 184 amends Chapter 13 of Title 16 of the Official Code of Georgia Annotated, relating to controlled substances. This bill provides for the establishment of a program to monitor the prescribing and dispensing of Schedule II, III, IV, and V controlled substances.

HB 184 provides for the establishment of the Electronic Database Review Advisory Committee. The State Board of Pharmacy shall in conjunction with the Georgia Medical Board establish and maintain a program to electronically record into an electronic data base prescription information resulting from dispensing of Schedule II, III, IV or V controlled substances.

Dispensers are required to submit certain information regarding the dispensing of controlled substances. A dispenser who knowingly and intentionally fails to submit prescription information to the board as required or intentionally submits incorrect information to the State Board of Pharmacy shall be guilty of a misdemeanor and upon conviction shall be punished for each such an offense by imprisonment of 12 months and a fine of \$1,000.00. Anyone with authorized use of electronic data base and negligently uses, release or discloses information shall be guilty of a misdemeanor. Subsequent offenses will be classified as felonies and punishable by imprisonment of 3 years and/or a fine of up to \$5,000. Any authorized users of this data base who knowingly obtains and discloses information shall be guilty of a felony and punish by a fine of up to \$50,000 and/or a prisoner term of up to 1 year. Any person who knowingly obtains and attempts to obtain or discloses electronic database prescription information under false pretenses shall be guilty of a felony and punished by a fine of up to \$100,000 or a jail term of up to 5 years or both. Any person who obtains and attempts to sell, transfer or use such information for commercial advantage, personal gain, or malicious harm shall be found guilty of a felony and punished with a fine of up to \$250,000 or a jail term of not more than 10 years, or both. Any person who is injured by any of these violations shall have a cause of action for the actual damages sustained and when necessary punitive damages.

NO ACTION was taken on HB 184 by the House Judiciary Committee (Non-Civil) Setzler Subcommittee.

HB 185 - Runaway Youth Safety Act; enact

HB 185 shall be known as the "Runaway Youth Safety Act." It amends Title 16 of the O.C.G.A., relating to crimes and offenses. A person commits the offense of interference with custody when without lawful authority to do so, the person knowingly harbors any child or committed person who has absconded; provided, however, a service provider, no later than 72 hours after initial contact with the child, contacts the parent, guardian, or legal custodian of the runaway child or makes a report if the person has reasonable cause to believe that the child has been abused.

HB 185 also changes provisions relating to contributing to the delinquency, unruliness, or deprivation of a minor. A person commits the offense of contributing to the delinquency, unruliness, or deprivation of a minor when the person knowingly and willfully encourages, causes, abets, connives, or aids a minor in committing an act which would cause the minor to be found to be an unruly child provided, however, that a service provider, no later than 72 hours after initial contact with the minor, contacts the parent, guardian, or legal custodian of the runaway minor or makes a report if the person has reasonable cause to believe that the minor has been abused.

HB 185 received a DO PASS recommendation by the House Judiciary (Non-Civil) Setzler Subcommittee

HB 196 - Search warrants by video conference; what portion of video maintained; clarify

HB 196 clarifies what portion of the video recordings related to the issuance of search warrant by video conferencing must be maintained. A judge of any court in the state is authorized to issue search warrants through video conference and can accept oral testimony in support of a written application as long as the testimony is recorded.

HB 196 PASSED out of the House.

HB 200 - Crimes and offenses; human trafficking; change compensation; provisions

HB 200 amends Titles 16, 17, and 35 of the O.C.G.A., relating to crimes and offenses, criminal procedure, and law enforcement, respectively, so as to discourage trafficking of persons for labor or sexual servitude and provide greater protections to persons subject to such crimes. The age of consent for sexual activity or the accused's lack of knowledge of the person's age being trafficked shall not constitute a defense in a prosecution.

The sexual history or history of commercial sexual activity of a person alleged to have been trafficked or the person's connection by blood or marriage to an accused in the case shall be excluded from evidence, if determined that the probative values of the evidence is substantially out-weighted by the danger of unfair prejudice, confusion of the issues, or misleading the jury. This determination will be made at a hearing outside the presence of the jury.

Any accused who commits the offense of trafficking a person for labor or sexual servitude shall be guilty of a felony. Upon conviction they shall be punished by imprisonment for not less than ten nor more than 20 years and/or a fine not to exceed \$100,000.00. If a person being trafficked for labor or sexual servitude is less than 18 years old, then the accused will be imprisoned for not less than twenty-five nor more than fifty years and/or receive a fine of no more than \$100,000.00.

Any person convicted of any offense related to an act of prostitution, pimping or pandering when the offense involves a person under the age of 16 shall be guilty of a

felony. The punishment shall be imprisonment for a period of not less than ten nor more than 30 years and a fine of not more than \$100,000.00.

Any real and personal property of every kind used or intended for use in the course of, derived from, or realized through a violation of this bill shall be subject to forfeiture to the state. HB 200 also provides the eligibility of victims of human trafficking to apply for compensation and the right to be notified of eligibility. It also provides guidelines and procedures for the incorporation of training materials and requires the investigation and identification of human trafficking.

HB 200 PASSED out of the House.

HB 205 - Georgia Lemon Law; consumer; define term

HB 205 amends Code Section 10-1-782 of the Official Code of Georgia Annotated, relating to definitions relative to the "Georgia Lemon Law." It revises the definitions of the term "consumer" to include any branch, department, agency, board, bureau, or commission of Georgia state government; any political subdivision of this state; or any state or local government authority in this state which purchases or leases a new motor vehicle for official use.

HB 205 received a DO PASS by the House Motor Vehicles Committee.

HB 206 - Public officers and employees; reporting fraud, waste, abuse or violations of law; modify provisions

HB 206 helps protect state employees from retaliatory tactics due to whistle blowing from fraud, waste, or abuse. The bill also outlines penalties if a public employee knowingly and intentionally makes a false or misleading report and if a public employee intentionally creates a hostile work environment due to another public employee filling a complaint report.

NO ACTION taken on HB 206 by House Judiciary (Civil) Lane Subcommittee.

HB 207 - Grayson, City of; provide new charter

HB 207 will provide a new charter for the City of Grayson, Georgia amending an Act creating the City of Grayson, Georgia. This will provide for the creation of a municipal court, appointment of judges of the municipal court, the time of convening of the court and the jurisdiction and powers of the municipal court and a process for the appeal of decisions of the municipal court and the adoption of rules of the municipal court.

HB 207 PASSED out the Senate by a vote of 47-0.

HB 214 - Public Health, Department of; establish

HB 214 establishes the Department of Public Health. It reassign functions of the Division of Public Health of the Department of Community Health to the Department of Public Health and provides for transition to the new agency.

HB 214 PASSED by COMMITTEE SUBSTITUTUE as AMENDED out of the House.

HB 224 - Motor vehicle registration; off-road recreation vehicles; provide

HB 224 amends Chapter 2 of Title 40 of the O.C.G.A., relating to registration and licensing of motor vehicles, so as to provide for the registration of off-road recreation vehicles under certain circumstances.

Any person in violation shall be subject to a civil fine not to exceed \$300.00. However, for any owner or operator who is under 16 years of age, the fine shall be assessed against a parent or legal guardian of the person. A charge under this Code section shall be made on a uniform traffic citation. Any court having jurisdiction over traffic violations shall also have jurisdiction in matters involving civil charges made pursuant to this Code section. The Attorney General and prosecuting attorneys shall have the authority to prosecute the civil case.

HB 224 received a DO PASS by the House Motor Vehicles Committee.

HB 237 - Residential mortgage fraud; mortgage lending process; revise definition

HB 237 amends Article 5 of Chapter 8 of Title 16 of the O.C.G.A., relating to residential mortgage fraud. The bill revises the definition of "mortgage lending process" and provides for investigative and subpoena powers of district attorneys and the Attorney General relative to residential mortgage fraud.

In any investigation of criminal violations involving fraudulent real estate transactions, the Attorney General or district attorney shall be authorized to issue a subpoena to compel records, documents, and other tangible things. Upon the failure of a person to obey a subpoena without a lawful excuse, the Attorney General or district attorney may apply to a superior court for an order compelling compliance. The court may issue an order modifying or setting aside a subpoena or if it is objected by an individual because it fails to comply with this code or may order direct compliance with the original subpoena. Failure to obey a subpoena may be punished by the court.

HB 237 PASSED out of the House.

HB 238 - legal defense for indigents; powers and duties of council; change provisions

HB 238 amends Chapter 12 of Title 17 of the O.C.G.A., relating to legal defenses for indigents, so as to change certain provisions relative to the powers and duties of the Georgia Public Defender Standards Council. HB 238 grants the Council power to both appoint and remove the director, subject to approval of the Governor. As it relates to council members and responsibilities, a quorum shall be the majority vote of the members present and they shall be required to approve the appointment or removal of the chairperson for cause and for annual approval of an alternate delivery system. A vote of two-thirds of the members of the entire council shall be required to remove the chairperson of the council without cause or to overturn the director's decision regarding the removal of a circuit public defender. The director shall prepare an annual report to the Georgia Assembly, the Supreme Court and the Governor with information on the Councils' assessment of the delivery of indigent defense services.

HB 238 provides for the creation of a circuit public defender supervisory panel which is comprised of three members all of whom shall be attorneys who regularly practice in that particular judicial circuit. The chief judge of the superior court of the circuit shall appoint one member. The Governor shall appoint one member and one member shall be appointed by the chairperson governing authority or sole commission. The circuit public defender supervisory panel, by majority vote, shall appoint not more than three people to serve as the circuit public defender in the circuit. The circuit public defender may be removed for cause by the director. If the circuit public defender wants to

appeal such removal, he or she may appeal the decision to the council. The director's decisions may be overturned by a two-thirds vote of the entire council. Any appeal regarding removal must be made within 15 days of removal and must be heard and decided on by the council within 30 days after its next scheduled meeting. It reduces the amount of times the council shall meet for review of the circuit public defender's job performance and the performance of the office from semiannually to annually. The panel shall make an annual report on their findings available to the director by the 30th day of September.

In the event of conflicts of interest, HB 238 provides for a procedure for the appointment of attorneys for indigent defendants. If a vacancy occurs for the position of circuit public defender the director shall appoint an interim circuit public defender to serve unless one is appointed a replacement. The circuit public defender supervisory panel shall nominate five people to serve as a replacement within three months of the vacancy. The director shall select the replacement circuit public defender from the panel's list of nominees. The director with input from the council shall establish this procedure and it must be adhered to by the circuit public defender's office. The appointment should take place within 60 days of the vacancy occurring.

HB 238 PASSED out of the House.

HB 254 - Rules of the road; driver meet or overtake school bus; enforce by video images; provide

HB 254 amends Code Section 40-6-163 relating to the duty of the driver of a vehicle meeting or overtaking a school. The bill provides that the reporting of violations be enforced by means of video images and provides civil penalties for violators. The driver of a motor vehicle shall be liable for a civil monetary penalty if found by recorded images that there was a violation of this code. The amount of the fine shall be \$300.00 for a first offense, \$750.00 for a second offense, and \$1,000.00 for each subsequent offense in a five-year period. A violation of this code shall be considered a moving traffic violation and any a person summoned through regular mails who fails to appear on court shall have waived the right to contest the violation and shall be liable for the civil monetary penalty. Any court having jurisdiction over violations of this code shall be authorized to impose the civil monetary penalty provided above.

HB 254 received a DO PASS from the House Public Safety & Homeland Security Committee.

HB 261 - Disclosure; certain public records exempt; provide

HB 261 amends Code Section 50-18-72 of the Official Code of Georgia Annotated to restrict public disclosure of governmental documents containing training on or concerning governmental security measures.

HB 261 received a DO PASS from the House Judiciary (Civil) Lane Subcommittee.

HB 266 - Carrying weapons; constables; authorize

HB 266 authorizes constables employed by a magistrate court of this state to be able to carry weapons under certain circumstances.

HB 266 received a DO PASS from the House Public Safety & Homeland Security Committee.

HB 269 - Drivers' licenses; provide definitions; background checks; provisions

HB 269 amends Chapter 5 of Title 40 of the O.C.G.A., relating to drivers' licenses. Any person 14 years of age or older who has been issued a restricted noncommercial Class P instruction permit because a parent or guardian is medically incapable of being licensed to operate a motor vehicle due to visual impairment, must be accompanied whenever operating a motor vehicle by the physically impaired parent or guardian or by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle. The accompanying person must be fit and capable of exercising control over the vehicle, and must occupy a seat beside the driver.

A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 will not become valid and will remain suspended until a person submits proof of installation and maintenance of an ignition interlock device for a period of six months coinciding with the issuance of an ignition interlock device limited driving permit as provided in Code Section 40-5-64 unless waived due to financial hardship.

HB 269 adds a new subsection to Code Section 42-8-111, relating to court ordered installation of ignition interlock devices. This new section allows exemptions granted due to financial hardship be exempt from the subject-matter jurisdiction limitations imposed in Code Sections 40-13-32 (Restrictions on ability of courts to change or modify traffic law sentences or judgments) and 40-13-33 (Limitation on habeas corpus challenge of misdemeanor traffic conviction).

A license will be reinstated if a person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$310.00. The restoration fee is \$300.00 when the reinstatement is processed by mail. A driver's license suspended pursuant to Code Section 40-5-67.1 will not become valid and will remain suspended until a person submits proof of completion of a DUI Alcohol or Drug use risk reduction fee of \$410.00. The restoration fee is \$400.00 when the reinstatement is processed by mail.

HB 269 received a DO PASS by the House Motor Vehicle Committee.

HB 279 - Motor vehicles; use of child restraint systems; increase age

HB 279 increases the age requirement for use of child restraint systems from six to eight years of age.

HB 279 PASSED out of the House.

HB 282 - Military Parents' Rights Act; enact

HB 282 amend Article 2 of Chapter 9 of Title 19 of the Official Code of Georgia Annotated to state that if a deploying parent is required to be separated from a child, a court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until 90 days after the deployment ends, unless such modification is agreed to by the deploying parent.

NO ACTION taken on HB 282 by House Judiciary (Civil) Lane Subcommittee.

HB 290 - State purchasing; protect against fraudulent use of state purchasing cards; correct oversight

HB 290 amends Part 1 of Article 3 of Chapter 5 of Title 50 of the O.C.G.A., relating to general authority, duties, and procedure relative to state purchasing. It corrects an oversight in provisions protecting against fraudulent use of state purchasing cards as discovered and recommended by the House Committee on Information and Audits and to apply the fraud protection provisions to all state entities including state authorities.

HB 290 PASSED out of the House.

HB 293 - Retirement bills; define a certain term

HB 293 would amend provisions relating to the Public Retirement Systems Standards Law. This bill revises the phrase "Retirement bill having a fiscal impact" to include any retirement bill or amendment which grants to a public retirement system an insurable interest in active or retired members which authorizes or directs a public retirement system to expend or obligate funds to purchase life insurance on its members.

HB 293 PASSED out of the House.

HB 299 - DNA analysis; transfer provisions; expand types of samples collected; provisions

Chapter 4 of Title 24 of the O. C.G.A is now Chapter 4 of Title 24 of the O. C.G.A. The new article expands the types of convicted felons who shall have a DNA sample collected and maintained in the DNA data bank from certain designated sex offender felons to all convicted felons who are incarcerated or on probation or parole. Any person convicted of a felony offense who is held in a detention facility or placed on probation shall at the time of entering the detention facility or being placed on probation have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA analysis to determine identification characteristics specific to the person. The provisions and requirements of this Code section shall also apply to any person who has been convicted of a felony prior to July 1, 2011, and who currently is incarcerated in a detention facility serving a probation sentence, or serving under the jurisdiction of the Board of Pardons and Paroles for the offense. It shall be the responsibility of the agency or department detaining or supervising a convicted felon to collect the samples required by this Code section and to forward the sample to the Division of Forensic Sciences of the bureau unless the sample has already been collected by another agency. A DNA sample obtained in good faith shall be deemed to have been obtained in accordance with the requirements of this article and its use in accordance with this article is authorized until a court order directing expungement is obtained and submitted to the bureau.

NO ACTION was taken on HB 288 by the House Judiciary (Non-Civil) Ramsey Subcommittee.

HB 302 - Elections; certain 2012 elections and qualifying; adjust dates

HB 302 amends Chapter 2 of Title 21 of the O.C.G.A., relating to primaries and elections. The bill adjusts the dates for certain elections to be held and the dates for qualifying for the elections. The general primary shall be conducted on the last Tuesday of July. The candidates or their agents for political party nomination to county offices, for political party nomination to federal and state offices in a general, and for the office of presidential elector shall commence qualifying at 9:00 A.M. on the Wednesday immediately following the third Monday in May immediately prior to the primary and shall cease qualifying at 12:00 Noon on the Friday immediately following the Wednesday immediately following the third Monday in May.

HB 302 received a DO PASS by the House Governmental Affairs Committee.

HB 315 - Watercraft operation; 0.08 alcohol concentration; violation; provide

HB 315 provides that while a person is operating a watercraft, his or her alcohol concentration may not exceed 0.08 grams.

HB 315 received a DO PASS from the House Judiciary Non-Civil Committee.

HB 339 - Emergency powers; challenge of quarantine or vaccination order; revise courts; provisions

HB 339 allows the Chief Justice to extend the duration of a judicial emergency order when a public health emergency exists. Currently, an order has a limited duration of 30 days however, that order may be modified or extended for no more than two periods not exceeding 30 days each.

HB 339 received a DO PASS from the House Judiciary (Civil) Committee.

HB 373 - Designated felony acts; modify order for restrictive custody; clarify provisions

HB 373 allows for modification of restrictive custody orders. An order for restrictive custody in the case of a child found to have committed a designated felony act may be modified to shorten the length of confinement in a youth development center.

HB 373 received a DO PASS from the House Judiciary Non-Civil Committee.

HB 390 - Criminal cases; state have right of direct appeal; authorize

HB 390 authorizes the state to have the right of direct appeal rather than seeking a certificate for immediate review when a defendant's motion for new trial or extraordinary motion of new trial is granted.

HB 390 received a DO PASS from the House Judiciary Non-Civil Committee.

HB 436- Menlo, City of; provide new charter

HB 436 provides for a new charter for the City of Menlo. The bill provides for the creation of a municipal court and the appointment of judges of the municipal court. It provides the time of convening of the court and the jurisdiction and powers of the municipal court. HB 436 creates a process for the appeal of decisions of the municipal court and the adoption of rules of the municipal court.

HB 436 PASSED out of the House.

