

## Senate Bill 390

By: Senators Gooch of the 51st, Kennedy of the 18th, Cowser of the 46th, Wilkinson of the 50th, Jones of the 10th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to streamline the  
2 process of litigation and reduce costs for Georgia's industries, small businesses, and citizens;  
3 to amend Title 9 of the Official Code of Georgia Annotated, relating to civil practice, so as  
4 to prohibit retroactive application of certain limitations of actions; to change certain  
5 provisions relating to the tolling of limitations for tort actions while criminal prosecution is  
6 pending; to require a judge to provide written responses to jury questions; to change a  
7 provision related to certain compensatory arguments; to provide further guidance as to the  
8 use of the "Georgia Civil Practice Act"; to provide for scheduling orders; to change certain  
9 provisions related to stays of discovery; to provide time frames for amended pleadings; to  
10 provide for the discovery and preservation of electronically stored information and for  
11 agreements and limitations related thereto; to establish presumptive limits on depositions,  
12 interrogatories, and requests for admission; to establish requirements for the production and  
13 inspection of documents; to change certain provisions related to the dismissal of actions; to  
14 provide for separate trials for issues of liability and damages under certain circumstances;  
15 to prohibit certain instructions relating to damages; to establish a limitation for bringing a  
16 motion to set aside a judgment; to change certain provisions related to settlement offers and  
17 agreements; to revise a provision related to frivolous claims; to amend Title 5 of the Official  
18 Code of Georgia Annotated, relating to appeal and error, so as to provide for electronic  
19 transmission of court records; to amend Title 15 of the Official Code of Georgia Annotated,  
20 relating to courts, so as to require certain procedures for disqualification of jurors; to amend  
21 Title 24 of the Official Code of Georgia Annotated, relating to evidence, so as to provide for  
22 rebuttal interrogations; to amend Title 31 of the Official Code of Georgia Annotated, relating  
23 to health, so as to revise the "Temporary Health Care Placement Decision Maker for an Adult  
24 Act"; to define a term and provide that any person who exercises the power to consent to a  
25 transfer, admission, or discharge to or from a nursing home is authorized to execute on behalf  
26 of the subject of such consent a binding arbitration agreement; to amend Title 36 of the  
27 Official Code of Georgia Annotated, relating to local government, so as to revise certain  
28 provisions relating to the immunity of municipal corporations; to amend Title 40 of the

29 Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change  
 30 certain provisions relating to insurance of motor carriers and certain causes of action; to  
 31 provide for certain presumptions when hiring commercial motor vehicle drivers; to provide  
 32 for a conforming change; to change certain provisions relating to safety belts and insurance  
 33 coverage and causes of action related thereto; to provide for statutory construction; to amend  
 34 Title 44 of the Official Code of Georgia Annotated, relating to property, so as to enact the  
 35 "Georgia Medical Funding Act" to govern disputes over medical funding; to provide for a  
 36 short title; to amend Title 51 of the Official Code of Georgia Annotated, relating to torts, so  
 37 as to change certain provisions related to product liability; to provide for the protection of  
 38 all Georgia landowners from unwarranted liability for the willful, wanton, or intentional  
 39 tortious acts of third parties; to regulate the liability of landowners and provide for the  
 40 apportionment of fault among the parties to a premises-liability action in certain  
 41 circumstances; to provide for the recovery of special damages for medical and health care  
 42 expenses; to revise certain provisions relating to punitive damages; to provide for legislative  
 43 findings, definitions, discovery, and procedures related to asbestos claims; to provide for  
 44 related matters; to provide for severability; to provide for an effective date; to repeal  
 45 conflicting laws; and for other purposes.

46 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

47 **PART I**  
 48 **SECTION 1-1.**

49 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by  
 50 adding a new Code section to read as follows:

51 "9-3-36.

52 (a) As used in this Code section, the term 'civil action' means a civil action or proceeding,  
 53 an administrative proceeding, an arbitration proceeding, or other adjudicative proceeding  
 54 before any court, panel, or other tribunal whose orders may be enforced in a state or federal  
 55 court.

56 (b) No civil action may be brought after the right of action arising therefrom is time barred  
 57 under the provisions of this article in effect at the time the act, error, omission, or other  
 58 conduct occurred on account of which the right of action shall have accrued."

59 **SECTION 1-2.**

60 Said title is further amended by revising Code Section 9-3-99, relating to the tolling of  
 61 limitations for tort actions while criminal prosecution is pending, as follows:

62 "9-3-99.

63 The running of the period of limitations with respect to any cause of action in tort that may  
 64 be brought by the victim of an alleged ~~crime~~ felony which arises out of the facts and  
 65 circumstances relating to the commission of such alleged ~~crime~~ felony committed in this  
 66 state shall be tolled from the date of the commission of the alleged ~~crime or the act~~ felony  
 67 giving rise to such action in tort until the prosecution of such ~~crime or act~~ felony has  
 68 become final or otherwise terminated, provided that such time does not exceed six years,  
 69 except as otherwise provided in Code Section 9-3-33.1."

70

### SECTION 1-3.

71 Said title is further amended by revising subsections (b) and (c) of Code Section 9-10-5,  
 72 relating to charges to be written out on request, exception, filing of written charges, and  
 73 copies, as follows:

74 "(b) In any civil action, ~~upon motion by a party, upon request by the jury, or sua sponte,~~  
 75 a judge of a superior, state, or city court is ~~authorized, but shall not be required,~~ to reduce  
 76 all of the charge to the jury to writing and send all of the charge so reduced to writing out  
 77 with the jury during its deliberation. In response to any written question sent to the judge  
 78 by a jury during its deliberation, the judge, after consultation with counsel for all parties,  
 79 shall respond to the jury in writing.

80 (c) Any charge or response to a jury question reduced to writing under ~~subsection (a) or~~  
 81 ~~(b)~~ of this Code section shall be filed with the clerk of the court in which it was given and  
 82 shall be accessible to all persons interested in it. The clerk shall give certified copies of the  
 83 charge to any person applying therefor, upon payment of the usual fee."

84

### SECTION 1-4.

85 Said title is further amended by revising Code Section 9-10-184, relating to value of pain and  
 86 suffering may be argued, as follows:

87 "9-10-184.

88 In the trial of a civil action for personal injuries, counsel shall not be allowed to argue ~~the~~  
 89 directly or by analogy a specific worth or monetary value of pain and suffering or the value  
 90 of any life in any wrongful death action to the jury; ~~provided, however, that any such~~  
 91 ~~argument shall conform to the evidence or reasonable deductions from the evidence in the~~  
 92 ~~case."~~

93

### SECTION 1-5.

94 Said title is further amended by revising Code Section 9-11-1, relating to the scope of the  
 95 "Georgia Civil Practice Act" and construction, as follows:

96 "9-11-1.  
 97 This chapter governs the procedure in all courts of record of this state in all actions of a  
 98 civil nature whether cognizable as cases at law or in equity, with the exceptions stated in  
 99 Code Section 9-11-81. This chapter shall be construed, administered, and employed by the  
 100 court and the parties to secure the just, speedy, and inexpensive determination of every  
 101 action. This chapter shall also apply to courts which are not courts of record to the extent  
 102 that no other rule governing a particular practice or procedure of such courts is prescribed  
 103 by general or local law applicable to such courts."

104 **SECTION 1-6.**

105 Said title is further amended by adding a new subsection to Code Section 9-11-8, relating to  
 106 general rules of pleading, to read as follows:

107 "**(g) Scheduling orders.**

108 (1) The scheduling order shall include:

109 (A) A time limit for amending the pleadings;

110 (B) A time limit for the completion of discovery;

111 (C) Time limits for filing dispositive motions and motions in limine;

112 (D) Time limits for disclosing expert witnesses by parties bearing the burden of proof  
 113 and for disclosing rebuttal expert witnesses; and

114 (E) Dates for pretrial conference and for trial;

115 (2) The scheduling order may also include:

116 (A) Modifications for the timing of disclosures;

117 (B) Modifications as to the extent of discovery permitted;

118 (C) Provisions for the disclosure, discovery, or preservation of electronically stored  
 119 information;

120 (D) Any agreements the parties reach for asserting claims of privilege or of protection  
 121 as trial preparation material after information is produced;

122 (E) A requirement that, before moving for an order relating to discovery, the movant  
 123 must request a conference with the court; or

124 (F) Other appropriate matters; and

125 (3) A scheduling order may be modified only for good cause shown with the court's  
 126 consent. A failure to comply with a time limit set forth in subparagraphs (A) through (D)  
 127 of paragraph (1) of this subsection shall establish a presumption against, as applicable,  
 128 filing any amended pleadings, conducting any discovery other than depositions for use  
 129 at trial of witnesses not available for trial, filing any additional motions, or disclosing any  
 130 additional expert witnesses."

131

**SECTION 1-7.**

132 Said title is further amended by revising subsection (j) of Code Section 9-11-12, relating to  
 133 answer, defenses, and objections, when and how presented and heard, when defenses waived,  
 134 and stay of discovery, as follows:

135 **"(j) Stay of discovery.**

136 (1) If a party files a motion to dismiss ~~before or at the time of filing an answer and, a~~  
 137 motion for judgment on the pleadings, or a motion for a more definite statement pursuant  
 138 to the provisions of this Code section, discovery shall be stayed ~~for 90 days after the~~  
 139 ~~filing of such motion~~ or until the ruling of the court on such motion, ~~whichever is sooner.~~

140 The court shall decide the motion ~~to dismiss~~ within the 90 days ~~provided in this~~  
 141 paragraph.

142 (2) The discovery period and all discovery deadlines shall be extended for a period equal  
 143 to the duration of the stay imposed by this subsection.

144 (3) The court by written order may upon its own motion or upon motion of a party  
 145 terminate or modify the stay imposed by this subsection ~~but shall not extend such stay~~  
 146 only upon a demonstrated need.

147 (4) If a motion to dismiss raises defenses set forth in paragraph (2), (3), (5), or (7) of  
 148 subsection (b) of this Code section or if any party needs discovery in order to identify  
 149 persons who may be joined as parties, limited discovery needed to respond to such  
 150 defenses or identify such persons shall be permitted until the court rules on such motion.

151 (5) The provisions of this subsection shall not modify or affect the provisions of  
 152 paragraph (2) of subsection (f) of Code Section 9-11-23 or any other power of the court  
 153 to stay discovery."

154

**SECTION 1-8.**

155 Said title is further amended by revising subsection (a) of Code Section 9-11-15, relating  
 156 to amended and supplemental pleadings, as follows:

157 **"(a) Amendments.** A party may amend ~~his~~ its pleading once as a matter of course ~~and~~  
 158 ~~without leave of court at any time before the entry of a pretrial order~~ within:

159 (1) Thirty days after serving it; or

160 (2) If the pleading is one to which a responsive pleading is required, 30 days after service  
 161 of such responsive pleading.

162 Thereafter the party may amend ~~his~~ its pleading only by leave of court or by written  
 163 consent of the adverse party. Leave shall be freely given when justice so requires. A party  
 164 may plead or move in response to an amended pleading and, when required by an order of  
 165 the court, shall plead within 15 days after service of the amended pleading, unless the court  
 166 otherwise orders."

167

**SECTION 1-9.**

168 Said title is further amended by revising Code Section 9-11-26, relating to general provisions  
 169 governing discovery, as follows:

170 "9-11-26.

171 (a) **Discovery methods.** Parties may obtain discovery by one or more of the following  
 172 methods: depositions upon oral examination or written questions; written interrogatories;  
 173 production of documents, electronically stored information, or things or permission to enter  
 174 upon land or other property for inspection and other purposes; physical and mental  
 175 examinations; and requests for admission. Unless the court orders otherwise under  
 176 subsection (c) of this Code section, and except as provided in subsection (b) of this Code  
 177 section, paragraph (3) of subsection (b) of Code Section 9-11-30, paragraph (1) of  
 178 subsection (a) of Code Section 9-11-31, paragraph (1) of subsection (a) of Code  
 179 Section 9-11-33, subsection (b) of Code Section 9-11-34, and paragraph (1) of subsection  
 180 (a) of Code Section 9-11-36, the frequency of use of these methods is not limited.

181 (b) **Scope of discovery.** Unless otherwise limited by order of the court in accordance with  
 182 this chapter, the scope of discovery is as follows:

183 (1) **In general.** Parties may obtain discovery regarding any nonprivileged matter, not  
 184 privileged, which that is relevant to the subject matter involved in the pending action,  
 185 whether it relates to the claim or defense of the party seeking discovery or to the claim  
 186 or defense of any other party, including the existence, description, nature, custody,  
 187 condition, and location of any books, documents, or other tangible things and the identity  
 188 and location of persons having knowledge of any discoverable matter. It is not ground  
 189 for objection that the information sought will be inadmissible at the trial if the  
 190 information sought appears reasonably calculated to lead to the discovery of admissible  
 191 evidence any party's claim or defense and proportional to the needs of the case,  
 192 considering the importance of the issues at stake in the action, the amount in controversy,  
 193 the parties' access to relevant information, the parties' resources, the importance of the  
 194 discovery in resolving the issues, and whether the burden or expense of the proposed  
 195 discovery outweighs its likely benefit;

196 (2) **Limitations.** Upon the motion of any party or on its own, the court shall limit the  
 197 frequency or extent of discovery if it determines that one of the following applies:

198 (A) The discovery sought is cumulative or duplicative, or can be obtained from some  
 199 other source that is more convenient, less burdensome, or less expensive;

200 (B) The party seeking discovery has had ample opportunity to obtain the information  
 201 by discovery in the action;

202 (C) The proposed discovery is outside the scope permitted by paragraph (1) of this  
 203 subsection; or

204 (D) The burden or expense of the proposed discovery outweighs its likely benefit or  
205 is not proportional to the claims and defenses at issue, considering the needs of the case,  
206 the amount in controversy, the parties' resources, the complexity and importance of the  
207 issues at stake in the action, and the importance of discovery in resolving the issues;

208 **(3) Specific limitations on electronically stored information.**

209 (A) Absent a court order demonstrating that the requesting party has a substantial need  
210 for discovery of the electronically stored information requested and subject to  
211 paragraphs (1) and (2) of this subsection, a party need not preserve the following  
212 categories of electronically stored information:

213 (i) Data that cannot be retrieved without substantial additional programming or  
214 without transforming it into another form before search and retrieval can be achieved;

215 (ii) Backup data that are substantially duplicative of data that are more accessible  
216 elsewhere;

217 (iii) Legacy data remaining from obsolete systems that are unintelligible on successor  
218 systems;

219 (iv) Any other data that are not available to the producing party in the ordinary course  
220 of business and that the producing party identifies as not reasonably accessible  
221 because of undue burden or cost; or

222 (v) Data that are routinely deleted or overwritten in accordance with an established  
223 routine records management information governance or system maintenance practice;  
224 and

225 (B) A party shall not be required to provide discovery of the following categories of  
226 electronically stored information absent a showing by the requesting party of substantial  
227 need and good cause, subject to paragraphs (1) and (2) of this subsection:

228 (i) Data that cannot be retrieved without substantial additional programming or  
229 without transforming it into another form before search and retrieval can be achieved;

230 (ii) Backup data that are substantially duplicative of data that are more accessible  
231 elsewhere;

232 (iii) Legacy data remaining from obsolete systems that are unintelligible on successor  
233 systems; or

234 (iv) Any other data that are not available to the producing party in the ordinary course  
235 of business and that the producing party identifies as not reasonably accessible  
236 because of undue burden or cost. In response to a motion to compel discovery or for  
237 a protective order, the party from whom discovery is sought shall be required to show  
238 that the information is not reasonably accessible because of undue burden or cost. If  
239 that showing is made, the court may order discovery from such party only if the  
240 requesting party shows good cause, considering the limitations of paragraphs (1) and

241 (2) of this subsection. The court may specify conditions for the discovery of  
 242 electronically stored information, including allocation of expenses.

243 ~~(2)~~(4) Insurance agreements. A party may obtain discovery of the existence and  
 244 contents of any insurance agreement under which any person carrying on an insurance  
 245 business may be liable to satisfy part or all of a judgment which may be entered in the  
 246 action or to indemnify or reimburse for payments made to satisfy the judgment.  
 247 Information concerning the insurance agreement is not by reason of disclosure admissible  
 248 in evidence at trial. For purposes of this paragraph, an application for insurance shall not  
 249 be treated as part of an insurance agreement;

250 (5) Third-party agreements. Except as otherwise stipulated or ordered by the court,  
 251 a party shall, without awaiting a discovery request, provide to the other parties any  
 252 agreement under which any person, other than an attorney permitted to charge a  
 253 contingent fee representing a party, has a right to receive compensation that is contingent  
 254 on and sourced from any proceeds of the civil action, by settlement, judgment, or  
 255 otherwise;

256 ~~(3)~~(6) Trial preparation; materials. Subject to paragraph ~~(4)~~ (7) of this subsection, a  
 257 party may obtain discovery of documents, electronically stored information, and tangible  
 258 things otherwise discoverable under paragraph (1) of this subsection and prepared in  
 259 anticipation of litigation or for trial by or for another party or by or for that other party's  
 260 representative (including his or her attorney, consultant, surety, indemnitor, insurer, or  
 261 agent) only upon a showing that the party seeking discovery has substantial need of the  
 262 materials in the preparation of his or her case and that he or she is unable without undue  
 263 hardship to obtain the substantial equivalent of the materials by other means. In ordering  
 264 discovery of such materials when the required showing has been made, the court shall  
 265 protect against disclosure of the mental impressions, conclusions, opinions, or legal  
 266 theories of an attorney or other representative of a party concerning the litigation. A  
 267 party may obtain, without the required showing, a statement concerning the action or its  
 268 subject matter previously made by that party. Upon request, a person not a party may  
 269 obtain, without the required showing, a statement concerning the action or its subject  
 270 matter previously made by that person. If the request is refused, the person may move  
 271 for a court order. Paragraph (4) of subsection (a) of Code Section 9-11-37 applies to the  
 272 award of expenses incurred in relation to the motion. For purposes of this paragraph, a  
 273 'statement previously made' is (A) a written statement signed or otherwise adopted or  
 274 approved by the person making it, or (B) a stenographic, mechanical, electrical, or other  
 275 recording, or a transcription thereof, which is a substantially verbatim recital of an oral  
 276 statement by the person making it and contemporaneously recorded; ~~and~~



277 ~~(4)~~(7) **Trial preparation; experts.** Discovery of facts known and opinions held by  
 278 experts, otherwise discoverable under paragraph (1) of this subsection and acquired or  
 279 developed in anticipation of litigation or for trial, may be obtained only as follows:

280 (A)(i) A party may, through interrogatories, require any other party to identify each  
 281 person whom the other party expects to call as an expert witness at trial, to state the  
 282 subject matter on which the expert is expected to testify, and to state the substance of  
 283 the facts and opinions to which the expert is expected to testify and a summary of the  
 284 grounds for each opinion; and

285 (ii) A party may obtain discovery under Code Section 9-11-30, 9-11-31, or 9-11-34  
 286 from any expert described in this paragraph, the same as any other witness, but the  
 287 party obtaining discovery of an expert hereunder must pay a reasonable fee for the  
 288 time spent in responding to discovery by that expert, subject to the right of the expert  
 289 or any party to obtain a determination by the court as to the reasonableness of the fee  
 290 so incurred;

291 (B) A party may discover facts known or opinions held by an expert who has been  
 292 retained or specially employed by another party in anticipation of litigation or  
 293 preparation for trial and who is not expected to be called as a witness at trial, only as  
 294 provided in subsection (b) of Code Section 9-11-35 or upon a showing of exceptional  
 295 circumstances under which it is impracticable for the party seeking discovery to obtain  
 296 facts or opinions on the same subject by other means; and

297 (C) Unless manifest injustice would result:

298 (i) The court shall require the party seeking discovery to pay the expert a reasonable  
 299 fee for time spent in responding to discovery under subparagraph (B) of this  
 300 paragraph; and

301 (ii) With respect to discovery obtained under division (ii) of subparagraph (A) of this  
 302 paragraph, the court may require, and with respect to discovery obtained under  
 303 subparagraph (B) of this paragraph the court shall require, the party seeking discovery  
 304 to pay the other party a fair portion of the fees and expenses reasonably incurred by  
 305 the latter party in obtaining facts and opinions from the expert; and

306 **(8) Claiming privilege or protecting trial preparation materials.**

307 (A) When a party withholds information otherwise discoverable by claiming that the  
 308 information is privileged or subject to protection as trial preparation material, the party  
 309 must:

310 (i) Expressly make such a claim; and

311 (ii) Describe the nature of the documents, electronically stored information, or  
 312 tangible things not produced or disclosed and do so in a manner that, without

313 revealing information itself privileged or protected, will enable other parties to assess  
314 the claim;

315 (B) A party that produces privileged or protected information in discovery may notify  
316 any party that received the information of its privileged or protected status. A party that  
317 receives information in discovery that it has reasonable cause to believe is privileged  
318 or protected shall promptly notify the producing party. After notice given by the  
319 producing party that privileged or protected information was produced or immediately  
320 after the recipient has reasonable cause to believe the information received is privileged  
321 or protected, the recipient shall not read the information and shall promptly return,  
322 sequester, or destroy such information and any copies of it; shall not use or disclose the  
323 information until the claim of privilege or protection is resolved; and shall take  
324 reasonable steps to retrieve the information if the recipient previously disclosed the  
325 information. The producing party shall provide the information to the court under seal  
326 for a determination of the claim of privilege or protection and shall preserve the  
327 information until such claim is resolved; and

328 (C) The production of privileged or work product protected documents, electronically  
329 stored information, or other information, whether inadvertent or otherwise, is not a  
330 waiver of the privilege or protection from discovery in a proceeding.

331 (c) **Protective orders.** Upon motion by a party or by the person from whom discovery is  
332 sought and for good cause shown, the court in which the action is pending or, alternatively,  
333 on matters relating to a deposition, the court in the county where the deposition is to be  
334 taken may make any order which justice requires to protect a party or person from  
335 annoyance, embarrassment, oppression, or undue burden or expense, including one or more  
336 of the following:

337 (1) That the discovery not be had;

338 (2) That the discovery may be had only on specified terms and conditions, including a  
339 designation of the time or place or the allocation of expenses;

340 (3) That the discovery may be had only by a method of discovery other than that selected  
341 by the party seeking discovery;

342 (4) That certain matters not be inquired into or that the scope of the discovery be limited  
343 to certain matters;

344 (5) That discovery be conducted with no one present except persons designated by the  
345 court;

346 (6) That a deposition, after being sealed, be opened only by order of the court;

347 (7) That a trade secret or other confidential research, development, or commercial  
348 information not be disclosed or be disclosed only in a designated way; or

349 (8) That the parties simultaneously file specified documents, electronically stored  
 350 information, or information enclosed in sealed envelopes to be opened as directed by the  
 351 court.

352 If the motion for a protective order is denied in whole or in part, the court may, on such  
 353 terms and conditions as are just, order that any party or person provide or permit discovery.

354 Paragraph (4) of subsection (a) of Code Section 9-11-37 applies to the award of expenses  
 355 incurred in relation to the motion.

356 (d) **Sequence and timing of discovery.** Unless the parties stipulate or the court, upon  
 357 motion, for the convenience of parties and witnesses and in the interests of justice, orders  
 358 otherwise, methods of discovery may be used in any sequence; and the fact that a party is  
 359 conducting discovery, whether by deposition or otherwise, shall not operate to delay any  
 360 other party's discovery.

361 (e) **Supplementation of responses.** A party who has responded to a request for discovery  
 362 with a response that was complete when made is under no duty to supplement ~~his~~ such  
 363 response to include information thereafter acquired, except as follows:

364 (1) A party is under a duty seasonably to supplement ~~his~~ a response with respect to any  
 365 question directly addressed to:

366 (A) The identity and location of persons having knowledge of discoverable matters;  
 367 and

368 (B) The identity of each person expected to be called as an expert witness at trial, the  
 369 subject matter on which ~~he~~ such person is expected to testify, and the substance of ~~his~~  
 370 such testimony.

371 (2) A party is under a duty seasonably to amend a prior response if ~~he~~ such party obtains  
 372 information upon the basis of which such party knows that the response:

373 (A) Was ~~He knows that the response was~~ incorrect when made; or

374 (B) Though ~~He knows that the response, though~~ correct when made, is no longer true  
 375 and the circumstances are such that a failure to amend the response is, in substance, a  
 376 knowing concealment.

377 (3) A duty to supplement responses may be imposed by order of the court, agreement of  
 378 the parties, or at any time prior to trial through new requests for supplementation of prior  
 379 responses.

380 (f) **Signing discovery requests, responses, and objections.**

381 (1) **Signature required; effect of signature.** Every discovery request, response, or  
 382 objection shall be signed by at least one attorney of record in the attorney's own name,  
 383 or by the party personally if unrepresented, and shall state the signer's address, email  
 384 address, and telephone number. By signing, an attorney or party certifies that to the best  
 385 of the person's knowledge, information, and belief formed after a reasonable inquiry:

386 (A) With respect to a response, it is complete and correct as of the time it is made; and

387 (B) With respect to a discovery request or objection, it is:

388 (i) Sufficiently tailored to the claims and defenses so that the recipient can conduct  
 389 a reasonable inquiry consistent with the proper scope of discovery as set forth in this  
 390 Code section;

391 (ii) Consistent with the provisions of this Code section and warranted by existing law  
 392 or by a nonfrivolous argument for extending, modifying, or reversing existing law or  
 393 needed for establishing new law;

394 (iii) Not interposed for any improper purpose, such as to harass, cause unnecessary  
 395 delay, or needlessly increase the cost of litigation; and

396 (iv) Neither unreasonable nor unduly burdensome or expensive, considering the  
 397 needs of the case, prior discovery in the case, the amount in controversy, and the  
 398 importance of the issues at stake in the action.

399 (2) **Failure to sign.** Other parties have no duty to act on an unsigned request, response,  
 400 or objection, and the court shall strike such request, response, or objection unless a  
 401 signature is promptly supplied after notice of such omission is given to the attorney of  
 402 record or unrepresented party.

403 (3) **Sanction for improper certification.** If a certification violates this subsection  
 404 without substantial justification, the court, on motion of a party or on its own motion,  
 405 shall impose an appropriate sanction on the attorney or party, or both. Such sanction  
 406 may include an order to pay the reasonable expenses, including attorney's fees, caused  
 407 by the violation."

408 **SECTION 1-10.**

409 Said title is further amended by revising subsections (b) and (f) of Code Section 9-11-30,  
 410 relating to depositions upon oral examination, as follows:

411 **"(b) Notice of examination.**

412 **(1) General requirements.** A party desiring to take the deposition of any person upon  
 413 oral examination shall give reasonable notice in writing to every other party to the action.  
 414 The notice shall state the time and place for taking the deposition, the means by which  
 415 the testimony shall be recorded, and the name and address of each person to be examined,  
 416 if known, and, if the name is not known, a general description sufficient to identify the  
 417 person to be examined or the particular class or group to which he or she belongs. If a  
 418 subpoena for the production of documentary and tangible evidence, including  
 419 electronically stored information, is to be served on the person to be examined, the  
 420 designation of the materials to be produced, as set forth in the subpoena, shall be attached  
 421 to, or included in, the notice.

422 (2) **Special notice.** Leave of court is not required for the taking of a deposition by  
423 plaintiff if the notice:

424 (A) States that the person to be examined is about to go out of the county where the  
425 action is pending and more than 150 miles from the place of trial, or is about to go out  
426 of the United States, or is bound on a voyage to sea, and will be unavailable for  
427 examination unless the deposition is taken before expiration of the 30 day period; and

428 (B) Sets forth facts to support the statement.

429 The plaintiff's attorney shall sign the notice, and said attorney's signature constitutes a  
430 certification by him or her that, to the best of his or her knowledge, information, and  
431 belief, the statement and supporting facts are true. If a party shows that, when he or she  
432 was served with notice under this paragraph, he or she was unable through the exercise  
433 of diligence to obtain counsel to represent him or her at the taking of the deposition, the  
434 deposition may not be used against such party.

435 (3) **Time and quantity requirements; sanctions.** ~~The court may, for cause shown,~~  
436 ~~enlarge or shorten the time for taking the deposition.~~ A party shall be limited, unless  
437 otherwise stipulated or ordered by the court in a manner consistent with subsection (b)  
438 of Code Section 9-11-26, to a reasonable number of depositions, not to exceed ten  
439 depositions. Unless otherwise stipulated or ordered by the court, a deposition is limited  
440 to one day of seven hours. The court must allow additional time consistent with  
441 subsection (b) of Code Section 9-11-26 if needed to fairly examine the deponent or if the  
442 deponent, another person, or any other circumstance impedes or delays the examination.  
443 The court may impose an appropriate sanction, including reasonable expenses and  
444 attorney's fees incurred by any party, on a person who impedes, delays, or frustrates the  
445 fair examination of the deponent.

446 (4) **Recording of deposition.** Unless the court orders otherwise, the testimony at a  
447 deposition must be recorded by stenographic means, and may also be recorded by sound  
448 or sound and visual means in addition to stenographic means, and the party taking the  
449 deposition shall bear the costs of the recording. A deposition shall be conducted before  
450 an officer appointed or designated under Code Section 9-11-28, and may be conducted  
451 in person with all parties or via video conferencing. Upon motion of a party or upon its  
452 own motion, the court may issue an order designating the manner of recording,  
453 preserving, and filing of a deposition taken by nonstenographic means, which order may  
454 include other provisions to assure that the recorded testimony will be accurate and  
455 trustworthy. Any party may arrange for a transcription to be made from the recording of  
456 a deposition taken by nonstenographic means. With prior notice to the deponent and  
457 other parties, any party may designate another method to record the deponent's testimony  
458 in addition to the methods specified by the person taking the deposition. The additional

459 record or transcript shall be made at that party's expense unless the court otherwise  
 460 orders. The appearance or demeanor of deponents or attorneys shall not be distorted  
 461 through camera or sound-recording techniques. Notwithstanding the foregoing  
 462 provisions of this paragraph, a deposition may be taken by telephone or other remote  
 463 electronic means, other than video conferencing, only upon the stipulation of the parties  
 464 or by order of the court. For purposes of the requirements of this chapter, a deposition  
 465 taken by telephone or other remote electronic means ~~is taken in the state~~ may be taken in  
 466 this state or any other location and at the place where the deponent is to answer questions.

467 (5) **Production of documents, electronically stored information, and things.** The  
 468 notice to a party deponent may be accompanied by a request made in compliance with  
 469 Code Section 9-11-34 for the production of documents, electronically stored information,  
 470 and tangible things at the taking of the deposition. The procedure of Code Section  
 471 9-11-34 shall apply to the request.

472 (6) **Deposition of organization.** A party may, in his or her notice, name as the deponent  
 473 a public or private corporation or a partnership or association or a governmental agency  
 474 and designate with reasonable particularity the matters on which examination is  
 475 requested. The organization so named shall designate one or more officers, directors, or  
 476 managing agents, or other persons who consent to testify on its behalf, and may set forth,  
 477 for each person designated, the matters on which he or she will testify. The persons so  
 478 designated shall testify as to matters known or reasonably available to the organization.  
 479 This paragraph does not preclude taking a deposition by any other procedure authorized  
 480 in this chapter."

481 "(f) **Certification and filing by officer; inspection and copying of exhibits; copy of**  
 482 **deposition.**

483 (1)(A) The officer shall certify that the witness was duly sworn by the officer and that  
 484 the deposition is a true record of the testimony given by the witness. This certificate  
 485 shall be in writing and accompany the record of the deposition. The officer shall then  
 486 securely seal the deposition in an envelope marked with the title of the action, the court  
 487 reporter certification number, and 'Deposition of (here insert name of witness)' and shall  
 488 promptly file it with the court in which the action is pending or deliver it to the party  
 489 taking the deposition, as the case may be, in accordance with Code Section 9-11-29.1.

490 (B) Documents, electronically stored information, and things produced for inspection  
 491 during the examination of the witness shall, upon the request of a party, be marked for  
 492 identification and annexed to and returned with the deposition and may be inspected  
 493 and copied by any party, except that the person producing the materials may substitute  
 494 copies to be marked for identification, if ~~he or she~~ such party affords to all parties fair  
 495 opportunity to verify the copies by comparison with the originals; and, if the person

496 producing the materials requests their return, the officer shall mark them, give each  
 497 party an opportunity to inspect and copy them, and return them to the person producing  
 498 them, and the materials may then be used in the same manner as if annexed to and  
 499 returned with the deposition. Any party may move for an order that the original be  
 500 annexed to and returned with the deposition to the court, pending final disposition of  
 501 the case.

502 (2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the  
 503 deposition to any party or to the deponent."

504 **SECTION 1-11.**

505 Said title is further amended by revising paragraph (1) of subsection (a) of Code  
 506 Section 9-11-31, relating to depositions upon written questions, as follows:

507 "(1) After commencement of the action, any party may take the testimony of any person,  
 508 including a party, by deposition upon written questions. The attendance of witnesses may  
 509 be compelled by the use of subpoena as provided in Code Section 9-11-45. The  
 510 deposition of a person confined in a penal institution may be taken only by leave of court  
 511 on such terms as the court prescribes. A party shall be limited, unless otherwise  
 512 stipulated or ordered by the court in a manner consistent with subsection (b) of Code  
 513 Section 9-11-26, to a reasonable number of depositions, not to exceed ten depositions."

514 **SECTION 1-12.**

515 Said title is further amended by revising paragraph (1) of subsection (a) of Code  
 516 Section 9-11-33, relating to interrogatories to parties, as follows:

517 "(1) Any party may serve upon any other party written interrogatories to be answered by  
 518 the party served or, if the party served is a public or private corporation or a partnership  
 519 or association or a governmental agency, by any officer or agent, who shall furnish such  
 520 information as is available to the party. Interrogatories may, without leave of court, be  
 521 served upon the plaintiff after commencement of the action and upon any other party with  
 522 or after service of the summons and complaint upon that party; provided, however, that  
 523 no party may serve interrogatories containing more than ~~50~~ 25 interrogatories, including  
 524 subparts, upon any other party without leave of court upon a showing of complex  
 525 litigation or undue hardship incurred if such additional interrogatories are not permitted."

526 **SECTION 1-13.**

527 Said title is further amended by revising Code Section 9-11-34, relating to production of  
 528 documents and things and entry upon land for inspection and other purposes, applicability  
 529 to nonparties, and confidentiality, as follows:

530 "9-11-34.

531 (a) **Scope.** Any party may serve on any other party a request:

532 (1) To produce and permit the ~~party making the request, or someone acting on his behalf,~~  
 533 ~~to inspect and copy any~~ requesting party or its representative to inspect, copy, test, or  
 534 sample the following items in the responding party's possession, custody, or control:

535 (A) Any designated documents or electronically stored information, (including  
 536 writings, drawings, graphs, charts, photographs, ~~phono-records~~ sound recordings,  
 537 images, and other data or compilations from which information can be obtained;  
 538 translated, if necessary, by the respondent through detection devices into either directly  
 539 or, if necessary, after translation by the responding party into a reasonably usable form),  
 540 or to inspect and copy, test, or sample any tangible things which constitute or contain  
 541 matters within the scope of subsection (b) of Code Section 9-11-26 and which are in the  
 542 possession, custody, or control of the party upon whom the request is served

543 (B) Any designated tangible things; or

544 (2) To permit entry upon designated land or other property in the possession or control  
 545 of the party upon whom the request is served for the purpose of inspection and  
 546 measuring, surveying, photographing, testing, or sampling the property or any designated  
 547 object or operation thereon, within the scope of subsection (b) of Code Section 9-11-26.

548 **(b) Reasonable time period.** The request shall be time-limited, unless otherwise  
 549 stipulated or ordered by the court in a manner consistent with subsection (b) of Code  
 550 Section 9-11-26, to a reasonable lookback period, not to exceed five years prior to the  
 551 accrual of the cause of action. This subsection shall not apply to requests for patient health  
 552 records, vocational records, educational records, or any other similar records.

553 ~~(b)~~(c) **Procedure.**

554 (1) The request may, without leave of court, be served upon the plaintiff after  
 555 commencement of the action and upon any other party with or after service of the  
 556 summons and complaint upon that party. ~~The request shall set forth the items to be~~  
 557 ~~inspected, either by individual item or by category, and describe each item and category:~~

558 (A) Shall describe with reasonable particularity. ~~The request shall specify each item~~  
 559 or category of items to be inspected;

560 (B) Shall specify a reasonable time, place, and manner of making the inspection and  
 561 performing the related acts; and

562 (C) May specify the form or forms in which electronically stored information is to be  
 563 produced.

564 (2)(A) The party upon whom the request is served shall serve a written response within  
 565 30 days after the service of the request, except that a defendant may serve a response  
 566 within 45 days after service of the summons and complaint upon that defendant. The



567 court may allow a shorter or longer time. ~~The response shall state, with respect to each~~  
 568 ~~item or category, that inspection and related activities will be permitted as requested,~~  
 569 ~~unless the request is objected to, in which event the reasons for objection shall be~~  
 570 ~~stated. If objection is made to part of an item or category, the part shall be specified.~~

571 (B) For each item or category, the response shall either state that inspection and related  
 572 activities will be permitted as requested or state with specificity the grounds for  
 573 objecting to the request, including the reasons. The responding party may state that it  
 574 will produce copies of documents or of electronically stored information instead of  
 575 permitting inspection. The production must then be completed no later than the time  
 576 for inspection specified in the request or another reasonable time specified in the  
 577 response.

578 (C) An objection shall state whether any responsive materials are being withheld on  
 579 the basis of that objection. An objection to part of a request must specify the part and  
 580 permit inspection of the rest. The party submitting the request may move for an order  
 581 under subsection (a) of Code Section 9-11-37 with respect to any objection to or other  
 582 failure to respond to the request or any part thereof, or any failure to permit inspection  
 583 as requested.

584 **(3) Responding to a request for production of electronically stored information.**  
 585 The response may state an objection to a requested form for producing electronically  
 586 stored information. If the responding party objects to a requested form, or if no form was  
 587 specified in the request, the party shall state the form or forms it intends to use.

588 **(4) Producing the documents or electronically stored information.** Unless otherwise  
 589 stipulated or ordered by the court, the following procedures shall apply to producing  
 590 documents or electronically stored information:

591 (A) A responding party shall produce documents as they are kept in the usual course  
 592 of business or must organize and label them to correspond to the categories in the  
 593 request;

594 (B) If a request does not specify a form for producing electronically stored information,  
 595 a responding party shall produce it in a form or forms in which it is ordinarily  
 596 maintained or reasonably used; and

597 (C) A responding party shall not be required to produce the same electronically stored  
 598 information in more than one form.

599 **(e)(d) Applicability to nonparties.**

600 (1) This Code section shall also be applicable with respect to discovery against persons,  
 601 firms, or corporations who are not parties, in which event a copy of the request shall be  
 602 served upon all parties of record; or, upon notice, the party desiring such discovery may  
 603 proceed by taking the deposition of the person, firm, or corporation on oral examination

604 or upon written questions under Code Section 9-11-30 or 9-11-31. A party requesting  
605 discovery from a nonparty shall take reasonable steps to avoid imposing undue burden  
606 or expense on the nonparty. The nonparty or any party may file an objection as provided  
607 in subsection (b) (c) of this Code section. If the party desiring such discovery moves for  
608 an order under subsection (a) of Code Section 9-11-37 to compel discovery, he or she  
609 shall make a showing of good cause to support his or her motion. The party making a  
610 request under this Code section shall, upon request from any other party to the action,  
611 make all reasonable efforts to cause all information produced in response to the nonparty  
612 request to be made available to all parties. A reasonable document copying charge may  
613 be required.

614 (2) This Code section shall also be applicable with respect to discovery against a  
615 nonparty who is a practitioner of the healing arts or a hospital or health care facility,  
616 including those operated by an agency or bureau of the state or other governmental unit.  
617 Where such a request is directed to such a nonparty, a copy of the request shall be served  
618 upon the person whose records are sought by certified mail or statutory overnight  
619 delivery, return receipt requested, or, if known, that person's counsel, and upon all other  
620 parties of record in compliance with Code Section 9-11-5; where such a request to a  
621 nonparty seeks the records of a person who is not a party, a copy of the request shall be  
622 served upon the person whose records are sought by certified mail or statutory overnight  
623 delivery, return receipt requested, or, if known, that person's counsel by certified mail or  
624 statutory overnight delivery, return receipt requested, and upon all parties of record in  
625 compliance with Code Section 9-11-5; or, upon notice, the party desiring such discovery  
626 may proceed by taking the deposition of the person, firm, or corporation on oral  
627 examination or upon written questions under Code Section 9-11-30 or 9-11-31. The  
628 nonparty, any party, or the person whose records are sought may file an objection with  
629 the court in which the action is pending within 20 days of service of the request and shall  
630 serve a copy of such objection on the nonparty to whom the request is directed, who shall  
631 not furnish the requested materials until further order of the court, and on all other parties  
632 to the action. Upon the filing of such objection, the party desiring such discovery may  
633 move for an order under subsection (a) of Code Section 9-11-37 to compel discovery and,  
634 if he or she shall make a showing of good cause to support his or her motion, discovery  
635 shall be allowed. If no objection is filed within 20 days of service of the request, the  
636 nonparty to whom the request is directed shall promptly comply therewith.

637 (3) For any discovery requested from a nonparty pursuant to paragraph (2) of this  
638 subsection or a subpoena requesting records from a nonparty pursuant to Code Section  
639 9-11-45, when the nonparty to whom the discovery request is made is not served with an  
640 objection and the nonparty produces the requested records, the nonparty shall be immune

641 from regulatory, civil, or criminal liability or damages, notwithstanding that the produced  
 642 documents or electronically stored information contained confidential or privileged  
 643 information.

644 ~~(d)~~(e) **Confidentiality.** The provisions of this Code section shall not be deemed to repeal  
 645 the confidentiality provided by Code Sections 37-3-166 concerning mental illness  
 646 treatment records, 37-4-125 concerning developmental disability treatment records,  
 647 37-7-166 concerning alcohol and drug treatment records, 24-12-20 concerning the  
 648 confidential nature of AIDS information, and 24-12-21 concerning the disclosure of AIDS  
 649 information; provided, however, that a person's failure to object to the production of  
 650 documents as set forth in paragraph (2) of subsection ~~(e)~~ (d) of this Code section shall  
 651 waive any right of recovery for damages as to the nonparty for disclosure of the requested  
 652 documents or electronically stored information."

653 **SECTION 1-14.**

654 Said title is further amended by revising Code Section 9-11-34.1, relating to civil actions for  
 655 evidence seized in criminal proceedings, as follows:

656 "9-11-34.1.

657 Notwithstanding the provisions of Code Section 9-11-34, in any civil action based upon  
 658 evidence seized in a criminal proceeding involving any violation of Part 2 of Article 3 of  
 659 Chapter 12 of Title 16, a party shall not be permitted to copy any books, papers,  
 660 documents, electronically stored information, photographs, tangible objects, audio and  
 661 visual tapes, films and recordings, or copies or portions thereof."

662 **SECTION 1-15.**

663 Said title is further amended by revising Code Section 9-11-36, relating to requests for  
 664 admission, as follows:

665 "9-11-36.

666 (a) **Scope; service; answer or objection; motion to determine sufficiency.**

667 (1) A party may serve upon any other party a written request for the admission, for  
 668 purposes of the pending action only, of the truth of any matters within the scope of  
 669 subsection (b) of Code Section 9-11-26 which are set forth in the request and that relate  
 670 to statements or opinions of fact or of the application of law to fact, including the  
 671 genuineness of any documents or electronically stored information described in the  
 672 request. Copies of documents or electronically stored information shall be served with  
 673 the request unless they have been or are otherwise furnished or made available for  
 674 inspection and copying. The request may, without leave of court, be served upon the  
 675 plaintiff after commencement of the action and upon any other party with or after service

676 of the summons and complaint upon that party. Requests for admission shall not exceed  
 677 25 in number unless otherwise stipulated or ordered by the court in a manner consistent  
 678 with subsection (b) of Code Section 9-11-26. The request shall clearly identify in the  
 679 caption and before each request that it is a request for admission. Each matter on which  
 680 an admission is requested shall be stated separately.

681 ~~(2) Each matter of which an admission is requested shall be separately set forth. The A~~  
 682 matter is admitted unless, within 30 days after service of the request pursuant to  
 683 paragraph (1) of this subsection or within such shorter or longer time as the court may  
 684 allow, the party to whom the request is directed serves upon the party requesting the  
 685 admission a written answer or objection addressed to the matter, signed by the party or  
 686 by his or her attorney; but unless the court shortens the time, a defendant shall not be  
 687 required to serve answers or objections before the expiration of 45 days after service of  
 688 the summons and complaint upon him or her. If objection is made, the reasons therefor  
 689 shall be stated. The answer shall specifically deny the matter or set forth in detail the  
 690 reasons why the answering party cannot truthfully admit or deny the matter. A denial  
 691 shall fairly meet the substance of the requested admission; and, when good faith requires  
 692 that a party qualify his or her answer or deny only a part of the matter of which an  
 693 admission is requested, he or she shall specify so much of it as is true and qualify or deny  
 694 the remainder. An answering party may not give lack of information or knowledge as a  
 695 reason for failure to admit or deny unless he or she states that he or she has made  
 696 reasonable inquiry and that the information known or readily obtainable by him or her is  
 697 insufficient to enable him or her to admit or deny. A party who considers that a matter  
 698 of which an admission has been requested presents a genuine issue for trial may not, on  
 699 that ground alone, object to the request; he or she may, subject to subsection (c) of Code  
 700 Section 9-11-37, deny the matter or set forth reasons why he or she cannot admit or deny  
 701 it.

702 (3) The party who has requested the admissions may move to determine the sufficiency  
 703 of the answers or objections. Unless the court determines that an objection is justified,  
 704 it shall order that an answer be served. If the court determines that an answer does not  
 705 comply with the requirements of this subsection, it may order either that the matter is  
 706 admitted or that an amended answer be served. The court may, in lieu of these orders,  
 707 determine that final disposition of the request be made at a pretrial conference or at a  
 708 designated time prior to trial. Paragraph (4) of subsection (a) of Code Section 9-11-37  
 709 shall apply to the award of expenses incurred in relation to the motion.

710 (b) **Effect of admission.** Any matter admitted under this Code section is conclusively  
 711 established unless the court, on motion, permits withdrawal or amendment of the  
 712 admission. Subject to Code Section 9-11-16 governing amendment of a pretrial order, the

713 court may permit withdrawal or amendment when the presentation of the merits of the  
 714 action will be subserved thereby and the party who obtained the admission fails to satisfy  
 715 the court that withdrawal or amendment will prejudice him or her in maintaining his or her  
 716 action or defense on the merits. Any admission made by a party under this Code section  
 717 is for the purpose of the pending action only and is not an admission by him or her for any  
 718 other purpose, nor may it be used against him or her in any other proceeding."

719 **SECTION 1-16.**

720 Said title is further amended by revising Code Section 9-11-37, relating to failure to make  
 721 discovery, motions to compel, sanctions, and expenses, as follows:

722 "9-11-37.

723 (a) **Motion for order compelling discovery.** A party, upon reasonable notice to other  
 724 parties and all persons affected thereby, may apply for an order compelling discovery as  
 725 follows:

726 (1) **Appropriate court.** An application for an order to a party may be made to the court  
 727 in which the action is pending or, on matters relating to a deposition, to the court in the  
 728 county where the deposition is being taken. An application for an order to a deponent  
 729 who is not a party shall be made to the court in the county where the deposition is being  
 730 taken;

731 (2) **Motion; protective order.** If a deponent fails to answer a question propounded or  
 732 submitted under Code Section 9-11-30 or 9-11-31, or a corporation or other entity fails  
 733 to make a designation under paragraph (6) of subsection (b) of Code Section 9-11-30 or  
 734 subsection (a) of Code Section 9-11-31, or a party fails to answer an interrogatory  
 735 submitted under Code Section 9-11-33, or if a party, in response to a request for  
 736 inspection submitted under Code Section 9-11-34, fails to produce documents or fails to  
 737 respond that inspection will be permitted as requested or fails to permit inspection as  
 738 requested, the discovering party may move for an order compelling an answer, or a  
 739 designation, or an order compelling inspection in accordance with the request. When  
 740 taking a deposition on oral examination, the proponent of the question may complete or  
 741 adjourn the examination before ~~he applies~~ applying for an order. If the court denies the  
 742 motion in whole or in part, it may make such protective order as it would have been  
 743 empowered to make on a motion made pursuant to subsection (c) of Code  
 744 Section 9-11-26;

745 (3) **Evasive or incomplete answer.** For purposes of the provisions of this chapter which  
 746 relate to depositions and discovery, an evasive or incomplete answer is to be treated as  
 747 a failure to answer; and

748 (4) **Award of expenses of motion.**

749 (A) If the motion is granted, the court shall, after opportunity for hearing, require the  
 750 party or deponent whose conduct necessitated the motion or the party or attorney  
 751 advising such conduct or both of them to pay to the moving party the reasonable  
 752 expenses incurred in obtaining the order, including attorney's fees, unless the court  
 753 finds that the opposition to the motion was substantially justified or that other  
 754 circumstances make an award of expenses unjust.

755 (B) If the motion is denied, the court shall, after opportunity for hearing, require the  
 756 moving party or the attorney advising the motion or both of them to pay to the party or  
 757 deponent who opposed the motion the reasonable expenses incurred in opposing the  
 758 motion, including attorney's fees, unless the court finds that the making of the motion  
 759 was substantially justified or that other circumstances make an award of expenses  
 760 unjust.

761 (C) If the motion is granted in part and denied in part, the court may apportion the  
 762 reasonable expenses incurred in relation to the motion among the parties and persons  
 763 in a just manner.

764 (b) **Failure to comply with order.**

765 (1) **Sanctions by court in county where deposition is taken.** If a deponent fails to be  
 766 sworn or to answer a question after being directed to do so by the court in the county in  
 767 which the deposition is being taken, the failure may be considered a contempt of that  
 768 court.

769 (2) **Sanctions by court in which action is pending.** If a party or an officer, director, or  
 770 managing agent of a party or a person designated under paragraph (6) of subsection (b)  
 771 of Code Section 9-11-30 or subsection (a) of Code Section 9-11-31 to testify on behalf  
 772 of a party fails to obey an order to provide or permit discovery, including an order made  
 773 under subsection (a) of this Code section or Code Section 9-11-35, the court in which the  
 774 action is pending may make such orders in regard to the failure as are just and, among  
 775 others, the following:

776 (A) An order that the matters regarding which the order was made or any other  
 777 designated facts shall be taken to be established for the purposes of the action in  
 778 accordance with the claim of the party obtaining the order;

779 (B) An order refusing to allow the disobedient party to support or oppose designated  
 780 claims or defenses, or prohibiting ~~him~~ such party from introducing designated matters  
 781 in evidence;

782 (C) An order striking out pleadings or parts thereof, or staying further proceedings until  
 783 the order is obeyed, or dismissing the action or proceeding or any part thereof, or  
 784 rendering a judgment by default against the disobedient party;

785 (D) In lieu of any of the foregoing orders, or in addition thereto, an order treating as  
 786 a contempt of court the failure to obey any orders except an order to submit to a  
 787 physical or mental examination; or

788 (E) Where a party has failed to comply with an order under subsection (a) of Code  
 789 Section 9-11-35 requiring ~~him~~ the party to produce another for examination, such  
 790 orders as are listed in subparagraphs (A), (B), and (C) of this paragraph, unless the  
 791 party failing to comply shows that he or she is unable to produce such person for  
 792 examination.

793 In lieu of any of the foregoing orders, or in addition thereto, the court shall require the  
 794 party failing to obey the order or the attorney advising ~~him~~ such party, or both, to pay the  
 795 reasonable expenses, including attorney's fees, caused by the failure, unless the court  
 796 finds that the failure was substantially justified or that other circumstances make an  
 797 award of expenses unjust.

798 (c) **Expenses on failure to admit.** If a party fails to admit the genuineness of any  
 799 document or electronically stored information or the truth of any matter as requested under  
 800 Code Section 9-11-36 and if the party requesting the admissions thereafter proves the  
 801 genuineness of the document or electronically stored information or the truth of the matter,  
 802 ~~he~~ the party requesting the admissions may apply to the court for an order requiring the  
 803 other party to pay ~~him~~ the reasonable expenses incurred in making that proof, including  
 804 reasonable attorney's fees. The court shall make the order unless it finds that the request  
 805 was held objectionable pursuant to subsection (a) of Code Section 9-11-36, or the  
 806 admission sought was of no substantial importance, or the party failing to admit had  
 807 reasonable ground to believe that he or she might prevail on the matter, or there was other  
 808 good reason for the failure to admit.

809 (d) **Failure of party to attend at own deposition or serve answers to interrogatories**  
 810 **or respond to request for inspection.**

811 (1) If a party or an officer, director, or managing agent of a party or a person designated  
 812 under paragraph (6) of subsection (b) of Code Section 9-11-30 or subsection (a) of Code  
 813 Section 9-11-31 to testify on behalf of a party fails to appear before the officer who is to  
 814 take ~~his~~ the deposition, after being served with a proper notice, or fails to serve answers  
 815 or objections to interrogatories submitted under Code Section 9-11-33, after proper  
 816 service of the interrogatories, or fails to serve a written response to a request for  
 817 inspection submitted under Code Section 9-11-34, after proper service of the request, the  
 818 court in which the action is pending on motion may make such orders in regard to the  
 819 failure as are just; and, among others, it may take any action authorized under  
 820 subparagraphs (b)(2)(A) through (b)(2)(C) of this Code section. In lieu of any order, or  
 821 in addition thereto, the court shall require the party failing to act or the attorney advising

822 ~~him~~ such party, or both, to pay the reasonable expenses, including attorney's fees, caused  
 823 by the failure, unless the court finds that the failure was substantially justified or that  
 824 other circumstances make an award of expenses unjust.

825 (2) The failure to act described in the provisions of this chapter which relate to  
 826 depositions and discovery may not be excused on the ground that the discovery sought  
 827 is objectionable unless the party failing to act has applied for a protective order as  
 828 provided by subsection (c) of Code Section 9-11-26.

829 **(e) Failure to preserve documents, electronically stored information, or tangible**  
 830 **things.** If documents, electronically stored information, or tangible things that should have  
 831 been preserved in the anticipation or conduct of litigation are lost because a party failed to  
 832 take reasonable steps to preserve them, and they cannot be restored or replaced through  
 833 additional discovery, the court:

834 (1) Upon finding prejudice to another party from loss of the documents, electronically  
 835 stored information, or tangible things, may order measures no greater than necessary to  
 836 cure the prejudice; or

837 (2) Only upon finding that a party acted with the intent to deprive another party of the  
 838 use of the documents, electronically stored information, or tangible things in litigation,  
 839 may:

840 (A) Presume that the lost documents, electronically stored information, or tangible  
 841 things were unfavorable to the party;

842 (B) Instruct the jury that it may or must presume that the lost documents, electronically  
 843 stored information, or tangible things were unfavorable to the party; or

844 (C) Dismiss the action or enter a default judgment."

845 **SECTION 1-17.**

846 Said title is further amended by revising Code Section 9-11-41, relating to dismissal of  
 847 actions and recommencement within six months, as follows:

848 "9-11-41.

849 (a) **Voluntary dismissal; effect:**

850 (1) **By plaintiff; by stipulation.** Subject to the provisions of subsection (e) of Code  
 851 Section 9-11-23, Code Section 9-11-66, and any statute, an action may be dismissed by  
 852 the plaintiff, without order or permission of court:

853 (A) By filing a written notice of dismissal at any time before the first witness is sworn  
 854 before the defendant serves an answer, a motion for summary judgment, or other  
 855 responsive pleading; provided, however, that the court shall not permit the plaintiff to  
 856 dismiss a case without prejudice if the dismissal would cause the defendant prejudice;  
 857 or



858 (B) By filing a stipulation of dismissal signed by all parties who have appeared in the  
859 action.

860 (2) **By order of court.** Except as provided in paragraph (1) of this subsection, an action  
861 shall not be dismissed upon the plaintiff's motion except upon order of the court and upon  
862 the terms and conditions as the court deems proper. If a counterclaim has been pleaded  
863 by a defendant prior to the service upon him or her of the plaintiff's motion to dismiss,  
864 the action shall not be dismissed against the defendant's objection unless the counterclaim  
865 can remain pending for independent adjudication by the court.

866 (3) **Effect.** A dismissal under this subsection is without prejudice, except ~~that the filing~~  
867 ~~of a second notice of dismissal operates as follows:~~

868 (A) If the plaintiff previously dismissed any federal or state court action based upon  
869 or including the same claim, a dismissal shall operate as an adjudication upon the  
870 merits; or

871 (B) A court order issued pursuant to paragraph (2) of this subsection states otherwise.

872 (b) **Involuntary dismissal; effect thereof.** For failure of the plaintiff to prosecute or to  
873 comply with this chapter or any order of court, a defendant may move for dismissal of an  
874 action or of any claim against him or her. After the plaintiff, in an action tried by the court  
875 without a jury, has completed the presentation of his evidence, the defendant, without  
876 waiving his the right to offer evidence in the event the motion is not granted, may move for  
877 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to  
878 relief. The court as trier of the facts may then determine the facts and render judgment  
879 against the plaintiff or may decline to render any judgment until the close of all the  
880 evidence. The effect of dismissals shall be as follows:

881 (1) A dismissal for failure of the plaintiff to prosecute does not operate as an adjudication  
882 upon the merits; and

883 (2) Any other dismissal under this subsection and any dismissal not provided for in this  
884 Code section, other than a dismissal for lack of jurisdiction or for improper venue or for  
885 lack of an indispensable party, does operate as an adjudication upon the merits unless the  
886 court in its order for dismissal specifies otherwise.

887 (c) **Dismissal of counterclaim, cross-claim, or third-party claim.** This Code section  
888 also applies to the dismissal of any counterclaim, cross-claim, or third-party claim. A  
889 claimant's dismissal under paragraph (1) of subsection (a) of this Code section shall be  
890 made:

891 (1) Before a responsive pleading is served; or

892 (2) If there is no responsive pleading, before evidence is introduced at a hearing or trial.

893 (d) **Cost of previously dismissed action.** If a plaintiff who has dismissed an action in any  
894 court commences an action based upon or including the same claim against the same

895 defendant, the plaintiff shall first pay the court costs of the action previously dismissed and  
 896 the court shall stay the proceedings until the plaintiff has complied.

897 (e) **Dismissal for want of prosecution; recommencement.** Any action in which no  
 898 written order is taken for a period of five years shall automatically stand dismissed, with  
 899 costs to be taxed against the party plaintiff. For the purposes of this Code section, an order  
 900 of continuance will be deemed an order. When an action is dismissed under this  
 901 subsection, if the plaintiff recommences the action within six months following the  
 902 dismissal then the renewed action shall stand upon the same footing, as to limitation, with  
 903 the original action."

904 **SECTION 1-18.**

905 Said title is further amended by revising subsection (b) of Code Section 9-11-42, relating to  
 906 consolidation and severance, as follows:

907 "(b) **Separate trials.**

908 (1) The court, in furtherance of convenience or to avoid prejudice, may order a separate  
 909 trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate  
 910 issue, or of any number of claims, cross-claims, counterclaims, third-party claims, or  
 911 issues.

912 (2) Upon motion of any party in an action in tort wherein the plaintiff seeks damages  
 913 exceeding \$150,000.00 and the defendant disputes liability, the court shall order separate  
 914 trials for the issue of liability and the issue of damages, unless the court for good cause  
 915 shown orders a single trial. Evidence relating solely to compensatory damages shall not  
 916 be admissible until the trier of fact has determined that the defendant is liable. The same  
 917 trier of fact that tries the issues relating to the liability shall try the issues relating to  
 918 damages."

919 **SECTION 1-19.**

920 Said title is further amended by revising subparagraph (a)(1)(C) and paragraph (2) of  
 921 subsection (a) of Code Section 9-11-45, relating to subpoena for taking depositions,  
 922 objections, and place of examination, as follows:

923 "(C) Subpoenas issued pursuant to this paragraph shall be issued and served in  
 924 accordance with law governing issuance of subpoenas for attendance at court, except  
 925 as to issuance by an attorney. The subpoena may command the person to whom it is  
 926 directed to produce and permit inspection and copying of designated books, papers,  
 927 documents, electronically stored information, or tangible things which constitute or  
 928 contain matters within the scope of the examination permitted by subsection (b) of  
 929 Code Section 9-11-26, but in that event the subpoena will be subject to subsection (c)

930 of Code Section 9-11-26; or the court, upon motion made promptly and in any event at  
 931 or before the time specified in the subpoena for compliance therewith, may quash or  
 932 modify the subpoena if it is unreasonable and oppressive, or condition denial of the  
 933 motion upon the advancement by the person in whose behalf the subpoena is issued of  
 934 the reasonable cost of producing the books, papers, documents, electronically stored  
 935 information, or tangible things. A party requesting discovery from a nonparty shall take  
 936 reasonable steps to avoid imposing an undue burden or expense on the nonparty.

937 (2) The person to whom the subpoena is directed may, within ten days after the service  
 938 thereof or on or before the time specified in the subpoena for compliance, if such time is  
 939 less than ten days after service, serve upon the attorney designated in the subpoena  
 940 written objection to inspection or copying of any or all of the designated materials. If  
 941 objection is made, the party serving the subpoena shall not be entitled to inspect and copy  
 942 the materials except pursuant to an order of the court from which the subpoena was  
 943 issued. The party serving the subpoena may, if objection has been made, move, upon  
 944 notice to the deponent, for an order at any time before or during the taking of the  
 945 deposition, provided that nothing in this Code section shall be construed as requiring the  
 946 issuance of a subpoena to compel a party to attend and give his or her deposition or  
 947 produce documents or electronically stored information at the taking of his or her  
 948 deposition where a notice of deposition under Code Section 9-11-30 has been given or  
 949 a request under Code Section 9-11-34 has been served, such notice or request to a party  
 950 being enforceable by motion under Code Section 9-11-37."

951 **SECTION 1-20.**

952 Said title is further amended by revising Code Section 9-11-53, which was previously  
 953 reserved, as follows:

954 "9-11-53.

955 In accordance with Code Section 51-12-33, the court and counsel for any party shall be  
 956 prohibited from informing the trier of fact that the total amount of damages awarded to the  
 957 plaintiff shall be reduced by an amount based on the negligence of the plaintiff or a  
 958 nonparty. The court and counsel for any party shall be further prohibited from informing  
 959 the trier of fact that the plaintiff shall not be entitled to receive any damages if the plaintiff  
 960 is 50 percent or more responsible for the injury or damages claimed. Reserved."

961 **SECTION 1-21.**

962 Said title is further amended by revising subsection (d) of Code Section 9-11-60, relating to  
 963 relief from judgments, as follows:

964 "(d) **Motion to set aside.** A motion to set aside a judgment may be brought ~~to set aside~~  
 965 ~~a judgment~~ any time within three years of the date of the judgment and shall be based upon:  
 966 (1) Lack of jurisdiction over the person or the subject matter;  
 967 (2) Fraud, accident, or mistake or the acts of the adverse party unmixed with the  
 968 negligence or fault of the movant; or  
 969 (3) A nonamendable defect which appears upon the face of the record or pleadings.  
 970 Under this paragraph, it is not sufficient that the complaint or other pleading fails to state  
 971 a claim upon which relief can be granted, but the pleadings must affirmatively show no  
 972 claim in fact existed."

973 **SECTION 1-22.**

974 Said title is further amended by revising Code Section 9-11-67.1, relating to settlement offers  
 975 and agreements for personal injury, bodily injury, and death from motor vehicle and payment  
 976 methods, as follows:

977 "9-11-67.1.

978 (a) ~~Any~~ Prior to the filing of a civil action, offer to settle a tort claim for personal injury,  
 979 bodily injury, or death ~~arising from the use of a motor vehicle and prepared by or with the~~  
 980 ~~assistance of an attorney on behalf of a claimant or claimants~~ shall be in writing and  
 981 contain the following material terms:

- 982 (1) The time period within which such offer must be accepted, which shall be not less  
 983 than 30 days from receipt of the offer;  
 984 (2) Amount of monetary payment;  
 985 (3) The party or parties the claimant or claimants will release if such offer is accepted;  
 986 (4) The type of release, full or limited, if any, the claimant or claimants will provide to  
 987 each releasee; and  
 988 (5) The claims to be released.

989 (b) When making an offer, the offeror shall include:

- 990 (1) All medical records; and  
 991 (2) Either medical bills or receipts for payment of such bills related to the tort claim that  
 992 can be reasonably obtained by the offeror.

993 ~~(b)(c)~~ Unless otherwise agreed to by both the offeror and the recipient in writing, the  
 994 material terms outlined in subsection (a) of this Code section are the only material terms  
 995 which can be included in an offer to settle made pursuant to this Code section. The  
 996 recipients of an offer to settle made under this Code section may accept the same by  
 997 providing written acceptance of the material terms outlined in subsection (a) of this Code  
 998 section in their entirety.

999 ~~(e)~~(d) Nothing in this Code section is intended to prohibit parties from reaching a  
 1000 settlement agreement ~~in a manner and~~ under terms otherwise agreeable to ~~the parties~~ both  
 1001 the offeror and the recipient of the offer.

1002 ~~(d)~~(e) Upon receipt of an offer to settle as set forth in subsection (a) of this Code section,  
 1003 the recipients shall have the right to seek clarification regarding terms, liens, subrogation  
 1004 claims, standing to release claims, medical bills, medical records, and other relevant facts.  
 1005 Any attempt to seek clarification may be made verbally, in writing, or both verbally and  
 1006 in writing. An attempt to seek ~~reasonable~~ clarification shall not be deemed a counteroffer.

1007 ~~(e)~~(f) An offer to settle made pursuant to this Code section shall be sent by certified mail  
 1008 or statutory overnight delivery, return receipt requested, ~~and~~ shall specifically reference this  
 1009 Code section, and shall include an address and either a facsimile number or an email  
 1010 address to which a written acceptance pursuant to subsection (c) of this Code section can  
 1011 be sent.

1012 ~~(f)~~(g) The person or entity providing payment to satisfy the material term set forth in  
 1013 paragraph (2) of subsection (a) of this Code section may elect to provide payment by any  
 1014 one or more of the following means:

- 1015 (1) Cash;
- 1016 (2) Money order;
- 1017 (3) Wire transfer;
- 1018 (4) A cashier's check issued by a bank or other financial institution;
- 1019 (5) A draft or bank check issued by an insurance company; or
- 1020 (6) Electronic funds transfer or other method of electronic payment.

1021 ~~(g)~~(h) Nothing in this Code section shall prohibit a party making an offer to settle from  
 1022 requiring payment ~~within a specified period by a certain date;~~ provided, however, that such  
 1023 ~~period shall be not less than ten days after the written acceptance of the offer to settle~~ date  
 1024 certain shall not be less than 40 days from the receipt of the offer.

1025 ~~(h)~~(i) This Code section shall apply to causes of action for personal injury, bodily injury,  
 1026 and death arising ~~from the use of a motor vehicle~~ on or after July 1, ~~2013~~ 2020."

1027 **SECTION 1-23.**

1028 Said title is further amended by revising subsections (a) and (e) of Code Section 9-11-68,  
 1029 relating to offers of settlement and damages for frivolous claims or defenses, as follows:

1030 "(a) At any time more than 30 days after the service of a summons and complaint on a  
 1031 party but not less than 30 days (or 20 days if it is a counteroffer) before trial, either party  
 1032 may serve upon the other party, but shall not file with the court, a written offer,  
 1033 denominated as an offer under this Code section, to settle ~~a tort~~ any claim for the money

1034 specified in the offer and to enter into an agreement dismissing the claim or to allow  
 1035 judgment to be entered accordingly. Any offer under this Code section must:

- 1036 (1) Be in writing and state that it is being made pursuant to this Code section;
- 1037 (2) Identify the party or parties making the proposal and the party or parties to whom the  
 1038 proposal is being made;
- 1039 (3) Identify generally the claim or claims the proposal is attempting to resolve;
- 1040 (4) State with particularity any relevant conditions;
- 1041 (5) State the total amount of the proposal;
- 1042 (6) State with particularity the amount proposed to settle a claim for punitive damages,  
 1043 if any;
- 1044 (7) State whether the proposal includes attorney's fees or other expenses and whether  
 1045 attorney's fees or other expenses are part of the legal claim; and
- 1046 (8) Include a certificate of service and be served by certified mail or statutory overnight  
 1047 delivery in the form required by Code Section 9-11-5."

1048 ~~"(e) Upon motion by the prevailing party at the time that the verdict or judgment is~~  
 1049 ~~rendered, the moving party may request that the finder of fact determine whether the~~  
 1050 ~~opposing party presented a frivolous claim or defense. In such event, the court shall hold~~  
 1051 ~~a separate bifurcated hearing at which the finder of fact shall make a determination of~~  
 1052 ~~whether such frivolous claims or defenses were asserted and to award damages, if any,~~  
 1053 ~~against the party presenting such frivolous claims or defenses. Under this subsection:~~

- 1054 (1) ~~Frivolous claims shall include, but are not limited to, the following:~~
  - 1055 (A) ~~A claim, defense, or other position that lacks substantial justification or that is not~~  
 1056 ~~made in good faith or that is made with malice or a wrongful purpose, as those terms~~  
 1057 ~~are defined in Code Section 51-7-80;~~
  - 1058 (B) ~~A claim, defense, or other position with respect to which there existed such a~~  
 1059 ~~complete absence of any justiciable issue of law or fact that it could not be reasonably~~  
 1060 ~~believed that a court would accept the asserted claim, defense, or other position; and~~
  - 1061 (C) ~~A claim, defense, or other position that was interposed for delay or harassment;~~
- 1062 (2) ~~Damages awarded may include reasonable and necessary attorney's fees and expenses~~  
 1063 ~~of litigation; and~~
- 1064 (3) ~~A party may elect to pursue either the procedure specified in this subsection or the~~  
 1065 ~~procedure specified in Code Section 9-15-14, but not both."~~

1066

**PART II**

1067

**SECTION 2-1.**

1068 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended  
 1069 by adding a new subsection to Code Section 5-6-43, relating to preparation and transmittal  
 1070 of record on appeal by court clerk, retention of copy by clerk, furnishing at no cost to  
 1071 Attorney General in capital cases, and notification where defendant confined to jail, to read  
 1072 as follows:

1073 "(a.1) The transmission of the record may be by electronic means pursuant to rules that the  
 1074 Supreme Court and Court of Appeals shall adopt for such purposes."

1075

**PART III**

1076

**SECTION 3-1.**

1077 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
 1078 Code Section 15-12-135, relating to disqualification for relationship to interested party, as  
 1079 follows:

1080 "15-12-135.

1081 (a) All trial jurors in the courts of this state shall be disqualified to act or serve in any case  
 1082 or matter when such jurors are related by consanguinity or affinity to any party interested  
 1083 in the result of the case or matter within the third degree as computed according to the civil  
 1084 law. Relationship more remote shall not be a disqualification.

1085 (b) Notwithstanding subsection (a) of this Code section, jurors shall not be qualified in  
 1086 open court regarding a relationship with any insurance company that may have a financial  
 1087 interest in the outcome of the case. Rather, jurors shall complete a questionnaire that  
 1088 identifies their current employers and their current insurance companies, if any. The court  
 1089 shall exclude any jurors for cause, after voir dire, if the questionnaire reveals a relationship  
 1090 to any insurance company that has a financial interest in the outcome of the case.

1091 ~~(b)~~(c) Notwithstanding subsection (a) of this Code section, any juror, irrespective of his  
 1092 relationship to a party to the case or his interest in the case, shall be qualified to try any  
 1093 civil case when there is no defense filed unless one of the parties to the case objects to the  
 1094 related juror."

1095

**PART IV**

1096

**SECTION 4-1.**

1097 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by  
 1098 revising Code Section 24-6-611, relating to mode and order of witness interrogation and  
 1099 presentation, as follows:

1100 "24-6-611.

1101 (a) The court shall exercise reasonable control over the mode and order of interrogating  
 1102 witnesses and presenting evidence so as to:

1103 (1) Make the interrogation and presentation effective for the ascertainment of the truth;

1104 (2) Avoid needless consumption of time; and

1105 (3) Protect witnesses from harassment or undue embarrassment.

1106 (b) A witness may be cross-examined on any matter relevant to any issue in the  
 1107 proceeding. The right of a thorough and sifting cross-examination shall belong to every  
 1108 party as to the witnesses called against the party. If several parties to the same proceeding  
 1109 have distinct interests, each party may exercise the right to cross-examination.

1110 (c) Leading questions shall not be used on the direct examination of a witness except as  
 1111 may be necessary to develop the witness's testimony. Ordinarily leading questions shall  
 1112 be permitted on cross-examination. When a party calls a hostile witness, an adverse party,  
 1113 or a witness identified with an adverse party, interrogation may be by leading questions,  
 1114 and the other parties shall be entitled at that time to conduct a rebuttal interrogation of the  
 1115 witness that is limited to the scope of examination conducted by the party first calling that  
 1116 witness."

1117

**PART IVA**

1118

**SECTION 4A-1.**

1119 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
 1120 Code Section 31-36A-3, relating to definitions relative to the "Temporary Health Care  
 1121 Placement Decision Maker for an Adult Act," as follows:

1122 "31-36A-3.

1123 As used in this chapter, the term:

1124 (1) 'Absence of a person authorized to consent' means that:

1125 (A) After diligent efforts for a reasonable period of time, no person authorized to  
 1126 consent under the provisions of Code Section 31-36A-6 has been located; or

1127 (B) All such authorized persons located have affirmatively waived their authority to  
 1128 consent or dissent to admission to or discharge from a health care facility or placement



1129 or transfer to an alternative health care facility or placement, provided that dissent by  
 1130 an authorized person to a proposed admission, discharge, or transfer shall not be  
 1131 deemed waiver of authority.

1132 (2) 'Nursing home' means a facility licensed as such under Chapter 7 of Title 31.

1133 ~~(2)~~(3) 'Unable to consent' means that an adult is unable to:

1134 (A) Make rational and competent decisions regarding his or her placement options for  
 1135 health or personal care; or

1136 (B) Communicate such decisions by any means."

1137 **SECTION 4A-2.**

1138 Said title is further amended by adding a new Code section to read as follows:

1139 "31-36A-6.1.

1140 Any person listed in subsection (a) of Code Section 31-36A-6 who exercises the power to  
 1141 consent to a transfer, admission, or discharge to or from a nursing home as provided in this  
 1142 chapter is authorized to execute on behalf of the subject of such consent a binding  
 1143 arbitration agreement executed in compliance with Part 1 of Article 1 of Chapter 9 of  
 1144 Title 9, the 'Georgia Arbitration Code.'"

1145 **PART IVB**

1146 **SECTION 4B-1.**

1147 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 1148 by revising Code Section 36-33-1, relating to immunity from liability for damages, waiver  
 1149 of immunity by purchase of liability insurance, and liability for acts or omissions generally,  
 1150 as follows:

1151 "36-33-1.

1152 (a) Pursuant to Article I, Section II, Paragraph IX and Article IX, Section II, Paragraph IX  
 1153 of the Constitution of the State of Georgia, the General Assembly, except as provided in  
 1154 this Code section and in Chapter 92 of this title, declares it is the public policy of the State  
 1155 of Georgia that there is no waiver of the sovereign immunity of municipal corporations of  
 1156 the state, and such municipal corporations shall be immune from liability for damages to  
 1157 the same extent that counties are immune as provided for in subsection (b) of this Code  
 1158 section. A municipal corporation shall not waive its immunity by the purchase of liability  
 1159 insurance, except as provided in Code Section 33-24-51 or 36-92-2, or unless the policy  
 1160 of insurance issued covers an occurrence for which the defense of sovereign immunity is  
 1161 available, and then only to the extent of the limits of such insurance policy. ~~This~~  
 1162 ~~subsection shall not be construed to affect any litigation pending on July 1, 1986.~~

1163 (b) Municipal corporations shall not be liable for failure to perform or for errors in  
 1164 performing their legislative or judicial powers. For neglect to perform or improper or  
 1165 unskillful performance of their ministerial duties, they shall be liable; provided, however,  
 1166 that municipal corporations shall only be liable to the same extent that counties are liable  
 1167 and they shall be immune to the same extent that counties are immune for any joint airport  
 1168 authority created between any municipal corporation and any county or counties and for  
 1169 any claims relating to motor vehicles owned or operated by such joint airport authority."

1170

**PART V**

1171

**SECTION 5-1.**

1172 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
 1173 amended by revising Code Section 40-1-112, relating to insurance of motor carriers, as  
 1174 follows:

1175 "40-1-112.

1176 (a) No motor carrier of household goods or property or passengers shall be issued a motor  
 1177 carrier certificate unless there is filed with the department a certificate of insurance for such  
 1178 applicant or holder on forms prescribed by the commissioner evidencing a policy of  
 1179 indemnity insurance by an insurance company licensed to do business in this state, ~~which~~  
 1180 ~~policy must provide~~ that provides for the protection, in case of passenger vehicles, of  
 1181 passengers and the public against injury proximately caused by the negligence of such  
 1182 motor carrier, its servants, or its agents; and, in the case of vehicles transporting household  
 1183 goods, to secure the owner or person entitled to recover against loss or damage to such  
 1184 household goods for which the motor common carrier may be legally liable. The  
 1185 department shall determine and fix the amounts of such indemnity insurance and shall  
 1186 prescribe the provisions and limitations thereof. The insurer shall file such certificate. The  
 1187 failure to file any form required by the department shall not diminish the rights of any  
 1188 person to pursue an action directly against a motor carrier's insurer.

1189 (b) The department shall have power to permit self-insurance, in lieu of a policy of  
 1190 indemnity insurance, whenever in its opinion the financial ability of the motor carrier so  
 1191 warrants.

1192 ~~(c) It shall be permissible under this part for any person having a cause of action arising~~  
 1193 ~~under this part to join in the same action the motor carrier and the insurance carrier,~~  
 1194 ~~whether arising in tort or contract."~~

1195 **SECTION 5-2.**

1196 Said title is further amended by revising paragraph (4) of subsection (d) of Code Section  
 1197 40-2-140, relating to Department of Public Safety to administer provisions and registration,  
 1198 insurance, and fee requirements of motor carriers, as follows:

1199 ~~"(4) Any person having a cause of action, whether arising in tort or contract, under this~~  
 1200 ~~Code section may join in the same cause of action the motor carrier and its insurance~~  
 1201 ~~carrier."~~

1202 **SECTION 5-3.**

1203 Said title is further amended by revising Code Section 40-5-145, relating to duties of  
 1204 employer, as follows:

1205 "40-5-145.

1206 (a) Each employer shall require every commercial motor vehicle driver applicant to  
 1207 provide the information specified in subsection (d) of Code Section 40-5-144.

1208 (b) A person is presumed to possess the qualifications necessary to be hired and entrusted  
 1209 to drive a commercial motor vehicle if the person has a commercial driver's license issued  
 1210 by a state in accordance with the minimum federal standards for the issuance of  
 1211 commercial motor vehicle driver's licenses; if the person's license is not suspended,  
 1212 revoked, or cancelled at the time of the accident in question; and if the person is not  
 1213 disqualified from driving a commercial motor vehicle at the time of the accident in  
 1214 question.

1215 ~~(b)~~(c) No employer may knowingly allow, require, permit, or authorize a driver to drive  
 1216 a commercial motor vehicle during any period:

1217 (1) In which the driver has a driver's license suspended, revoked, or canceled by a state;  
 1218 has lost the privilege to drive a commercial motor vehicle in a state; or has been  
 1219 disqualified from driving a commercial motor vehicle;

1220 (2) In which the driver has more than one driver's license;

1221 (3) In which the driver, or the commercial motor vehicle that he or she is driving, or the  
 1222 motor carrier operation, is subject to an ~~out-of-service~~ out-of-service order; or

1223 (4) In violation of a federal, state, or local law or regulation pertaining to  
 1224 railroad-highway grade crossings."

1225 **SECTION 5-4.**

1226 Said title is further amended by revising subsection (a) of Code Section 40-5-159, relating  
 1227 to violations, as follows:

1228 "(a) Any person who drives a commercial motor vehicle while in violation of the  
 1229 provisions of Code Section 40-5-143 or any employer who knowingly allows, requires,

1230 permits, or authorizes a driver to drive a commercial motor vehicle in violation of the  
 1231 provisions of subsection ~~(b)~~ (c) of Code Section 40-5-145 shall be guilty of a felony and,  
 1232 upon conviction thereof, shall be punished as follows:

1233 (1) Except as provided for in subsections (d) and (e) of this Code section, by a civil  
 1234 penalty of \$2,500.00 for each offense; and

1235 (2) By a fine of \$5,000.00, imprisonment for not more than 90 days, or both, for each  
 1236 offense."

1237 **PART VI**

1238 **SECTION 6-1.**

1239 Said Title 40 is further amended by revising subsection (c) of Code Section 40-8-76, relating  
 1240 to safety belts required as equipment and safety restraints for children, as follows:

1241 "~~(c) Violation of this Code section shall not constitute negligence per se nor contributory~~  
 1242 ~~negligence per se~~ may be considered in any civil action as evidence admissible on the  
 1243 issues of failure to mitigate damages, assumption of risk, apportionment of fault,  
 1244 negligence, comparative negligence, contributory negligence, or causation. Violation of  
 1245 subsection (b) of this Code section shall not be the basis for cancellation of insurance  
 1246 coverage or increase in insurance rates."

1247 **SECTION 6-2.**

1248 Said title is further amended by revising Code Section 40-8-76.1, relating to use of safety  
 1249 belts in passenger vehicles, as follows:

1250 "40-8-76.1.

1251 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle,  
 1252 including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to  
 1253 carry 15 passengers or fewer and used for the transportation of persons; provided, however,  
 1254 that such term shall not include motorcycles; or motor driven cycles; or off-road vehicles  
 1255 or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in  
 1256 connection with agricultural pursuits that are usual and normal to the user's farming  
 1257 operation; and provided, further, that such term shall not include motor vehicles designed  
 1258 to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as  
 1259 of such date, did not have manufacturer installed seat safety belts.

1260 (b) Each occupant ~~of the front seat~~ of a passenger vehicle shall, while such passenger  
 1261 vehicle is being operated on a public road, street, or highway of this state, be restrained by  
 1262 a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

1263 (c) The requirement of subsection (b) of this Code section shall not apply to:

- 1264 (1) A driver or passenger frequently stopping and leaving the vehicle or delivering  
 1265 property from the vehicle, if the speed of the vehicle between stops does not exceed 15  
 1266 miles per hour;
- 1267 (2) A driver or passenger possessing a written statement from a physician that such  
 1268 person is unable, for medical or physical reasons, to wear a seat safety belt;
- 1269 (3) A driver or passenger possessing an official certificate or license endorsement issued  
 1270 by the appropriate agency in another state or country indicating that the driver is unable  
 1271 for medical, physical, or other valid reasons to wear a seat safety belt;
- 1272 (4) A driver operating a passenger vehicle in reverse;
- 1273 (5) A passenger vehicle with a model year prior to 1965;
- 1274 (6) A passenger vehicle which is not required to be equipped with seat safety belts under  
 1275 federal law;
- 1276 (7) A passenger vehicle operated by a rural letter carrier of the United States Postal  
 1277 Service while performing duties as a rural letter carrier;
- 1278 (8) A passenger vehicle from which a person is delivering newspapers; ~~or~~
- 1279 (9) A passenger vehicle performing an emergency service; or
- 1280 (10) Off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18  
 1281 years of age or older in connection with agricultural pursuits that are usual and normal  
 1282 to the user's farming operation.
- 1283 (d)(1) Except when occurring under the circumstances set forth in subsection (c) of this  
 1284 Code section, the ~~The~~ failure of an occupant of a motor passenger vehicle to wear a seat  
 1285 safety belt in any seat of a motor passenger vehicle which has a seat safety belt or belts  
 1286 ~~shall not be considered evidence of negligence or causation, shall not otherwise be~~  
 1287 ~~considered by the finder of fact on any question of liability of any person, corporation,~~  
 1288 ~~or insurer, shall not be any basis for cancellation of coverage or increase in insurance~~  
 1289 ~~rates, and shall not be evidence~~ may be considered in any civil action as evidence  
 1290 admissible on the issues of failure to mitigate damages, assumption of risk,  
 1291 apportionment of fault, negligence, comparative negligence, contributory negligence, or  
 1292 causation and may be used to diminish any recovery for damages arising out of the  
 1293 ownership, maintenance, occupancy, or operation of a motor vehicle.
- 1294 (2) The failure of an occupant of a passenger vehicle to wear a seat safety belt in any seat  
 1295 of a motor vehicle which has a seat safety belt or belts shall not be the basis for  
 1296 cancellation of insurance coverage.
- 1297 (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person  
 1298 failing to comply with the requirements of subsection (b) of this Code section shall not  
 1299 be guilty of any criminal act and shall not be guilty of violating any ordinance. A

1300 violation of this Code section shall not be a moving traffic violation for purposes of Code  
1301 Section 40-5-57.

1302 (2) A person failing to comply with the requirements of subsection (b) of this Code  
1303 section shall be guilty of the offense of failure to wear a seat safety belt and, upon  
1304 conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11  
1305 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of  
1306 such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to  
1307 a fine for such offense be assessed against a person for conviction thereof. The court  
1308 imposing such fine shall forward a record of the disposition of the case of failure to wear  
1309 a seat safety belt to the Department of Driver Services.

1310 (3) Each minor eight years of age or older who is an occupant of a passenger vehicle  
1311 shall, while such passenger vehicle is being operated on a public road, street, or highway  
1312 of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle  
1313 Safety Standard 208. In any case where a minor passenger eight years of age or older  
1314 fails to comply with the requirements of this paragraph, the driver of the passenger  
1315 vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and,  
1316 upon conviction thereof, may be fined not more than \$25.00. The court imposing such  
1317 a fine shall forward a record of the court disposition of the case of failure to secure a seat  
1318 safety belt on a minor to the Department of Driver Services.

1319 (f) Probable cause for violation of this Code section shall be based solely upon a law  
1320 enforcement officer's clear and unobstructed view of a person not restrained as required by  
1321 this Code section. Noncompliance with the restraint requirements of this Code section  
1322 shall not constitute probable cause for violation of any other Code section."

1323 **SECTION 6-3.**

1324 To the extent that the Georgia Court of Appeals' rulings in Reid v. Odom, 199 Ga. App. 146,  
1325 404 S.E.2d 323 (1991), Boatwright v. Czerepinski, 194 Ga. App. 697, 391 S.E.2d 685  
1326 (1990), Katz v. White, 190 Ga. App. 458, 379 S.E.2d 186 (1989), Sapp v. Johnson, 184 Ga.  
1327 App. 603, 362 S.E.2d 82 (1987), and any other decisions limit the purposes for which seat  
1328 safety belt nonusage evidence may be admitted or create additional conditions for the  
1329 consideration of such evidence which are not consistent with the provisions of Sections 6-1  
1330 and 6-2 of this Act, these decisions are contrary to the General Assembly's intent and shall  
1331 be deemed overruled on the effective date of this Act.

1332

**PART VIA**

1333

**SECTION 6A-1.**

1334 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
 1335 adding a new part to Article 8 of Chapter 14, relating to liens, to read as follows:

1336

"Part 8A1337 44-14-480.1338 This part shall be known and may be cited as the 'Georgia Medical Funding Act.'1339 44-14-481.1340 As used in this part, the term:

1341 (1) 'Collateral sources' means payments paid on behalf of a consumer by licensed  
 1342 commercial health insurers, Medicaid, Medicare, licensed workers' compensation  
 1343 insurers, or any employment benefit plan.

1344 (2) 'Consumer' means any natural person who resides, is present, or domiciled in this  
 1345 state or who is or may become a plaintiff or claimant in any claim or lawsuit for bodily  
 1346 injuries in this state.

1347 (3) 'Medical funding' means a transaction in which a third party purchases medical bills  
 1348 or accounts from a health care provider or otherwise pays for services rendered by a  
 1349 health care provider and obtains a lien against or right to recover from the settlement or  
 1350 proceeds from the consumer's bodily injury claim or lawsuit. The term does not include  
 1351 any payments or agreements to pay that are collateral sources.

1352 (4) 'Medical funding provider' means a person, entity, or partnership engaged in the  
 1353 business of medical funding.

1354 44-14-482.

1355 In any dispute in which a medical funding provider has provided payment to a consumer's  
 1356 health care provider:

1357 (1) Any agreement entered into between a medical funding provider and the consumer's  
 1358 health care provider regarding payment for services rendered to the consumer shall be  
 1359 disclosed to the consumer at the time treatment is rendered or the agreement is entered  
 1360 into, whichever is earlier;

1361 (2) The amount a medical funding provider paid to the consumer's health care provider  
 1362 for any services rendered shall be disclosed to the consumer at the time treatment is  
 1363 rendered or the agreement is entered into, whichever is earlier;

1364 (3) If the consumer asserts a claim for bodily injury against a tortfeasor, an insurance  
 1365 carrier, or both, any agreement entered into between a medical funding provider and the  
 1366 consumer's health care provider regarding payment for services rendered to the consumer  
 1367 shall be disclosed by the consumer to the tortfeasor and the insurance carrier, as  
 1368 applicable; and

1369 (4) If the consumer files a lawsuit for bodily injury against a tortfeasor, an insurance  
 1370 carrier, or both, any financial relationship or agreements, including the details of the  
 1371 same, entered into between a medical funding provider and a consumer's health care  
 1372 provider regarding payment for services rendered to the consumer by the health care  
 1373 provider, as well as evidence of any ongoing financial relationship between the medical  
 1374 funding provider and the consumer's health care provider, shall be discoverable and  
 1375 admissible into evidence at the trial of such lawsuit to show the potential bias and  
 1376 credibility of any causation testimony offered by the consumer's health care provider.

1377 44-14-483.

1378 A medical funding provider shall not:

1379 (1) Pay or offer to pay commissions, referral fees, or other forms of consideration to any  
 1380 attorney, law firm, or health care provider or any of their employees for referring a  
 1381 consumer to a specific health care provider or attorney;

1382 (2) Refer a consumer or potential consumer to a specific attorney, law firm, or health  
 1383 care provider or any of their employees; provided, however, that if a consumer does not  
 1384 have legal representation, the medical funding provider may refer the consumer to a local  
 1385 or state legal referral service operated by a bar association or nonprofit organization;

1386 (3) Fail to supply within 30 days, upon request, copies of any and all complete medical  
 1387 funding contracts regarding payment for services rendered to a consumer and any  
 1388 attorney representing a consumer upon request;

1389 (4) Accept any commissions, referral fees, rebates, or other forms of consideration from  
 1390 an attorney, law firm, or health care provider or any of their employees; or

1391 (5) Make a decision relating to the conduct, settlement, or resolution of the underlying  
 1392 legal claim, the power of which shall remain solely with the consumer.

1393 44-14-484.

1394 If the consumer files a lawsuit for bodily injury against a tortfeasor, an insurance carrier,  
 1395 or both, and seeks to recover the charges associated with any bill or account that was the  
 1396 subject of a medical funding transaction, any violation of paragraph (1), (2), or (4) of Code  
 1397 Section 44-14-482 shall be admissible into evidence at the trial of such lawsuit."



1398

**PART VII**

1399

**SECTION 7-1.**

1400 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by revising  
 1401 subsection (c) of Code Section 51-1-11, relating to when privity required to support action,  
 1402 product liability action and time limitation therefore, and industry-wide liability theories  
 1403 rejected, as follows:

1404 "(c) The limitation of paragraph (2) of subsection (b) of this Code section regarding  
 1405 bringing an action within ten years from the date of the first sale for use or consumption  
 1406 of personal property shall also apply to the commencement of an action claiming  
 1407 negligence of a manufacturer as the basis of liability, except an action seeking to recover  
 1408 from a manufacturer for injuries or damages arising out of the negligence of such  
 1409 manufacturer in manufacturing products which cause a disease or birth defect, or arising  
 1410 out of conduct which manifests a ~~willful, reckless, or wanton~~ an intentional disregard for  
 1411 life or property. Nothing contained in this subsection shall relieve a manufacturer from the  
 1412 duty to warn of a unreasonable danger arising from use of a product once that unreasonable  
 1413 danger actually becomes known to the manufacturer. Constructive knowledge of such  
 1414 unreasonable danger shall not provide a basis for liability in a duty to warn claim beyond  
 1415 ten years of the date of the first sale."

1416

**SECTION 7-2.**

1417 Said title is further amended by adding a new Code section to read as follows:

1418 "51-3-4.

1419 (a) As used in this Code section, the term:

1420 (1) 'Landowner' means any person who owns, occupies, leases, operates, maintains, or  
 1421 manages any residential, agricultural, commercial, or other real property in the State of  
 1422 Georgia; any director, officer, employee, or agent of such person; and any independent  
 1423 contractor acting on behalf of any such person.

1424 (2) 'Premises-liability action' means any civil action sounding in tort based upon the duty  
 1425 owed to someone injured on a landowner's property as the result of conditions present or  
 1426 activities occurring upon the property.

1427 (3) 'Property' means any residential, agricultural, commercial, or other real property,  
 1428 whether held in fee simple or under a leasehold, life estate, estate for years, usufruct,  
 1429 easement, license, or other instrument of title, that is owned, operated, maintained, or  
 1430 managed by a landowner.

1431 (b) Notwithstanding any other provision of law, no landowner shall be liable in a  
 1432 premises-liability action to any invitee who is injured on the landowner's property as a

1433 result of the willful, wanton, or intentional tortious conduct of any third party who is not  
1434 a director, officer, employee, or agent of the landowner unless the invitee can prove by  
1435 clear and convincing evidence that:

1436 (1) The conduct of said third party occurred within the legal boundaries of the  
1437 landowner's property; and

1438 (2)(A) The conduct of the landowner actively and affirmatively, and with a degree of  
1439 conscious decision-making, impelled the specific action of said third party; or

1440 (B) The landowner had actual knowledge of the specific threat of imminent harm to  
1441 the invitee from said third party and, through reasonable action, the landowner could  
1442 have prevented that harm from occurring; and

1443 (3) The landowner's conduct proximately caused the economic and noneconomic  
1444 damages allegedly suffered by the invitee.

1445 (c) No landowner shall be held liable in a premises-liability action to any licensee who is  
1446 injured on the landowner's property as a result of the willful, wanton, or intentional tortious  
1447 conduct of any third party who is not a director, officer, employee, or agent of the  
1448 landowner unless the licensee can prove by clear and convincing evidence that:

1449 (1) The conduct of said third party occurred within the legal boundaries of the  
1450 landowner's property;

1451 (2) The landowner willfully and wantonly impelled the specific action of said third party;  
1452 and

1453 (3) The landowner's conduct proximately caused the economic and noneconomic  
1454 damages allegedly suffered by the licensee.

1455 (d) No landowner shall be held liable in a premises-liability action to any trespasser who  
1456 is injured on the landowner's property as a result of the willful, wanton, or intentional  
1457 tortious conduct of any third party who is not a director, officer, employee, or agent of the  
1458 landowner unless the trespasser can prove by clear and convincing evidence that:

1459 (1) The conduct of said third party occurred within the legal boundaries of the  
1460 landowner's property;

1461 (2) The landowner acted with the specific intent to harm the trespasser and impelled the  
1462 specific action of said third party; and

1463 (3) The landowner's conduct proximately caused the economic and noneconomic  
1464 damages allegedly suffered by the trespasser.

1465 (e) No liability may be imposed upon any landowner under this Code section premised in  
1466 whole or in part upon the landowner's alleged constructive knowledge of prior crimes on  
1467 or near the landowner's property or upon the landowner's alleged constructive knowledge  
1468 of the prior crimes or violent nature of a third party whose acts or omissions proximately  
1469 caused the alleged injury or damage.

1470 (f)(1) In any premises-liability action brought against a landowner under this Code  
 1471 section, the trier of fact, in making the apportionment of fault under Code Section  
 1472 51-12-33 shall:

1473 (A) Only apportion fault to the landowner for the acts or omissions of the landowner;

1474 (B) Fairly and accurately apportion fault to a third party for the willful, wanton, or  
 1475 intentional conduct of such third party; and

1476 (C) Not consider the pendency of criminal charges against a third party, the financial  
 1477 resources of any of the parties to the premises-liability action, the impact of such a  
 1478 finding upon the court's judgment in the case, or any other factors except the relative  
 1479 degrees of fault among the parties.

1480 (2) If the jury fails to apportion an appropriate degree of fault to a third party, the trial  
 1481 court may, in the exercise of its sound discretion, set aside the verdict of the jury and  
 1482 order a retrial of the case.

1483 (3) Notwithstanding the provisions of this Code section or any other provisions of law  
 1484 which might be construed to the contrary, the injured party shall not be entitled to receive  
 1485 any damages if the plaintiff is 50 percent or more responsible for the injury or damages  
 1486 claimed."

1487 **PART VIIA**

1488 **SECTION 7A-1.**

1489 Said Title 51 is further amended by adding a new Code section to read as follows:

1490 "51-12-1.1.

1491 (a) In any civil action to recover damages resulting from injury or death to a person, the  
 1492 special damages for medical and health care expenses that may be admissible shall be  
 1493 limited to the amounts actually:

1494 (1) Paid by or on behalf of the claimant to health care providers for medically necessary  
 1495 care, treatment, or services; and

1496 (2) Necessary to satisfy incurred but unpaid charges for medically necessary care,  
 1497 treatment, or services due to the health care provider by the claimant or a third party on  
 1498 behalf of the claimant.

1499 (b) In any action to recover damages resulting from death or injury to a person, nothing  
 1500 in this Code section shall be construed to limit the right of a defendant to present evidence  
 1501 or testimony, or both, challenging the medical and health care expenses, whether incurred  
 1502 or projected future expenses, or the necessity of any treatment."

1503

**SECTION 7A-2.**

1504 Said title is further amended by revising subsections (e) and (f) of Code Section 51-12-5.1,  
1505 relating to punitive damages, as follows:

1506 ~~"(e)(1) In a tort case in which the cause of action arises from product liability, there shall~~  
1507 ~~be no limitation regarding the amount which may be awarded as punitive damages. Only~~  
1508 one award of punitive damages may be recovered in a court in this state from a defendant  
1509 for any act or omission ~~if the cause of action arises from product liability~~, regardless of  
1510 the number of causes of action which may arise from such act or omission.

1511 (2) Seventy-five percent of any amounts awarded under this subsection as punitive  
1512 damages, less a proportionate part of the costs of litigation, including reasonable  
1513 attorney's fees, all as determined by the trial judge, shall be paid into the treasury of the  
1514 state through the Office of the State Treasurer. Upon issuance of judgment in such a  
1515 case, the state shall have all rights due a judgment creditor until such judgment is satisfied  
1516 and shall stand on equal footing with the plaintiff of the original case in securing a  
1517 recovery after payment to the plaintiff of damages awarded other than as punitive  
1518 damages. A judgment debtor may remit the state's proportional share of punitive  
1519 damages to the clerk of the court in which the judgment was rendered. It shall be the  
1520 duty of the clerk to pay over such amounts to the Office of the State Treasurer within 60  
1521 days of receipt from the judgment debtor. This paragraph shall not be construed as  
1522 making the state a party at interest and the sole right of the state is to the proceeds as  
1523 provided in this paragraph.

1524 (f) In a tort case ~~in which the cause of action does not arise from product liability~~, if it is  
1525 found that the defendant acted, or failed to act, with the specific intent to cause harm, or  
1526 that the defendant acted or failed to act while under the influence of alcohol, drugs other  
1527 than lawfully prescribed drugs administered in accordance with prescription, or any  
1528 intentionally consumed glue, aerosol, or other toxic vapor to that degree that his or her  
1529 judgment is substantially impaired, there shall be no limitation regarding the amount which  
1530 may be awarded as punitive damages against an active ~~tort-feasor~~ tortfeasor but such  
1531 damages shall not be the liability of any defendant other than an active ~~tort-feasor~~  
1532 tortfeasor."

1533

**PART VIIB**

1534

**SECTION 7B-1.**

1535 Said Title 51 is further amended by revising paragraphs (7), (8), and (9) of subsection (a) of  
1536 Code Section 51-14-7, relating to sworn information form providing required information,  
1537 failure to state a claim, and class actions barred, as follows:

1538 "(7) The specific condition related to asbestos or silica claimed to exist; and  
 1539 (8) Any supporting documentation of the condition claimed to exist; ~~and~~  
 1540 ~~(9) The identity of any bankruptcy trust to which a claim has been submitted concerning~~  
 1541 ~~any asbestos or silica injury of the exposed person, attaching any claim form or other~~  
 1542 ~~information submitted to such trust or trusts with respect to the exposed person. Plaintiff~~  
 1543 ~~must also identify any bankruptcy trust that the plaintiff believes is or may be liable for~~  
 1544 ~~all or part of the injury at issue, even if a claim has not been submitted to that trust at the~~  
 1545 ~~time the complaint is filed."~~

1546 **SECTION 7B-2.**

1547 Said title is further amended by adding a new chapter to read as follows:

1548 "CHAPTER 16

1549 51-16-1.

1550 (a) The General Assembly finds that:

1551 (1) Over 120 employers have declared bankruptcy at least partially due to asbestos  
 1552 related liability;

1553 (2) Scores of trusts have been established in bankruptcy proceedings to form a  
 1554 multibillion dollar compensation system for asbestos claimants outside of the civil courts,  
 1555 and new asbestos trusts continue to be formed;

1556 (3) Asbestos claimants typically seek compensation from solvent defendants in civil  
 1557 actions and from trusts or claims facilities formed in asbestos bankruptcy proceedings;

1558 (4) There is limited transparency between these two paths to recovery;

1559 (5) An absence of transparency with respect to asbestos bankruptcy trust claims has  
 1560 resulted in the suppression of evidence in asbestos actions;

1561 (6) A federal bankruptcy court found that trust claim filings are being manipulated and  
 1562 information withheld in order to inflate recoveries in asbestos actions;

1563 (7) The lack of transparency regarding trust claims information harms Georgia  
 1564 employers, their employees, their shareholders, and the communities in which they  
 1565 operate. Companies that pay inflated settlements and awards in asbestos actions have  
 1566 fewer resources to pay future claimants and invest in the state's economy; and

1567 (8) Transparency with respect to asbestos trust claims and claims made in civil asbestos  
 1568 actions promotes the integrity of asbestos actions and furthers recovery longevity to help  
 1569 future plaintiffs.

1570 (b) It is the purpose of this chapter to:

- 1571 (1) Provide transparency with respect to asbestos trust claims and claims made in civil  
1572 asbestos actions; and  
1573 (2) Reduce the opportunity for withholding or suppressing trust related exposure  
1574 evidence in asbestos actions.

1575 51-16-2.

1576 As used in this chapter, the term:

1577 (1) 'Asbestos action' means any claim for damages or other civil or equitable relief  
1578 presented in a civil action arising out of, based on, or in any way related to the health  
1579 effects of exposure to asbestos, and any other derivative claim made by or on behalf of  
1580 a person exposed to asbestos or a representative, spouse, parent, child, or other relative  
1581 of that person.

1582 (2) 'Asbestos trust' means a government approved or court approved trust, qualified  
1583 settlement fund, compensation fund, or claims facility that is created as a result of an  
1584 administrative or legal action, a court approved bankruptcy, or under 11 U.S.C. Section  
1585 524(g), 11 U.S.C. Section 1121(a), or other applicable provision of law and is intended  
1586 to provide compensation to claimants arising out of, based on, or in any way related to  
1587 the health effects of exposure to asbestos.

1588 (3) 'Trust claims materials' means any final executed proof of claim and any other  
1589 document or information submitted to or received from an asbestos trust, including a  
1590 claim form or supplementary material, affidavit, deposition or trial testimony, work  
1591 history, exposure allegation, medical or health record, document reflecting the status of  
1592 a claim against an asbestos trust, and, if the trust claim has been settled, any document  
1593 relating to such settlement.

1594 (4) 'Trust governance documents' means any document that relates to eligibility and  
1595 payment levels, including a claims payment matrix, trust distribution procedure, or plan  
1596 for reorganization for an asbestos trust.

1597 51-16-3.

1598 (a) In addition to the requirements set forth in Chapter 14 of this title, a plaintiff shall do  
1599 all of the following within 30 days of filing an asbestos action:

1600 (1) Provide all parties with a sworn statement indicating that an investigation of all  
1601 asbestos trust claims has been conducted and that all asbestos trust claims that can be  
1602 made by the plaintiff have been filed; and

1603 (2) Identify all asbestos trust claims made by the plaintiff and provide all parties with all  
1604 trust claims materials.

1605 (b) A plaintiff shall supplement the information and materials required under subsection  
 1606 (a) of this Code section within 30 days after the plaintiff files an additional asbestos trust  
 1607 claim, supplements an existing asbestos trust claim, or receives additional information or  
 1608 materials related to an asbestos trust claim.

1609 51-16-4.

1610 (a) Not less than 60 days before trial of an asbestos action, if a defendant believes the  
 1611 plaintiff has not filed all asbestos trust claims as required by Code Section 51-16-3, the  
 1612 defendant may move the court for an order to require the plaintiff to file additional asbestos  
 1613 trust claims the defendant believes the plaintiff is eligible to file.

1614 (b) If the court determines there is a sufficient basis for the plaintiff to file an asbestos trust  
 1615 claim identified by the defendant, the court shall stay the asbestos action until the plaintiff  
 1616 files the trust claim and produces all related trust claims materials. An asbestos action may  
 1617 not proceed to trial until at least 60 days after the plaintiff complies with the court's order.

1618 51-16-5.

1619 (a) A defendant in an asbestos action may seek discovery from an asbestos trust. The  
 1620 plaintiff may not claim privilege or confidentiality to bar discovery and shall provide  
 1621 consent or another expression of permission that may be required by the asbestos trust to  
 1622 release the information and materials sought by the defendant.

1623 (b) Trust claims materials and trust governance documents are presumed to be relevant and  
 1624 authentic and are admissible in evidence. No claim of privilege shall apply to trust claims  
 1625 materials or trust governance documents.

1626 (c) Trust claims materials that are sufficient to entitle a claim to consideration for payment  
 1627 under the applicable trust governance documents may be sufficient to support a jury finding  
 1628 that the claimant was exposed to products for which the trust was established to provide  
 1629 compensation and that such exposure was a substantial contributing factor in causing the  
 1630 claimant's injury that is at issue in the asbestos action.

1631 51-16-6.

1632 If a plaintiff files an asbestos trust claim after obtaining a judgment in an asbestos action  
 1633 and the asbestos trust was in existence at the time of such judgment, the trial court, upon  
 1634 motion by a defendant, shall adjust the judgment by the amount of any subsequent asbestos  
 1635 trust payments obtained by the plaintiff."

1636 **SECTION 7B-3.**

1637 Said title is further amended by adding a new chapter to read as follows:

1638 "CHAPTER 17

1639 51-17-1.

1640 A defendant in a product liability action related to asbestos shall not be liable for exposures

1641 from a product or component part made or sold by a third party."

1642 **PART VIII**

1643 **SECTION 8-1.**

1644 This Act shall be severable in accordance with Code Section 1-1-3 of the Official Code of

1645 Georgia Annotated.

1646 **SECTION 8-2.**

1647 This Act shall become effective upon its approval by the Governor or upon its becoming law

1648 without such approval.

1649 **SECTION 8-3.**

1650 All laws and parts of laws in conflict with this Act are repealed.