

House Bill 562 (AS PASSED HOUSE AND SENATE)

By: Representatives Carpenter of the 4<sup>th</sup>, Ridley of the 6<sup>th</sup>, Scoggins of the 14<sup>th</sup>, Cooper of the 43<sup>rd</sup>, and Pirkle of the 155<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,  
2 so as to add DFCS case manager to the people for whom arrest warrants may be issued only  
3 by certain judicial officers; to provide for a motion for a change of venue by the prosecuting  
4 attorney in certain cases; to provide for procedures; to provide for related matters; to provide  
5 an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
9 amended by revising subsection (c) of Code Section 17-4-40, relating to persons who may  
10 issue warrants for arrest of offenders against penal laws, warrants requested by others, and  
11 persons who may issue warrants for arrest of law enforcement or peace officers or school  
12 teachers or administrators, as follows:

13 "(c) Any warrant for the arrest of a peace officer, law enforcement officer, DFCS case  
14 manager, teacher, or school administrator for any offense alleged to have been committed  
15 while in the performance of his or her duties may be issued only by a judge of a superior  
16 court, a judge of a state court, or a judge of a probate court."

**SECTION 2.**

17

18 Said title is further amended by revising paragraph (1) of subsection (a) of Code  
19 Section 17-7-150, relating to procedures for change of venue, transfer of case, and appeal  
20 from denial of change of venue, as follows:

21 "(a)(1)(A) The defendant, in any criminal case in which a trial by jury is provided, may  
22 move in writing for a change of venue, whenever, in the defendant's or defense  
23 counsel's judgment, an impartial jury cannot be obtained in the county where the crime  
24 is alleged to have been committed. Upon the hearing of the motion it shall not be  
25 necessary to examine all persons in the county liable to serve on juries, but the judge  
26 shall hear evidence by affidavit or oral testimony in support of or against the motion.  
27 If, from the evidence submitted, the judge is satisfied that an impartial jury cannot be  
28 obtained to try the case, the judge shall grant a change in venue; ~~the.~~ The judge shall  
29 transfer the case to any county that may be agreed upon by the prosecuting attorney and  
30 the defendant or the defense counsel, to be tried in the county agreed upon. The judge  
31 has the discretion to reject any county agreed upon; if a county is not thus agreed upon,  
32 or if the judge, in the exercise of discretion, rejects a county agreed upon, the judge  
33 shall select such county as in the judge's judgment will afford a fair and impartial jury  
34 to try the case and have it transferred accordingly.

35 (B) The prosecuting attorney, in any criminal case in which a trial by jury is provided,  
36 may move in writing for a change of venue, whenever, in such prosecuting attorney's  
37 judgment, an impartial jury cannot be obtained in the county where the crime is alleged  
38 to have been committed if:

39 (i) A previous prosecuting attorney has recused himself or herself, been disqualified,  
40 or been removed from the case for cause; or

41 (ii) A local government official has publicly released information prejudicial to the  
42 administration of justice which has the potential to have tainted the local jury pool.

43 Upon the hearing of the motion, it shall not be necessary to examine all persons in the  
44 county liable to serve on juries, but the judge shall hear evidence by affidavit or oral  
45 testimony in support of or against the motion. If, from the evidence submitted, the  
46 judge is satisfied that an impartial jury cannot be obtained to try the case, the judge  
47 shall grant a change in venue. The judge shall transfer the case to any county that may  
48 be agreed upon by the requesting prosecuting attorney and the defendant or the defense  
49 counsel and the case shall be tried in the county agreed upon. The judge has the  
50 discretion to reject any county agreed upon; if a county is not thus agreed upon, or if  
51 the judge, in the exercise of discretion, rejects a county agreed upon, the judge shall  
52 select such county as in the judge's judgment will afford a fair and impartial jury to try  
53 the case and have it transferred accordingly."

54 **SECTION 3.**

55 This Act shall become effective upon its approval by the Governor or upon its becoming law  
56 without such approval.

57 **SECTION 4.**

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