

House Bill 502 (AS PASSED HOUSE AND SENATE)

By: Representative Welch of the 110<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 7 of Chapter 10 of Title 9 and Article 2 of Chapter 8 of Title 17 of the  
2 Official Code of Georgia Annotated, relating to continuances relative to civil practice and  
3 procedure and continuances relative to trial, respectively, so as to provide for and revise the  
4 granting of continuances and stays in civil and criminal cases at certain times and intervals  
5 for members and certain staff of the General Assembly for purposes of fulfilling their  
6 responsibilities to the General Assembly; to revise continuances for members of the Board  
7 of Regents and the Attorney General; to provide for related matters; to provide for  
8 applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Article 7 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to  
12 continuances relative to civil practice and procedure, is amended by revising Code  
13 Section 9-10-150, relating to grounds for continuance – attendance of party or attorney in  
14 General Assembly, as follows:

15 "9-10-150.

16 (a) A member of the General Assembly who is a party to or the attorney for a party to a  
17 case; ~~or; any member of the Office of Legislative Counsel, including the legislative counsel~~  
18 ~~and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf~~  
19 ~~of the General Assembly in a case; or~~ any member of the staff of the Lieutenant Governor,  
20 the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the  
21 Speaker Pro Tempore of the House of Representatives, or the chairperson of the Judiciary  
22 Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or  
23 Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel  
24 for a party to a case pending in any trial or appellate court or before any administrative  
25 agency of this state, shall be granted a continuance and stay of the case. The continuance  
26 and stay shall apply to all aspects of the case, including, but not limited to, the filing and  
27 serving of an answer to a complaint, the making of any discovery or motion, or of any

28 response to any subpoena, discovery, or motion, and appearance at any hearing, trial, or  
 29 argument. Unless a shorter length of time is requested by the member, the continuance and  
 30 stay shall last for the seven days prior to the regular or extraordinary session of the General  
 31 Assembly; the length of any regular or extraordinary session of the General Assembly; and  
 32 during the first three weeks following any recess or adjournment, including an adjournment  
 33 sine die of any regular or extraordinary session; and the entirety of any day during the  
 34 calendar year on which a legislative committee for which the member serves or is staff  
 35 holds a scheduled meeting, the member attends a national legislative conference or board  
 36 meeting, the member attends a caucus meeting, or the member attends a meeting of a study  
 37 committee of the General Assembly. A continuance and stay shall also be granted for such  
 38 other times as the member of the General Assembly or staff member certifies to the court  
 39 that his or her presence elsewhere is required by his or her duties with the General  
 40 Assembly. Notwithstanding any other provision of law, rule of court, or administrative  
 41 rule or regulation, the time for doing any act in the case which is delayed by the  
 42 continuance provided by this Code section shall be automatically extended by the same  
 43 length of time as the continuance or stay covered.

44 (b)(1) For such other times not provided for in subsection (a) of this Code section, a  
 45 member of the General Assembly who is a party to a case or the lead counsel for a party  
 46 to a case may request a continuance or stay as the member of the General Assembly  
 47 certifies to the court that his or her presence elsewhere is required by his or her duties  
 48 with the General Assembly. The certification by the member of the General Assembly  
 49 shall be in writing and shall state with particularity the nature of the General Assembly  
 50 duties that require the continuance or stay. Opposing counsel, a party to the case, or the  
 51 court on its own motion shall have ten days from receipt of the request for a continuance  
 52 or stay to object to the request by stating with particularity the grounds upon which it is  
 53 determined that such stay or continuance will cause significant harm to the rights of a  
 54 party or would otherwise be detrimental to the interest of justice. The court upon receipt  
 55 of the objection, or on its own motion, shall consider the following in determining  
 56 whether to grant or deny the continuance or stay:

57 (A) The length of time that the case has been pending;

58 (B) The length of delay that such stay or continuance will cause in the resolution of the  
 59 case;

60 (C) The nature of the General Assembly duties that require the continuance or stay; and

61 (D) Such other factors that the court determines to be relevant in determining the harm  
 62 to the rights of the parties or the interest of justice in the granting or denial of the  
 63 request for a continuance or stay.

64 (2) Absent a ruling by the court denying the continuance or stay certified by the member  
 65 under paragraph (1) of this subsection, such continuance or stay shall be considered  
 66 granted as a matter of law."

67 **SECTION 2.**

68 Said article is further amended by revising Code Section 9-10-151, relating to grounds for  
 69 continuance of a member of the Board of Regents, as follows:

70 "9-10-151.

71 Should any member of the Board of Regents of the University System of Georgia or any  
 72 member of the State Board of Education be ~~engaged~~ otherwise occupied, at the time of any  
 73 meeting of the board, as counsel or party in any case pending in the courts of this state and  
 74 should the case be called for trial during the regular session of the board, the absence of the  
 75 member to attend the session shall be good ground for a postponement or continuance of  
 76 the case until the session of the board has come to an end."

77 **SECTION 3.**

78 Article 2 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to  
 79 continuances relative to trial, is amended by revising Code Section 17-8-26, relating to  
 80 grounds for granting continuances – party or party's attorney in attendance at General  
 81 Assembly, as follows:

82 "17-8-26.

83 (a) A member of the General Assembly who is a party to or the attorney for a party to a  
 84 case; any member of the Office of Legislative Counsel, including the legislative counsel  
 85 and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf  
 86 of the General Assembly in a case; or any member of the staff of the Lieutenant Governor,  
 87 the Speaker of the House of Representatives, or the chairperson of the Judiciary Committee  
 88 or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary,  
 89 Non-civil Committee of the House of Representatives who is the lead counsel for a party  
 90 to a case ~~which is~~ pending in any trial or appellate court or before any administrative  
 91 agency of this state shall be granted a continuance and stay of the case. The continuance  
 92 and stay shall apply to all aspects of the case, including, but not limited to, the filing and  
 93 serving of an answer to a complaint, the making of any discovery or motion, or of any  
 94 response to any subpoena, discovery, or motion, and appearance at any hearing, ~~pretrial~~  
 95 ~~appearance, arraignment, plea or motion calendar, trial, or argument. When a case, motion,~~  
 96 ~~hearing, or argument is called and is subject to a continuance or stay under this Code~~  
 97 ~~section due to the party's attorney's membership in the General Assembly, the party shall~~  
 98 ~~not be required to be present at the call of the case, motion, hearing, or argument.~~ Unless

99 a shorter length of time is requested by the member, the continuance and stay shall last for  
 100 the seven days prior to the regular or extraordinary session of the General Assembly; the  
 101 length of any regular or extraordinary session of the General Assembly; and during the first  
 102 three weeks following any recess or adjournment, including an adjournment sine die of any  
 103 regular or extraordinary session; and the entirety of any day during the calendar year on  
 104 which a legislative committee for which the member serves or is staff holds a scheduled  
 105 meeting. Notwithstanding any other provision of law, rule of court, or administrative rule or  
 106 regulation, and to the extent permitted by the Constitutions of the United States and of the  
 107 State of Georgia, the time for doing any act in the case which is delayed by the continuance  
 108 or stay provided by this Code section shall be automatically extended by the same length of  
 109 time as the continuance or stay covered.

110 (b)(1) For such other times not provided for in subsection (a) of this Code section, a  
 111 member of the General Assembly who is a party to a case or the lead counsel for a party  
 112 to a case may request a ~~A~~ continuance and stay shall also be granted for such other times  
 113 as the member of the General Assembly ~~or staff member~~ certifies to the court that his or  
 114 her presence elsewhere is required by his or her duties with the General Assembly. The  
 115 certification by the member of the General Assembly shall be in writing and shall state  
 116 with particularity the nature of the General Assembly duties that require the continuance  
 117 or stay. Opposing counsel, any person who is alleged in the case by the state to be a  
 118 victim, or the court on its own motion shall have ten days from receipt of the request for  
 119 a continuance or stay to object to the request by stating with particularity the grounds  
 120 upon which it is determined that such stay or continuance will cause significant harm to  
 121 the rights of a party or would otherwise be detrimental to the interest of justice. The court  
 122 upon receipt of the objection, or on its own motion, shall consider the following in  
 123 determining whether to grant or deny the continuance or stay:

124 (A) The length of time that the case has been pending;

125 (B) The length of delay that such stay or continuance will cause in the resolution of the  
 126 case;

127 (C) The nature of the General Assembly duties that require the continuance or stay; and

128 (D) Such other factors that the court determines to be relevant in determining the harm  
 129 to the rights of the parties or the interest of justice in the granting or denial of the  
 130 request for a continuance or stay.

131 (2) Absent a ruling by the court denying the continuance or stay certified by the member  
 132 under paragraph (1) of this subsection, such continuance or stay shall be considered  
 133 granted as a matter of law."

134 **SECTION 4.**

135 Said article is further amended by revising Code Section 17-8-27, relating to grounds for  
136 granting of continuances to the Attorney General, as follows:

137 "17-8-27.

138 When any case pending in the courts of this state in which the Attorney General is of  
139 counsel is scheduled to be called for any ~~purpose~~ reason during sessions of the General  
140 Assembly or during a period of 15 days preceding or following sessions of the General  
141 Assembly, on motion of the Attorney General or an assistant attorney general, it shall be  
142 a good ground for continuance that the Attorney General and his staff are occupied in aid  
143 of the business of the General Assembly."

144 **SECTION 5.**

145 This Act shall apply to all civil and criminal cases, including, but not limited to, any case  
146 currently initiated within any court in this state.

147 **SECTION 6.**

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

150 **SECTION 7.**

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