

**Members of the Senate Judiciary Non-Civil Committee
2013 Session**

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SENATE JUDICIARY NON-CIVIL COMMITTEE RULES

2013-2014

1. Quorum of the Committee shall be five (5) members. Every member, including ex-officio members, shall count as a voting member for purposes of establishing a quorum at any given meeting.
2. The Chairman shall determine which bills, resolutions, substitutes, or amendments are to be considered and the order in which said measures are considered; the Chairman shall have the authority and discretion to call a bill, resolution, substitute or amendment for debate and explanation only or to limit consideration of such measures.
3. The Chairman shall have the authority to refer bills and resolutions to subcommittee for study. Such subcommittees in turn shall have the authority to make recommendation on such measures to the full Committee at such times as shall be designated by the Chairman. All actions of the subcommittees shall be approved or disapproved by the standing committee.
4. The Chairman shall have the authority to schedule, manage, and regulate the debate on bills, resolutions, substitutes, and amendments, and may in his discretion recognize motions related to such measures and the order in which they are recognized.
5. When a bill or resolution is before the committee for consideration, the following shall be the precedence of the motions:
 - a. a motion that a bill do pass;
 - b. a motion that a bill do not pass;
 - c. a motion to postpone to a time certain;
 - d. a motion to refer a bill to a subcommittee.

All motions shall receive a Second before consideration.

6. The Committee shall convene, recess and adjourn upon the order of the Chairman.
7. A bill or resolution will be considered only after presentation by its principal author or other legislator whom he/she may designate unless otherwise directed by the Chairman. The principal author shall be the legislator whose name appears first on the list of authors. The Committee shall not vote on any bill until the author or his or her designee has been given the opportunity to appear and be heard.

8. The Chairman reserves the right to delay or decline action on substitutes and amendments not provided to the Chairman in writing at least 24 hours prior to the hearing in which they are presented.
9. The Chairman shall not vote unless the committee shall be equally divided or unless his or her vote if given in the minority will make the division equal. In case the vote is equally divided, the Chairman must vote.
10. Any Member or Members of the Committee who disagree with the majority report of the Committee shall be privileged to file a minority report if they so desire.
11. These rules may be amended upon a motion duly made and subsequently approved by two-thirds of the members of the Committee.
12. Where these rules are silent on a specific issue, the Rules of the Senate as adopted shall govern. If the Rules of the Senate are silent on a specific issue, Mason's Manual of Legislative Procedure shall govern.

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE
Tuesday, February 05, 2013

The Senate Judiciary Non-Civil Committee held its first meeting of the 2013 Session on Tuesday, February 05, 2013, in room 450 of the Capitol. Chairman Jesse Stone called the meeting to order at 4:00 p.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23rd, Chairman
Senator William Ligon, 3rd, Vice Chairman
Senator Curt Thompson, 5th, Secretary
Senator Charlie Bethel, 54th
Senator John Crosby, 13th
Senator Hunter Hill, 6th
Senator Ronald Ramsey, 43rd

NOTE: Senators McKoon, 29th, and Fort, 39th, were absent from the meeting.

Chairman Stone called the meeting to order.

The rules of the Committee were established as follows:

1. Quorum of the Committee shall be five (5) members. Every member, including ex-officio members, shall count as a voting member for purposes of establishing a quorum at any given meeting.
2. The Chairman shall determine which bills, resolutions, substitutes, or amendments are to be considered and the order in which said measures are considered; the Chairman shall have the authority and discretion to call a bill, resolution, substitute or amendment for debate and explanation only or to limit consideration of such measures.
3. The Chairman shall have the authority to refer bills and resolutions to subcommittee for study. Such subcommittees in turn shall have the authority to make recommendations on such measures to the full Committee at such times as shall be designated by the Chairman. All actions of the subcommittees shall be approved or disapproved by the standing committee.
4. The Chairman shall have the authority to schedule, manage, and regulate the debate on bills, resolutions, substitutes, and amendments, and may in his discretion recognize motions related to such measures and the order in which they are recognized. When a bill or resolution is before the committee for consideration, the following shall be the precedence of the motions:
 - a) a motion that a bill do pass;
 - b) a motion that a bill do not pass;
 - c) a motion to postpone to a time certain;
 - d) a motion to refer a bill to a subcommittee.All motions shall receive a second before consideration.
5. The Committee shall convene, recess and adjourn upon the order of the Chairman.

6. A bill or resolution will be considered only after presentation by its principal author or other legislator whom he/she may designate unless otherwise directed by the Chairman. The principal author shall be the legislator whose name appears first on the list of authors. The Committee shall not vote on any bill until the author or his or her designee has been given the opportunity to appear and be heard.
7. The Chairman reserves the right to delay or decline action on substitutes and amendments not provided to the Chairman in writing at least 24 hours prior to the hearing in which they are presented.
8. The Chairman shall not vote unless the committee shall be equally divided or unless his or her vote if given in the minority will make the division equal. In case the vote is equally divided, the Chairman must vote.
9. Any Member or Members of the Committee who disagree with the majority report of the Committee shall be privileged to file a minority report if they so desire.
10. These rules may be amended upon a motion duly made and subsequently approved by two-thirds of the members of the Committee.
11. Where these rules are silent on a specific issue, the Rules of the Senate as adopted shall govern. If the Rules of the Senate are silent on a specific issue, Mason's Manual of Legislative Procedure shall govern.
12. Pursuant to Rule 2-1.7(d) the Chair of the Committee shall arrange to have minutes kept for the meetings of the Committee and shall see that proceedings of all meetings are reduced to writing. This record shall show:
 - (i) the time and place of each meeting of the committee,
 - (ii) the attendance of the committee members,
 - (iii) an accurate record of all votes taken,
 - (iv) the number of all bills acted upon,
 - (v) all motions and results,
 - (vi) any appearances by any persons other than members of the committee,
 - (vii) the date and time the committee convened and adjourned,
 - (viii) and such additional information as the committee shall determine.

HB 55 (Rep. Golick, 40th) State-Wide Application of Warrants Using Surveillance Devices

This bill provides that an investigation warrant permitting the use of surveillance devices has state-wide application.

Interception of communications with the device(s) is permitted anywhere in the state.

Pen registers and trap and trace devices are treated the same as surveillance devices with respect to state-wide warrants and interception of communication.

Amends: 16-11-64; 16-11-64.1

Presented by: Rep. Golick of the 40th

Discussion: The Georgia Supreme Court ruled on January 7th, 2013 that wiretap evidence that was obtained outside of the jurisdiction where the warrant to obtain such evidence was issued cannot be used. The wiretaps are primarily used in drug trafficking cases. Drug trafficking occurs outside of the jurisdictional boundaries, and police had been using wire taps across jurisdictional lines until this Supreme Court decision. This bill allows wiretaps to be used state-wide, while all other requirements for the warrants such as probable cause remain unchanged. There was discussion about redundancy and high costs to having listening centers in every county.

Senator Ligon: Can a DA from one county get a warrant from another county's judge?
Questionable

Support: David McDade, Jason Saliva, and Danny Porter of the District Attorneys Association are in favor and feel that the legislation is extremely urgent. Investigations into drug trafficking cases have been stopped until this legislation is adopted. Many arrested defendants will not be tried because this evidence is not admissible against them. This bill will affect about 150-200 drug trafficking cases.

Opposition: None present

Vote/Bill: Senator Ligon made a motion that [HB 55](#) **Do Pass** and Senator Hunter Hill seconded. The bill **passed unanimously**. Senator Crosby did not vote because he was not in the room at the time.

[SB 69](#) (Sen. Murphy, 27th) **Information supplied by children to the Department of Juvenile Justice is confidential**

This bill requires officials and employees of the department to keep information confidential that was supplied by children who cooperate in remedying abuses and wrongdoing in the juvenile justice system.

Officials and employees who break confidentiality which subjects a child to physical jeopardy or harassment are subject to suspension or discharge.

Investigation reports and intelligence data containing this confidential information is classified as a confidential state secret.

Amends: 15-11-84

Presented by: Sen. Murphy of the 27th

Discussion: In the interest of further protecting Georgia's youth in state custody this bill is aimed at protecting their confidential information and anonymity in cases where the report incidents involve other youth as well as facility personnel and state employees.

Senator Ligon: What can be done to strengthen the language to the bill to better prohibit violations? Re-drafting suggested

Senator Ramsey: What additional training will accompany the proposed legislation to ensure uniform implementation state-wide? Re-drafting suggested

Support: Senator Murphy of the 27th and Carol Jackson, the Director of the Department of Juvenile Justice, spoke in favor of the bill and feel that the legislation will further safeguard Georgia's youth, and encourage increase reporting of incidents of misconduct in facilities throughout the state by ensuring a victim's identity will remain confidential.

Opposition: Melanie Valez, Managing Attorney for the Southern Center for Human Rights, spoke in opposition to the bill as presently drafted. Ms. Valez felt that the way the bill is currently drafted it will actually have the effect of prohibiting many youth victims from being provided relief in that their claims will now be classified as "State secrets" and will never be properly addressed. She proposed omitting subsection (b), as well as redrafting other language contained in the bill.

Vote/Bill: This bill was not voted on. Senator Stone suggested that Senator Murphy work with Senators Bethel of the 54th, Ramsey of the 43rd, and Ligon of the 3rd to re-draft the bill to address concerns raised during discussion.

With no further business, Chairman Stone, 23rd, adjourned the meeting at 4:54 p.m.

Respectfully submitted,

/s/ Senator Curt Thompson, 5th, Secretary

/s/ Phyllis Walker, Recording Secretary

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE
Wednesday, February 13, 2013

The Senate Judiciary Non-Civil Committee held its second meeting of the 2013 Session on Wednesday, February 13, 2013, in room 307 CLOB. Chairman Jesse Stone called the meeting to order at 3:00 p.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23 rd , Chairman	Senator Curt Thompson, 5 th , Secretary
Senator John Crosby, 13 th	Senator Charlie Bethel, 54 th
Senator Hunter Hill, 6 th	Senator Ronald Ramsey, 43 rd
Senator Vincent Fort, 39 th	Senator Joshua McKoon, 29 th , Ex-Officio

NOTE: Senator Ligon, 3rd, was absent from the meeting.

Chairman Stone called the meeting to order.

SB 69 (Sen. Murphy, 27th) Information supplied by children to the Department of Juvenile Justice is confidential

This bill requires officials and employees of the department to keep information confidential that was supplied by children who cooperate in remedying abuses and wrongdoing in the juvenile justice system.

Officials and employees who break confidentiality which subjects a child to physical jeopardy or harassment are subject to suspension or discharge. Investigation reports and intelligence data containing this confidential information is classified as a confidential state secret.

Amends: Title 15 and 49

Presented by: Senator Murphy of the 27th

Vote/Bill: Chairman Stone asked what the desire of the committee was and Senator Bethel motioned that the bill **do pass by substitute** and Senator McKoon seconded his motion. **SB 69** passed 5-0 (McKoon, Bethel, Crosby, Hunter Hill, Ramsey).

SB 86 (Sen. Stone, 23rd) Family Violence Orders

This bill defines “family violence order” as any one of several restraining orders and protective orders.

A law enforcement officer does not need a warrant to arrest one who the officer has probable cause to believe has violated a “family violence order.”

A person who is arrested for violating a “family violence order” is not eligible for bail without first having a hearing before a judicial officer.

Amends: Titles 16 and 17

Presented by: Senator Stone of the 23rd

Support:

- Mrs. Woodard, Solicitor General of Hall County - Victims are left unprotected currently even if a police officer sees a perpetrator at the victim’s home in violation of a protection order.
- C.R. Chism, Solicitor General of Clark County - Defendants often bring the victims to court in violation of a protection order. Often times the defendant convinces the victim to drop the charges during the time that they are ordered to have no contact.
- Christie Nurburn, Cobb County Investigator - in favor.
- Greg Loughlin, Family Violence Commission - Non-violent contact which would not allow a policeman to arrest the violator of the no contact order without a warrant can still be intimidating to a former victim of violence. A defendant who will violate a court order has a higher chance of being the type of person to be unlawful and violent. The victim can always get a modification of the order if she wants to reconcile.
- Shelly Centerfield, Council for Domestic Violence - in favor.

Opposition: N/A (No witnesses spoke in opposition)

Vote/Bill: Senator Bethel motioned **to pass the bill by substitute** and Senator Crosby seconded the motion. **SB 86** passed unanimously, 7-0 (Thompson, McKoon, Bethel, Crosby, Fort, Hill, Ramsey).

NOTE: Senator Crosby of the 13th discussed SB 120 but no action was taken. This bill currently requires more drafting and will be revisited. Senator McKoon of the 29th discussed SB 135 but no action was taken.

With no further business, Chairman Stone, ^{23rd}, adjourned the meeting at 4:54 p.m.

Respectfully submitted,

/s/ Senator Jesse Stone, 23rd, Chairman

/s/ Phyllis Walker, Recording Secretary

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE
Wednesday, February 20, 2013

The Senate Judiciary Non-Civil Committee held its third meeting of the 2013 Session on Wednesday, February 20, 2013, in room 307 CLOB. Chairman Jesse Stone called the meeting to order at 3:00 p.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23 rd , Chairman	Senator William Ligon, 3 rd , Vice Chairman
Senator Curt Thompson, 5 th Secretary	Senator Charlie Bethel, 54 th
Senator Hunter Hill, 6 th	Senator Joshua McKoon, 29 th , Ex-Officio
Senator John Crosby, 13 th	

NOTE: Senator Fort, 39th, and Senator Ramsey, 43rd, were absent from the meeting.

Chairman Stone called the meeting to order.

SB 120 (Sen. Crosby, 13th) Prosecuting Attorneys Provided in Probate Courts of Counties that have no State Court

This bill allows a probate court judge in a county with no state court to request the district attorney to prosecute criminal cases.

A county with no state court is authorized to create the office of and hire a prosecuting attorney of the probate court if the district attorney cannot assist the probate court.

A prosecuting attorney of a probate court must be a member in good standing of the State Bar of Georgia, admitted to practice before the appellate court of Georgia, and will be compensated by the county.

Full-time prosecuting attorneys of probate courts and their full-time employees will not engage in the private practice of law, but part-timers may practice outside of their probate court.

Amends: O.C.G.A. §15-9-150 thru 15-9-158

Presented by: Senator Crosby of the 13th

Support: Chase Daughtrey (Council of Probate Judges)

Opposition: N/A (No witnesses spoke in opposition)

Vote/Bill: Senator Bethel motioned to **pass the bill by substitute** and Senator Thompson seconded the motion. **SB 120** passed unanimously 6-0 (Ligon, Hill, McKoon, Crosby, Bethel, Thompson).

SB 133 (Sen. Carter, 1st) Counterfeit Substance Felony Offense

This bill changes the violation of O.C.G.A § 16-13-78.2 from a misdemeanor to a felony. Dangerous drugs that are mismarked are added to counterfeit substances in this offense.

Amends: O.C.G.A. §16-13-78.2

Presented by: Senator Carter of the 1st

Vote/Bill: This bill was presented but not voted on.

NOTE: Chairman Stone referred this bill to a subcommittee consisting of Senator Ligon, Senator Hunter Hill, and Senator Curt Thompson. No further action was taken at this time.

SB 134 (Sen. Carter, 1st) Expanded Definition of “Prescriber”

This bill expands the definition of “prescriber” relative to controlled substances to include anyone authorized to prescribe a controlled substance under the laws of any state or territory of the United States.

Amends: O.G.C.A. §16-13-21

Presented by: Senator Carter of the 1st

Vote/Bill: Senator Bethel motioned to **pass the bill** and Senator Hill seconded the motion. **SB 134** passed unanimously 6-0 (Ligon, Hill, McKoon, Crosby, Bethel, Thompson).

SB 135 (Sen. McKoon, 29th) DNA Samples

This bill provides that law enforcement agencies will collect DNA samples from not only those convicted of a felony, but also those arrested for a felony, within 30 days of finding that probable cause was established.

One may have their DNA records expunged and their DNA sample destroyed after:

- (1) their conviction was reversed and their case was dismissed,
- (2) they were acquitted of the felony charges,
- (3) the felony charges were reduced to misdemeanor charges,
- (4) the felony charges were placed on the dead docket, or
- (5) the prosecuting attorney otherwise dismisses the felony charges.

If a DNA sample is required, the court will ensure that the DNA sample is provided as a condition of bail.

This Act is only effective if funds are specifically appropriated for its purposes.

Amends: O.C.G.A. §35-3-160; 35-3-161; 35-3-165; 17-6-1

Presented by: Senator McKoon of the 29th

Vote/Bill: Senator Bethel motioned to **pass the bill** and Senator Hill seconded. **SB 135** passed unanimously 6-0 (Ligon, Hill, McKoon, Crosby, Bethel, Thompson).

With no further business, Chairman Stone, 23rd, adjourned the meeting at 4:00 p.m.

Respectfully submitted,

/s/ Senator Curt Thompson, 5th, Secretary

/s/ Phyllis Walker, Recording Secretary

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE
Wednesday, February 27, 2013

The Senate Judiciary Non-Civil Committee held its fourth meeting of the 2013 Session on Wednesday, February 27, 2013, in room 307 CLOB. Chairman Jesse Stone called the meeting to order at 3:00 p.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23 rd , Chairman	Senator Ronald Ramsey, 43 rd
Senator Curt Thompson, 5 th Secretary	Senator Charlie Bethel, 54 th
Senator Hunter Hill, 6 th	Senator Joshua McKoon, 29 th , Ex-Officio
Senator John Crosby, 5 th	

NOTE: Senator Fort, 39th, and Senator Ligon, 3rd, were absent from the meeting.

Chairman Stone called the meeting to order.

The minutes from the 2/20/13 meeting were approved as read.

SB 53 (Sen. James, 35th) Criminal damage to property in second degree; include security cameras

This bill specifically includes a security camera as property of another which is not to be intentionally damaged.

Amends: O.C.G.A. §16-7-23

Presented by: Senator James of the 35th

Vote/Bill: N/A (Discussed but not voted on)

SB 116 (Sen. Thompson, 5th) Penalty for Homicide by Vehicle Increased

This bill increases the penalty for homicide by vehicle under most circumstances from a “misdemeanor” to a “misdemeanor of a high and aggravated nature.”

The major change in sentencing from a “misdemeanor” to a “misdemeanor of a high and aggravated nature” is that the maximum fine increases from \$1,000 to \$5,000 and the judge is not given the statutory discretion to allow the sentence to be served on weekends.

Amends: O.C.G.A. §40-6-393

Presented by: Senator Thompson of the 5th

Support: Rebecca Serna – Vice Chair for Georgia Bikes and Executive Director of Atlanta Bicycle Coalition

Opposition: N/A (No witnesses spoke in opposition)

Vote/Bill: Senator Crosby motioned that the bill **do pass** and Senator Ramsey seconded the motion. [SB 116](#) passed 5-0 (Hunter Hill, Ramsey, Crosby, Bethel, Curt Thompson)

[SR 59](#) (Sen. Ramsey, Sr., 43rd) Automatic Restoration of Voting Rights upon completion of Criminal Sentence

This resolution urges the State Board of Pardons and Paroles to automatically issue a Certificate of Voting Rights to citizens when they complete their criminal sentences.

The criminal sentence is complete once all requirements of parole and probation are completed.

Amends: N/A

Presented by: Senator Ramsey, Sr. of the 43rd

Vote/Bill: Senator Bethel motioned that the bill **do pass** and Senator Curt Thompson seconded the motion. [SR 59](#) passed 5-0 (Hunter Hill, Ramsey, Sr., Crosby, Bethel, Curt Thompson)

[SB 170](#) (Sen. Hill, 32nd) Forgery and Fraudulent Practices; identity fraud; add medical identity fraud

Definition of “Health Care Records,” “Medical Identity Theft Victim,” “Identifying Information,” and “Resources”

This bill provides a broad definition of “health care records,” to include records in any form regarding an individual’s health.

“Medical Identity Theft Victim” is any person whose personal identifying information has been obtained, compromised, used, or recorded in any way without that person’s permission.

Veteran and military medical identification numbers are added to the definition of “Identifying Information.”

Health insurance, health savings accounts, health spending accounts, flexible spending accounts, medicare accounts, Medicaid accounts, dental insurance, vision insurance, and other forms of health insurance and health benefit plans are added to the definition of “resources.”

Creation of the Offense of Medical Identity Fraud

One commits medical identity fraud when they willfully and fraudulently use identifying information of any real, fictitious, or deceased person of any age to obtain medical care, prescription drugs, health care services, money, or other financial gain.

Medical Identity Fraud Coordinated with Identity Fraud for Purposes of Investigation, Venue, Punishment, Damages, and Agencies’ Authorities

Medical identity fraud is coordinated with identity fraud for purposes of:

- 1) Granting authority to the Attorney General and prosecuting attorneys to conduct criminal prosecution;
- 2) Deeming identifying information to be found within the county where the victim resides or is found;
- 3) Granting local law enforcement agencies with the jurisdiction to make an incident report;
- 4) Imposing punishment, including imprisonment, fines, and restitution to victims; and
- 5) Giving victims the right to bring an action against the perpetrator, including treble damages for intentional violations.

The administrator does not have the authority to investigate complaints of medical identity fraud, even though the administrator is authorized to investigate complaints of identity fraud.

This bill provides that law enforcement agencies will collect DNA samples from not only those convicted of a felony, but also those arrested for a felony, within 30 days of finding that probable cause was established.

One may have their DNA records expunged and their DNA sample destroyed after:

- (1) their conviction was reversed and their case was dismissed,
- (2) they were acquitted of the felony charges,
- (3) the felony charges were reduced to misdemeanor charges,
- (4) the felony charges were placed on the dead docket, or
- (5) the prosecuting attorney otherwise dismisses the felony charges.

Amends: O.C.G.A. § 16-9-120 thru 16-9-132

Presented by: N/A (Senator Hill of the 32nd was not present to present the bill)

Vote/Bill: N/A (Since Senator Hill of the 32nd was not present this bill was mentioned but no discussion was held and no action was taken)

SB 101 (Sen. Ginn, 47th) Firearms; regulate the sale, use and possession in this state

Section 1 of this bill prevents public housing authorities from restricting the lawful possession of firearms by its tenants in the lease agreements.

Section 2 of this bill authorizes a non-resident with a handgun or weapon license from any another state to carry their weapon in Georgia.

Section 3 of this bill repeals the chapter in the Georgia Code that regulates Firearms Dealers.

Amends: O.C.G.A. § 8-3-202; 16-11-126; 43-16-1 through 43-16-12

Presented by: Senator Ginn of the 47th and Senator Heath of the 31st

Vote/Bill: Senator Hunter Hill motioned that the bill **do pass by substitute**, and Senator Crosby seconded the motion. **SB 101** passed 5-0 (Hunter Hill, Ramsey, Sr., Crosby, Bethel, Curt Thompson)

SB 197 (Sen. Heath, 31st) Confidentiality of Information Regarding Persons Issued Weapons Carry Licenses

This bill makes all records and information regarding persons issued weapons carry licenses maintained by the judge of probate courts confidential.

The state cannot create or maintain a data base of information regarding persons issued weapons carry licenses.

Probate court judges may verify the legitimacy and validity of weapons carry licensees, but cannot provide any further information regarding the licensees.

Creates: O.C.G.A. § 16-11-129.1

Presented by: Senator Heath of the 31st

Vote/Bill: Senator Bethel motioned that the bill **do pass**, and Senator Hunter Hill seconded the motion. [**SB 197**](#) passed 5-0 (Hunter Hill, Ramsey, Sr., Crosby, Bethel, Curt Thompson)

With no further business, Chairman Stone, 23rd, adjourned the meeting at 4:00 p.m.

Respectfully submitted,

/s/ Senator Curt Thompson, 5th, Secretary

/s/ Phyllis Walker, Recording Secretary

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE
Monday, March 4, 2013

The Senate Judiciary Non-Civil Committee held its fifth meeting of the 2013 Session on Monday, March 4, 2013, in room 307 CLOB. Chairman Jesse Stone called the meeting to order at 9:18 a.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23 rd , Chairman	Senator Curt Thompson, 5 th , Secretary
Senator John Crosby, 13 th	Senator Charlie Bethel, 54 th
Senator Hunter Hill, 6 th	Senator Joshua McKoon, 29 th , Ex-Officio

NOTE: Senator Fort, 39th, Senator Ramsey, 43rd, and Senator Ligon, 3rd, were absent from the meeting.

Chairman Stone called the meeting to order.

[SB 231](#) (Sen. Loudermilk, 14th) Relating to Georgia Drivers Commission, so as to extend the sunset provisions for the additional sums collected on fines for the purpose of funding the commission and driver education and training

Synopsis: This legislation changes the sunset date for the Georgia Driver's Education Commission from: June 30, 2013 until June 30, 2018. "Joshua's Law"

Amends: O.C.G.A. § 15-21-179

Presented by: Senator Loudermilk, 14th

Discussion: N/A

Vote/Bill: Senator Bethel motioned that the bill do pass and Senator Hunter Hill seconded the motion. **[SB 231](#)** unanimous do pass.

[SB 232](#) (Sen. Crane, 28th) Relating to notification by prosecuting attorney of legal procedures and of victim's rights in relation thereto, so as to provide for notification regarding certain assistance available pursuant to federal law

This bill was not heard at the Senator's request.

SB 225 (Sen. Stone, 23rd) Criminal procedure; relieve a surety from liability under certain circumstances

Synopsis: This legislation amends existing law regarding criminal bonds and subsequent forfeiture for failure to appear.

Amends: O.C.G.A. § 17-6-72

Presented by: Senator Stone, 23rd

Discussion: Questions arose as to whether 7 days was too short of a time period for detainer; following a brief recess, the committee changed the time period to 10 days.

Support: Ray Krebbs, Bail Bondsman

Opposition: Terry Norris, Georgia Sheriff's Association
Chuck Spahos, Georgia Prosecuting Attorney's Council
David McDade, District Attorney's Association

Vote/Bill: Senator Bethel motioned that this bill do pass and Senator Crosby seconded the motion. **SB 225 unanimous do pass by Committee Sub.**

SB 170 (Sen. Hill, 32nd) Forgery and Fraudulent Practices; identity fraud; add medical identity fraud

Synopsis: Definition of "Health Care Records," "Medical Identity Theft Victim," "Identifying Information," and "Resources"

This bill provides a broad definition of "health care records," to include records in any form regarding an individual's health.

"Medical Identity Theft Victim" is any person whose personal identifying information has been obtained, compromised, used, or recorded in any way without that person's permission.

Veteran and military medical identification numbers are added to the definition of "Identifying Information."

Health insurance, health savings accounts, health spending accounts, flexible spending accounts, medicare accounts, Medicaid accounts, dental insurance, vision insurance, and other forms of health insurance and health benefit plans are added to the definition of "resources."

Creation of the Offense of Medical Identity Fraud

One commits medical identity fraud when they willfully and fraudulently use identifying information of any real, fictitious, or deceased person of any age to obtain medical care, prescription drugs, health care services, money, or other financial gain.

Medical Identity Fraud Coordinated with Identity Fraud for Purposes of Investigation, Venue, Punishment, Damages, and Agencies' Authorities

Medical identity fraud is coordinated with identity fraud for purposes of:

- 1) Granting authority to the Attorney General and prosecuting attorneys to conduct criminal prosecution;
- 2) Deeming identifying information to be found within the county where the victim resides or is found;
- 3) Granting local law enforcement agencies with the jurisdiction to make an incident report;
- 4) Imposing punishment, including imprisonment, fines, and restitution to victims; and
- 5) Giving victims the right to bring an action against the perpetrator, including treble damages for intentional violations.

The administrator does not have the authority to investigate complaints of medical identity fraud, even though the administrator is authorized to investigate complaints of identity fraud.

This bill provides that law enforcement agencies will collect DNA samples from not only those convicted of a felony, but also those arrested for a felony, within 30 days of finding that probable cause was established.

One may have their DNA records expunged and their DNA sample destroyed after:

- (1) their conviction was reversed and their case was dismissed,
- (2) they were acquitted of the felony charges,
- (3) the felony charges were reduced to misdemeanor charges,
- (4) the felony charges were placed on the dead docket, or
- (5) the prosecuting attorney otherwise dismisses the felony charges.

Amends: O.C.G.A. § 16-9-120 thru 16-9-132

Presented by: Senator Hill, 32nd

Vote/Bill: Senator Bethel motioned that the bill **do pass** and Senator Hunter Hill seconded the motion. [**SB 170**](#) passed unanimously.

With no further business, Chairman Stone, 23rd, adjourned the meeting at 10:00 a.m.

Respectfully submitted,

/s/ Senator Curt Thompson, 5th, Secretary

/s/ Phyllis Walker, Recording Secretary

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE
Wednesday, March 13, 2013

The Senate Judiciary Non-Civil Committee held its sixth meeting of the 2013 Session on Monday, March 13, 2013, in room 307 CLOB. Chairman Jesse Stone called the meeting to order at 3:00 p.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23rd, Chairman
Senator John Crosby, 13th
Senator Hunter Hill, 6th
Senator Vincent Fort, 39th

Senator Curt Thompson, 5th, Secretary
Senator William Ligon, 3rd, Vice Chairman
Senator Joshua McKoon, 29th, Ex-Officio
Senator Ronald B. Ramsey, Sr., 43rd

NOTE: Senator Charlie Bethel, 54th, was absent from the meeting.

Chairman Stone called the meeting to order.

[HB 141](#) (Rep. Lindsey, 54th) Kidnapping; certain businesses and establishments post a model notice to enable persons who are the subject of human trafficking to obtain help and services; require

Synopsis: Certain Establishments Required to Post Notice to Enable Human Trafficking Victims to Obtain Help

This bill requires a notice to be posted, in certain businesses and establishments, which provides information that will inform human trafficking victims of how to obtain help and services from the National Human Trafficking Resource Center.

The following businesses and establishments will be required to post the notice in English, Spanish, and other languages deemed appropriate by the director of the Georgia Bureau of Investigation, in public restrooms and in a conspicuous place of the establishment:

- Adult entertainment establishments;
- Bars;
- Primary airports;
- Passenger rail or light rail stations;
- Bus stations;
- Truck stops;
- Emergency rooms within general acute care hospitals;
- Urgent care centers;
- Farm labor contractors and day haulers;
- Privately operated job recruitment centers;
- Safety rest areas located along interstate highways in Georgia;
- Hotels; and

- Businesses and establishments that offer massage or bodywork services by a person who is not a massage therapist.

Amends: O.C.G.A. § 16-5-47

Presented by: Rep. Lindsey of the 54th

House Vote: 171-1

Discussion: A bill was passed in previous years to shed light on human trafficking and to reduce the problem. This bill is another step to put signs in the most likely places for victims to see them and get help. Most businesses affected are in favor of the bill. 12 states already have similar laws.

Support: Stephanie Davis, Georgia Women for a Change
Frank Markahee, Georgia Catholic Conference – asked that the sunset timeline is not further reduced.

Opposition: N/A

Vote/Bill: Senator Crosby motioned that the bill **do pass by substitute** and Senator Curt Thompson seconded the motion. [HB 141](#) passed unanimously. Senator Unterman of the 45th will carry it in the Senate.

Senators in attendance: Jesse Stone, William Ligon, Curt Thompson, Joshua McKoon, John Crosby, and Vincent Fort

[HB 146](#) (Rep. Weldon of the 3rd) Criminal procedure; the issuance of arrest and search warrants by video conference; change provisions

Synopsis: Issuance of Arrest and Search Warrants by Video Conference

Current law allows judges of any court in Georgia to issue both arrest warrants and search warrants by video conference.

This bill makes it clear that the warrant will be valid irrespective of the physical location of the judge at the time of the video conference, so long as the judge's location is within Georgia.

Amends: O.C.G.A. § 17-4-40; 17-5-21.1

Presented by: Rep. Weldon of the 3rd and Judge Allen Harvey

House Vote: 166-1

Discussion: This method of issuing warrants is already in use by some counties. This bill makes it clearly a valid method. Section 3 was discussed at length: a good behavior bond is an alternative to a temporary restraining order. This is primarily going to be used in potential domestic violence situations where a superior court judge is not available immediately to issue a TRO and the alleged violator is saved from being arrested when it is unnecessary. The video will be preserved. There was a question as to why the use of this method is limited to Georgia, and no one was sure whether any laws would invalidate a warrant issued by video conference by a judge outside of the state, so they decided to keep it limited to Georgia.

Vote/Bill: Senator McKoon motioned that [HB 146](#) do pass by substitute and Senator Ligon seconded the motion. There is no Senator to carry this bill yet.

Senators Present: Jesse Stone, William Ligon, Curt Thompson, Joshua McKoon, John Crosby, Ronald Ramsey, Sr.

[HB 349](#) (Rep. Golick of the 40th) Criminal cases; provide state with more direct appeal rights; provisions

Synopsis: Appeals to the Court of Appeals of Georgia and the Supreme Court of Georgia

An appeal may no longer be taken from the City Court of Atlanta.

An appeal may now be taken from an order, decision, or judgment excluding any other evidence to be used by the state at trial on any motion filed at least 30 days prior to trial and ruled on prior to the first of either the impaneling of a jury or the defendant being put in jeopardy.

The state has the right to cross appeal on any matter ruled on prior to the impaneling of a jury or the defendant being put in jeopardy if the defendant is granted an interlocutory appeal.

Trafficking in Cocaine, Illegal Drugs, Marijuana, Methamphetamine, and Ecstasy

“Knowingly” is removed as an element of drug trafficking crimes in O.C.G.A. § 16-13-31.

The minimum prison term is no longer mandatory. The court may depart from the mandatory minimum sentence based on the defendant’s criminal history, use of violence in committing these crimes, and leadership position in the criminal conduct. New sentencing guidelines are prescribed based upon the specific section of the law broken.

Probation Distinction

“Active probation supervision” is distinguished from “unsupervised probation” for purposes of O.C.G.A. § 17-10-1.

Punishment for Serious Violent Felonies

The court may depart from the mandatory minimum sentence in O.C.G.A. § 17-10-6 when the prosecuting attorney and the defendant have agreed to a sentence that is below such mandatory minimum.

Any sentence imposed under O.C.G.A. § 17-10-6 cannot be reduced by any earned time, early release, work release, leave, or other sentence-reducing measures, however, during the final year of incarceration, a defendant is eligible to be considered for participation in a Department of Corrections administered transitional center or work release program.

Creation of Georgia Council on Criminal Justice Reform

The Georgia Council on Criminal Justice Reform is created for the purpose of conducting periodic comprehensive reviews of criminal laws, criminal procedure, sentencing laws, adult correctional issues, juvenile justice issues, enhancement of probation and parole supervision, better management of the prison population and of the population in the custody of the Department of Juvenile justice, and other issues related to criminal and accountability courts.

The Council has the following powers:

- 1) To evaluate how the laws and programs affecting the criminal justice system in this state are working;
- 2) To request and receive data from and review the records of appropriate state agencies and courts to the greatest extent allowed by state and federal law;
- 3) To accept public or private grants, devises, and bequests;
- 4) To authorize entering into contracts or agreements through the council’s chairperson necessary or incidental to the performance of its duties;
- 5) To establish rules and procedures for conducting the business of the council; and
- 6) To conduct studies, hold public meetings, collect data, or take any other action the council deems necessary to fulfill its responsibilities.

Drug Court and Mental Health Judges May Restore, Suspend, or Limit Defendant's Driver's License

A judge presiding in a drug court division or a mental health court may order the restoration or suspension of a defendant's driver's license and order the issuance of a limited driving permit. The court may order whatever conditions on the driver's license that the court finds appropriate under the circumstances as either a reward or a sanction to the defendant's behavior.

Probationer Will Pay for the Cost of Drug Screening

The court may provide that a probationer must pay for his or her own drug screening.

Amends: O.C.G.A. § 5-7-1; 5-7-2; 5-7-6; 16-13-31; 16-13-31.1; 16-13-54.1; 17-10-1; 17-10-6; 17-10-7; 17-19-1 thru 17-19-5; 40-5-75; 40-5-76; 42-1-1; 42-8-35; 42-9-43

Presented by: Rep. Golick of the 40th

House Vote: 163-0

Discussion: Special Council on Criminal Justice Reform brought these recommendations. There was discussion about O.C.G.A. § 16-13-31, and whether the removal of "knowingly" made drug trafficking a crime that required no criminal intent. Criminal intent is still required, but the knowledge of the weight of the drugs is not necessary. An amendment was proposed to section 19 of the bill that would change "6" to "12."

Support: Sandra Michaels, Georgia Association of Criminal Defense Lawyers, in support, but had some proposed changes she presented in a memo.

David McDade spoke in support of the bill on behalf of the District Attorneys Association.

Opposition: N/A

Vote/Bill: Senator McKoon motioned that the **bill do pass** and Senator Ramsey seconded the motion. [HB 349](#) passed unanimously with the proposed amendment.

Senators Present: Jesse Stone, Curt Thompson, Joshua McKoon, John Crosby, Ronald Ramsey, Sr.

HB 480 (Rep. Ballinger of the 23rd) Crimes and offenses; list of persons who may be present in courtroom when person under age 16 testifies concerning a sex offense; add victim assistance personnel

Synopsis: Victim Assistance Personnel Allowed to be Present in Courtroom When Person Under Age 16 Testifies Concerning a Sex Offense

This bill allows victim assistance coordinators, victims' advocates, and other such victim assistance personnel as provided for by Code Section 15-18-14.2 to remain in the courtroom while a person under the age of 16 testifies concerning a sex offense.

Amends: O.C.G.A. § 17-8-54

Presented by: Rep. Ballinger of the 23rd

House Vote: 168-4

Discussion: Straightforward bill, no questions were asked.

Support: District Attorneys Association

Opposition: N/A

Vote/Bill: Senator Ligon motioned that the **bill do pass** and Senator Curt Thompson seconded the motion. **HB 480** passed unanimously.

Senators Present: Jesse Stone, William Ligon, Curt Thompson, Joshua McKoon, John Crosby, Ronald Ramsey, Sr.

With no further business, Chairman Stone, 23rd, adjourned the meeting at 4:00 p.m.

Respectfully submitted,

/s/ Senator Curt Thompson, 5th, Secretary

/s/ Phyllis Walker, Recording Secretary

MINUTES OF THE SENATE JUDICIARY NON-CIVIL COMMITTEE

Wednesday, March 20, 2013

The Senate Judiciary Non-Civil Committee held its seventh meeting of the 2013 Session on Wednesday, March 20, 2013, in room 307 CLOB. Chairman Jesse Stone called the meeting to order at 1:00 p.m. Members present at the meeting were as follows:

Senator Jesse Stone, 23rd, Chairman
Senator John Crosby, 13th
Senator Hunter Hill, 6th
Senator Vincent Fort, 39th
Senator Charlie Bethel, 54th

Senator Curt Thompson, 5th, Secretary
Senator William Ligon, 3rd, Vice Chairman
Senator Joshua McKoon, 29th, Ex-Officio
Senator Ronald B. Ramsey, 43rd

NOTE: All Senators were present.

Chairman Stone called the meeting to order.

HB 60 (Rep. Holt, 112th) Firearms; certain laws regarding carrying and possession by retired judges; provide exemption

Synopsis: This bill expands the exemption from several weapons carry laws to exempt all state, local, and federal judges, whether full-time, part-time, or retired. The current law only exempts state and federal trial and appellate judges who currently serve or are retired under state retirement.

Amends: O.C.G.A. § 16-11-130

Presented by: Rep. Holt of the 112th

House Vote: 167-3

Discussion: A retired juvenile court judge brought this subject matter to the legislature's attention. The original intent was not to exclude certain judges because of their retirement plan or retirement status. There was discussion including judges who were neither on active duty nor retired. There was also discussion about not inadvertently giving the exemption to judges who were not on active duty because of misbehavior in which they are not the type of people that should be exempted; these judges do not have to apply for a permit.

An amendment was added after "from" on line 13, adding "or are no longer serving in" before "their."

Vote/Bill: Senator Ligon motioned that the bill do pass by substitute and Senator Hunter Hill seconded the motion. The substitute passed 4-1 (Yes: Hunter Hill, Ligon, Ramsey, and Crosby, No: Curt Thompson) **HB 60 do pass by substitute.**

Floor Action: Senator Ramsey, 43rd, will carry the bill in the Senate.

HB 78 (Rep. Willard, 51st) Crimes and offenses; protection of disabled adults and elder persons; change provisions

Synopsis: This bill expands the protection of disabled adults, elderly persons, and residents of long-term care facilities from cruelty and exploitation. The investigative and subpoena powers for crimes against the elderly are expanded to include electronic communications and records. The court may order the taking of a deposition to preserve testimony if the witness is 72 years of age or older. A list of persons required to report abuse, neglect, or exploitation of disabled adults and elderly persons is added. Cross-referenced sections are updated.

Amends: O.C.G.A. § 16-5-100 thru 16-5-104; 16-9-108; 16-9-109; 24-13-130; 30-5-3 thru 30-5-10; 31-8-81 thru 31-8-86; 19-7-5; 17-17-3; 31-2-9; 31-7-250; 31-7-350; 35-3-4; 35-3-34.1; 42-8-63.1; 49-2-14.1

Presented by: Rep. Willard of the 51st

House Vote: 166-0

Discussion: Several different interest groups brought this subject matter to the legislature's attention. The bill moves some crimes against the elderly to Title 16 to help unify the Code and prevent prosecutors from missing these laws. There was discussion of an unintended agency theory which would make owners of long-term care facilities criminally liable for an employee's criminal conduct.

Amendments: Line 21 adds "knowingly" after "agent has" to help cure the agency theory problem. Line 120 after "employee" add "was a knowing or willful party" to help agency theory problem.

Support: Melanie McNeil, State long-term care spokesperson
Nancy Petra, Ga. Council on Aging, Senior Citizens Advocacy Group
Jean Canavan, Elder abuse prosecutor for Cobb County
Arthur Edge, Assisted Living Federation of America, Georgia chapter
Jason Broce, Ga. Assisted Living Representative
Kathy Floyd, AARP

Opposition: N/A

Vote/Bill: Senator Bethel motioned that the bill do pass by substitute and Senator Hunter Hill seconded the motion. **HB 78 passed unanimously.**

Floor Action: Senator Unterman, 45th, will carry the bill in the Senate.

HB 122 (Rep. Tanner, 9th) Sexual Offender Registration Review Board; review and utilize records of Board of Pardons and Paroles in making assessments; authorize

Synopsis: This bill authorizes the Sexual Offender Registration Review Board to obtain information from supervision records of the Board of Pardons and Paroles regarding a sexual offender in order to classify the sexual offender under Level I risk, Level II risk, or as a sexually dangerous predator. The records obtained will remain confidential state secrets and will not be made available to any person or entity, and will not be subject to subpoena.

Amends: O.C.G.A. § 42-1-14; 42-9-53; 35-3-4

Presented by: Rep. Tanner of the 9th

House Vote: 165-0

Discussion: Guards and companies involved in executions are state secrets; it is for their protection.

Vote/Bill: Senator McKoon motioned that the bill do pass and Senator Bethel seconded the motion. **HB 122 Passed 5-1** (Yes: Ligon, Curt Thompson, McKoon, Bethel, and Ramsey; No: Fort)

Floor Action: Senator Stone, 23rd, will carry the bill in the Senate

HB 187 (Rep. Dickerson, 113th) Controlled substances; date of incorporation of local ordinances by reference; change

Synopsis: This bill incorporates all drug-free commercial zones, which have been adopted by municipal or county ordinances and entered in the register of the Department of Community Affairs, on or before July 1, 2013. The current law only incorporates ordinances entered into the register on or before March 28, 2011.

Amends: O.C.G.A. § 16-13-32.6

Presented by: Rep. Dickerson of the 113th

House Vote: 171-2

Discussion: This is a simple update.

Vote/Bill: Senator Bethel motioned that the bill do pass and Senator Ligon seconded the motion. **HB 187 passed unanimously.**
(Senators present: Stone, Ligon, Curt Thompson, McKoon, Bethel, Fort, and Ramsey)

Floor Action: Senator Jeffares, 17th, will carry the bill in the Senate.

HB 156 (Rep. Neal, 2nd) Electronic pornography; certain acts amounting to unlawfully seducing or enticing a child through use of computer online service; clarify

Synopsis: This bill makes it illegal to use any internet service to attempt to seduce, solicit, lure, or entice any person who has actual custody or control of a child, or who is believed to have custody or control of a child, to commit any illegal act by, with, or against a child relating to sexual misconduct.

Amends: O.C.G.A. § 16-12-100.2

Presented by: Rep. Neal of the 2nd

House Vote: 171-0

Discussion: Georgia Bureau of Investigation brought this subject up because they could not prosecute some child sex crimes because of some loopholes in the law. This bill is designed to fix the loopholes. The substitute makes texting or emailing explicit photographs from one consenting minor to another consenting minor a misdemeanor instead of a felony, which is on level with the law allowing minors 16 and over to have sex with other minors 16 and over without it being statutory rape. The current law allows two consenting 16 year olds to have sexual intercourse with each other, but illegal for the same two consenting 16 year olds to email nude pictures of themselves to each other.

Vote/Bill: Senator Bethel motioned that the bill do pass and Senator Crosby seconded the motion. **HB 156 passed unanimously.**

Floor Action: Senator Stone, 23rd, will carry the bill in the Senate.

HB 125 (Rep. Hightower, 68th) Lawful presence; certain affidavit for persons under 18 years of age to be executed after attaining the age of 18; provide

Synopsis: This bill is a substitute that was distributed at the meeting. It covers several topics, including business license renewals and immigration, public benefits and postsecondary education, and secure and verifiable documents.

Amends: O.C.G.A. § 35-3-37

Presented by: Senator Ginn, 47th

Discussion: Rep. Hightower was available to present a substitute version of the bill, but never presented. The committee passed a different substitute version of the bill with an amendment. There was a similar Senate bill, and the Senate and House will work to combine the two going forward.

Vote/Bill: Senator Hunter Hill motioned that the bill do pass and Senator Bethel seconded the motion. [HB 125](#) **Passed 4-2** (Yes: Bethel, Curt Thompson, Fort, and Ligon; No: McKoon, and Hunter Hill)

Floor Action: Senator Ginn, 47th, will carry the bill in the Senate.

With no further business, Chairman Stone, 23rd, adjourned the meeting at 2:30 p.m.

Respectfully submitted,

/s/ Senator Curt Thompson, 5th, Secretary

/s/ Phyllis Walker, Recording Secretary

May 9, 2013

Office of the Secretary of the Senate
353 State Capitol
Atlanta, Georgia 30334

I am returning the following bills assigned to the Judiciary Non-Civil Committee for the 2013 session of the Georgia General Assembly.

No action was taken on the following legislation:

<u>SB 33</u>	<u>SB 198</u>
<u>SB 34</u>	<u>SB 200</u>
<u>SB 53</u>	<u>SB 219</u>
<u>SB 88</u>	<u>SB 232</u>
<u>SB 133</u>	<u>SB 233</u>
<u>SB 146</u>	<u>SR 6</u>
<u>SB 147</u>	<u>SR 416</u>
<u>SB 161</u>	<u>HB 271</u>
<u>SB 188</u>	<u>HB 512</u>

Respectfully Submitted,

/s/ Phyllis Walker
Recording Secretary
Judiciary Non-Civil Committee