

House Bill 246

By: Representatives Silcox of the 52<sup>nd</sup>, Cooper of the 43<sup>rd</sup>, Kelley of the 16<sup>th</sup>, Efstoration of the 104<sup>th</sup>, Rich of the 97<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 6 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated,  
2 relating to depositions to preserve testimony in criminal proceedings, so as to revise the  
3 manner by which depositions taken at the instance of the state are paid; to clarify how  
4 depositions shall be taken and filed; to provide for related matters; to repeal conflicting laws;  
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 6 of Chapter 13 of Title 24 of the Official Code of Georgia Annotated, relating to  
9 depositions to preserve testimony in criminal proceedings, is amended by revising Code  
10 Section 24-13-132, relating to appointment of counsel and payment of costs and expenses,  
11 as follows:

12 "24-13-132.

13 (a) If an accused is financially unable to employ counsel, the court shall appoint counsel  
14 as provided in Chapter 12 of Title 17, unless the accused elects to proceed without counsel.

15 (b) Whenever a deposition is taken at the instance of the state, the cost of any such  
16 deposition shall be paid by the state ~~by the Prosecuting Attorneys' Council of the State of~~  
17 ~~Georgia out of such funds as may be appropriated for the operations of the district attorneys~~  
18 in the same manner as any other motion hearing that may appear on the criminal calendar.

19 (c) Depositions taken at the instance of an accused shall be paid for by the accused;  
20 provided, however, that, whenever a deposition is taken at the instance of an accused who  
21 is eligible for the appointment of counsel as provided in Chapter 12 of Title 17, the court  
22 shall direct that the reasonable expenses for the taking of the deposition and of travel and  
23 subsistence of the accused and the accused's attorney for attendance at the examination, not  
24 to exceed the limits established pursuant to Article 2 of Chapter 7 of Title 45, be paid for  
25 out of the fine and bond forfeiture fund of the county where venue is laid."

26

**SECTION 2.**

27 Said article is further amended by revising Code Section 24-13-133, relating to manner of  
28 taking and filing deposition, as follows:

29 "24-13-133.

30 Except as provided in Code Section 24-13-137, a deposition shall be taken and filed in the  
31 manner provided in civil proceedings or any nonjury motion hearing, provided that (1) in  
32 no event shall a deposition be taken of an accused party without his or her consent and (2)  
33 the scope of examination and cross-examination shall be such as would be allowed in the  
34 trial itself. On request or waiver by the accused, the court may direct that a deposition be  
35 taken on written interrogatories in the manner provided in civil proceedings. Such request  
36 shall constitute a waiver by the accused of any objection to the taking and use of the  
37 deposition based upon its being so taken. If a judge has been designated to rule on  
38 objections or to preside over the deposition, objections to interrogation of the witness shall  
39 be made to and ruled on by such judge in the same manner as at the trial of a criminal  
40 proceeding."

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**SECTION 3.**

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