

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 530:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated,
2 relating to depositions and discovery, so as to provide for protective orders for certain
3 high-ranking officers; to provide for definitions; to amend Article 2 of Chapter 21 of Title 50
4 of the Official Code of Georgia Annotated, relating to state tort claims, so as to provide for
5 designees of state government entities for service of process for civil actions; to provide for
6 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Article 5 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
11 depositions and discovery, is amended in Code Section 9-11-26, relating to general
12 provisions concerning discovery, by revising subsection (c) as follows:

13 "(c) **Protective orders.** Upon motion by a party or by the person from whom discovery
14 is sought and for good cause shown, including, but not limited to, the factors provided in
15 Code Section 9-11-26.1 for the deposition of a high-ranking officer, the court in which
16 the action is pending or, alternatively, on matters relating to a deposition, the court in the

17 county where the deposition is to be taken may make any order which justice requires to
18 protect a party or person from annoyance, embarrassment, oppression, or undue burden
19 or expense, including one or more of the following:

20 (1) That the discovery not be had;

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

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

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

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

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

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

32 (8) That the parties simultaneously file specified documents or information enclosed in
33 sealed envelopes to be opened as directed by the court.

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

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

38 **SECTION 2.**

39 Said article is further amended by adding a new Code section to read as follows:

40 "9-11-26.1.

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

42 (1) 'High-ranking officer' means a current or former high-ranking officer of an
43 organization with extensive scheduling demands or responsibilities.

44 (2) 'Organization' includes any large governmental entity and any other large
45 organization, public or private.

46 (b) Good cause for a protective order to prohibit the deposition of a high-ranking officer
47 may be shown by proof that such person is a high-ranking officer and lacks unique personal
48 knowledge of any matter that is relevant to the subject matter involved in the pending
49 action.

50 (c) The party or person seeking a protective order has the burden of establishing the factors
51 provided under subsection (b) of this Code section.

52 (d) Good cause for a protective order shall not be deemed shown where the party seeking
53 discovery demonstrates that:

54 (1) Such party has exhausted other reasonable means of discovery and such discovery
55 is inadequate; and

56 (2) The person seeking the protective order has unique personal knowledge of one or
57 more matters relevant to the subject matter involved in the pending action.

58 (e) To the extent that the party or person seeking a protective order shows that a
59 high-ranking officer lacks unique personal knowledge of some, but fewer than all, matters
60 relevant to the subject matter involved in the pending action, the court may limit the scope
61 of the deposition accordingly, rather than prohibiting altogether the deposition of the
62 high-ranking officer."

63

SECTION 3.

64 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to
65 state tort claims, is amended by revising Code Section 50-21-35, relating to service of
66 process and mailing of complaint, as follows:

67 "50-21-35.

68 (a) A chief executive officer of a state government entity shall provide a designee or
69 designees for service of process for civil actions brought against the state under this article
70 by publishing conspicuously on the homepage of the state government entity's website:

71 (1) The name and title of such designee or designees; and

72 (2) The office address of such designee or designees for service of process.

73 (b) The director of the Risk Management Division of the Department of Administrative
74 Services shall provide a designee for service of process for civil actions brought against the
75 state under this article by publishing conspicuously on the homepage of such division's
76 website:

77 (1) The name and title of such designee; and

78 (2) The office address of such designee for service of process.

79 (c) A designee for service of process shall be present at the published office address no
80 fewer than three days each Monday through Friday, excluding state observed holidays and
81 other office closures, between the hours of 9:00 A.M. and 5:00 P.M. eastern standard time
82 or eastern daylight time, whichever is applicable.

83 (d) Except as otherwise provided in subsection (f) of this Code section, in ~~in~~ all civil
84 actions brought against the state under this article, to perfect service of process the plaintiff
85 must both:

86 (1) ~~Cause~~ ~~cause~~ process to be served upon the chief executive officer of the state
87 government entity involved, ~~or his or her designee~~, at his or her usual office address; and

88 (2) ~~Cause~~ ~~cause~~ process to be served upon the director of the Risk Management Division
89 of the Department of Administrative Services, ~~or his or her designee~~, at his or her usual
90 office address.

91 (e) The time for the state to file an answer shall not begin to run until process has been
92 served upon all required persons.

93 (f) A copy of the complaint showing the date of filing shall also be mailed to the Attorney
94 General at his or her usual office address, by certified mail or statutory overnight delivery,
95 return receipt requested, and there shall be attached to the complaint a certificate that this
96 requirement has been met."

97 **SECTION 4.**

98 This Act shall become effective upon approval by the Governor or upon becoming law
99 without such approval, provided that Section 3 of this Act shall apply only to causes of action
100 accruing on or after July 1, 2023.

101 **SECTION 5.**

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