

House Resolution 321

By: Representatives Petrea of the 166th, Gunter of the 8th, Scoggins of the 14th, Reeves of the 99th, Mathis of the 149th, and others

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Georgia so as to provide that the
2 right against self-incrimination be limited to criminal cases; to provide legislative findings
3 and declarations; to provide for the submission of this amendment for ratification or
4 rejection; and for other purposes.

5 WHEREAS, the General Assembly intends that the right against self-incrimination in the
6 Georgia Constitution match such right provided under the United States Constitution; and

7 WHEREAS, it is intended that any case law from the Supreme Court of the United States,
8 the United States Court of Appeals for the Eleventh Circuit, or United States Court of
9 Appeals having jurisdiction over Georgia and relating to the interpretation of the federal
10 Constitutional right provided by the Fifth Amendment relating to self-incrimination apply
11 to the Georgia Constitution upon ratification of this amendment; and

12 WHEREAS, unless displaced by the particular provisions of this Act, the General Assembly
13 intends that the substantive law relating to self-incrimination in Georgia as it existed prior
14 to ratification of this amendment be retained.

15 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF
16 GEORGIA:

17 **SECTION 1.**

18 Section I of Article I of the Constitution is amended by revising Paragraph XVI as follows:

19 "Paragraph XVI. *Self-incrimination.* No person shall be compelled ~~to give testimony~~
20 ~~tending in any manner to be self-incriminating~~ in any criminal case to be a witness against
21 himself or herself without due process of law."

22 **SECTION 2.**

23 The above proposed amendment to the Constitution shall be published and submitted as
24 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
25 above proposed amendment shall have written or printed thereon the following:

26 "() YES Shall the Constitution of Georgia be amended so as to provide that this state
27 () NO shall recognize the right against self-incrimination that mirrors the right
28 afforded under the Fifth Amendment to the United States Constitution?"

29 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

30 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
31 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
32 become a part of the Constitution of this state.