

The Senate Committee on Regulated Industries and Utilities offered the following substitute to SB 200:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 9-11-26 of the Official Code of Georgia Annotated, relating to  
2 general provisions governing discovery under the "Civil Practice Act," so as to provide for  
3 a party or current or former high ranking government or corporate officer of whom a  
4 deposition is sought to seek a protective order; to require a court to prohibit such deposition  
5 subject to exceptions; to provide such exceptions; to provide for modification or vacation of  
6 orders upon such motions; to provide for an effective date and applicability; to provide for  
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

10 Code Section 9-11-26 of the Official Code of Georgia Annotated, relating to general  
11 provisions governing discovery under the "Civil Practice Act," is amended in subsection (c)  
12 as follows:

13 **"(c)(1) Protective orders.** Upon motion by a party or by the person from whom  
14 discovery is sought and for good cause shown, the court in which the action is pending  
15 or, alternatively, on matters relating to a deposition, the court in the county where the  
16 deposition is to be taken may make any order which justice requires to protect a party or

17 person from annoyance, embarrassment, oppression, or undue burden or expense,  
18 including one or more of the following:

19 ~~(1)~~(A) That the discovery not be had;

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

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

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

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

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

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

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

33 If the motion for a protective order is denied in whole or in part, the court may, on such  
34 terms and conditions as are just, order that any party or person provide or permit  
35 discovery. Paragraph (4) of subsection (a) of Code Section 9-11-37 applies to the award  
36 of expenses incurred in relation to the motion.

37 (2) In addition to or in lieu of seeking a protective order under paragraph (1) of this  
38 subsection, a current or former high level government or corporate officer of whom a  
39 deposition is sought or any party may, upon motion, seek a protective order under this  
40 paragraph. The motion shall be accompanied by an affidavit or declaration of the officer,  
41 showing:

42 (A) That the officer is a current or former high level government or corporate officer  
43 for purposes of this paragraph; and

44 (B) That the officer lacks unique, personal knowledge of any matter which is relevant  
45 to the subject matter involved in the pending action.

46 Upon the required showing being made, the court shall enter an order preventing the  
47 deposition, unless the party seeking the deposition demonstrates that it has exhausted  
48 other reasonable means of discovery, that such discovery is inadequate, and that the  
49 officer has unique, personal knowledge of one or more matters relevant to the subject  
50 matter involved in the pending action, as to which such party seeking the deposition bears  
51 the ultimate burden of proof. The party or officer seeking a protective order shall have  
52 the ultimate burden of proof as to whether the officer is a current or former high level  
53 government or corporate officer for purposes of this paragraph. The court may vacate or  
54 modify an order entered under this paragraph, if after additional discovery the party  
55 seeking the deposition meets its burden of proof. If the party seeking the deposition  
56 meets its burden of proof as to fewer than all of the matters on which it seeks to depose  
57 the officer, the court shall limit the matters on which the officer may be deposed  
58 accordingly."

59 **SECTION 2.**

60 This Act shall become effective on July 1, 2023, and shall apply to any motions made or  
61 hearings or trials commenced on or after such date.

62 **SECTION 3.**

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