

Senate Resolution 5

By: Senators Dolezal of the 27th, Kennedy of the 18th, Gooch of the 51st, Beach of the 21st, Still of the 48th and others

ADOPTED SENATE

A RESOLUTION

1 Reauthorizing the Senate Special Committee on Investigations; to provide for the issuance
2 of compulsory process to secure the attendance of witnesses or the production of documents
3 and materials; and for other purposes.

4 WHEREAS, in early 2024 it came to the attention of the Senate, through public reports and
5 court filings, that Fani Willis, district attorney for the Atlanta Judicial Circuit, which
6 comprises Fulton County, was accused of various forms of misconduct relating to the
7 prosecution of cases related to the 2020 Presidential Election; and

8 WHEREAS, such alleged misconduct included the expenditure of significant public funds
9 for the purpose of hiring a special assistant district attorney, with whom District Attorney
10 Willis had an ongoing romantic relationship; and

11 WHEREAS, such relationship was eventually admitted in open court; and

12 WHEREAS, the Superior Court of the Atlanta Judicial Circuit, which is presiding over the
13 trial where such allegations have become an issue concluded, among other things, that the
14 practices of District Attorney Fani Willis in the case of *State v. Trump* created "a significant
15 appearance of impropriety that infects the current structure of the prosecution team ... [and

16 that] a perceived conflict in the reasonable eyes of the public threatens confidence in the
17 legal system itself. When this danger goes uncorrected, it undermines the legitimacy and
18 moral focus of our already weakest branch of government," *State v. Trump*, 2024 WL
19 1236900, at * 1, 5 (Ga. Super. Mar. 15, 2024); and

20 WHEREAS, after examining the "facts and circumstances" at issue, the Court of Appeals of
21 Georgia agreed that the practices created an appearance of impropriety and that the matter
22 presented "the rare case in which disqualification [of District Attorney Fani Willis] is
23 mandated and [that] no other remedy will suffice to restore public confidence in the integrity
24 of [the] proceedings," *Roman v. State*, A24A1595, 2024 WL 516724 at *7 (Ga. App. Dec.
25 19, 2024); and

26 WHEREAS, many have concluded that the conduct of District Attorney Willis has brought
27 her and her office into disrepute; undermined public confidence in the fair, impartial, and
28 disinterested administration of justice by prosecutors across our state; and cast significant
29 doubt as to the purpose and validity of the charges her office has brought in regard to
30 the 2020 Presidential Election; and

31 WHEREAS, the General Assembly is empowered by the Constitution of the State of Georgia
32 to pass legislation to regulate certain prosecutorial practices, including those at issue in the
33 *Roman v. State* matter, see Ga. Const. Art. VI, Sec. VIII, Paras. I and II; and

34 WHEREAS, the taxpayers of Fulton County have already borne a significant financial cost
35 in supporting activities relating to this prosecution, including the hiring of investigators and
36 attorneys, the conduct of grand jury proceedings, negotiation of plea agreements with various
37 co-defendants in the case, and other activities relating to the sprawling investigation of
38 the 2020 Presidential Election; and

39 WHEREAS, inquiry into these circumstances may show that existing state laws, including
40 those establishing processes for selecting, hiring, and compensating special assistant district
41 attorneys, are inadequate to address various legal and fiscal issues raised by District Attorney
42 Willis's alleged conduct; and

43 WHEREAS, the General Assembly, of which the Senate is a part, has "the power to make
44 all laws not inconsistent with this Constitution, and not repugnant to the Constitution of the
45 United States, which it shall deem necessary and proper for the welfare of the state"; see Ga.
46 Const. Art. III, Sec. VI, Para. I; and

47 WHEREAS, Article III, Section IX, Paragraph II(b) of the Georgia Constitution provides that
48 "[t]he General Assembly shall annually appropriate those state and federal funds necessary
49 to operate all the various departments and agencies" of state government, including the
50 Prosecuting Attorneys' Council of the State of Georgia and the Prosecuting Attorneys
51 Qualifications Commission; and

52 WHEREAS, the Georgia Supreme Court, in *Dean v. Bolton*, 235 Ga. 544, held that
53 constitutional separation of powers does not prohibit the legislative branch from investigating
54 the official conduct of any person performing duties in any branch of the government; and

55 WHEREAS, the Senate has the inherent power and authority to conduct investigations into
56 any matter relevant to the administration of existing laws, proposals for new or amended
57 laws, the expenditure of public funds, the conduct of public officers who discharge powers
58 and duties under state law, and any other matter germane to its role as part of the legislative
59 branch of state government; and

60 WHEREAS, the Superior Court of the Atlanta Judicial Circuit considered the question of the
61 Senate's authority to act in this manner and the manner authorized by Senate Resolution 465,
62 which the Senate adopted during that 157th General Assembly, see *Willis v. The Georgia*
63 *Senate Special Committee on Investigations, et al.*, Civil Action No. 24CV011204 (Ga.
64 Super. Dec. 23, 2024); and

65 WHEREAS, over the objections of District Attorney Willis, the Superior Court in *Willis*
66 agreed and acknowledged that precedent maintains that the "inherent powers of our State
67 General Assembly are awesome ... The legislature is absolutely unrestricted in its power to
68 legislate, so long as it does not undertake to enact measures prohibited by the State or Federal
69 Constitution," *Willis* at 2 (citing *Ga. Power Co. v. Allied Chem. Corp.*, 233 Ga. 558, 565
70 (citing *Sears v. State of Georgia*, 232 Ga. 547, 553-54)); and

71 WHEREAS, the *Willis* court further recognized that the "State Constitution authorizes each
72 chamber to adopt its own rules and create committees ... Here, the Senate, as a chamber,
73 empowered itself to issue subpoenas, which it was authorized to do," *Willis* at 3 (citing Ga.
74 Const. Art. III, Sec. IV, Par. IV; *Coggin v. Davey*, 233 Ga. 407, 411); and
75

76 WHEREAS, such inherent powers also include the authority to create special committees for
77 the purpose of conducting investigations and to endow such committees with all the inherent
78 powers of investigation possessed by the Senate, including the power to compel the
79 appearance and testimony of witnesses and the production of records and the power to place
80 witnesses under oath or affirmation; and

81 WHEREAS, in addition to such inherent powers, Code Sections 45-15-17 and 45-15-19
82 empower the General Assembly to make investigations into the affairs of the state and further
83 authorize compelling the appearance and testimony of witnesses and the production of

84 records and grants, the power to place witnesses under oath or affirmation, and to enforce
85 subpoenas issued pursuant thereto; and

86 WHEREAS, Article III, Section IV, Paragraph IV of the Georgia Constitution provides for
87 the creation of interim committees pursuant to the authority of the General Assembly or of
88 either house; and

89 WHEREAS, in 2024, with the adoption of Senate Resolution 465, it was the sense of the
90 Senate that such issues arising from or relating to the conduct of District Attorney Willis
91 were best examined by a select group of Senators who, acting as a special committee, were
92 empowered by the Senate to exercise each of the Senate's inherent powers of investigation;
93 and

94 WHEREAS, the special committee established pursuant to Senate Resolution 465 diligently
95 conducted its investigation, holding multiple meetings where such committee was able to
96 take testimony from a number of witnesses, and received a number of books, records, and
97 papers from such witnesses, but was not able to complete the investigation prior to the end
98 of the 157th General Assembly; and

99 WHEREAS, in the exercise of the aforesaid powers, it remains necessary to determine
100 whether the conduct of District Attorney Willis should be addressed by the enactment of new
101 or amended laws of statewide application, prompt some change in state appropriations, or
102 both; and

103 WHEREAS, it remains the sense of the Senate that such issues arising from or relating to the
104 alleged and admitted misconduct of District Attorney Willis are best examined by a select

105 group of Senators who, acting as a special committee, shall be empowered to exercise each
106 of the Senate's inherent and statutory powers of investigation.

107 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE:

108 (1) **Delegation of Authority and Recreation and Reauthorization of the Senate**
109 **special committee.** The Senate hereby delegates its powers to the Senate Special
110 Committee on Investigations, which is recreated and reauthorized.

111 (2) **Members and officers.** The committee shall be composed of no more than nine
112 members, at least three of whom shall be from the minority party. All members shall be
113 appointed by the Senate Committee on Assignments, which shall also select a chairperson
114 of the committee from its membership.

115 (3) **Powers and duties.** The committee is hereby reauthorized to undertake a legislative
116 investigation into the issues mentioned above or related thereto. For the purpose of
117 conducting any investigation as provided herein, the committee shall have the power to
118 administer oaths; to call any party to testify under oath at such investigations; to require
119 the attendance of witnesses and the production of books, records, and papers; and to take
120 the depositions of witnesses. For such purposes, the committee is reauthorized to issue
121 subpoenas for any witness or to compel the production of any books, records, or papers
122 and is further reauthorized to undertake such actions as may be necessary to enforce such
123 subpoenas in cases of refusal to obey. The committee is hereby declared to be the
124 successor to the committee established pursuant to Senate Resolution 465 and shall have
125 access to and control over any books, records, or papers obtained by such earlier
126 committee. Pursuant to Senate Rule 2-1.5(d), the committee may establish rules of
127 operation that are not in conflict with Senate Rules or the most current edition of *Mason's*
128 *Manual of Legislative Procedure*; provided, however, the committee may not establish
129 rules that authorize one member to issue subpoenas without the consent of the committee

130 as demonstrated by a majority vote at a meeting where a quorum is present or without the
131 express, written consent of the chairperson of the committee.

132 (4) **Meetings.** The chairperson shall call all meetings of the committee. The committee
133 may conduct such meetings at such places and at such times as it may deem necessary or
134 convenient, including at any time during the interim period occurring following the
135 Senate adjourning *sine die*, to enable it to exercise fully and effectively its powers,
136 perform its duties, and accomplish the objectives and purposes of this resolution.

137 (5) **Funding.** Funds necessary to carry out the provisions of this resolution shall come
138 from funds appropriated to the Senate.

139 (6) **Report.**

140 (A) In the event the committee adopts any specific findings or recommendations that
141 include suggestions for proposed legislation or changes in appropriations, the
142 chairperson shall file a report of the same, subject to subparagraph (C) of this
143 paragraph.

144 (B) In the event the committee adopts a report that does not include suggestions for
145 proposed legislation or changes in appropriations, the chairperson shall file the report,
146 subject to subparagraph (C) of this paragraph.

147 (C) No report shall be filed unless the same has been approved by majority vote of a
148 quorum of the committee. A report so approved shall be signed by the chairperson of
149 the committee and filed with the Secretary of the Senate.

150 (D) In the absence of an approved report, the chairperson may file with the Secretary
151 of the Senate a copy of the minutes of the meetings of the committee in lieu thereof.