

House Bill 140

By: Representatives Boddie of the 62nd, Kendrick of the 93rd, Williams of the 168th, Mallow of the 163rd, and Frazier of the 126th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 6 of Chapter 7 of Title 17 of the Official Code of Georgia
2 Annotated, relating to change of venue, so as to provide for a motion for a change of venue
3 by the prosecuting attorney in certain cases; to provide for procedures; to provide for related
4 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Part 3 of Article 6 of Chapter 7 of Title 17 of the Official Code of Georgia Annotated,
8 relating to change of venue, is amended by revising paragraph (1) of subsection (a) of Code
9 Section 17-7-150, relating to procedures for change of venue, transfer of case, and appeal
10 from denial of change of venue, as follows:

11 "(a)(1)(A) The defendant, in any criminal case in which a trial by jury is provided, may
12 move in writing for a change of venue, whenever, in the defendant's or defense
13 counsel's judgment, an impartial jury cannot be obtained in the county where the crime
14 is alleged to have been committed. Upon the hearing of the motion, it shall not be
15 necessary to examine all persons in the county liable to serve on juries, but the judge
16 shall hear evidence by affidavit or oral testimony in support of or against the motion.

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17 If, from the evidence submitted, the judge is satisfied that an impartial jury cannot be
18 obtained to try the case, the judge shall grant a change in ~~venue~~; the venue. The judge
19 shall transfer the case to any county that may be agreed upon by the prosecuting
20 attorney and the defendant or the defense counsel, to be tried in the county agreed upon.
21 The judge has the discretion to reject any county agreed upon; if a county is not thus
22 agreed upon, or if the judge, in the exercise of discretion, rejects a county agreed upon,
23 the judge shall select such county as in the judge's judgment will afford a fair and
24 impartial jury to try the case and have it transferred accordingly.

25 (B) The prosecuting attorney, in any criminal case in which a trial by jury is provided,
26 may move in writing for a change of venue, whenever, in such prosecuting attorney's
27 judgment, an impartial jury cannot be obtained in the county where the crime is alleged
28 to have been committed if:

29 (i) A previous prosecuting attorney has been removed from the case for cause; or
30 (ii) A local government official has publicly released information prejudicial to the
31 administration of justice which has the potential to have tainted the local jury pool.
32 Upon the hearing of the motion, it shall not be necessary to examine all persons in the
33 county liable to serve on juries, but the judge shall hear evidence by affidavit or oral
34 testimony in support of or against the motion. If, from the evidence submitted, the
35 judge is satisfied that an impartial jury cannot be obtained to try the case, the judge
36 shall grant a change in venue. The judge shall transfer the case to any county that may
37 be agreed upon by the requesting prosecuting attorney and the defendant or the defense
38 counsel and the case shall be tried in the county agreed upon. The judge has the
39 discretion to reject any county agreed upon; if a county is not thus agreed upon, or if
40 the judge, in the exercise of discretion, rejects a county agreed upon, the judge shall
41 select such county as in the judge's judgment will afford a fair and impartial jury to try
42 the case and have it transferred accordingly."

43 **SECTION 2.**

44 This Act shall become effective upon its approval by the Governor or upon its becoming law
45 without such approval.

46 **SECTION 3.**

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