

House Bill 776 (AS PASSED HOUSE AND SENATE)

By: Representatives Atwood of the 179<sup>th</sup>, Willard of the 51<sup>st</sup>, Fleming of the 121<sup>st</sup>, Caldwell of the 131<sup>st</sup>, Welch of the 110<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 15, Code Sections 21-2-231, 31-2A-4, 35-3-33, and 40-5-2, and Title 42 of  
2 the Official Code of Georgia Annotated, relating to courts, lists of persons convicted of  
3 felonies, persons identified as noncitizens, persons declared mentally incompetent, and  
4 deceased persons, the Department of Public Health's obligation to safeguard and promote the  
5 health of people of this state, the powers and duties of the Georgia Crime Information Center,  
6 keeping of records or applications for driver's licenses and information on licenses and  
7 furnishing such information, and penal institutions, respectively, so as to clarify information  
8 to be provided in order to compile state-wide master jury lists and county master jury lists;  
9 to change and clarify definitions; to change provisions relating to the eligibility of persons  
10 to serve on a jury; to require the Department of Public Health, the Department of  
11 Corrections, the Georgia Crime Information Center, and the State Board of Pardons and  
12 Paroles to provide certain information in order to compile state-wide master jury lists and  
13 county master jury lists; to repeal provisions relating to county boards of jury commissioners;  
14 to correct cross-references; to amend Code Section 50-18-72 of the Official Code of Georgia  
15 Annotated, relating to when public disclosure is not required, so as to correct a  
16 cross-reference; to provide for related matters; to repeal conflicting laws; and for other  
17 purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
21 subsection (d) of Code Section 15-6-50.2, relating to The Council of Superior Court Clerks  
22 of Georgia, as follows:

23 "(d) The Council of Superior Court Clerks of Georgia shall be a legal entity and an agency  
24 of the State of Georgia; shall have perpetual existence; may contract; may own property;  
25 may accept funds, grants, and gifts from any public or private source for use in defraying  
26 the expenses of the council; may adopt and use an official seal; may establish a principal

27 office; may employ such administrative or clerical personnel as may be necessary and  
 28 appropriate to fulfill its necessary duties; shall establish, maintain, and revise the state-wide  
 29 master jury list as provided in Chapter 12 of this title; shall distribute ~~to the board of jury~~  
 30 ~~commissioners of each county~~ the county master jury list as provided in Chapter 12 of this  
 31 title; and shall have other powers, privileges, and duties as may be reasonable and  
 32 necessary for the proper fulfillment of its purposes and duties."

33 **SECTION 2.**

34 Said title is further amended by revising paragraph (21) of subsection (a) of Code Section  
 35 15-6-61, relating to duties of clerks generally, as follows:

36 "(21) To keep an automated, computer based jury management system that facilitates the  
 37 maintenance of the county master jury list pursuant to the provisions of Chapter 12 of this  
 38 title unless ~~this~~ such duty is delegated to a jury clerk as provided in subsection (a) of  
 39 Code Section 15-12-11 or ~~subsection (b) of Code Section 15-12-23~~ 15-12-12."

40 **SECTION 3.**

41 Said title is further amended by revising paragraphs (3) and (4) and paragraphs (9) through  
 42 (11) of Code Section 15-12-1, relating to definitions for juries, as follows:

43 "(3) 'Clerk' means the clerk of the superior court or a jury clerk if one is appointed  
 44 pursuant to subsection (a) of Code Section 15-12-11 or ~~subsection (b) of Code Section~~  
 45 ~~15-12-23~~ 15-12-12.

46 (4) 'Council' means ~~the~~ The Council of Superior Court Clerks of Georgia."

47 "(9) ~~'Jury commissioner' means a member of a county board of jury commissioners.~~

48 ~~(10)~~ 'State-wide master jury list' means a comprehensive master list that identifies every  
 49 person of this state who can be determined to be prima facie qualified to serve as a juror.

50 ~~(11)~~(10) 'Venire' means the list of persons summoned to serve as jurors for a particular  
 51 term of court."

52 **SECTION 4.**

53 Said title is further amended by revising subsection (b) of Code Section 15-12-1.1, relating  
 54 to exemptions from jury duty, as follows:

55 "(b) Any person who is 70 years of age or older shall be entitled to request that the clerk  
 56 excuse such person from jury service in the county. Upon such request, the ~~board of jury~~  
 57 ~~commissioners~~ clerk shall inactivate such person. The request for excusal shall be made  
 58 to the ~~board~~ or clerk in writing and shall be accompanied by an affidavit providing the  
 59 person's name, age, and such other information as the ~~board~~ clerk may require. The ~~board~~

60 ~~of jury commissioners of each county clerk~~ shall make available affidavit forms for the  
 61 purposes of this subsection."

62 **SECTION 5.**

63 Said title is further amended by revising subsection (a) of Code Section 15-12-4, relating to  
 64 eligibility of person to serve as a juror, as follows:

65 "(a) Any person who has served as a juror at any session of the superior or state courts  
 66 shall be ineligible for duty as a juror ~~at the next succeeding term of the court in which such~~  
 67 ~~person has previously served but shall be eligible to serve at the next succeeding term of~~  
 68 ~~court for a different level of court~~ until the next succeeding county master jury list has been  
 69 received by the clerk."

70 **SECTION 6.**

71 Said title is further amended in Article 1 of Chapter 12, relating to general provisions for  
 72 juries, by adding a new Code section to read as follows:

73 "15-12-12.

74 (a) In all counties of this state where the chief superior court judge of the county had the  
 75 power to appoint a jury clerk on January 1, 2011, the chief judge of the superior court of  
 76 such counties shall continue to have the power to appoint a jury clerk and such other  
 77 personnel as may be deemed necessary or advisable to dispatch the work of the court, and  
 78 the appointments to such positions and the compensation therefor shall be determined by  
 79 such judge without regard to any other system or rules, such personnel to serve at the  
 80 pleasure of such judge, and the salaries and expenses thereof and any attendant expenses  
 81 of administration of the courts are determined to be contingent expenses of court and shall  
 82 be paid as provided by law for the payment of contingent expenses. The duties of such  
 83 personnel shall be as prescribed by such judge.

84 (b) All prospective jurors in such counties shall be required to answer questionnaires as  
 85 may be determined and submitted by the chief superior court judge of such counties  
 86 concerning their qualifications as jurors.

87 (c) In the event any such person fails or refuses to answer such questionnaire, the clerk  
 88 shall report such failure or refusal to the court, together with the facts concerning the same,  
 89 and the court shall have such jurisdiction as is now provided by law for subpoena,  
 90 attachment, and contempt powers.

91 (d) This Code section shall be in addition and supplemental to other provisions provided  
 92 by law, with a view toward efficient and orderly handling of jury selection and the  
 93 administration of justice."

94 **SECTION 7.**

95 Said title is further amended by repealing and reserving Article 2 of Chapter 12, relating to  
96 the board of jury commissioners.

97 **SECTION 8.**

98 Said title is further amended by revising Code Section 15-12-40.1, relating to state-wide  
99 master jury lists, driver's license information, list of registered voters, and random list of  
100 person to comprise venire, as follows:

101 "15-12-40.1.

102 (a) ~~After Beginning on and after~~ July 1, 2011, the council shall compile a state-wide  
103 master jury list. The council shall facilitate updating of all information relative to jurors  
104 on the state-wide master jury list and county master jury lists.

105 (b) ~~After Beginning on and after~~ July 1, 2011, upon the council's request, the Department  
106 of Driver Services shall provide the council and the Administrative Office of the Courts a  
107 list, which includes the name, data showing the full name of all persons who are at least 18  
108 years of age and residents of this state who have been issued a driver's license or personal  
109 identification card pursuant to Chapter 5 of Title 40, whether or not such license or  
110 identification card is valid or expired. In addition to the person's full name, the Department  
111 of Driver Services shall include the person's address, city of residence, date of birth,  
112 gender, driver's license or personal identification card number ~~issued pursuant to the~~  
113 ~~provisions of Chapter 5 of Title 40~~, and, whenever racial and ethnic information is  
114 collected by the Department of Driver Services for purposes of voter registration pursuant  
115 to Code Section 21-2-221, racial and ethnic information. The Department of Driver  
116 Services shall ~~also~~ provide the ~~address~~, effective date, document issue date, and document  
117 expiration date; shall indicate whether the document is a driver's license or a personal  
118 identification card; and shall exclude persons whose driver's license has been suspended  
119 or revoked due to a felony conviction, whose driver's license has been expired for more  
120 than 730 days, or who have been identified as not being citizens of the United States. The  
121 Department of Driver Services shall also provide the names and identifying information  
122 specified by this subsection of persons convicted in this state or in another state of driving  
123 without a license. Such lists data shall be in electronic format as required by the council.

124 (c) ~~After Beginning on and after~~ July 1, 2011, upon request by the council, the Secretary  
125 of State shall provide to the council and the Administrative Office of the Courts, without  
126 cost, the list of registered voters, including the voter's date of birth, address, gender, race,  
127 social security number, driver's license number, and when it is available, the voter's  
128 ethnicity. ~~It shall also be the duty of the Secretary of State to provide the council and the~~

129 ~~Administrative Office of the Courts, in electronic format, with a copy of the lists of~~  
 130 ~~persons:~~

131 ~~(1) Who have been convicted of felonies in state or federal courts who have not had their~~  
 132 ~~civil rights restored or who have been declared mentally incompetent; and~~

133 ~~(2) Whose voting rights have been removed~~

134 ~~which are provided to the county board of registrars by the Secretary of State pursuant to~~  
 135 ~~Code Section 21-2-231. Such list shall exclude persons whose voting rights have been~~  
 136 ~~removed.~~

137 (d) On and after July 1, ~~2012~~ 2014, each county's board of jury commissioners clerk shall  
 138 obtain its county master jury list from the council. The council shall disseminate, in  
 139 electronic format, a county master jury list to the respective ~~counties'~~ boards of jury  
 140 commissioners clerk once each calendar year. The council shall determine the fee to be  
 141 assessed each county ~~board of jury commissioners~~ for such list, provided that such fee shall  
 142 not exceed 3¢ per name on the list. The council shall invoice each ~~county board of jury~~  
 143 commissioners clerk upon the delivery of the county master jury list, and the recipient  
 144 ~~county board of jury commissioners~~ shall remit payment within 30 days of the invoice.

145 (e) On and after July 1, 2014, upon request by the council, the Department of Public  
 146 Health shall provide to the council, without cost, data relating to death certificates for  
 147 residents of this state for the 15 year period preceding the date of the request. In addition  
 148 to the deceased person's full name, the data shall include the person's address, including the  
 149 county of residence and ZIP Code, date of birth, gender, and county in which the person  
 150 died. Such data shall be in electronic format as required by the council.

151 (f) On and after July 1, 2014, upon request by the council, the Department of Corrections,  
 152 the Georgia Crime Information Center division of the Georgia Bureau of Investigation, and  
 153 the State Board of Pardons and Paroles shall provide to the council, without cost, a list of  
 154 the names of all persons who have been convicted of a felony in state or federal court if the  
 155 person has not had his or her civil rights restored. In addition to the convicted person's full  
 156 name, the data shall include the person's address, including the county of residence and ZIP  
 157 Code, date of birth, gender, and race if available. Such data shall be in electronic format  
 158 as required by the council.

159 ~~(e)~~(g) ~~After~~ On and after July 1, 2012, in each county, upon court order, the clerk shall  
 160 choose a random list of persons from the county master jury list to comprise the venire;  
 161 provided, however, that jurors summoned prior to July 1, 2012, shall remain eligible to  
 162 comprise the venire."

163 **SECTION 9.**

164 Code Section 21-2-231 of the Official Code of Georgia Annotated, relating to lists of persons  
 165 convicted of felonies, persons identified as noncitizens, persons declared mentally  
 166 incompetent, and deceased persons, is amended by revising subsections (a) and (g) as  
 167 follows:

168 "(a) Unless otherwise notified by the Secretary of State, the Georgia Crime Information  
 169 Center shall, on or before the tenth day of each month, prepare and transmit to the  
 170 Secretary of State and The Council of Superior Court Clerks of Georgia a complete list of  
 171 all persons, including dates of birth, social security numbers, and other information as  
 172 prescribed by the Secretary of State or The Council of Superior Court Clerks of Georgia,  
 173 who were convicted of a felony in this state since the preceding reporting period. The  
 174 Secretary of State or The Council of Superior Court Clerks of Georgia may, by agreement  
 175 with the commissioner of corrections, obtain criminal information relating to the  
 176 conviction, sentencing, and completion of sentencing requirements of felonies.  
 177 Additionally, the Secretary of State and The Council of Superior Court Clerks of Georgia  
 178 shall be authorized to obtain such criminal information relating to Georgia electors  
 179 convicted of a felony in another state, if such information is available."

180 "(g) The Secretary of State shall provide to ~~the~~ The Council of Superior Court Clerks of  
 181 Georgia not later than the last day of each month all information enumerated in subsections  
 182 ~~(a)~~ (b) through (d) of this Code section and Code Section 21-2-232 and a list of voters who  
 183 have failed to vote and inactive voters, as identified pursuant to Code Sections 21-2-234  
 184 and 21-2-235. Such data shall only be used by the council, the council's vendors, superior  
 185 court clerks, and ~~county boards of jury commissioners~~ jury clerks for maintenance of  
 186 state-wide master jury lists and county master jury lists. Such data shall be provided to the  
 187 council or its vendors in the electronic format required by the council for such purposes."

188 **SECTION 10.**

189 Code Section 31-2A-4 of the Official Code of Georgia Annotated, relating to the Department  
 190 of Public Health's obligation to safeguard and promote the health of people of this state, is  
 191 amended by deleting "and" at the end of paragraph (12), by replacing the period with "; and"  
 192 at the end of paragraph (13), and by adding a new paragraph to read as follows:

193 "(14) Provide The Council of Superior Court Clerks of Georgia the data set forth in Code  
 194 Section 15-12-40.1, without charge and in the electronic format requested."

195 **SECTION 11.**

196 Code Section 35-3-33 of the Official Code of Georgia Annotated, relating to the powers and  
 197 duties of the Georgia Crime Information Center, is amended in subsection (a) by deleting

198 "and" at the end of paragraph (14), by replacing the period with "; and" at the end of  
 199 paragraph (15), and by adding a new paragraph to read as follows:

200 "(16) Provide The Council of Superior Court Clerks of Georgia the data set forth in Code  
 201 Sections 15-12-40.1 and 21-2-231, without charge and in the electronic format  
 202 requested."

203 **SECTION 12.**

204 Code Section 40-5-2 of the Official Code of Georgia Annotated, relating to keeping of  
 205 records or applications for licenses and information on licenses and furnishing such  
 206 information, is amended by revising paragraph (7) of subsection (f) as follows:

207 ~~"(7) The lists data required to be made available to boards of jury commissioners, the The~~  
 208 ~~Council of Superior Court Clerks of Georgia; and the Administrative Office of the Courts~~  
 209 ~~pursuant to Code Section ~~15-12-40~~ or 15-12-40.1 regarding county residents who are the~~  
 210 ~~holders of drivers' licenses or personal identification cards issued pursuant to this chapter.~~  
 211 ~~Such lists shall identify each such person by name, address, date of birth, and gender,~~  
 212 ~~and, whenever racial and ethnic information is collected by the department for purposes~~  
 213 ~~of voter registration pursuant to Code Section 21-2-221, the department shall also provide~~  
 214 ~~such information. The department shall also provide the address, effective date,~~  
 215 ~~document issue date, and document expiration date and shall indicate whether the~~  
 216 ~~document is a driver's license or a personal identification card. Such information data~~  
 217 ~~shall be provided to ~~the~~ The Council of Superior Court Clerks of Georgia and the~~  
 218 ~~Administrative Office of the Courts upon request in the electronic format required by the~~  
 219 ~~council for such purposes and without any charge for such data; and"~~

220 **SECTION 13.**

221 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 222 by revising Code Section 42-2-5, relating to the administrative functions of the Department  
 223 of Corrections, as follows:

224 "42-2-5.

225 (a) The department shall administer the state's correctional institutions and the  
 226 rehabilitative programs conducted therein.

227 (b) The department shall provide The Council of Superior Court Clerks of Georgia the data  
 228 set forth in Code Section 15-12-40.1, without charge and in the electronic format  
 229 requested."

230 **SECTION 14.**

231 Said title is further amended by revising Code Section 42-9-20, relating to general duties of  
 232 the State Board of Pardons and Paroles, by designating the existing Code section as  
 233 subsection (a) and by adding a new subsection to read as follows:

234 "(b) The board shall provide The Council of Superior Court Clerks of Georgia the data set  
 235 forth in Code Section 15-12-40.1, without charge and in the electronic format requested."

236 **SECTION 15.**

237 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public  
 238 disclosure is not required, is amended by revising paragraph (6) of subsection (a) as follows:

239 "(6) Jury list data, including, but not limited to, persons' names, dates of birth, addresses,  
 240 ages, race, gender, telephone numbers, social security numbers, and when it is available,  
 241 the person's ethnicity, and other confidential identifying information that is collected and  
 242 used by ~~the~~ The Council of Superior Court Clerks of Georgia for creating, compiling, and  
 243 maintaining state-wide master jury lists and county master jury lists for the purpose of  
 244 establishing and maintaining county jury source lists pursuant to the provisions of  
 245 Chapter 12 of Title 15; provided, however, that when ordered by the judge of a court  
 246 having jurisdiction over a case in which a challenge to the array of the grand or trial jury  
 247 has been filed, ~~the~~ The Council of Superior Court Clerks of Georgia, superior court clerk,  
 248 or ~~the~~ jury clerk of the county board of jury commissioners of any county shall provide  
 249 data within the time limit established by the court for the limited purpose of such  
 250 challenge. ~~The~~ Neither the Council of Superior Court Clerks of Georgia, superior court  
 251 clerk, or jury nor the clerk of a county board of jury commissioners shall not be liable for  
 252 any use or misuse of such data;"

253 **SECTION 16.**

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