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GEORGIA STATE UNIVERSITY LAW REVIEW

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CRIMINAL PROCEDURE

Sentence and Punishment

CODE SECTIONS: O.C.G.A. §§ 17-10-17 (amended);
17-4-20.2 (new)

BILL NUMBER: HB 426

ACT NUMBER: 329

GEORGIA LAWS: 2020 Ga. Laws 10

EFFECTIVE DATE: July 1, 2020

SUMMARY: The Act repeals certain provisions regarding the sentencing of defendants for crimes involving bias or prejudice and provides both criteria for punishment for those crimes and required reporting of those crimes 1

PUBLIC HEALTH STATE OF EMERGENCY

Executive Order by the Governor Declaring a Public Health State of Emergency

CODE SECTIONS: O.C.G.A. §§ 38-3-3, -51

EXECUTIVE ORDER: Ga. Exec. Order No. 03.14.20.01

EFFECTIVE DATE: March 14, 2020

SUMMARY: The Executive Order primarily functions to enumerate the Governor's emergency powers during a Public Health State of Emergency. The Executive Order allows for the Governor to assist health and emergency management officials by deploying available resources for the mitigation and treatment of COVID-19 within Georgia..... 17

STATEWIDE JUDICIAL EMERGENCY
Judicial Order by the Supreme Court of Georgia Declaring a
Statewide Judicial Emergency

CODE SECTIONS: O.C.G.A. §§ 38-3-60, -61, -62, -63, -64
JUDICIAL ORDERS: Order Declaring Statewide Judicial
Emergency; Order Extending
Declaration of Statewide Judicial
Emergency; Second Order Extending
Declaration of Statewide Judicial
Emergency; Third Order Extending
Declaration of Statewide Judicial
Emergency; Fourth Order Extending
Declaration of Statewide Judicial
Emergency
EFFECTIVE DATES: March 14, 2020; April 6, 2020; May
11, 2020; June 12, 2020; July 10, 2020
SUMMARY: The Supreme Court of Georgia issued
an Order declaring a Statewide Judicial
Emergency to reduce the transmission
of COVID-19 throughout the State of
Georgia. The courts remained open to
address essential functions, as defined
within the Order. Additionally, all
deadlines and other filing requirements
were extended or tolled. Throughout
the counties in Georgia, different courts
released orders outlining how they
would follow the Judicial Emergency
Order from the Supreme Court of
Georgia. The Judicial Emergency Order
had been extended four times as of
August 1, 2020 31

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Provisional Admission to the Practice of Law

JUDICIAL ORDER: Order *In re*: Provisional Admission to
the Practice of L. in Ga.
EFFECTIVE DATE: June 1, 2020
SUMMARY: The Supreme Court of Georgia issued
the Judicial Order to postpone
administration of the July 2020 Georgia

bar examination to September 2020. The Order provided for the provisional admission to the practice of law of recent law school graduates and lawyers new to Georgia—those most affected by the postponement..... 51

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Executive Order by the Governor to Ensure a Safe & Healthy Georgia

CODE SECTION:	O.C.G.A. § 38-3-7
EXECUTIVE ORDER:	Ga. Exec. Order No. 04.02.20.01
EFFECTIVE DATE:	April 3, 2020
SUMMARY:	The Order required all visitors and residents of Georgia to practice social distancing in compliance with the Centers for Disease Control and Prevention guidelines; prohibited businesses in Georgia from allowing groups of more than ten people to gather at any single location; imposed a mandatory shelter-in-place requirement for all visitors and residents of Georgia except for essential workers, as defined within the Order; and laid out guidelines for how businesses would operate during the quarantine. Further, the Order limited restaurant services and closed certain businesses, including gyms and bowling alleys. The Order also superseded all local orders purporting to regulate the same subject matter and declared violations of the Order’s requirements to be a misdemeanor 67

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Administrative Order by the Georgia Department of Public Health for Public Health Control Measures: Isolation Protocol

CODE SECTIONS:	O.C.G.A. §§ 31-2A-4; 31-5-8; 31-12-2.1, -4; 38-3-2, -3, -51
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ADMINISTRATIVE ORDERS: GA. DEP'T OF PUB. HEALTH, ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; SECOND AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; THIRD AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; FOURTH AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; FIFTH AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; SIXTH AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES; SEVENTH AMENDED ADMINISTRATIVE ORDER FOR PUBLIC HEALTH CONTROL MEASURES

EFFECTIVE DATES: March 21, 2020; March 23, 2020; April 3, 2020; April 15, 2020; May 6, 2020; May 12, 2020; June 1, 2020; June 16, 2020

SUMMARY: The Administrative Order for Public Health Control Measures and its subsequent amendments outlined the Isolation and Quarantine Protocols for individuals who either tested positive for COVID-19 or were suspected of COVID-19 infection based on symptoms or prolonged exposure to the virus..... 81

PREEMPTION

Executive Order by the Governor to Ensure a Safe & Healthy Georgia

GEORGIA CONSTITUTION: GA. CONST. art. III, § 6
CODE SECTIONS: O.C.G.A. §§ 38-3-51; 45-12-30
EXECUTIVE ORDER: Ga. Exec. Order No. 04.02.20.01
EFFECTIVE DATE: April 2, 2020

SUMMARY: The doctrine of preemption expresses the idea that “a higher authority of law will displace a lower authority of law when the two authorities come into conflict.” Preemption exists on both the federal and state level. According to the Georgia Constitution, local laws are permissible if they do not conflict with the state law on the subject. During a Public Health State of Emergency, the Governor of Georgia maintains certain expanded powers to take necessary action for the health and safety of the public. On April 2, 2020, Governor Brian Kemp (R) used these expanded powers to enact an Executive Order that preempted local Georgia Orders related to the COVID-19 pandemic 95

FORCED BUSINESS CLOSURES

Executive Orders by the Governor Closing Private Businesses

CODE SECTIONS: O.C.G.A. §§ 38-3-3, -51
EXECUTIVE ORDERS: Ga. Exec. Order Nos. 03.14.20.01; 03.16.20.01; 03.23.20.01; 03.26.20.02; 04.01.20.01; 04.02.20.01; 04.08.20.04; 04.23.20.02; 04.27.20.01; 05.12.20.02; 05.21.20.01; 05.28.20.02; 06.11.20.01

EFFECTIVE DATES: March 14, 2020; March 16, 2020; March 23, 2020; March 26, 2020; April 1, 2020; April 2, 2020; April 3, 2020; April 8, 2020; April 23, 2020; April 27, 2020; April 30, 2020; May 15, 2020; May 21, 2020; May 28, 2020; June 11, 2020

SUMMARY: Governor Brian Kemp (R) issued Executive Orders in response to the COVID-19 pandemic that required businesses to close in an effort to limit the spread of the virus. Business owners often challenged those forced business closures as unconstitutional or as exceeding the State’s police power, and

those challenges were met with varying degrees of success 111

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COVID-19 Pandemic Business Safety Act & Executive Order by the Governor Designating Auxiliary Management Workers and Emergency Management Activities

CODE SECTIONS: O.C.G.A. §§ 31-7-1; 38-3-51; 51-16-1, -2, -3, -4, -5 (new)
BILL NUMBER: SB 359
ACT NUMBER: 588
GEORGIA LAWS: 2020 Ga. Laws 798
EXECUTIVE ORDER: Ga. Exec. Order No. 04.14.20.01
EFFECTIVE DATES: Ga. Exec. Order No. 04.14.20.01, April 14, 2020; O.C.G.A. §§ 51-16-1 to -5, August 5, 2020

SUMMARY: The Executive Order expanded immunity from liability for volunteer health care workers as emergency management workers performing emergency management activities. The Order was not limited to only COVID-19-related activities. When the legislature reconvened, legislators passed the Georgia COVID-19 Pandemic Business Safety Act, which provided liability limitation to businesses against tort claims arising from the pandemic 135

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Health & Public Welfare

CODE SECTION: O.C.G.A. § 31-12-2
C.F.R. SECTIONS: 45 C.F.R. §§ 160, 164
SUMMARY: The Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”) establish a standard for the use and protection of individuals’ health information and apply to certain covered entities or their business associates. Covered entities

may only disclose an individual's protected health information in limited situations. Covered entities or individuals that fail to comply with the Privacy Rule standards may be subject to civil or criminal penalties..... 153

BIOETHICS

Ethical Considerations of Ventilator Triage During a Pandemic

CODE SECTIONS: 29 U.S.C. § 794; 42 U.S.C. §§ 6101, 6102, 6103, 12132, 18116

SUMMARY: In the midst of the COVID-19 pandemic, hospitals across the country faced unprecedented volumes of patients seeking treatment related to the respiratory complications of the virus. As a result, states were forced to reassess existing scarce resource allocation guidelines to appropriately accommodate the high demand. This *Peach Sheet* analyzes the ethical considerations implicated in enacting and following these guidelines when treating patients, specifically in the context of ventilator triage in response to the COVID-19 pandemic 173

FIRST AMENDMENT

Executive Order by the Governor Limiting Large Gatherings Statewide

U.S. CONSTITUTION: U.S. CONST. amend. I

EXECUTIVE ORDER: Ga. Exec. Order No. 03.23.20.01

EFFECTIVE DATE: March 23, 2020

SUMMARY: Beginning in March 2020, Georgia Governor Brian Kemp (R) issued a series of Executive Orders addressing the State's response to the COVID-19 pandemic. Included in these Orders was a prohibition on large groups of people gathering in a single location. Though an effective means of curtailing the virus's rapid transmission, this specific

provision became a source of controversy for groups who believed such a prohibition infringed upon their First Amendment rights 197

CRIMES AND OFFENSES

Proposed Constitutional Carry Act of 2019 & Executive Order by the Governor Temporarily Extending Renewal Requirements for Weapons Carry Licenses

CODE SECTIONS: O.C.G.A. §§ 12-3-10; 16-11-125.1, -126, -127, -127.1, -129; 38-3-51

BILL NUMBER: Failed HB 2, 2019 Ga. Gen. Assemb.

EXECUTIVE ORDER: Ga. Exec. Order No. 05.08.20.01

EFFECTIVE DATE: May 8, 2020

SUMMARY: In March 2020, Governor Brian Kemp (R) issued an Executive Order declaring a Public Health State of Emergency due to COVID-19. The Supreme Court of Georgia also issued a Judicial Order declaring a Statewide Judicial Emergency. The Council of Probate Court Judges subsequently characterized the processing of weapons carry licenses as non-essential and temporarily suspended license issuances to limit the spread of COVID-19. HB 2 would have eliminated the license requirement and the need for probate judges to process applications. However, HB 2 never received a hearing before the 2019–20 legislative session ended. Gun rights advocates called on Governor Kemp to suspend the licensing requirement in the midst of the pandemic and brought a string of Second Amendment lawsuits challenging the suspension of the only avenue available to legally carry a gun in public for self-defense..... 219

ELECTIONS

Elections and Primaries Through the Pandemic

U.S. CONSTITUTION:	U.S. CONST. amends. XIV, XXIV
GEORGIA CONSTITUTION:	GA. CONST. art. III, § 4
CODE SECTIONS:	O.C.G.A. §§ 21-2-9, -50.1; 21-5-35
SUMMARY:	The 2020 election cycle was all but normal. Due to certain health concerns associated with the COVID-19 pandemic, Georgia delayed its primary election three months from March to June and summarily mailed absentee ballot request forms to all active, registered voters. From presidential social media postings to a federal lawsuit, debate ensued over the widespread usage of absentee ballots, their overall effectiveness and security, who would receive request forms, and whether postage requirements qualified as an impermissible poll tax. To further compound these uncertainties, Georgia legislators, who are not permitted to fundraise or campaign during the forty-day legislative session, had to make significant changes to their election campaign strategies to account for the suspended term. This <i>Peach Sheet</i> explores Georgia’s 2020 election season and outlines the major issues that faced the state through the ongoing pandemic 241

