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COURTS Probate Courts: Amend Provisions to Provide That Certain Cash Bonds Shall Be Transferred into Interest-bearing Trust Accounts; Provide That Interest From Such Funds Shall Be Remitted to the Georgia Indigent Defense Council for Distribution to the Counties; Provide for the Remittance of Certain Information

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COURTS

Probate Courts: Amend Provision To Provide That Certain Cash Bonds Shall Be Transferred into Interest-bearing Trust Accounts; Provide That Interest From Such Funds Shall Be Remitted to the Georgia Indigent Defense Council for Distribution to the Counties; Provide for the Remittance of Certain Information

CODE SECTION:	O.C.G.A. § 15-9-18 (new)
BILL NUMBER:	HB 1157
ACT NUMBER:	818
GEORGIA LAWS:	2000 Ga. Laws 1306
SUMMARY:	The Act provides that when a sheriff transfers cash bonds to a probate court clerk pursuant to Code section 15-16-27, the clerk must deposit the funds into interest-bearing trust accounts. The Act also requires that the interest from those funds be remitted to the Georgia Indigent Defense Council in accordance with subsections (c) through (g) of Code section 15-6-76.1. The Act provides that the Georgia Indigent Defense Council must allocate all interest received from such funds in accordance with Code section 15-6-76.1(e).
EFFECTIVE DATE:	July 1, 2000

History

The Georgia Indigent Defense Council (GIDC) is a state agency with several functions. First, it provides assistance to the local public defenders' offices and court-appointed criminal defense attorneys.¹ Further, the GIDC offers financial support to attorneys who represent indigent criminal defendants, and

1. See Telephone Interview with Michael Shapiro, Executive Director of the Georgia Indigent Defense Council (June 9, 2000) [hereinafter Shapiro Interview].

the GIDC provides direct representation for death penalty cases.² Finally, the GIDC plans and provides continuing legal education classes.³ Currently, the GIDC operates on an \$8.3 million budget.⁴ It receives funding as a line-item in the state's budget, from the Georgia Bar Foundation, and from interest from certain state and superior court clerks' accounts.⁵ Pursuant to Code section 15-6-76.1, state and superior court clerks deposit funds from sheriffs' cash bonds into interest-bearing accounts.⁶ Since July 1, 1993, the law has required that clerks remit the interest from such funds to a trust account for the GIDC.⁷ In 1999, the GIDC received \$1.357 million from state and superior court clerks pursuant to Code section 15-6-76.1.⁸

Michael Shapiro, Executive Director of the GIDC, requested that HB 1157 be introduced.⁹ HB 1157 was a housekeeping bill, intended to correct an oversight that excluded probate courts from the original law that required superior and state court clerks to transfer interest to the GIDC.¹⁰ Per Shapiro's request, Representative Stephanie Stuckey of the 67th District contacted Representative Larry Walker of the 141st District, who sponsored the original bill that required clerks to remit funds to the GIDC, and the two co-sponsored the bill in an effort to require probate courts that function as traffic courts to remit interest from similar accounts to the GIDC.¹¹ The legislation does not require probate courts to create new accounts; it merely provides that the interest from such accounts be allocated to the GIDC.¹² Representative Stuckey estimates that the Act will raise \$10,000 in funds for the GIDC.¹³

2. *See id.*

3. *See id.*

4. *See id.*

5. *See id.*

6. *See* 1993 Ga. Laws 982, § 3, at 983 (codified at O.C.G.A. § 15-6-76.1 (1999)).

7. *See id.*

8. *See* Shapiro Interview, *supra* note 1.

9. *See id.*; *see also* Electronic Mail Interview with Rep. Stephanie Stuckey, House District No. 87 (May 18, 2000) [hereinafter Stuckey Interview].

10. *See* Stuckey Interview, *supra* note 9.

11. *See id.* Of the 159 probate courts, 90 have a traffic court function. *See* Shapiro Interview, *supra* note 1.

12. *See* Audio Recording of House Proceedings, Feb. 3, 2000 (remarks by Rep. Stephanie Stuckey) <<http://www.ganet.org/services/leg/audio/2000archive.html>>.

13. *See* Stuckey Interview, *supra* note 9.

HB 1157

The House passed HB 1157 on February 3, 2000, and the Senate passed the bill on March 13, 2000.¹⁴ The bill passed both houses as introduced and without opposition.¹⁵ Governor Roy Barnes signed HB 1157 into law on May 1, 2000.¹⁶

The Act

The Act adds Code section 15-9-18, relating to probate courts, and provides that certain clerks of probate courts shall deposit cash bonds transferred by the sheriff into interest-bearing trust accounts.¹⁷ The Act applies when a sheriff transfers cash bonds to the clerk of the court pursuant to Code section 15-6-27.¹⁸ The Act further provides that the probate court clerk must remit the interest to the GIDC in accordance with subsections (c) through (g) of Code section 15-6-76.1, which already apply to state and superior court clerks.¹⁹ Finally, the Act provides that the GIDC shall allocate all interest received from funds in accordance with subsection (e) of Code Section 15-6-76.1.²⁰

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14. See Georgia House of Representatives Voting Record, HB 1157 (Feb. 3, 2000); Georgia Senate Voting Record, HB 1157 (Mar. 13, 2000).

15. Compare HB 1157, as introduced, 2000 Ga. Gen. Assem., with HB 1157, as passed, 2000 Ga. Gen. Assem. See also Georgia House of Representatives Voting Record, HB 1157 (Feb. 3, 2000); Georgia Senate Voting Record, HB 1157 (Mar. 13, 2000).

16. See 2000 Ga. Laws 1306, § 3, at 1307.

17. See O.C.G.A. § 15-9-18 (Supp. 2000).

18. See *id.*

19. See *id.*; see also Stuckey Interview, *supra* note 9.

20. See O.C.G.A. § 15-9-18 (Supp. 2000).