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COURTS

Probate Courts: Authorize State Participation in the Consortium for State Court Interpreter Certification; Allow Probate Judges To Assist in Other Probate Courts; Define Office of Senior Judge of the Probate Courts

CODE SECTIONS:	O.C.G.A. §§ 15-1-9, -14 (amended), 15-9-140 to -141 (new)
BILL NUMBER:	HB 1158
ACT NUMBER:	709
GEORGIA LAWS:	2000 Ga. Laws 838
SUMMARY:	The Act authorizes state participation in the Consortium for State Court Interpreter Certification and other multi-state programs for interpreters. The Act also authorizes probate judges to assist in other probate courts and establishes proper payment for such services. Finally, the Act defines the qualifications necessary for a former probate judge to be appointed as a senior judge of the probate court.
EFFECTIVE DATE:	O.C.G.A. § 15-1-14, April 27, 2000; ¹ §§ 15-1-9, 15-9-140 to -141, July 1, 2000 ²

History

The Act addresses a need for flexibility in allowing substitute probate judges and senior probate judges to serve in probate courts when the sitting judge is unavailable or has a conflict.³ Other courts, such as the superior court, already have such a system in effect.⁴ Representative Curtis Jenkins worked with

1. *See* 2000 Ga. Laws 838, § 4, at 841. This section of the Act took effect upon approval by the Governor. *See id.*

2. *See* 2000 Ga. Laws 838, § 4, at 841. This section of the Act took effect on July 1, 2000. *See id.*

3. *See* Telephone Interview with Rep. Curtis Jenkins, House District No. 110 (May 11, 2000) [hereinafter Jenkins Interview].

4. *See* Telephone Interview with Sen. Carol Jackson, Senate District No. 50 (May 12, 2000) [hereinafter Jackson Interview].

the probate judges in his district to craft this bill proposing the position of senior probate judge.⁵

After HB 1158 was passed by the House of Representatives, the Georgia Supreme Court asked the Georgia General Assembly to authorize state participation in the Consortium for State Court Interpreters.⁶ This Consortium is part of the National Center for State Courts.⁷ The court requested authority to participate in the Interpreter Certification Program in order to address problems associated with cases requiring an interpreter.⁸ Specifically, the National Center for State Courts can provide Georgia's courts with assistance in training interpreters and setting a standard for interpreter certification.⁹ However, the court's request came too late in the session for the General Assembly to respond by drafting and passing a new bill.¹⁰ Therefore, the General Assembly needed to attach the authorization to participate in the Consortium for State Court Interpreter Certification to an existing bill.¹¹ Because HB 1158 was the only pending bill in the "Courts" section of the Georgia Code, the Senate Judiciary Committee amended HB 1158 to propose adding a new Code Section to accomplish the court's request.¹²

HB 1158

Representatives Curtis Jenkins, Stephanie Stuckey, Thomas Murphy, Ray Holland, and Larry Smith of the 110th, 67th, 18th, 157th, and 109th House Districts, respectively, sponsored HB 1158.¹³ The House Special Judiciary Committee favorably reported the bill, and Representative Jenkins, Chairman of the Special Judiciary Committee, presented the bill to the House

5. See Jenkins Interview, *supra* note 3.

6. See *id.*

7. See Jackson Interview, *supra* note 4.

8. Prior to 1996, the Georgia Supreme Court's Racial and Ethnic Bias Commission identified language difficulties as a problem that hindered state courts' ability to deal with some cases and often caused delay when a court had to recess to find an interpreter. See *id.*

9. See Jackson Interview, *supra* note 4.

10. See Jenkins Interview, *supra* note 3.

11. See *id.*

12. See *id.*

13. See HB 1158, as introduced, 2000 Ga. Gen. Assem.

floor on February 2, 2000, at which time the House unanimously passed the bill.¹⁴

To accommodate a request made by the Georgia Supreme Court that Georgia participate in the Consortium for State Court Interpreter Certification and other multi-state programs for interpreters, the Senate Judiciary Committee modified HB 1158 to propose approval of state participation in these programs.¹⁵ By participating in the Consortium, Georgia courts may seek assistance in training and certifying court interpreters.¹⁶ The Senate Judiciary Committee favorably reported the bill, as substituted, on February 22, 2000.¹⁷ The Senate unanimously passed the bill, as substituted, on March 1, 2000 and returned the bill to the House for review.¹⁸ The House agreed to the Senate version on March 13, 2000.¹⁹ Governor Roy Barnes signed HB 1158 into law on April 17, 2000.²⁰

The Act

As adopted, the Act addresses two unrelated issues. Sections 1 and 3 of the Act concern the use of senior probate judges and current probate judges to assist in other probate courts.²¹ Section 2 of the Act authorizes state participation in the Consortium for State Court Interpreter Certification.²²

Specifically, Section 1 of the Act amends Code section 15-1-9.3 relating to senior judges of the state court or juvenile court by adding a provision for the appointment of senior probate judges.²³ Code section 15-1-9.3(a)(4) provides that any former

14. See Georgia House of Representatives Voting Record, HB 1158 (Feb. 2, 2000); Audio Recording of House Proceedings, Feb. 2, 2000 (remarks by Rep. Curtis Jenkins) <<http://www.ganet.org/services/leg/audio/2000archive.html>>; State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

15. Compare HB 1158, as introduced, 2000 Ga. Gen. Assem., with HB 1158 (SCS), 2000 Ga. Gen. Assem.

16. See Jackson Interview, *supra* note 4.

17. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

18. See Georgia Senate Voting Record, HB 1158 (Mar. 1, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

19. See Georgia House of Representatives Voting Record, HB 1158 (Mar. 13, 2000).

20. See 2000 Ga. Laws 838, § 5, at 841.

21. See *id.* §§ 1, 3, at 839-41.

22. See *id.* § 2, at 839; see also O.C.G.A. § 15-1-14 (Supp. 2000).

23. Compare 1992 Ga. Laws 112, § 4, at 116, and 1998 Ga. Laws 513, § 3, at 536 (formerly found at O.C.G.A. § 15-1-9.3 (Supp. 1999)), with O.C.G.A. § 15-1-9.3(a)(4) (Supp. 2000).

probate judge who served as a probate judge for at least ten years may be appointed as a senior judge.²⁴

Section 3 of the Act also adds two new Code sections.²⁵ Code section 15-9-140 allows a probate judge to serve as a judge in any probate court in which he would otherwise be qualified to serve upon the request of a judge in that court.²⁶ The section authorizes the requesting judge to pay the assisting judge either a per diem expense allowance or actual expenses for the costs of serving in the requesting court.²⁷ Code section 15-9-140 specifies that the assisting judge shall not be entitled to any further compensation for such services.²⁸

By creating Code section 15-9-141, the Act provides that the Governor may appoint senior judges of the probate courts; the Governor may appoint any judge of a probate court who retires under the provisions of Title 47, Chapter 11 or any probate judge who served as a probate judge for at least eight years who is not eligible for appointment as a senior judge under any other law.²⁹ This section also authorizes a senior probate court judge to serve in any probate court if requested by a judge of that court.³⁰ A probate judge may request assistance from a senior judge if the requesting court is disqualified in a matter pending before the court or unable to preside for any reason.³¹ The Act also requires that the requesting judge shall pay the senior judge's compensation and expenses.³² Finally, the Act provides that such compensation and expenses shall not effect the senior judge's retirement benefits.³³

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24. Compare 1992 Ga. Laws 112, § 4, at 116, and 1998 Ga. Laws 513, § 3, at 536 (formerly found at O.C.G.A. § 15-1-9.3 (Supp. 1999)), with O.C.G.A. § 15-1-9.3(a)(4) (Supp. 2000).

25. See O.C.G.A. §§ 15-9-140, -141.

26. See *id.* § 15-9-140.

27. See *id.*

28. See *id.*

29. See *id.* § 15-9-141.

30. See *id.*

31. See *id.*

32. See *id.*

33. See *id.*