



MUNICIPAL COURT

# Judges Bulletin

Summer 2005 • The Georgia Council of Municipal Court Judges Newsletter • Vol. 6, No. 3

## Council of Municipal Court Judges Officers 2005 - 2006

### President

Judge John K. Edwards, Jr., Valdosta

### President Elect

Judge Michael P. Cielinski, Columbus

### First Vice President

Judge Bill Clifton, Forsyth

### Secretary

Judge Kathy Gerhardt, Macon

### Treasurer

Judge A. Frost Ward, Morrow

### Immediate Past President

Judge William M. Coolidge III, Duluth

### Editor

Chief Judge Margaret Washburn, Duluth

## District Representatives

### District One

Judge Kevin J. Street, Thunderbolt  
Judge Willie T. Yancey, II, Thunderbolt

### District Two

Judge Herbert W. Benson, Ashburn  
Judge Willie C. Weaver, Sr., Albany

### District Three

Judge Michael P. Cielinski, Columbus  
Judge David M. Pierce, Byron, Perry, Roberta

### District Four

Judge Angela T. Butts, Decatur  
Judge Warren W. Hoffman, Stone Mountain

### District Five

Judge Elaine Carlisle, Atlanta  
Judge Calvin S. Graves, Atlanta

### District Six

Judge John Clayton Davis, Forest Park  
Judge David J. Turner, Jr., Manchester

### District Seven

Judge Diane M. Busch, Marietta  
Judge Robert L. Whatley, Austell

### District Eight

Judge Tommy Bobbitt, III, Jeffersonville  
Judge Charles Merritt, Jr., Madison

### District Nine

Judge Hammond Law, III, Flowery Branch  
Judge William F. Brogdon, Lawrenceville

### District Ten

Judge Chip Hardin, Washington  
Judge C. David Strickland, Covington

## President's Corner

John K. Edwards, Jr.  
City of Valdosta

As we begin a new fiscal year for our Council of Municipal Court Judges, I want to thank all of you for your continued support and the confidence you have shown in me by allowing me to serve as your President. It has been a privilege and a pleasure to get to know so many of our judges better. I believe that we have a truly great year ahead and look forward to representing this Council and all the municipal courts throughout our State.

Our June Annual Recertification Seminar in Savannah was a great success. The informal feedback I received was very positive with strong participation from our membership. As you know, elections were held at our annual meeting and I want to congratulate our newest elected officers: Judge Michael P. Cielinski, President-Elect; Judge Bill Clifton, Vice-President; Judge Kathryn Gerhardt, Secretary; and Judge Frost Ward, Treasurer. In addition, special thanks to those members who agreed to serve as District Representatives for our Council. Your participation is of vital importance to this organization and we need your active involvement.

The Executive Committee also met in Savannah on June 22nd and heard from George Nolan of the Georgia Courts Automation Commission (GCAC) regarding their new initiative to certify software for the courts in Georgia. This far-reaching program will have a significant

impact on municipal courts as we respond to the State's new citation disposition reporting requirements in the coming months. Additional information regarding the role of the GCAC can be found at [www.gcacommission.org](http://www.gcacommission.org). In response, we have formed a Strategic Planning Committee on Courts Automation for Municipal Courts. The GCAC has agreed to facilitate the meetings of this committee which will formulate a final report and strategic plan for municipal court automation. The Committee will consist of ten (10) municipal court judges and five (5) municipal court clerks or court administrators. If you would like to be involved, please let me know as we have a few judicial vacancies remaining on the Committee which need to be filled.

Two new committees were also created at this meeting: a Social Committee headed by Judge Bill F. Brogdon and Judge Kathryn M. Schrader, and a Scholarship Research Committee headed by Judge Frost Ward and me.

Our next meeting of the Executive Committee of the Council of Municipal Court Judges will be held on October 14th, 2005, at 1:00 p.m. at the Administrative Office of the Courts in Macon. In addition to the Executive Committee officers, we need our District representatives at this meeting so please makes plans to attend!

I hope that any of you with questions, suggestions or concerns will contact me at (229) 293-3171 or [jedwards@valdostacity.com](mailto:jedwards@valdostacity.com)

# Congratulations to Our Newly Elected Officers

I appreciate our new President's confidence in me and my reappointment as Editor. John had a tough choice from a field of applicants for the position, so I will work hard to retain his trust.

As I announced at the business meeting during our Savannah seminar, I am changing the look and the quality of our news bulletin. But this starts with You. I am asking all of our newly elected district representative to send an article to me about a judge in their district and how that judge has served his or her community.

We have so many talented, neat, cool and smart judges in our municipal gene pool! It is time to talk about the positive things that we do and

what we give to our communities. I want some digital photos of you in your judicial capacities, your community service capacities or with your families. Also, if there is a change in your judiciary, let us know.

Let us know who should be honored in your district for his or her service. If there is an interesting development in the law, statutory or case law, send in an article and share it with all of us. We used to rely on Judge Bill Coolidge for all of the updates on the law. We owe it to Bill to keep up his good work.

Our newsletter is considered to be one of the best, so let's all contribute this year!

Thanks, Margaret Washburn

# Benchbook Report

Glen Ashman, Benchbook Committee

Work has begun on the 2005 update for the Municipal Judges benchbook. A couple of chapters will have substantial rewrites and updates and completion is planned for fall 2005.

We do need the help of all Municipal Judges. Any Judges that have useful court forms who can provide them to me will add to the quality and usefulness of the benchbook, and thanks are given to those who already have supplied forms. These can be emailed to me at [geaatl@msn.com](mailto:geaatl@msn.com) as an attachment. I prefer Word Perfect format, but Word format is also fine.

There have been a number of cases in the past year that have an effect on our courts and their operation - both state and federal. Any Judges who want to point out specific cases they have found of significance also can email them (the case caption and citation and a brief summary, or the full text, would be useful) to me.

As indigent defense is obviously a focus of attention and change, any Judges who have suggestions on adding to the material in that area, and we already have some material that will be added, also may email me.

The benchbook is as good as its contributors and suggestions are welcome.

## TABLE OF CONTENTS

President's Corner .....	1
Congratulations Newly Elected Officers .....	2
Benchbook Report .....	2
Minutes of the Spring Meeting .....	3
Tour of Humiliation .....	4
Legislative Update .....	5
Treasurer Report .....	7
Indigent Defense Guidelines (SB 226) .....	8
Attorney General's Opinion .....	9
Photo Gallery from June Seminar .....	10
Interesting Rulings .....	12
GA Mock Trial Letter of Thanks .....	13
2005 Judicial Education Courses .....	14

# Minutes of the Spring Meeting

The spring meeting of the Georgia Council of Municipal Judges was held on April 15, 2005, at the Administrative office of the Courts (AOC) office in Macon, Georgia. Judge John Edwards called the meeting to order at 10:10 a.m.

The first order of business was the consideration of the minutes of the Winter meeting held in Atlanta on February 3, 2005. Upon motion duly made and seconded, the minutes were approved as submitted.

Judge Edwards then called for the financial reports. Bernadette Smith reported that, as of March 31, 2005, \$8,541.22 of the state appropriated funds had been spent, leaving a balance available of \$11,458.78. She also announced that the State appropriated funds will be cut by an estimated \$500.00 in the next fiscal years budget. In the absence of Judge Ward, who was unable to attend because of illness, Ms. Smith also gave the report with respect to private funds held by the Council. As of February 28, 2005, \$43,981.03 remained on deposit in the private funds account. Since that time, a check in the amount of \$1,000 had been presented to the Younger Lawyers Division of the State Bar of Georgia for use in support of its mock trial competition in memory of Judge William Coolidge, III leaving a balance of \$42,981.03.

Judge Edwards gave a brief President's report. He noted that he has received a copy of the report of the Court Technology Committee and only a small section of the report addresses municipal courts. The focus of that section is on court clerks and their technology needs including the need for training. By way of information, he also noted that a legal research tool, the Case Maker, is in the process of being made available for municipal court

judges, although it would be offered only to judges who are attorneys.

Marla Moore then gave the report for the AOC. She noted that her office had been very busy because of the recently ended legislative session, during which time her office tracked the status of proposed bills as they worked their way through the House and Senate. The Court Services Division had also been busy with such things as staffing conferences, holding meetings, working on technology for automated transmission of caseload information, and training for court clerks. With respect to training for clerks, Ms. Moore suggested that the Council seek the assistance of the Georgia Municipal Association (GMA) in pursuing legislation to require mandatory training of clerks despite the difference of opinion between the GMA and the AOC as to the proper agency to be in charge of the training. The AOC believes training should be overseen by judges since they are in a supervisory role over clerks, however, the GMA sees clerks as city employees. Ms. Moore recommended that the Municipal Court Judges Training Council take a more active role in setting up a training program. She also announced that Judge Dennis T. Still will serve as the municipal judges' representative on the Commission on Interpreters and that the Municipal Courts Salary Surveys will be sent out in July. In closing, the Committee was reminded that the AOC has research staff in Macon available to do research for judges.

The following committee reports were then given:

1. Newsletter. On behalf of Judge Washburn, Bernadette Smith asked for contributions. The next edition

of the newsletter will be coming out as soon as the legislative summary is complete. She also reported that Judge John B. Adams of the City of Folkston will replace Judge Payne as Chair of the Golf Tournament Committee.

2. Nominating. Judge Pierce requested that judges submit nominations to him for officers for next year as well as for representatives on the Executive Committee.

3. Legislative. Marla Moore reported for Judge Barrett that the pretrial diversion bill which had been strongly supported by the Municipal Court Judges Council did not pass. It will automatically be on the agenda for the 2006 session.

Reports on liaisons with the following agencies were then given:

1. Judicial Council. Judge Edwards noted that there was nothing new to report and advised that he will attend the next meeting of the Judicial Council June 7-8, 2005 at the Marriott Hotel in Savannah.

2. Probation Advisory Council. Marla Moore reported for Judge War that the next meeting of the Council will be held in Valdosta, Georgia, May 19th. A planning session will also be held in June to work on controls and guidelines needed because of the proliferation of private probation services.

3. Georgia Superior Court Clerks Authority. Judge Bobbitt reminded judges of the July 1, 2005 deadline for electronic reporting of traffic tickets to DMVS.

4. Public Defender Standards

continued on page 4

## Minutes continued

Council. Judge Edwards reported for Judge Barrett that the Public Defender Standards Council adopted new standards for determining indigence on April 6, 2005. Copies of the standards are available through the AOC. He also reminded the judges that all courts need to have an ordinance in effect establishing an indigent defense program. A model ordinance has been proposed and is available from GMA. Per Judge Barrett, it was requested that each of these items be placed on the Municipal Judges website in addition to an announcement being placed on the listserv notifying the judges of the addition.

Under the heading of old business, Judge Edwards addressed the proposed response by the Council to the Chief Justice's report on indigent defense. He has decided not to write to the Chief Justice at this time because the Council is responding by addressing the issues raised in the report, two of which are mandatory training for municipal court clerks and the adoption of uniform municipal court rules. A follow-up letter to the Chief Justice may be appropriate at a later time to advise him of progress made in these areas.

Judge Edwards then gave an update on the status of the uniform rules. Keith Scott, a former magistrate judge who had chaired the Committee on Uniform Rules for the Council of Magistrate Courts, was

hired as a consultant and has drafted proposed rules. Copies were distributed to the judges present whom were asked to review the rules and give feedback to Judge Edwards. Once a final draft is ready, it will have to be adopted by the Council of Municipal Court Judges and then sent to the Georgia Supreme Court for approval. Judge Edwards asked that funds be allocated to pay the consultant and a motion was passed authorizing Judge Edwards to negotiate a contract with Mr. Scott for his work on the rules.

As an item of new business, a discussion was held about how to compute fees on cases made by camera. Since such cases have been designated civil cases, there is a question as to whether they should be subject to legislatively mandated fees. As yet, no definitive answer to this question has been given.

Also under the heading of new business, Judge Edwards advised that the death of Judge Coolidge created a vacancy on the Georgia Courts Automation Commission which

needed to be filled. Judge C. David Strickland, City of Porterdale, volunteered to serve as the Municipal Court representative on this Commission.

Judge Still then proposed that the Council host a reception at the Traffic Court Seminar in Savannah as a way to encourage judges to get to know one another. A motion was made to authorize the expenditure of funds for food, but not alcohol beverages for two receptions, Wednesday and Thursday during the seminar. The motion passed unanimously.

As the final order of business, Judge Edwards advised that the next meeting of the Council will be the Summer Annual meeting. It will be held in Savannah in conjunction with the Traffic Court Seminar in June.

There being no further business, the meeting was adjourned.

Respectfully submitted,  
Kathryn Gerhardt, Secretary

PLEASE  
RECYCLE

## The Tour of Humiliation

The annual golf tournament, also known as the Humiliation

Tour, was held on June 21 at the Savannah Harbor Inn. Our elder statesman from Savannah, Judge Charlie Brooks, handily defeated the field of duffers, and then retired to his home, whereupon he took a nap.

The lovely Joan Hilliard easily

defeated Judge Maurice Hilliard. Judge John Adams and Judge Larry Dillon fought for the bragging rights to best ball or worst ball. As always, a good time was had by all. We have a new committee that will get the notices for next year's tournament to you by separate mailing from the news bulletin. However, always consult your bulletin for updates and news of your fellow judges.



# Legislative Update

From Charles Barrett, Legislative Committee Chair

*The following legislation is of interest to municipal court judges, however, is in no way an exhaustive reprint of legislation passed this session:*

## **HB 36 - MUNICIPAL CORPORATIONS; CREATION; REVISE PROVISIONS**

This bill allows for the incorporation of municipal corporations. Among its many provisions, it eliminates certain distance requirements ("three-mile rule"). The bill also allows for the creation of municipal courts at the discretion of the new municipality. Effective Date: April 15, 2005 (Date signed by Governor). This applies to 2005 legislation.

## **HB 48 - ETHICS IN GOVERNMENT; AMEND PROVISIONS**

This bill provides for a comprehensive change to ethics policy in relation to state government, local government, and public officers (which includes all judicial officers). Specifically, the bill affects ethics and conflicts of interest; changes certain definitions; changes certain provisions relative to declaration of policy; and changes several provisions relating to the Ethics Commission. With respect to the judiciary in particular, a person would not be eligible to fill a vacancy on the Supreme Court, Court of Appeals, superior court, or state court in the case that the person had contributed to the Governor's campaign committee in the 30 days prior to the vacancy or any time after the vacancy. Any person aggrieved by a finding in violation of the provisions of the bill by the Commission shall be entitled to "judicial review."

Effective Date: January 9, 2006 - Signed by Governor on May 5, 2005

## **HB 236 - THEFT; CERTAIN SERVICES OR PROPERTY KNOWINGLY OBTAINED BY DECEPTION**

This bill will amend the Georgia code relating to the theft of services statute regarding rental cars. If a person knowingly uses false identification to obtain a rental car or does not return a rental car to its proper location and does not notify the owner, that person can be found guilty of the crime of theft.

Effective Date: May 9, 2005 (Date signed by Governor)

## **SB 89 - CONTROLLED SUBSTANCES, SCHEDULE I; DEFINITIONS, EXCEPTIONS**

This bill is an annual supplement to the drugs characterized as Schedule I controlled substances. The bill adds a number of new chemicals/compounds to be considered controlled substances for law enforcement purposes.

Effective Date: May 9, 2005 (Date signed by Governor)

## **SB 106 - VIOLENT VIDEO GAME; DISPLAY EXPLANATION OF RATING SYSTEM; PENALTY**

This bill would require video game retailers to post rating system guidelines in a prominent and conspicuous location. Those violating the law will be subject to a civil fine of between \$250 and \$500 dollars per violation.

Effective Date: May 10, 2005 (Date signed by Governor)



## **HB 172 - CRIME VICTIMS RESTITUTION ACT OF 2005; ENACT**

The major provisions of HB172 include:

- Allows victims of crime in many cases to delay bringing a civil action against the perpetrator of a crime until the prosecution of the criminal case is complete.
- Requires the court to consider victim impact statements prior to sentencing or determining restitution.
- Makes restitution easier to collect by codifying a procedure that will allow the enforcement of restitution orders after the criminal sentence is complete.
- Restitution will be ordered even if a defendant is sentenced to prison for a period of straight time, life imprisonment, life without parole or even death penalty cases.
- Clarifies that individuals, businesses and other organizations are entitled to restitution.
- Whenever possible, juveniles that commit a crime must make restitution to their victims.
- The court is authorized, but not required, to make the parent or parents who have supervisory responsibility over the child to pay restitution to the victim where the court finds that the parent or parents knew or should have known of the juvenile's propensity to commit such acts and the acts are due to the parent's negligence or the parents' reckless disregard for the juvenile's propensity to commit such acts.
- In any case where the state, county or city is due restitution, the victim shall receive any restitution first.
- Makes restitution a priority by requiring that at least 50 percent of all payments by criminals be used to satisfy restitution to victims before any such payment can be used to sat-

# Legislation continued

isfy other fines and/or fees.

- Requires that restitution be disbursed to victims in a timely manner.
  - Allows the court to require an offender to assign his or her wages to pay restitution.
  - Requires the clerk of court, probation or parole officers to review all restitution orders at least twice a year to ensure that restitution is being paid.
  - Allows the Department of Juvenile Justice or the Board of Pardons and Parole to intercept tax refunds when there is an outstanding amount of restitution owed a crime victim. The Department of Corrections already has this authority.
  - Also listed under Fines & fees
- Effective Date: July 1, 2005 - signed by Governor on April 11, 2005

## **TRAFFIC LAW**

### **HB 20 - MOTOR VEHICLES; WINDOW TINT RESTRICTIONS; PROVISIONS**

This bill modifies current law regarding window tinting on personal automobiles. Current law will be changed to allow for no more than a 32 percent light transmission, plus or minus 3 percent, or increase light reflectance to more than 20 percent. The bill exempts law enforcement vehicles and limousines.

Effective Date: May 2, 2005 (Date signed by Governor)

### **HB 279 - HIGHWAYS; VEHICLES HAULING CERTAIN PRODUCTS; WEIGHT LIMITATION VARIANCE**

Vehicles hauling certain raw materials are allowed a 5% variance on the weight limitations when hauling from the farm to the first point of marketing or processing. Anything over the newly allowable 5% variance will be subject to a fine of 5 cents per pound.

Effective Date: May 5, 2005 (Date signed by Governor)

### **HB 501 - DEPARTMENT OF DRIVER SERVICES; CREATE AS SUCCESSOR TO DMVS**

This bill dissolves the Department of Motor Vehicles, and replaces it with the Department of Driver Services. The new department will be responsible for issuing driver's licenses, which have been modified to create five- and ten-year licenses. Previous functions handled by the DMVS will be divided between the Departments of Public Safety and Revenue and the Public Service Commission. The bill will also remove the requirement that a driver take an eye examination; only first-time drivers and those over the age of 65 will be required to take such an examination. An amendment was incorporated into the bill which will modify the DUI license reinstatement fee from \$200 to \$500.

Effective Date: July 1, 2005 - Signed by Governor on May 2, 2005

### **SB 226 - JOSHUA'S LAW; CREATE GEORGIA DRIVER'S EDUCATION COMMISSION**

This bill would require 16 year olds who wish to obtain a driver's license to complete a driver's education course (either through public school or at a private driving school). Those teenagers who do not complete a driver's education course will have to wait until they are 17 to obtain a driver's license. The bill also restricted

the number of non-family members a teenage driver may have in the car. Additionally, a 5 percent fee will be assessed in the issuance of every traffic ticket issued in the state. The fee will be assessed and collected by the clerk or other court officer in charge of collecting moneys from fines. The fees will be paid to the Georgia Superior Court Clerk's Cooperative Authority for remittance to the Office of Treasury and Fiscal Services to be deposited into the general fund of the state treasury.

Effective Date: The section applying to fees becomes effective on May 10, 2005 (Date signed by Governor), and will be repealed on June 30, 2008; the rest of the bill becomes effective January 1, 2007

### **SB 273 - DRIVER'S LICENSES; CLASS C; CHANGE DEFINITION**

This bill changes the definition of a class C license as follows: Any single vehicle with a gross vehicle weight rating of less than 26,001 pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of 10,000 pounds, or any such vehicle towing a vehicle with a gross vehicle weight rating in excess of 10,000 pounds, provided that the combination of vehicles has a gross combined vehicle weight rating less than 26,001 pounds.

Effective Date: July 1, 2005 - Signed by Governor on May 5, 2005



# Financial Report

Submitted by Judge Frost Ward

## COUNCIL OF MUNICIPAL JUDGES FINANCIAL REPORT

JULY 1, 1999 THROUGH MAY 31, 2005

<b><u>TOTAL MUNICIPAL BANK DEPOSIT</u></b>	<b>\$52,708.99</b>
<b>Dues, Golf, Coffee Mugs Sales and Judge Association Dues</b>	
<b><u>REFUNDED AMOUNT</u></b>	<b>- \$210.00</b>
<b>Seven \$30.00 checks for overpayment of dues.1001,1002,1004,1005,1006 1007,1008. Check #1016 Voided.</b>	
<b><u>TOTAL COUNCIL DEPOSIT</u></b>	<b>\$52,498.99</b>
<b><u>EXPENSES</u></b>	
<b>Bank Charges</b>	
<b>checks and deposit slips</b>	<b>-\$104.50</b>
<b>Coffee Mugs</b>	<b>-\$557.69</b>
<b>Legislative Breakfast (ck.#1003 dated 02-09-01)</b>	<b>-\$1014.88</b>
<b>Legislative Breakfast (ck.#1009 dated 01-10-02)</b>	<b>-\$710.54</b>
<b>Legal Fees (ck.#1010 dated 05-13-02)</b>	<b>- \$ 65.92</b>
<b>Benchmark Trophy Center (ck.#1011 dated 07-10-02)</b>	<b>-\$774.44</b>
<b>Legislative Breakfast (ck.#1012 dated 01-31-03)</b>	<b>-\$821.25</b>
<b>President's Plaque (ck.#1013 dated 10-03-03)</b>	<b>-\$ 43.00</b>
<b>Judge Cielinski (ck.#1014 dated 10-03-03)</b>	<b>-\$ 58.32</b>
<b>Legislative Reception Deposit(ck.#1015 dated 10-28-03)</b>	<b>-\$625.00</b>
<b>Legislative Reception Final (ck.#1017 dated 03-05-04)</b>	<b>-\$1922.00</b>
<b>Judicial Council Reception (ck.#1018 dated 08-19-04)</b>	<b>-\$564.57</b>
<b>American Heart Association (ck.#1019 dated 11-03 -04)</b>	<b>-\$100.00</b>
<b>Legislative Breakfast (ck.#1020 dated 01-26-05)</b>	<b>-\$637.50</b>
<b>Legislative Breakfast (ck.#1021 dated 02-03-05)</b>	<b>-\$468.35</b>
<b>State Bar Donation (ck# 1022 dated 05-16-05)</b>	<b>-\$1000.00</b>
<b><u>PETTY CASH</u></b>	<b>-\$50.00</b>
<b><u>PETTY CASH PAYMENT</u></b>	
<b>Long Distance Calls</b>	<b>\$15.50</b>
<b>Office Supplies</b>	<b>\$34.50</b>
<b><u>TOTAL EXPENSES</u></b>	<b>-\$9,517.96</b>
<b><u>BANK BALANCE AS OF MAY 31, 2005</u></b>	<b>\$42,981.03</b>
<b><u>BANK BALANCE AT LAST REPORT FEBRUARY 28, 2005</u></b>	<b>\$43,981.03</b>
<b><u>CHANGE SINCE LAST REPORT</u></b>	<b>-\$1000.00</b>

# Guidelines for Determining Indigence

This was provided at a recent seminar for your use in court or to add to your benchbook.

2005  
POVERTY GUIDELINES AND STANDARDS FOR DETERMINING  
INDIGENCE

Size of Family Unit	48 Contiguous States	150% or Less (All types of Cases Qualify)	151 % plus (Misd., VOP, or Juvenile Offense punishable by imprisonment (Parents Income) do not qualify unless person earns under 200% and can demonstrate undue hardship)	200% or Less (All Felonies and Juveniles Charged with Felonies (Parents Income))	People over 200% but less than 300% (eligibility determined by extraordinary cost of case vs. disposable income)
1	\$9,570	\$14,355	----	\$19,140	\$28,710
2	12,830	19,245	----	25,660	38,490
3	16,090	24,135	----	32,180	48,270
4	19,350	29,025	----	38,700	58,050
5	22,610	33,915	----	45,220	67,830
6	25,870	38,805	----	51,740	77,610
7	29,130	43,695	----	58,260	87,390
8	32,390	48,585	----	64,780	97,170
For each additional person, add	3,260				

Source: Federal Register, Vol. 70, No.33, February 18, 2005, pp.8373-8375

# Attorney General Opinion



THURBERT E. BAKER  
ATTORNEY GENERAL

## Department of Law State of Georgia

40 CAPITOL SQUARE SW  
ATLANTA, GA 30334-1300

### VIA FACSIMILE/U.S. MAIL

May 13, 2005

WRITER'S DIRECT DIAL  
(404) 651-6247  
FAX (404) 657-3239

David R. Williams, Executive Director  
Georgia Superior Court Clerks'  
Cooperative Authority  
1875 Century Boulevard  
Suite 100  
Atlanta, Georgia 30345

RE: Senate Bill 226

Dear David:

This responds to your request of yesterday regarding the interpretation of Senate Bill 226. It is my understanding that Governor Perdue signed Senate Bill 226 on May 10, 2005.

Section 2 of Senate Bill 226 enacts O.C.G.A. § 15-21-179 to provide as follows:

- (a) In every case in which any court in this state shall impose a fine or bond payment, which shall be construed to include costs, for any violation of the **traffic laws of this state or for violations of ordinances of political subdivisions which have adopted by reference the traffic laws of this state**, there shall be imposed as an additional penalty a sum equal to 5 percent of the original fine.
- (b) Such sums shall be in addition to any amount required to be paid into any pension, annuity, or retirement fund under Title 47 or any other law and in addition to any other amounts provided for in this article.
- (c) This Code section shall be repealed in its entirety on June 30, 2008, unless extended by an Act of the General Assembly.

(emphasis added). Section 2 also enacts O.C.G.A. § 15-21-180 to provide that:

# PHOTO GALLERY FROM JUNE SEMINAR



# PHOTO GALLERY FROM JUNE SEMINAR



# Interesting Rulings in Recent Criminal Cases

By: Senior Magistrate Judge R. Hopkins Kidd; DeKalb County

**"If you can't get the exact date, do the best you can."**

Hunt vs. StateAO4AO256 Ga. Court of Appeals July 16, 2004

There is a recognized exception to the rule that an indictment must allege a specific date where the evidence does not permit the state to identify a single date on which the offense occurred, so the indictment instead may allege that the offense occurred between two particular dates.

**"Get visitation order right or visitation may be wrong."**

Brassell vs. The State 589AO391 Court of Appeals State of Georgia

Father awarded visitation of minor child in divorce decree - "father have right of reasonable visitation, which shall include, but not be limited to, every

other weekend from 6 :00 p.m. Friday until 6 :00 p.m. on Sunday." Father kept child two extra days for visitation and warrant taken against father OCGA 16-5-45(b)(1)({};).

Supreme Court 'held that Superior Court should have dismissed charge - that the words: ("Shall include, but not be limited to..."). "Plainly does not limit the definition of "reasonable visitation" and father cannot be in violation of the statute unless the terms of the custody order are so clear that the parties have exact notice of the time which may not be transgressed. The court's decree is what causes the prosecution to fail and not the vagueness of the statute.

**"If you don't have your lawyer, you may not get by."**

Collins vs. State A04A1O81, 08-17-04

Defendant was not entitled to a continuance to obtain legal counsel and prepare defense after trial court warned defendant of danger of representing himself when defendant fired his privately retained counsel 10 days before trial; trial court offered defendant appointment of standby counsel, which defendant refused. Defendant's conviction for cocaine trafficking is affirmed.

**"Let the Defendant be heard."**

Coleman vs. State A04A 1976 (10-01-04)

Judgment reversed as trial court erred in summarily sentencing defendant for contempt without filling him an opportunity to be heard.



# High School Mock Trial



## YLD High School Mock Trial Committee

### *Subcommittee on Development*

Robert A. McDonald

*Chair, HSMT Subcommittee on Development*

*Immediate Past Chair of the HSMT Committee*

3 June 2005

Judge Frost Ward  
Council of Municipal Court Judges  
8157 Tour Court,  
Jonesboro, GA 30236

Dear Judge Ward:

The 2005 season has been a very good year for the Georgia Mock Trial Competition. Fifteen regions around the state produced an exceptional batch of regional champion teams that competed for the State title over the weekend of March 12<sup>th</sup> and 13<sup>th</sup>. Our 2005 State Champion is from Henry W. Grady High School in Atlanta and they represented the state of Georgia over Mother's Day weekend in Charlotte, North Carolina at the national tournament. The Georgia team placed 16<sup>th</sup> out of 44 teams in the tournament. Both our Craig Harding Court Artist and Journalism Contests were held statewide again in 2005, and we held our seventh annual Law Academy at the University of Georgia School of Law with 44 participants last November. Hanna Cho from Ringgold High School in Ringgold, our 2005 Court Artist State Champion, and the overall winner in our Journalism Contest, Sarah Schachet of Riverwood High School in Atlanta accompanied the Grady team to Charlotte to cover the tournament through art and writing. Hanna's artwork and Sarah's article will be featured in the 2005 annual report scheduled for release in the fall.

We gratefully acknowledge your contribution for \$1,000 (Check # 1022 dated 5/16/05) to support the Georgia Mock Trial Competition's Annual Fund Drive this season in memory of Judge William M. Coolidge, III. This contribution was deposited into the High School Mock Trial program's account at the State Bar of Georgia. This donation will also be acknowledged in program publications, including the 2005 annual report and the 2006 team, teacher and judging panel materials.

As the competition looks back on its seventeenth season statewide and forward to the eighteenth season, Georgia is benefiting from the contributions of young people who have participated in the program your donation makes possible. They are participating in our society as responsible citizens, serving on juries and contributing to their communities. A few, even, are graduating from law school and returning to coach a local mock trial team, and we are very excited to see them joining the YLD High School Mock Trial Committee and developing into the bar leaders of the future. Thank you for your support of the mock trial program, helping the Young Lawyers Division bring valuable law-related education to the youth of Georgia.

Very truly yours,

Robert A. McDonald

*The Mock Trial Program is a Project of the Young Lawyers Division, State Bar of Georgia*  
104 Marietta Street, NW • Suite 100 • Atlanta, GA 30303 • 404/527-8779 or 800/334-6865 (ext. 779) • FAX: 404/527-8717  
E-mail: [mocktrial@gabar.org](mailto:mocktrial@gabar.org) • Web Site: [www.gabar.org](http://www.gabar.org) (click the YLD link)

# 2005 Judicial Education Courses Remaining

<b>Basic Certification</b>	September 14-16	Georgia Center, Athens
<b>Recertification Course</b>	September 15-16	Georgia Center, Athens
<b>Judicial Use of Computers</b>	September 15-16	Georgia Center, Athens
<b>Traffic Violations, Ages 17-21</b>	October 13-14	Georgia Center, Athens
<b>Pharmacology of Drugs</b>	October 27-28	UGA Pharmacy School
<b>Pharmacology of Drugs</b>	December TBA	UGA Pharmacy School

To register please contact: Kathy Mitchem  
Institute of Continuing Judicial Education  
123 Dean Rusk Hall  
University of Georgia  
Athens, GA 30602  
Phone: 706/542-7402, FAX: 706/542-4211

---

## Council of Municipal Court Judges

Administrative Office of the Courts  
244 Washington Street, SW • Suite 300  
Atlanta, Georgia 30334

**MARGARET GETTLE WASHBURN**  
*Chief Judge, Duluth  
Editor*

**DAVID L. RATLEY**  
*Director*

**MARLA MOORE**  
*Associate Director for  
Court Services*

**ASHLEY G. STOLLAR**  
*Graphic Design*