

State Bar Legislative Update – 1/29/10

The 2010 Georgia General Assembly convened on Monday, January 11, and worked for four days before taking a one-week break to work on the amended FY 2010 and FY 2011 state budgets. Following is the State Bar's legislative package and other legislation of interest. All legislation that did not pass last session is available for consideration in the 2010 session.

State Bar Legislative Package

[HB 24](#) – Rules of Evidence: This legislation by Judiciary Chairman Wendell Willard, which would conform the Georgia rules of evidence to the federal rules of evidence, is in the House Judiciary Committee.

[SB 131](#) - Trust Code Revisions: This substantial revision of the Trust Code, from the Fiduciary Law Section, passed the Senate last session and was assigned to the House Judiciary committee. It passed the House Judiciary Committee on January 26.

Ga. Appellate Practice Resource Center Funding Request: The Judicial Council has requested \$551,000 for the amended FY' 10 budget and \$556,800 for the FY' 11 budget for the Resource Center.

Office of Dispute Resolution: The Judicial Council has requested \$64,256 and \$70,276, respectively, in the AFY '10 and FY '11 budgets for the ODR.

Victims of Domestic Violence Funding: The Administrative Office of the Courts has requested \$1,887,158 for the AFY '10 budget and \$1,907,023 for the FY '11 budget.

Ga. Public Defender Standards Council: The GPDSC has requested \$40,135,359 in the FY '11 budget. The State Bar supports adequate funding for the GPDSC.

Additional Legislation Supported or Opposed By The State Bar

[SB 41](#) – Attorney Television Advertising: SB 41, by Senator Seth Harp, and introduced on 1/26/09, would provide regulations and conditions on attorney television advertising in an effort to educate and protect the consumer/client. The Senate Special Judiciary committee discussed this bill on 2/10/09, but no action was taken. The State Bar opposes this bill.

[SB 42](#) – Amendments to the Ga. Indigent Defense Act of 2003: This legislation, sponsored by Senator Preston Smith, Senate Judiciary Chair, passed the Senate on 2/19/09 and was assigned to the House Judiciary Non-Civil committee. The Non-Civil committee will be working on a substitute for this year, and the Bar will be working to ensure that the provisions the Bar has supported will be part of the substitute. A link to the substitute bill will be established as soon as it is available.

[SB 138](#) – Transparency in Lawsuits: This bill, authored by Sen. John Wiles, prohibits a right to private action unless specific language says you can. It was heard in committee on 2/17/09, but no action was taken. The State Bar opposes this bill.

Rep. Bobby Franklin introduced three resolutions on 1/15/09: [HR 72](#) urges the Supreme Court to disbar or disallow admission to attorney(s) who alter or backdate legal documents; [HR 73](#) is a constitutional amendment that would remove the Court of Appeals' and Supreme Court's individual decisions from binding other courts as precedents, and; [HR 74](#) is a constitutional amendment that would give the General Assembly the power to remove and discipline judges. These resolutions have been assigned to the House Judiciary committee. The State Bar opposes HR 73 and HR 74, but has not taken a position on HR 72.

Other Items of Interest

Senator John Wiles has stated that he may introduce a constitutional amendment that would change the Bar from mandatory to voluntary. He also may propose a constitutional amendment which would allow the General Assembly to decrease the salary levels of judges during the middle of their terms. In the Senate Judiciary Committee on January 28, Chairman Preston Smith said that he would be holding hearings on the relationships between the Bar, judiciary, and legislature. We expect these hearings to occur over the next few weeks.

[SB 23](#) - Seatbelt Use/Negligence: These bills allow that failure to use a seatbelt may be considered in tort cases. The Senate passed SB 23 on 2/25/09 and it was assigned to House Judiciary.

[HB 1002](#) – Court Security: This bill, authored by Rep. Wendell Willard, increases the penalties for crimes against any officer of the court. It was introduced on 1/26/10 and was assigned to the House Judiciary Non-civil committee.

[HB 973](#) – Magistrate Courts: Rep. Mike Jacobs authored this bill that would increase the jurisdictional limit for magistrate courts in civil claims from \$15,000 to \$25,000. It was introduced on 1/26/10 and assigned to House Judiciary.

[HB 956](#) – Grounds for Appeal: This bill was authored by Rep. Jay Powell and provides that the court may dismiss certain appeals which are improperly filed. It was introduced on 1/26/10 and assigned to the House Judiciary committee.

[HB 917](#) – Uniform Foreign Depositions Act: This bill, authored by Rep. Mike Jacobs, provides two methods for a party in foreign jurisdiction to obtain a deposition or documents: 1) obtaining a Georgia county subpoena by submitting a foreign subpoena to a clerk of county in which discovery is sought or 2) obtaining a mandate, writ, or commission out of any court of record in a foreign jurisdiction. It was assigned to the House Judiciary committee and is on a subcommittee agenda for 2/1/10.

[HB 663](#) – Manufacturer Liability: HB 663, authored by Rep. David Ralston and introduced on 3/5/09, disallows liability against manufacturers for claims based upon market share theories. It was assigned to the House Judiciary committee.

[HB 623](#) – State Liability: This bill, by Rep. Carl Rogers and introduced on 3/3/09, would lower the state's liability under the State Tort Claims Act to about 1/3 of current amounts in the law. It was assigned to the House Judiciary committee.

[HB 545](#) – Service of Process: This bill authored by House Judiciary Chairman Wendell Willard creates a certification process for process servers. It passed the House on 3/12/09, and passed the Senate Public Safety committee on 3/25/09. It was recommitted to Public Safety upon session adjournment.

[HB 451](#) – Uniform Commercial Code: This bill, by Rep. Mike Jacobs, revises Article 7. It passed the House on 3/12/09, and passed Senate Special Judiciary on 3/25/09. It was recommitted to Special Judiciary upon session adjournment.

[HB 96](#) – “Georgia Free Enterprise and Antitrust Act of 2009”: This legislation by Rep. Austin Scott was introduced on 1/16/09 and assigned to the House Judiciary committee.

[HB 73](#) – Special Masters: This bill allows courts to appoint special masters. It passed House Judiciary on 2/19/09 and was recommitted to the committee upon session adjournment. This language was included in SB 108 by the House Judiciary committee on 3/24/09 and is still in committee.

[HB 32](#) – Death Penalty without Unanimous Juries: This legislation, authored by Rep. Tim Bearden, was introduced on 1/13/09 and assigned to the House Non-Civil Judiciary committee.

[HB 26](#) – Recorded Deeds: This bill would require recorded deeds to disclose the inclusion or exclusion of mineral rights. It was assigned to the House Judiciary committee. The Real Property Section has expressed opposition to this bill. It was tabled in subcommittee on 2/18/09.

[HR 178](#) – Restrictive Covenants: This constitutional amendment is a companion to HB 173 which passed last year. Authored by Rep. Kevin Levitas, it would allow the blue-penciling of restrictive covenants. It is in the House Judiciary Committee.