

**Magistrate Court Clerks' Annual Training**  
**June 10-11, 2021**  
**Jekyll Island Club Resort, Jekyll Island, GA**

**Thursday, June 10, 2021**

7:00 – 8:00	Group Breakfast
8:00 – 9:50	<b>Garnishments</b> – Hon. Jim Altman
10:00 – 1:50	<b>Abandoned Motor Vehicles</b> – Hon. Michael Barker
11:10 – Noon	<b>Record Retention</b> – Ms. Bobbie Yandell
Noon – 1:00	Group Lunch/Business Meeting
1:00 –1:50	<b>Appeal Dates/Judgments/Fi. Fa.</b> –Hon. Megan Kinsey
2:00-2:50	<b>Abandoned Mobile Homes</b> – Hon. Alan Harvey
3:00-5:00	<b>GCIC (including Record Restriction &amp; Bond Conditions)</b> – Ms. leasha Reddit & Ms. Patrisha Wilson

**Friday, June 11, 2021**

7:00 – 8:00	Group Breakfast
8:00 – 8:50	<b>Legislative Update</b> – Hon. Brendan Murphy
9:00 – 9:50	<b>Foreign &amp; Dormant Judgments</b> – Hon. Jennifer Lewis
10:00 – 10:50	<b>Criminal Overview</b> – Hon. David Crosby
11:00 – Noon	<b>Q&amp;A Session</b> – Hon. Carla Brown, Hon. Judy Castaneda, & Ms. Tammy Douglas



**INSTITUTE OF CONTINUING JUDICIAL EDUCATION**

University of Georgia  
1150 South Milledge Avenue  
Athens, GA 30602-5025  
<https://icje.uga.edu>

<p><b><i>Council of Magistrate Court Clerks Inc.</i></b></p> <p><b><i>Executive Committee &amp; District Representative TERM 2019-21</i></b></p>	<p>President: Carla Brown, Lee County PO Box 522 Leesburg, GA 31763 Work: 229-759-6016 Email: <a href="mailto:cabrown@lee.ga.us">cabrown@lee.ga.us</a></p>
<p>Vice President: Cynthia Kelley, Burke County PO Box 401 Waynesboro, GA 30830 Work: 706-554-4281 Email: <a href="mailto:c.kelley@burkecounty-ga.gov">c.kelley@burkecounty-ga.gov</a></p>	<p>Secretary-Treasurer: Cheryl McMillan, Charlton County 1520 Third St, Suite B Folkston, GA 31537 Work: 912-496-2617 Email: <a href="mailto:cmcmillan@charltoncountyga.gov">cmcmillan@charltoncountyga.gov</a></p>
<p>District 1: Renea Daniels, Brantley County PO Box 1150 Nahunta, Ga 31553 Work: 912-462-6730 Email: <a href="mailto:danielsreneard@gmail.com">danielsreneard@gmail.com</a></p>	<p>District 2: Kelley Maslak, Lowndes County PO Box 1349 Valdosta, GA 31603 Work: 229-671-2623 Email: <a href="mailto:kmaslak@lowndescounty.com">kmaslak@lowndescounty.com</a></p>
<p>District 3: Jackie Norman, Lee County PO Box 522 Leesburg, GA 31763 Work: 229-759-6016 Email: <a href="mailto:jnorman@lee.ga.us">jnorman@lee.ga.us</a></p>	<p>District 4: Patricia Carreker, Rockdale County PO Box 289 Conyers, GA 30012 Work: 770-278-7796 Email: <a href="mailto:Patricia.Carreker@rockdalecountyga.gov">Patricia.Carreker@rockdalecountyga.gov</a></p>
<p>District 5: Cathelene "Tina" Robinson Clerk: Fulton Co 136 Pryor Street S W, Room 106 Atlanta, GA 30303 Work: 404-613-5313 Email: <a href="mailto:Tina.robinson@fultoncountyga.gov">Tina.robinson@fultoncountyga.gov</a></p>	<p>District 6: Jan Streetman, Upson County PO Box 890 Thomaston, GA 30286 Work: 706-647-6891 Email: <a href="mailto:jstreetman@upsoncountyga.org">jstreetman@upsoncountyga.org</a></p>
<p>District 7: Monika Welchel, Bartow County 112 Cherokee Avenue Suite 101 Cartersville, GA 30120 Work: 770-387-5070 Email: <a href="mailto:welchelm@bartowga.org">welchelm@bartowga.org</a></p>	<p>District 8: Elizabeth Morgan, Toombs County P.O. Box 1460 Lyons, Georgia 30436 Work: 912- 526-8984 <a href="mailto:toombsmagistratecourt@gmail.com">toombsmagistratecourt@gmail.com</a></p>
<p>District 9: Danette Davis, Fannin County 400 W. Main St., Suite 202 Blue Ridge, GA 30513 Work: 706-632-5558 Email: <a href="mailto:ddavis@fannincountyga.org">ddavis@fannincountyga.org</a></p>	<p>District 10: Barbara Gray, Hart County PO Box 698 Hartwell, GA 30643 Work: 706-376-6817 Email: <a href="mailto:bgrayhart@yahoo.com">bgrayhart@yahoo.com</a></p>

Nominating Committee:	
<p>Shelly Herndon, Pierce Co  3550 Hwy 84 Ste 2  Blackshear, GA 31516  Work: 912-449-2027  <a href="mailto:shelly.herndon@piercecountyga.gov">shelly.herndon@piercecountyga.gov</a></p>	<p>Alecia Lawrence  22 North Court Street  Camilla, GA 31730  Work: 229-336-2077  Email: <a href="mailto:amiller@mitchellcountyga.net">amiller@mitchellcountyga.net</a></p>
Advisor:	<p>Judge Connie Holt, Morgan County  PO Box 589  Madison, GA 30650  Work: (706) 342-3088  Email: <a href="mailto:Cholt@morgancountyga.gov">Cholt@morgancountyga.gov</a></p>

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MANDATORY CONTINUING JUDICIAL EDUCATION ATTENDANCE FORM  
TURN IN THIS SHEET BEFORE LEAVING

**Magistrate Court Clerks' Annual Training  
June 10-11, 2021  
Jekyll Island Club Resort, Jekyll Island, GA**

Court Title: \_\_\_\_\_ Name: \_\_\_\_\_

County: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Are you a current Judge? \_\_\_\_\_ Have you sat as a Judge in the past 12 months? \_\_\_\_\_

**COURTS SERVED:** *(Check ALL that apply to you!)*  
State  Juvenile  Probate  Magistrate  Municipal

**Thursday, June 10, 2021**

Garnishments	8-9:50 (2 HRS)	Hours Claimed _____
Abandoned Motor Vehicles	10-10:50 (1 HR)	Hours Claimed _____
Record Retention	11:10 - NOON (1 HR)	Hours Claimed _____
Appeal Dates/Judgments/Fi.Fa.	1-1:50 (1 HR)	Hours Claimed _____
Abandoned Mobile Homes	2-2:50 (1 HR)	Hours Claimed _____
GCIC	3:00-5:00 (2 HRS)	Hours Claimed _____

**Friday, June 11, 2021**

Legislative Update	8-8:50 (1 HR)	Hours Claimed _____
Foreign/Dormant Judgments	9-9:50 (1 HR)	Hours Claimed _____
Criminal Overview	10:00-10:50 (1 HR)	Hours Claimed _____
Questions & Answers	11:00-Noon (1 HR)	Hours Claimed _____

**TOTAL HOURS CLAIMED FOR THE SEMINAR: \_\_\_\_\_**

(I certify the above attendance information recorded is accurate & represents my true attendance / participation at the seminar.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



*Please leave in designated box or mail to:  
ICJE, 1150 S. Milledge Ave., Athens, GA 30602-5025*

**EVALUATION**  
**Magistrate Court Clerks' Annual Training**  
June 10-11, 2021, Jekyll Island Club Resort, Jekyll Island, GA

Instructions: Numerically score the topic, (1) being low and (5) being high; for relevance (timeliness and target of focus) of the instructional topic in relation to work currently being done by your office. Comment on the instructor, explaining how this person might improve a presentation, such as by:

- (i) Describing illustrative problems and tested solutions;
- (ii) Incorporating reference use of the handout materials;
- (iii) Responding to questions or observations contributed by participants.

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<b>Garnishments</b>	1 2 3 4 5
Hon. Jim Altman	
Comments:	

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<b>Abandoned Motor Vehicles</b>	1 2 3 4 5
Hon. Michael Barker	
Comments:	

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<b>Record Retention</b>	1 2 3 4 5
Ms. Bobbie Yandell	
Comments:	

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<b>Appeal Dates/Judgments/Fi.Fa.</b>	1 2 3 4 5
Hon. Megan Kinsey	
Comments:	

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<b>Abandoned Mobile Homes</b>	1 2 3 4 5
Hon. Alan Harvey	
Comments:	

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<b>GCIC</b>	1 2 3 4 5
Ms. Ieasha Reddit & Ms. Patrisha Wilson	
Comments:	

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**Legislative Update**

Hon. Brendan Murphy

Comments:

[1](#) [2](#) [3](#) [4](#) [5](#)

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**Foreign & Dormant Judgments**

Hon. Jennifer Lewis

Comments:

[1](#) [2](#) [3](#) [4](#) [5](#)

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**Criminal Overview**

Hon. David Crosby

Comments:

[1](#) [2](#) [3](#) [4](#) [5](#)

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**Questions & Answers**

Led / Moderated by Hon. Carla Brown, Hon. Judy Castaneda, &amp; Ms. Tammy Douglas

[1](#) [2](#) [3](#) [4](#) [5](#)

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**GENERAL COMMENTS:**

Complete this form and mail with your check (payable to the State Bar of Georgia) directly to:  
 State Bar of Georgia, 104 Marietta Street, NW, Suite 100, Atlanta, GA 30303. Put your bar # on your check.

**LAWYER CREDIT: MANDATORY CONTINUING LEGAL EDUCATION FORM**  
**2021 Magistrate Court Clerks' Annual Training**  
**June 10-11, 2021, Jekyll Island Club Resort, Jekyll Island, GA**

See the schedule below and add the number of CLE credits for the units you attended. There are up to 10.4 CLE hours, including 2.4 trial practice hours. Each CLE hour costs \$4.00. Example: 10.4 hours x \$4 is \$41.60.

Name: \_\_\_\_\_

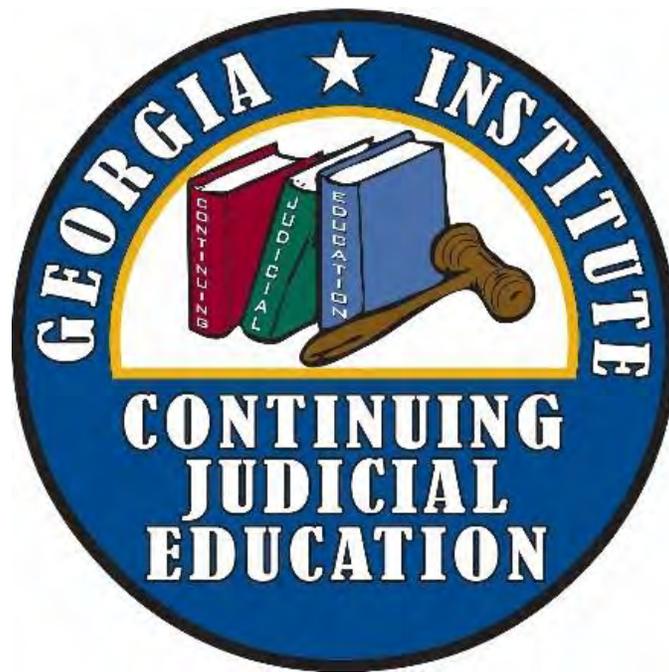
Bar Number \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Total CLE Hours Claimed: \_\_\_\_\_, including \_\_\_\_\_ Trial Practice Hours

Total Amount Enclosed: \_\_\_\_\_

Time	Topic	Speaker	Credit
<b>Thursday</b>	<b>June 10, 2021</b>		
8-9:50 am	Garnishments	Hon. Jim Altman	1.8 hrs
10-10:50 am	Abandoned Motor Vehicles	Hon. Michael Barker	0.8 hrs.
11:10 – Noon	Record Retention	Ms. Bobbie Yandell	0.8 hrs.
1-1:50 pm	Appeal Dates/Judgments/Fi.Fa	Hon. Megan Kinsey	0.8 hrs.; including 0.8 hrs. Trial Practice
2-2:50 pm	Abandoned Mobile Homes	Hon. Alan Harvey	0.8 hrs.
3-5:00 pm	GCIC	Ms. Ieasha Reddit & Ms. Patrisha Wilson	2 hrs.
Time	Topic	Speaker	Credit
<b>Friday</b>	<b>June 11, 2021</b>		
8-8:50 am	Legislative Update	Hon. Brendan Murphy	0.8 hrs.
9-9:50 am	Foreign & Dormant Judgments	Hon. Jennifer Lewis	0.8 hrs.; including 0.8 hrs. Trial Practice
10-10:50 am	Criminal Overview	Hon. David Crosby	0.8 hrs.; including 0.8 hrs. Trial Practice
11:00 – Noon	Q&A Panel	Hon. Carla Brown, Hon. Judy Castaneda, & Ms. Tammy Douglas	1 hr.

# Garnishments



**Hon. Jim Altman**

# Garnishments

James Altman  
Senior Magistrate

SUCH  
EXCITEMENT!!

1. Three Kinds of Garnishments
  - a. Regular
  - b. Continuing
  - c. Child Support
2. Jurisdictional Amount applies

3. Recent changes in Garnishment law
  - a. Approval no longer required (applies to Dispos too).
  - b. 2016 math error corrected – exempt wages
  - c. Part (C) service by regular mail, took the clerk out of the acceptance of the affidavit.
  - d. Took Defendant out of the 3<sup>rd</sup> party claims, but: N.B. Defendant can raise the 3<sup>rd</sup> party claim, but claimant must come in to prove it.

e. Recent Interesting Cases

i. Blach v. Diaz-Verson, Civil (2018-02-05, 2018-03-06)

S17Q1508 When is a financial institution not a financial institution.

ii. Principal Lien Services, LLC v. NAH Corporation, Civil

(2018-05-14, 2018-06-07) A18A0029 Defaulting Garnishee could not raise lack of service of Defendant. You have to read between the lines. THIS Garnishee missed his chance to raise the lack of service on Defendant and could not raise.

iii. Rivers v. Rivers et al., Civil (2019-01-16, 2019-02-01)

A18A1725 No statutory time limit to move for default.

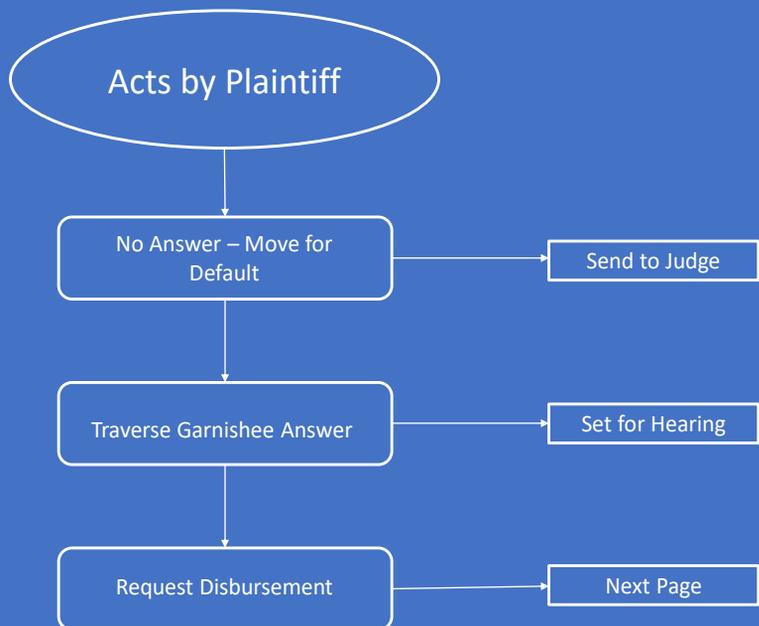
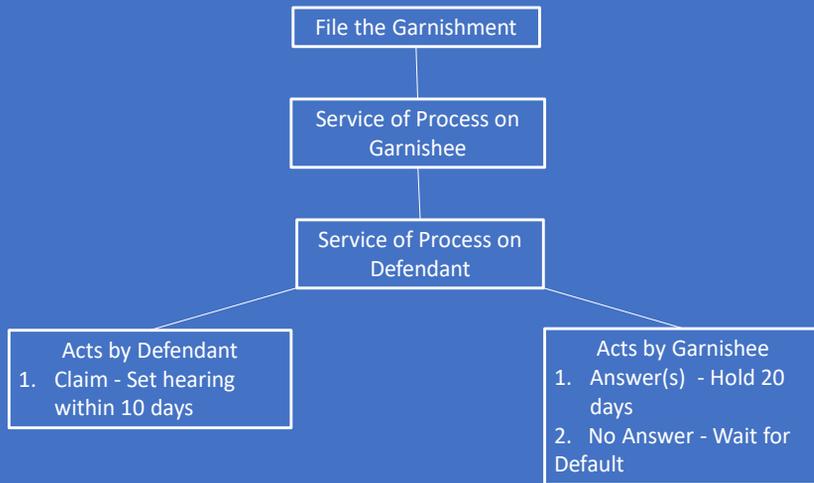
iv. Not garnishment but important to your lives.

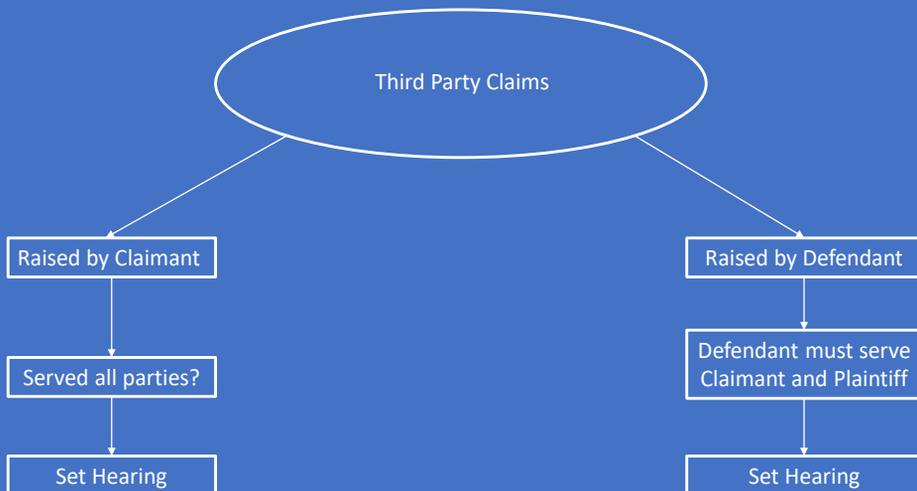
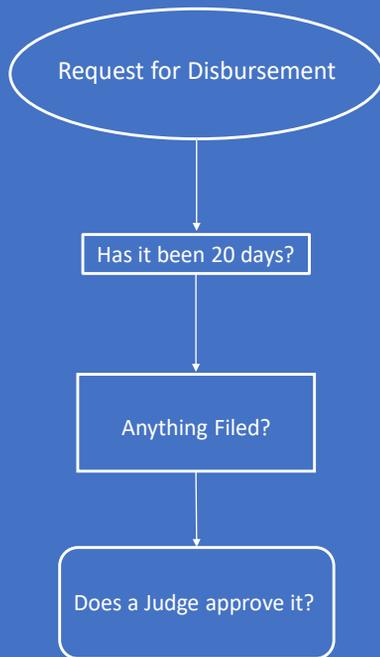
1. Prince v. Rawls, Civil (2018-06-13, 2018-07-23)

A18A0212 Clerk closed early due to snow storm. No designated alternate location to file. Time periods extended to next business day.

2. Anglin v. State Farm Fire & Casualty Insurance

Company, Civil (2019-01-10, 2019-01-23) A18A1723 No summons attached to service copy of complaint is not service of process





- Do you have to have a copy of a judgment (fifa) in order to file a garnishment?
- Copy of Motion form for the one time disbursement on continuing garnishments (needed)?
- What step need to know when a motion is filed for a default judgement on continuing garnishment? – forms needed and accepting motion to open up. \$50 fee plus 100% due to the Plaintiff to open out of default – who get the funds when paid into the registry of the court? What changes are made in process of default on garnishee? Does the court issue an automatic default after the 45 days or is a motion needed from the Plaintiff? What to do if answer from Garnishee certificate of service is not signed? Can the Court accept an answer from Garnishee before the 30 days? What should the frequency of the answers be from Garnishee? If Defendant is no longer employed by Garnishee, is the first answer the only one they need to file?
- If a business answers that they have moved from “x” county to “y” county does the clerk issue a release of garnishment?
- If answer is filed is Defendant is no longer employed, does the clerk issue a release?

### Changes to the Garnishment Act – 2020

1. Adopts definition of “Statutory Overnight Delivery,” see OCGA 9-10-12. 18-4-1(7).
2. Exempts Garnishments in Magistrate Court from the Civil Practice Act. 18-4-2(c).
3. No adding new parties as Garnishee, correct or clarify Garnishee only. 18-4-2(d).
4. Amount due may include costs and service fees from other garnishments. 18-4-3(e).
5. Collateral securities held by Garnishee exempt for debt to Garnishee, even if not yet due. 18-4-4(b).
6. N.B. Continuing Garnishment now lasts 1095 days!!! That’s 3 years! 18-4-4(c)(1).
7. Underlying debt consisting of private student loans now limited to 15%. Summons must show that it is based on such loan conspicuously on the face of the summons. 18-4-5(a)(2)(A), 18-4-5(a)(5).
8. Employers of Independent Contractors, i.e. not subject to withholding, deemed to have no knowledge of disposable income. May answer without regard to exemptions. 18-4-5(a)(4)
9. Plaintiff and Defendant can agree to reduce amount due. Form for such agreement provided. 18-4-5(d) Amounts can be paid directly to Plaintiff. 18-4-10(a).

10. Clarification that Defendant service can be anytime after filing of affidavit, but not more than three days after service on Garnishee. The 3-day rule survives, but clarified early is ok after filing. 18-4-8(b)(1).

11. No more return receipts on Defendant service. But written proof of service still required. Copies of envelopes showing refused, website printouts all ok. 18-4-8(b)(1)(A)(ii).

12. No new summons after two years changed to exclude Support Garnishments. 18-4-9(b).

13. After two years from such original filing date and provided that no unadjudicated claims, traverses, appeals, motions, or other pleadings remain before the court, the garnishment proceeding, other than a continuing garnishment or continuing garnishment for support, based on such affidavit shall automatically stand dismissed unless there are funds remaining in the registry of the court or a new summons of garnishment has been issued in the preceding 30 days. In the event funds remain in the registry at such time and the plaintiff has filed its certificate of compliance pursuant to subparagraph (b)(3)(A) of Code Section 18-4-8 and has made its application for disbursement, all such funds will be deemed abandoned by the defendant and disbursed to the plaintiff, notwithstanding any other provision of this Code section. (I thought it was just easier to quote that). 18-4-9(b).

14. Paper answer acceptance by court required notwithstanding e-file rules. 18-4-11(f).

15. Payroll services may file answer on behalf of Garnishee. 18-4-12(b).

16. Claims filed after dismissal do not need to be heard. 18-4-15(d). More importantly, res judicata applies to claims. Claims already adjudicated or *could have been* raised and adjudicated. I think this means claims must be raised on the first answer of a continuing garnishment. 18-4-15(d).

17. Fixes problem of no Plaintiff Traverse of defaulting Garnishee's "answer" in Motion to Open Default. 30 days to Traverse. 18-4-16(b).

18. Plaintiff's Traverse found to have no reasonable justification may have attorney's fees assessed. 18-4-19(d)(2).

19. Request for Disbursement may be filed with the action. Only one is required. 18-4-20(b).

20. Plaintiff and Garnishee not liable to any party or nonparty for wrong personal identifying information reasonably believed to be correct. 18-4-23(c) and (d).

21. There are a bunch of little stylistic or conforming changes not mentioned here. Many forms changed or added to suit changes.

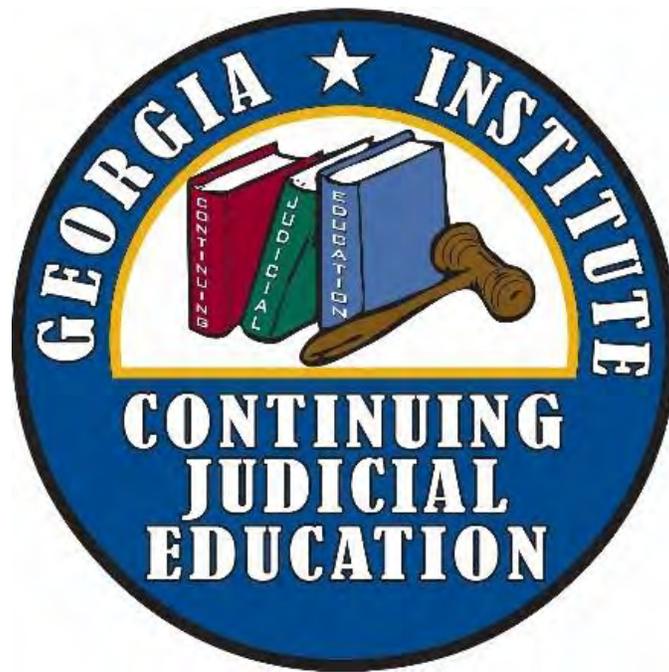
## Garnishments

1. Three Kinds of Garnishments
  - a. Regular
  - b. Continuing
  - c. Child Support
2. Jurisdictional Amount applies
3. Recent changes in Garnishment law
  - a. Approval no longer required (applies to Dispos too).
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    - iii. Rivers v. Rivers et al., Civil (2019-01-16, 2019-02-01) A18A1725 No statutory time limit to move for default.
    - iv. Not garnishment but important to your lives.
      1. Prince v. Rawls, Civil (2018-06-13, 2018-07-23) A18A0212 Clerk closed early due to snow storm. No designated alternate location to file. Time periods extended to next business day.
      2. Anglin v. State Farm Fire & Casualty Insurance Company, Civil (2019-01-10, 2019-01-23) A18A1723 No summons attached to service copy of complaint is not service of process.
4. Key moments in the clerk's life
  - a. Service of Process
    - i. On the Garnishee
    - ii. On the Defendant
      1. 3 day Rule
      2. Savings provision
  - b. Payment of funds
    - i. Regular Garnishments
    - ii. Wage Garnishment
  - c. Defaults
5. Garnishment flow chart
6. 2020 Garnishment changes
  - a. Adopts definition of "Statutory Overnight Delivery," see OCGA 9-10-12. 18-4-1(7).
  - b. Exempts Garnishments in Magistrate Court from the Civil Practice Act. 18-4-2(c).

- c. No adding new parties as Garnishee, correct or clarify Garnishee only. 18-4-2(d).
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- u. There are a bunch of little stylistic or conforming changes not mentioned here. Many forms changed or added to suit changes.

# Abandoned Mobile Vehicles



**Hon. Michael Barker**



## Return of the Abandoned Motor Vehicles

JUDGE MICHAEL BARKER, MAGISTRATE COURT OF CHATHAM COUNTY  
MBARKER@CHATHAMCOUNTY.ORG

HB 307

Effective September 1, 2019

## Four Types of Liens (really only 2)

- (A) A towing company/storage facility that removes a vehicle from public property at the request of a peace officer;
- (B) A towing company/storage facility that removes a vehicle from private property at the request of a property owner;
- (C) A repair facility which has been in possession of a motor vehicle for at least 15 days without communication from an owner or insurance company, or payments of amounts owed; and
- (D) A salvage dealer which has been in possession of a motor vehicle for at least 15 days without communication from an owner or insurance company.

## First Duty (Public Towing)

Within 3 days of removal, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-15 (d).

## First Duty (Private Towing)

- (1) Within 3 days of removal, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (a) (1).
- (2) Within 1 day of requesting owner/lienholder info, the company must submit information to law enforcement for stolen vehicle search. OCGA § 40-11-16 (a)(2). Failure of the peace officer to perform the stolen vehicle search will not limit any remedies available to the towing company. OCGA § 40-11-16 (a)(3).

## First Duty (Repair Facility)

After 15 days, but no later than 180 days, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (b)(1).

## First Duty (Salvage Dealer)

After 15 days, but no later than 60 days, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (b).



## Towing – Public and Private Owners are Known

Notification letter must be sent to all owners via (a) certified mail or (b) hand delivery with acknowledgement by signature and copy of recipient's driver's license within 15 days of removal. OCGA § 40-11-19 (a)(1).

## Repair Facilities and Salvage Dealers Owners are Known

REPAIR FACILITIES: After 15 days, but no later than 180 days, notification letter sent to all owners via certified mail. OCGA § 40-11-19 (b)(1).

SALVAGE DEALERS: After 15 days, but no later than 60 days, notification letter sent to all owners via certified mail. OCGA §§ 40-11-19 (c)(1).

## Owners are Unknown

If owners are unknown, or department does not send information in a timely manner, company shall advertise once a week for two weeks in newspaper of general circulation or legal organ where vehicle was obtained. The advertisement must be placed within 60 days of removal/failure to pay (for repair facilities)/last communication (for salvage dealers). OCGA § 40-11-19 (a)(2), (b)(2), (c)(2).

If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19 (a)(1), (b)(1) or (c)(1) within 10 days of obtaining the information. OCGA § 40-11-19 (a)(3), (b)(3), (c)(3).

## Special Rule -- Repair Facilities

IF A REPAIR FACILITY RECEIVES A DEMAND PURSUANT TO OCGA § 40-3-54 (b), THE REPAIR FACILITY HAS 30 DAYS TO INSTITUTE FORECLOSURE PROCEEDINGS (AS EITHER AN ABANDONED MOTOR VEHICLE OR A **MECHANIC'S LIEN**). **FAILURE TO DO SO FORFEITS THE LIEN**. THIS DEMAND WAIVES ALL FIRST NOTICE REQUIREMENTS. OCGA § 40-10-19 (f).

# Disclaimers

If an owner executes a Disclaimer of Motor Vehicle Ownership Interest, the owner waives all future notices as required by the Act, including service of the Petition. OCGA § 40-11-19.5.

The Disclaimer does not waive the owner's right to claim any surplus that might exist after the auction. Disposition of the surplus is governed by OCGA § 44-12-211.1.



## Filing Fee



## Petition Contents/Attachments

- A. Sworn/verified foreclosure petition
- B. Authority to tow vehicle and schedule of rates with local governing authority (public property towing only)
- C. Stolen vehicle search request (private property towing only)
- D. Owner information obtained from department or agency
- E. Evidence of compliance with first notice requirements/Disclaimer
- F. Itemized amounts sought

## Service of Petition

The company must serve known owners via certified mail or statutory overnight delivery, return receipt requested, with a copy of the claim and the answer form. OCGA § 40-11-19.1 (b)(1). Electronic proof of delivery shall be accepted. Refusal of certified mail is tantamount to delivery. OCGA § 40-11-19.1 (b)(2).

## Service – Unknown/Unserved Owners

If the notice under OCGA § 40-11-19 was satisfied by advertisement, or signed proof that the notification letter required by OCGA § 40-11-19.1 (b)(1) has not been returned after ten days of such mailing or is returned as unclaimed, the company has 60 days to place advertisement once a week for two weeks in the newspaper of general circulation or legal organ where action has been filed. OCGA § 40-11-19.1 (b)(2).

If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19.1 (b)(1). OCGA § 40-11-19.1 (b)(3).

## Answer to Petition

Owner has 10 days to file an answer. If service is accomplished by advertisement, answer must be filed within 10 days of the expiration of the two-week advertisement. OCGA § 40-11-19.1 (c).

The answer must be sworn. OCGA § 40-11-19.1 (b)(1).

## Court Action – Answer Filed

The hearing must be held within 10 days of receipt of the answer. OCGA § 40-11-19.1 (c).

Continuances are allowed for good cause. OCGA § 40-11-19.1 (e)(1).

## Court Action -- Trial

At the trial, the court shall hear evidence of and determine

- (1) whether the removal of the vehicle was lawful,
- (2) whether the lien amount is based upon recoverable fees pursuant to OCGA § 40-11-19 (d),
- (3) whether notice to all owners was proper, and
- (4) shall hear any other facts pertinent to the case to reach a decision on foreclosure of the lien.

The court may hear evidence of and make a determination on whether storage fees should accrue after the filing date of the petition. OCGA § 40-11-19.1 (e)(2).

## Court Action – No Answer Filed

If no answer is filed pursuant to OCGA § 40-11-19.1 (c), petitioner shall provide proof of service and request judgment in writing.

Unless providently hindered, judgment shall be decided within 15 (calendar) days of submission.

If motion is denied, petitioner may refile petition once within 6 months. OCGA § 40-11-19.1 (d).

## Judgment (Part 1)

If the petition is granted, enter a judgment awarding the following amounts (if proven):

(a) Removal (Towing) Fee

- (i) If towed from private property, the maximum allowable charge for the removal of the motor vehicle as set forth by rule and regulation of the Department of Public Safety for maximum state-wide rate tariffs, unless preempted by applicable federal law, rule, or regulation
- (ii) If towed from public property at the request of a peace officer, the rate specified pursuant to an agreement with a local governing authority, unless preempted by applicable federal law, rule, or regulation;

## Judgment (Part 2)

(b) Per Diem Storage Fee (calculate per day from date of filing through 25 days after judgment is rendered – OCGA § 40-11-19 (d)(2))

- (i) If towed from private property, the maximum allowable charge for the storage of the motor vehicle as set forth by rule and regulation of the Department of Public Safety for maximum state-wide rate tariffs, unless preempted by applicable federal law, rule, or regulation
- (ii) If towed from public property at the request of a peace officer, the rate specified pursuant to an agreement with a local governing authority, unless preempted by applicable federal law;

## Judgment (Part 3)

- (c) Repair Fees (if applicable);
- (d) Cost of Obtaining Owner Information;
- (e) Notification/Advertising Costs;
- (f) Prejudgment interest at the rate of 4% per annum from which the OCGA § 40-11-19 notification was received; and
- (g) 15% attorney's fees (if filed and pursued by attorney of record).
- (h) All costs of court (filing fee + certified copy fee = \$25)

## Judgment (Part 4)

Within 5 days of judgment, the court shall enter an order authorizing sale of the vehicle pursuant to OCGA § 40-11-19.2. OCGA §§ 40-11-19.1 (d), (e)(1).

The court can charge up to \$14 for a certified copy of this order. OCGA § 40-11-19.1 (d), (e)(2).

# Forms

Any forms required to be made available by the Council of Magistrate Court Judges under this article shall be developed and published no later than September 1, 2019. Such forms shall be no longer than one page per form, front and back, and every effort shall be made to consolidate any required notice or mailing to a single page.

OCGA § 40-11-19.4



Questions?

ABANDONED MOTOR VEHICLE ADVERTISEMENT NOTICE  
(TOWING OR STORAGE COMPANY)

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

You are hereby notified, in accordance with OCGA 40-11-19 (a) (2), that the above-referenced vehicle is subject to a lien and a petition may be filed in court to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

The vehicle is currently located at \_\_\_\_\_.

Anyone with an ownership interest in this vehicle should contact the following business immediately:

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone #: \_\_\_\_\_

ABANDONED MOTOR VEHICLE ADVERTISEMENT NOTICE  
(TOWING OR STORAGE COMPANY)

You are hereby notified, in accordance with OCGA 40-11-19 (a) (2), that each of the below-referenced vehicles are subject to a lien and a petition may be filed in court to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

The vehicles are currently located at \_\_\_\_\_.

The vehicles subject to liens as stated above are identified as:

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

List additional vehicles as necessary.

Anyone with an ownership interest in any of these vehicles should contact the following business immediately:

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone #: \_\_\_\_\_

ABANDONED MOTOR VEHICLE NOTICE  
(REPAIR FACILITY)

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_  
\_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID (VIN)#: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Dear Owner:

You have been identified as an owner of the above-referenced vehicle, which is currently being held at the business listed below, and are being notified in accordance with OCGA 40-11-19(b)(1). The following fees are currently due:

\$\_\_\_\_\_ Fees owed for repair of vehicle

\$\_\_\_\_\_ Daily fee for storage of vehicle after completion of repairs

Daily fees will accrue until full payment has been made at the rate of \$\_\_\_\_\_ per day. Additional fees that are recoverable by a repair facility include fees for obtaining the owner's information, notifying the owner (including advertising, if necessary), court filing costs, attorney's fees, and interest.

The repair facility has the right to petition a court to foreclose a lien for all amounts owed after 10 calendar days from the date this notice was sent. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

If you wish to disclaim ownership in this vehicle, complete and return the form found on the next page/back of this letter. Disclaiming ownership and judgment of foreclosure being entered shall result in the holding of an auction. The excess proceeds (if any), that may exist shall be deposited with the Department of Revenue and be treated as unclaimed property. Disposition of such property shall be governed pursuant to O.C.G.A. § 44-12-211.1.

Please contact us immediately, or we will avail ourselves of all remedies allowed by law.

The vehicle is currently located at \_\_\_\_\_.

Anyone with an ownership interest in this vehicle should contact the following business immediately.

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_

DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

Georgia, \_\_\_\_\_ County

I, \_\_\_\_\_ (name of motor vehicle owner) do hereby swear that I disclaim any and all ownership interest in:

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

I understand that by signing this form I will no longer hold any rights to the above listed vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against the vehicle.

I further understand that disclaiming an ownership interest in this vehicle does not relieve me of any other debts related to such vehicle, such as a debt entered into for the purchase of such vehicle.

By signing this form, I understand that I waive all future notices to which I am entitled under Article 1A of Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

Sworn to and Subscribed before me

This \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_

Notary Public or Clerk

\_\_\_\_\_

Owner of Vehicle

My Commission Expires: \_\_\_\_\_

If you wish to disclaim ownership, return this completed and notarized form to \_\_\_\_\_

\_\_\_\_\_ (name and address of party owed fees)

ABANDONED MOTOR VEHICLE ADVERTISEMENT NOTICE  
(REPAIR FACILITY)

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Person who left vehicle at facility: \_\_\_\_\_

Any information relating to owner: \_\_\_\_\_

You are hereby notified, in accordance with OCGA 40-11-19 (b) (2), that the above-referenced vehicle is subject to a lien and a petition may be filed in court to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

The vehicle is currently located at \_\_\_\_\_.

Anyone with an ownership interest in this vehicle should contact the following business immediately:

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone #: \_\_\_\_\_

ABANDONED MOTOR VEHICLE NOTICE  
(SALVAGE DEALER)

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_  
\_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID (VIN) #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Dear Owner:

You have been identified as an owner of the above-referenced vehicle, which is currently being held at the business listed below, and are being notified in accordance with OCGA 40-11-19(c)(1). The following fees are currently due:

\$\_\_\_\_\_ Fee for storage of the vehicle. (\$\_\_\_\_\_ per day for \_\_\_\_\_ days.)

Daily fees will accrue until full payment has been made at the rate of \$\_\_\_\_\_ per day from the date of this notice. Additional fees that are recoverable by a salvage dealer include fees for obtaining the owner's information, notifying the owner (including advertising, if necessary), court filing costs, attorney's fees, and interest.

The salvage dealer has the right to petition a court to foreclose a lien for all amounts owed after 10 calendar days from the date this notice was sent. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

If you wish to disclaim ownership in this vehicle, complete and return the form found on the next page/back of this letter. Disclaiming ownership and judgment of foreclosure being entered shall result in the holding of an auction. The excess proceeds (if any), that may exist shall be deposited with the Department of Revenue and be treated as unclaimed property. Disposition of such property shall be governed pursuant to O.C.G.A. § 44-12-211.1.

Please contact us immediately, or we will avail ourselves of all remedies allowed by law.

The vehicle is currently located at \_\_\_\_\_.

Anyone with an ownership interest in this vehicle should contact the following business immediately.

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_

DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

Georgia, \_\_\_\_\_ County

I, \_\_\_\_\_ (name of motor vehicle owner) do hereby swear that I disclaim any and all ownership interest in:

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

I understand that by signing this form I will no longer hold any rights to the above listed vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against the vehicle.

I further understand that disclaiming an ownership interest in this vehicle does not relieve me of any other debts related to such vehicle, such as a debt entered into for the purchase of such vehicle.

By signing this form, I understand that I waive all future notices to which I am entitled under Article 1A of Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

Sworn to and Subscribed before me

This \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_

Notary Public or Clerk

\_\_\_\_\_

Owner of Vehicle

My Commission Expires: \_\_\_\_\_

If you wish to disclaim ownership, return this completed and notarized form to \_\_\_\_\_

\_\_\_\_\_ (name and address of party owed fees)

ABANDONED MOTOR VEHICLE ADVERTISEMENT NOTICE  
(SALVAGE DEALER)

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Person who left vehicle at facility: \_\_\_\_\_

Any information relating to owner: \_\_\_\_\_

You are hereby notified, in accordance with OCGA 40-11-19 (b) (2), that the above-referenced vehicle is subject to a lien and a petition may be filed in court to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

The vehicle is currently located at \_\_\_\_\_.

Anyone with an ownership interest in this vehicle should contact the following business immediately:

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone #: \_\_\_\_\_

DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

Georgia, \_\_\_\_\_ County

I, \_\_\_\_\_ (name of motor vehicle owner) do hereby swear that I disclaim any and all ownership interest in:

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_  
Vehicle ID # (VIN): \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

I understand that by signing this form I will no longer hold any rights to the above listed vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against the vehicle.

I further understand that disclaiming an ownership interest in this vehicle does not relieve me of any other debts related to such vehicle, such as a debt entered into for the purchase of such vehicle.

By signing this form, I understand that I waive all future notices to which I am entitled under Article 1A of Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

Sworn to and Subscribed before me  
This \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public or Clerk  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Owner of Vehicle

If you wish to disclaim ownership, return this completed and notarized form to \_\_\_\_\_  
\_\_\_\_\_  
(name and address of party owed fees)

ABANDONED MOTOR VEHICLE PETITION ADVERTISEMENT

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Present location of vehicle: \_\_\_\_\_.

You are hereby notified that a petition was filed in the Magistrate Court of \_\_\_\_\_ County to foreclose a lien for all amounts owed. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

Anyone with an ownership interest in this vehicle may file an answer to this petition on or before:

Answer forms may be found in the Magistrate Court Clerk's office located at:

Forms may also be obtained online at [www.georgiamagistratecouncil.com](http://www.georgiamagistratecouncil.com).

ABANDONED MOTOR VEHICLE PETITION ADVERTISEMENT

You are hereby notified, in accordance with O.C.G.A. Section 40-11-19.1, that petitions were filed in the Magistrate Court of \_\_\_\_\_ County to foreclose liens against the vehicles listed below for all amounts owed. If a lien is foreclosed, the Court shall order the sale of the vehicle to satisfy the debt. The present location of the vehicles is:

Anyone with an ownership interest in a vehicle listed herein may file an answer to the petition on or before:

Answer forms may be found in the Magistrate Court Clerk's office located at:

Forms may also be obtained online at [www.georgiamagistratecouncil.com](http://www.georgiamagistratecouncil.com).

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Magistrate Court Case No.: \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Magistrate Court Case No.: \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Magistrate Court Case No.: \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Magistrate Court Case No.: \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Magistrate Court Case No.: \_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Magistrate Court Case No.: \_\_\_\_\_

Attach additional sheets as necessary.

**MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA**

Date Filed \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Plaintiff(s) Name, Address**

vs

**Vehicle Owner Name, Address**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Motor Vehicle Description and VIN**

**Lien Holders Notified**

**ORDER ON PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE**

The above-referenced petition coming before this Court for [ ] a motion for judgment pursuant to OCGA § 40-11-19.1 (d) [ ] a hearing on the merits pursuant to OCGA § 40-11-19.1 (e), and the Court further finding that the petition should be granted,

THIS COURT HEREBY ORDERS that the lien be foreclosed on the above-referenced vehicle for the following amounts:

Removal (Towing) Fee:	\$ _____
Storage	\$ _____
Repair Fees (if applicable)	\$ _____
Cost of Obtaining Owner Information:	\$ _____
Notification/Advertising Costs:	\$ _____
Attorney's Fees (if applicable):	\$ _____
Prejudgment Interest	\$ _____
Court Costs/Certified Copies	\$ _____
<b><u>TOTAL:</u></b>	<b>\$ _____</b>

IT IS FURTHER ORDERED that the vehicle shall be sold at public auction to satisfy this lien in accordance with OCGA § 40-11-19.2.

SO ORDERED, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Magistrate

MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA

Date Filed: \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name,Address

vs

Vehicle Owner Name, Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motor Vehicle Description and VIN

Lien Holders Notified

AFFIDAVIT OF MILITARY SERVICE

Personally appeared before me, the undersigned notary public or clerk, \_\_\_\_\_  
(name of Affiant), who after being duly sworn, deposes and states as follows:

I am the Plaintiff, Attorney of Record for the Plaintiff, or the duly authorized agent for the Plaintiff, and I am executing this affidavit as required by Uniform Magistrate Court Rule 43.1 and the Servicemembers Civil Relief Act, 50 U.S.C. § 3931. To the best of my knowledge and belief:

I have searched the website for the Department of Defense Manpower Data Center and have been able to ascertain that the vehicle Owner/Lien Holder in the above-styled action **is** in military service as defined by 50 U.S.C. § 3911. The status report from the Department of Defense is attached.

I have searched the website for the Department of Defense Manpower Data Center and have found no indication that the vehicle Owner/Lien holder in the above-styled action is in military service. Therefore, to the best of my knowledge and belief, the vehicle Owner **is not** in military service as defined by 50 U.S.C. § 3911. The status report from the Department of Defense is attached.

I have not been able to ascertain whether or not the vehicle Owner/Lien Holder in the above-styled action is in military service as defined by 50 U.S.C. § 3911 after making a good faith effort.

Sworn to and Subscribed before me  
This \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature of Affiant

MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA

Date Filed: \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name,Address

vs

Vehicle Owner Name, Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motor Vehicle Description and VIN

Lien Holders Notified

MOTION FOR ORDER ON MOTOR VEHICLE LIEN FORECLOSURE

NOW COMES PETITIONER, a [ ] towing or storage facility, [ ] repair facility, [ ] salvage dealer, and shows the following:

1. A petition was filed to foreclose on the lien placed on the above-referenced vehicle on \_\_\_\_\_ [date petition was filed];
2. Service of a copy of the oath or affirmation page of the filed petition and of a copy of the answer form was perfected on all owners by [ ] certified mail, return receipt requested [ ] advertisement (see attached);
3. No answer has been filed as required by OCGA § 40-11-19.1 (c); and
4. I am attaching an Affidavit of Military Service indicating that the Petitioner has no knowledge that the Owner/Lien Holder is in military service and entitled to protection under the Servicemembers Civil Relief Act. 50 U.S.C. § 3931.

WHEREFORE, PETITIONER PRAYS that (a) a judgment be issued declaring the vehicle to be abandoned and the lien to be valid, and (b) an order be issued authorizing public sale of the vehicle to satisfy the lien as prayed for in the complaint.

Sworn to and Subscribed before me  
This \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA

Date Filed \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name, Address

vs

Vehicle Owner Name, Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Motor Vehicle Description and VIN

Lien Holders Notified

PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE

NOW COMES PETITIONER, a [ ] towing or storage facility [ ] repair facility [ ] salvage dealer, and files this petition to foreclose on the above-referenced abandoned motor vehicle.

\_\_\_\_\_ Date vehicle was [ ] towed [ ] left at repair facility [ ] left with salvage dealer (authority to tow attached)  
\_\_\_\_\_ Date information was requested from Department of Revenue or authorized entity (copy of owner information attached)  
\_\_\_\_\_ Date and method of first notice [ ] mailed [ ] hand delivery [ ] advertised [ ] disclaimer (proof of compliance attached for all owners)

The accrued fees allowed under OCGA § 40-11-19, as set forth below, have not been paid.

PETITIONER PRAYS that the lien be foreclosed and an order be issued to allow for public sale of the vehicle to satisfy a lien for the following amounts:

Removal (Towing) Fee: \$ \_\_\_\_\_  
Storage: (At \$ \_\_\_\_\_ per day for \_\_\_\_\_ days) \$ \_\_\_\_\_  
Future Storage Fee \$ \_\_\_\_\_ per day from date of filing this action through 25 days after judgment is rendered  
Repair Fees (if applicable, with invoice attached): \$ \_\_\_\_\_  
Cost of Obtaining Owner Information: \$ \_\_\_\_\_  
Notification/Advertising Fees: \$ \_\_\_\_\_  
TOTAL: \$ \_\_\_\_\_

PETITIONER ALSO PRAYS for prejudgment interest at the rate of 4% per annum from which the OCGA § 40-11-19 notification was received, 15% attorney's fees (if applicable), and all costs of court.

Sworn to and Subscribed before me  
This \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Attorney for Plaintiff

SUMMONS

YOU MUST FILE AN ANSWER TO THIS CLAIM NO LATER THAN TEN (10) DAYS FROM RECEIPT OF THIS NOTICE USING THE STANDARDIZED ANSWER FORM PROVIDED. FAILURE TO FILE A TIMELY ANSWER WILL RESULT IN FORECLOSURE OF THE LIEN AND A COURT ORDER AUTHORIZING DISPOSITION OF THE VEHICLE PURSUANT TO OCGA 40-11-19.2.

**MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA**

Date Filed \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Plaintiff(s) Name, Address**

vs

**Vehicle Owner Name, Address**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Motor Vehicle Description and VIN**

**Lien Holders Notified**

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**ANSWER TO PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE**

NOW COMES RESPONDENT, Owner of the above-referenced vehicle, and files this answer to the petition to foreclose lien on the above-referenced abandoned motor vehicle.

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_

Date owner obtained an interest in the motor vehicle: \_\_\_\_\_

Check all that apply, and explain in the space provided (attach additional sheets if necessary).

The towing or storage firm was not authorized to remove the vehicle for the following reason(s):

The lien claimed is not valid because:

Additional facts that support why the lien should not be foreclosed upon:

I dispute the following charges:

THEREFORE, Respondent prays for a hearing on all relevant issues within ten (10) days.

Sworn to and Subscribed before me

This \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Notary Public or Clerk

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Defendant/Attorney for Defendant

ABANDONED MOTOR VEHICLE NOTICE  
(TOWING OR STORAGE COMPANY)

Owner Name: \_\_\_\_\_

Owner Address: \_\_\_\_\_  
\_\_\_\_\_

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID (VIN)#: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

Dear Owner:

You have been identified as an owner of the above-referenced vehicle, which is currently being held at the business listed below, and are being notified in accordance with OCGA 40-11-19(a)(1). The following fees are currently due:

\$\_\_\_\_\_ Fees associated with removal of the vehicle

\$\_\_\_\_\_ Daily fee for storage of the vehicle

Daily fees will accrue until full payment has been made at the rate of \$\_\_\_\_\_ per day. Additional fees that are recoverable by a towing or storage firm include fees for obtaining the owner's information, notifying the owner (including advertising, if necessary), court filing costs, attorney's fees, and interest.

The towing and storage firm has the right to petition a court to foreclose a lien for all amounts owed after 10 calendar days from the date this notice was sent. If the lien is foreclosed, a court shall order the sale of the vehicle to satisfy the debt.

If you wish to disclaim ownership in this vehicle, complete and return the form found on the next page/back of this letter. Disclaiming ownership and judgment of foreclosure being entered shall result in the holding of an auction. The excess proceeds (if any), that may exist shall be deposited with the Department of Revenue and be treated as unclaimed property. Disposition of such property shall be governed pursuant to O.C.G.A. § 44-12-211.1.

Please contact us immediately, or we will avail ourselves of all remedies allowed by law.

The vehicle is currently located at \_\_\_\_\_.

Anyone with an ownership interest in this vehicle should contact the following business immediately.

Business Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_

DISCLAIMER OF MOTOR VEHICLE OWNERSHIP INTEREST

Georgia, \_\_\_\_\_ County

I, \_\_\_\_\_ (name of motor vehicle owner) do hereby swear that I disclaim any and all ownership interest in:

Vehicle Make: \_\_\_\_\_ Year: \_\_\_\_\_ Model: \_\_\_\_\_

Vehicle ID #: \_\_\_\_\_ Vehicle License #: \_\_\_\_\_ State \_\_\_\_\_

I understand that by signing this form I will no longer hold any rights to the above listed vehicle and such vehicle may be sold at auction to satisfy a debt related to a lien filed against the vehicle.

I further understand that disclaiming an ownership interest in this vehicle does not relieve me of any other debts related to such vehicle, such as a debt entered into for the purchase of such vehicle.

By signing this form, I understand that I waive all future notices to which I am entitled under Article 1A of Chapter 11 of Title 40, "The Abandoned Motor Vehicle Act."

Sworn to and Subscribed before me

This \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public or Clerk

\_\_\_\_\_  
Owner of Vehicle

My Commission Expires: \_\_\_\_\_

If you wish to disclaim ownership, return this completed and notarized form to \_\_\_\_\_  
\_\_\_\_\_  
(name and address of party owed fees)

**PUBLIC TOW – KNOWN OWNER**

Tow Date	
Request Owner Info from Department	Within 3 days of removal
Send First Notices	Within 15 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

**Important Documents**

- Authority to tow
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

**PUBLIC TOW – UNKNOWN OWNER**

Tow Date	
Request Owner Info	Within 3 days of removal
Advertise Two Consecutive Weeks	Within 60 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

**Important Documents**

- Authority to tow
- Request for owner/lienholder info
- Response from department (if applicable)
- First notice advertisement
- Petition advertisement
- Request for order

“Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

### REPAIR FACILITY – KNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 180 days after last communication with owner
Send First Notices	No sooner than 15 days or later than 180 days after last communication with owner
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

#### Important Documents

- Repair invoice
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

### REPAIR FACILITY – UNKNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 180 days after last communication with owner
Advertise Two Consecutive Weeks	Within 60 days of Department's failure to send owner information
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

#### Important Documents

- Repair invoice
- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

“Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

The term "communication" includes any form of communication which can be verifiably documented. OCGA § 40-11-16 (b)(1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

IF A REPAIR FACILITY RECEIVES A DEMAND PURSUANT TO OCGA § 40-3-54 (b), THE REPAIR FACILITY HAS 30 DAYS TO INSTITUTE FORECLOSURE PROCEEDINGS (AS EITHER AN ABANDONED MOTOR VEHICLE OR A MECHANIC’S LIEN). FAILURE TO DO SO FORFEITS THE LIEN. THIS DEMAND WAIVES ALL FIRST NOTICE REQUIREMENTS. OCGA § 40-10-19 (f).

**SALVAGE FACILITY – KNOWN OWNER**

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 60 days after last communication with owner
Send First Notices	No sooner than 15 days or later than 60 days after last communication with owner
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

**Important Documents**

- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

**SALVAGE FACILITY – UNKNOWN OWNER**

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 60 days after last communication with owner
Advertise Two Consecutive Weeks	Within 60 days of Department’s failure to send owner information
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

**Important Documents**

- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

”Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

The term "communication" includes any form of communication which can be verifiably documented. OCGA § 40-11-16 (b)(1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

**PRIVATE TOW – KNOWN OWNER**

Tow Date	
Request Owner Info from Department	Within 3 days of removal
Notify Law Enforcement of Removal	Within 1 day of requesting owner info
Send First Notices	Within 15 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

**Important Documents**

- Authority to tow
- Notification of removal to Law Enforcement
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

**PRIVATE TOW – UNKNOWN OWNER**

Tow Date	
Request Owner Info from Department	Within 3 days of removal
Notify Law Enforcement of Removal	Within 1 day of requesting owner info
Advertise Two Consecutive Weeks	Within 60 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

**Important Documents**

- Authority to tow
- Notification of removal to Law Enforcement
- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

”Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

## 6. ABANDONED MOTOR VEHICLES

6.1 The Abandoned Motor Vehicle Act creates liens for four types of groups:

- (A) A towing company/storage facility that removes a vehicle from public property at the request of a peace officer;
- (B) A towing company/storage facility that removes a vehicle from private property at the request of a property owner;
- (C) A repair facility which has been in possession of a motor vehicle for at least 15 days without communication from an owner or insurance company, or payments of amounts owed; and
- (D) A salvage dealer which has been in possession of a motor vehicle for at least 15 days without communication from an owner or insurance company.

## 6.2 DEFINITIONS (OCGA § 44-11-13)

- (A) "Department" means the Department of Revenue or any entity that has an agreement with such department to serve as an authorized entity to access information relating to motor vehicle ownership and disseminate such information upon request and which is identified as such an authorized entity on the website of the Department of Revenue.
- (B) "Motor vehicle" means every trailer and vehicle which is self-propelled.
- (C) "Owner" means any secured interest holder with a current interest in a motor vehicle and person listed on the registration of a motor vehicle found in the records of the department or in the records of the state where the vehicle is registered.
- (D) "Repair facility" means any person maintaining physical custody of a motor vehicle for repairs that have been requested or authorized by an owner or by an insurance company acting on behalf of an owner.
- (E) "Salvage dealer" means any person taking possession of a motor vehicle from or upon request from an insurance company which is damaged to the extent that its restoration to an operable condition would require the replacement of two or more major component parts or for which the insurance company has paid a total loss claim and has been unable to obtain a certificate of title.
- (F) "Secured interest holder" means a secured party within the meaning of OCGA § 11-9-102 or a person with a perfected encumbrance pertaining to an interest in a motor vehicle.
- (G) "Towing and storage firm" means any person regulated by the Department of Public Safety and in compliance with requirements set forth in OCGA § 44-1-13 who removes a motor vehicle from private or public property with or without the consent of the motor vehicle owner or authorized user and provides storage for such motor vehicle after removal.
- (H) "Trailer" means a vehicle with or without motive power designed to be drawn by a motor vehicle; provided, however, that such term shall not include a mobile home as such term is set forth in OCGA § 8-2-160 unless such vehicle was left unattended on public property and its removal was requested by a peace officer.

### 6.3 PREREQUISITES TO FILING FORECLOSURE PETITION

#### 6.31 VEHICLE TOWED FROM PUBLIC PROPERTY AT REQUEST OF PEACE OFFICER

A. Within 3 days of removal, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-15 (d).

#### B. NOTICE OF CLAIM

##### (1) IF OWNERS ARE KNOWN

(a) Notification letter must be sent to all owners via (a) certified mail or (b) hand delivery with acknowledgement by signature and copy of recipient's driver's license within 15 days of removal. OCGA § 40-11-19 (a)(1).

##### (2) IF OWNERS ARE UNKNOWN

(a) If owners are unknown, or department does not send information in a timely manner, company shall advertise once a week for two weeks in newspaper of general circulation or legal organ where vehicle was obtained. The advertisement must be placed within 60 days of removal. OCGA § 40-11-19 (a)(2).

(b) If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19 (a)(1) within 10 days of obtaining the information. OCGA § 40-11-19 (a)(3).

#### 6.32 VEHICLE TOWED FROM PRIVATE PROPERTY AT THE REQUEST OF THE PROPERTY OWNER

A. (1) Within 3 days of removal, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (a)(1).

(2) Within 1 day of requesting owner/lienholder info, the company must submit information to law enforcement for stolen vehicle search. OCGA § 40-11-16 (a)(2). Failure of the peace officer to perform the stolen vehicle search will not limit any remedies available to the towing company. OCGA § 40-11-16 (a)(3).

#### B. NOTICE OF CLAIM

##### (1) IF OWNERS ARE KNOWN

(a) Notification letter must be sent to all owners via (a) certified mail or (b) hand delivery with acknowledgement by signature and copy of recipient's driver's license within 15 days of removal. OCGA § 40-11-19 (a)(1).

##### (2) IF OWNERS ARE UNKNOWN

(a) If owners are unknown, or department does not send information in a timely manner, company shall advertise once a week for two weeks in newspaper of general circulation or legal organ where vehicle was obtained. The advertisement must be placed within 60 days of removal. OCGA § 40-11-19 (a)(2).

(b) If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19 (a)(1) within 10 days of obtaining the information. OCGA § 40-11-19 (a)(3).

#### 6.33 VEHICLE LEFT AT REPAIR FACILITY

A. After 15 days, but no later than 180 days, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (b)(1).

#### B. NOTICE OF CLAIM

##### (1) IF OWNERS ARE KNOWN

(a) Notification letter sent to all owners via certified mail. OCGA § 40-11-19 (b)(1).

##### (2) IF OWNERS ARE UNKNOWN

(a) If owners are unknown, or department does not send information on additional owners in a timely manner, the company shall advertise once a week for two weeks in newspaper of general circulation or legal organ of county where repair facility is located within 60 days of the department's failure to send the information. OCGA § 40-11-19 (b)(2).

(b) If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19 (b)(1) within 10 days of obtaining the information. OCGA § 40-11-19 (b)(3).

**C. IF A REPAIR FACILITY RECEIVES A DEMAND PURSUANT TO OCGA § 40-3-54 (b), THE REPAIR FACILITY HAS 30 DAYS TO INSTITUTE FORECLOSURE PROCEEDINGS (AS EITHER AN ABANDONED MOTOR VEHICLE OR A MECHANIC'S LIEN). FAILURE TO DO SO FORFEITS THE LIEN. OCGA § 40-10-19 (f).**

#### 6.34 VEHICLE LEFT AT SALVAGE FACILITY

A. After 15 days, but no later than 60 days, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (b).

#### B. NOTICE OF CLAIM

##### (1) IF OWNERS ARE KNOWN

(a) After 15 days, but no later than 60 days, notification letter sent to all owners via certified mail. OCGA §§ 40-11-19 (c)(1).

##### (2) IF OWNERS ARE UNKNOWN

(a) If owners are unknown, or department does not send information in a timely manner, the company shall advertise once a week for two weeks in newspaper of general circulation or legal organ of county where salvage dealer is located within 60 days of the last communication. OCGA § 40-11-19 (c)(2).

(b) If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19 (c)(1) within 10 days of obtaining the information. OCGA § 40-11-19 (c)(3).

#### 6.4 DISCLAIMER

A. If an owner executes a Disclaimer of Motor Vehicle Ownership Interest, the owner waives all future notices as required by the Act, including service of the Petition. OCGA § 40-11-19.5.

B. The Disclaimer does not waive the owner's right to claim any surplus that might exist after the auction. Disposition of the surplus is governed by OCGA § 44-12-211.1.

#### 6.5 LIEN FORECLOSURE PROCEDURE

A. Not sooner than 10 days but no later than six months after complying with the notice requirements, the company may file to foreclose on lien. The clerk accepts the filing along with an \$11 filing fee. The company is responsible for swerving the petition in accordance with OCGA § 40-11-19.1 (b).

##### 6.51 SERVICE OF PETITION

A. The company must serve known owners via certified mail or statutory overnight delivery, return receipt requested, with a copy of the claim and the answer form. OCGA § 40-11-19.1 (b)(1). Electronic proof of delivery shall be accepted. Refusal of certified mail is tantamount to delivery. OCGA § 40-11-19.1 (b)(2).

B. If the notice under OCGA § 40-11-19 was satisfied by advertisement, or signed proof that the notification letter required by OCGA § 40-11-19.1 (b)(1) has not been returned after ten days of such mailing or is returned as unclaimed, the company has 60 days to place advertisement once a week for two weeks in the newspaper of general circulation or legal organ where action has been filed. OCGA § 40-11-19.1 (b)(2).

C. If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19.1 (b)(1). OCGA § 40-11-19.1 (b)(3).

##### 6.52 CONTENTS OF/ATTACHMENTS TO PETITION

A. Sworn/verified foreclosure petition

B. Authority to tow vehicle and schedule of rates with local governing authority (public property towing only)

C. Stolen vehicle search request (private property towing only)

D. Owner information obtained from department or agency

E. Evidence of compliance with first notice requirements, or properly executed Disclaimer (Section 6.4)

##### 6.53 ANSWER TO PETITION

A. Owner has 10 days to file an answer. If service is accomplished by advertisement, answer must be filed within 10 days of the expiration of the two-week advertisement. OCGA § 40-11-19.1 (c). The answer must be sworn. OCGA § 40-11-19.1 (b)(1).

##### 6.54 COURT ACTION

A. ANSWER FILED

(1) The hearing must be held within 10 days of receipt of the answer. OCGA § 40-11-19.1 (c). Continuances are allowed for good cause. OCGA § 40-11-19.1 (e)(1).

(2) At the trial, the court shall hear evidence of and determine whether the removal of the vehicle was lawful, whether the lien amount is based upon recoverable fees pursuant to OCGA § 40-11-19 (d), and whether notice to all owners was proper, and shall hear any other facts pertinent to the case to reach a decision on foreclosure of the lien. The court may hear evidence of and make a determination on whether storage fees should accrue after the filing date of the petition. OCGA § 40-11-19.1 (e)(2).

#### B. NO ANSWER FILED

(1) If no answer is filed pursuant to OCGA § 40-11-19.1 (c), petitioner shall provide proof of service and request judgment in writing. Unless providently hindered, judgment shall be decided within 15 (calendar) days of submission. OCGA § 40-11-19.1 (d).

(2) If motion is denied, petitioner may refile petition once within 6 months. OCGA § 40-11-19.1 (d). It is the opinion of this author that this provision is not meant to cure any missed deadlines, but only allows the petitioner to supply evidence of compliance if that evidence was not attached to the original petition. Another alternative is to schedule the petition for a hearing to give the petitioner the opportunity to supply the missing documents.

#### C. JUDGMENT

(1) If the petition is granted, enter a judgment awarding the following amounts (if proven):

##### (a) Removal (Towing) Fee

(i) If towed from private property, the maximum allowable charge for the removal of the motor vehicle as set forth by rule and regulation of the Department of Public Safety for maximum state-wide rate tariffs (See Appendix A), unless preempted by applicable federal law, rule, or regulation

(ii) If towed from public property at the request of a peace officer, the rate specified pursuant to an agreement with a local governing authority, unless preempted by applicable federal law, rule, or regulation;

(b) Per Diem Storage Fee (calculate per day from date of filing through 25 days after judgment is rendered)

(i) If towed from private property, the maximum allowable charge for the storage of the motor vehicle as set forth by rule and regulation of the Department of Public Safety for maximum state-wide rate tariffs (See Appendix A), unless preempted by applicable federal law, rule, or regulation

(ii) If towed from public property at the request of a peace officer, the rate specified pursuant to an agreement with a local governing authority, unless preempted by applicable federal law;

(c) Repair Fees (if applicable) – copies of any invoices should be provided to substantiate the repair fee;

(d) Cost of Obtaining Owner Information (If DOR or an authorized entity provided the information, the cost is capped at \$2. If neither provided the information for an out-of-state vehicle, and the company had to pay more for obtaining the info, there is no cap – they recover the actual cost of obtaining the info, and evidence of that cost should be submitted.);

(e) Notification/Advertising Costs;

(f) Prejudgment interest at the rate of 4% per annum from which the OCGA § 40-11-19 notification was received; and

(g) 15% attorney's fees (if filed and pursued by attorney of record).

(2) Within 5 days of judgment, the court shall enter an order authorizing sale of the vehicle pursuant to OCGA § 40-11-19.2. OCGA §§ 40-11-19.1 (d), (e)(1). The court can charge up to \$14 for a certified copy of this order. OCGA § 40-11-19.1 (d), (e)(2).



GEORGIA DEPARTMENT OF PUBLIC SAFETY

STATEWIDE MAXIMUM RATE TARIFF

INTRASTATE RATES AND CHARGES

Applying on

NON-CONSENSUAL TOWING

As described in DPS Transportation Rule 570-36-.03

And

O.C.G.A. § 44-1-13

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MAXIMUM RATE TARIFF

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NOTE: The rates contained herein apply to the towing and storage of vehicles improperly parked or trespassing on private property and removed at the request of the property owner or authorized agent, without the prior consent of the vehicle's owner or operator.

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ISSUED BY:

GEORGIA DEPARTMENT OF PUBLIC SAFETY

P.O. Box 1456

Atlanta, Georgia 30371-1456

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ISSUED: 09/25/2017

EFFECTIVE: 11/10/2017

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GEORGIA DEPARTMENT OF PUBLIC SAFETY  
STATEWIDE MAXIMUM RATE TARIFF  
INTRASTATE RATES AND CHARGES  
NON-CONSENSUAL TOWING

---

SECTION 1 – BACKGROUND/INTRODUCTION

---

The rates prescribed in this tariff apply to all nonconsensual towing and storage movements within the State of Georgia for the removal and storage of vehicles improperly parked or trespassing on private property. (Exception: The governing authority of a municipality may require towing and storage operators to charge lower maximum rates on traffic moving between points within such municipality than those provided herein.)

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APPLICATION OF TARIFF

This tariff governs rates, fares and charges for services related to the removal and storage for towing of trespassing vehicles on private property when towing is performed without the prior consent or authorization of the owner or operator of the vehicle.

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GOVERNING REGULATIONS

This tariff is authorized by O.C.G.A. § 44-1-13 and governed by Georgia Department of Public Safety Rules and Regulations Chapter 570-36.

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DISCOUNTS FROM MAXIMUM RATES OR CHARGES

The rates and charges prescribed herein are maximum rates. Carriers may not exceed the maximum rate or charge applicable for any individual component set forth herein. Carriers may negotiate lower rates at their discretion.

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METHOD OF PAYMENT

Payment may be made payable by cash, commonly recognized traveler's checks, money orders, certified checks or cashier's checks. Carriers equipped to accept debit cards and major credit cards may do so at no additional charge.

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ISSUED: 09/25/2017

EFFECTIVE: 11/10/2017

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GEORGIA DEPARTMENT OF PUBLIC SAFETY  
STATEWIDE MAXIMUM RATE TARIFF  
INTRASTATE RATES AND CHARGES  
NON-CONSENSUAL TOWING

---

SECTION 1 – BACKGROUND/INTRODUCTION

---

POSTED NOTICE

The rates and charges prescribed in this tariff may only be assessed if the private property on which the trespassing vehicle is located has a posted notice stating that the unauthorized vehicles will be towed. Such notices must conform to the sign specifications outlined in DPS Rule 570-36-.05.

Private property containing not more than four residential units is not required to post such notices.

---

IMPOUNDMENT RECORDS AND CONTRACTS

In lieu of the contract with the private property owner or agent required in DPS Rule 570-36-.10, carriers removing trespassing vehicles from residential properties containing not more than four residential units may obtain signed authorization from the property owner or agent. Such authorization must be maintained by the wrecker service and provided to DPS staff upon request.

GEORGIA DEPARTMENT OF PUBLIC SAFETY  
MAXIMUM RATE TARIFF  
INTRASTATE RATES AND CHARGES  
NON-CONSENSUAL TOWING

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SECTION 2 – RATES AND CHARGES

---

A. TOWING RATES AND CHARGES

- |  |                        |
|--|------------------------|
| 1. Removal fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less                       | Not to exceed \$175.00 |
| 2. Removal fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds to 20,000                     | Not to exceed \$300.00 |
| 3. Removal fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 20,001 pounds or greater – per unit charge  | Not to exceed \$450.00 |
| 4. Removal fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 20,001 pounds or greater – combination unit | Not to exceed \$850.00 |
- 

B. STORAGE RATES AND CHARGES

- |  |                       |
|--|-----------------------|
| 1. Storage for the first 24 hours, beginning at the time the vehicle is removed from the property                          | No charge             |
| 2. Storage for any day or days the impoundment facility is closed and the vehicle's owner is unable to claim the vehicle   | No charge             |
| 3. Daily storage fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less                       | Not to exceed \$25.00 |
| 4. Daily Storage fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds to 20,000 pounds              | Not to exceed \$30.00 |
| 5. Daily Storage fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 20,001 pounds or greater – per unit charge  | Not to exceed \$40.00 |
| 6. Daily Storage fee for vehicles with a Gross Vehicle Weight Rating (GVWR) of 20,001 pounds or greater – combination unit | Not to exceed \$75.00 |



# Record Retention



**Ms. Bobbie Yandell**



## Magistrate Court Retention Schedules

What do we do now?

Do I have  
to keep all  
of the  
paper?

- The Supreme Court and Judicial Council of Georgia resolve that, other than wills, original evidence, and federal tax liens, all original documents can be digitized and originals can be destroyed provided that (1) digitizing or microfilming is done according to Georgia Imaging Standards or Microfilm Standards; (2) a security copy of the digital format or microfilm is deposited in the Georgia Archives; (3) a reference copy of the digital format or microfilm format is kept in the office of the clerk of superior court and a reader-printer is available to facilitate reference. Records created digitally can be managed completely digitally according to these schedules. The Court and Council also affirm, pursuant to OCGA § 50-18-120, the resolution approved by the State Records Committee on January 18, 1996, stating: "All paper records of State agencies and local governments, and all records of the Courts of the State of Georgia which have been microfilmed and verified in accordance with said Micrographic Standards (Georgia Micrographic Standards) may be destroyed, unless specifically prohibited by law, code, resolution, order or an approved State Records Committee records retention schedule."

## The word 'document'

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- Throughout these schedules the word "document" is used frequently. The Georgia Records Act at OCGA § 50-18-90 et seq. presents a number of formal definitions used broadly in the judiciary record retention schedules. OCGA § 50-18-91 (2) "Court record" means all documents, papers, letters, maps, books (except books formally organized in libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or, in the necessary performance of any judicial function, created or received by an official of the Supreme Court, Court of Appeals, and any superior, state, juvenile, probate, or magistrate court. "Court record" includes records of the offices of the judge, clerk, prosecuting attorney, public defender, court reporter, or any employee of the court.

## The word 'document'

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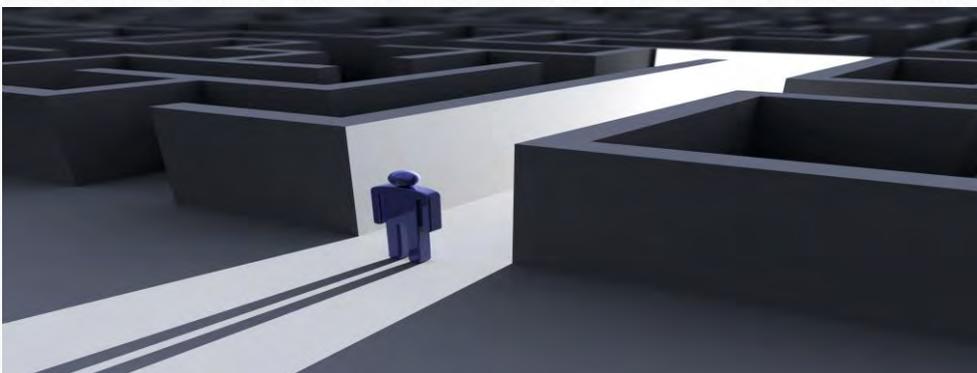
OCGA § 50-18-91 (5) "Records" means all documents, papers, letters, maps, books (except books in formally organized libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in performance of functions by any agency

## Digital – Digitize - Microfilm

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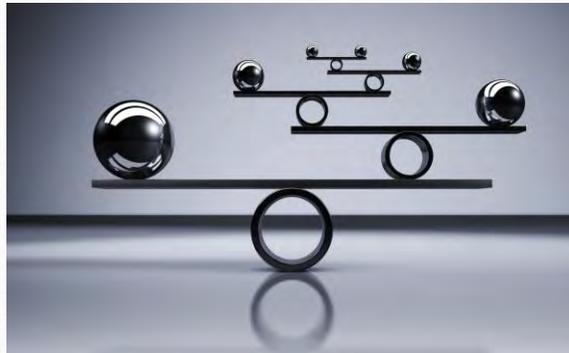
- "Digital" or "Digitize" has been changed on each occurrence of "microfilm" throughout the retention schedules. This change reflects the application of scanning documents into electronic format. All imaging in the Judicial Branch must be in compliance with the imaging standards issued by the Department of Archives and History in the Board of Regents of the University System of Georgia.

## COURT RECORDS



# MAGISTRATE RECORDS

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# ADMINISTRATION RECORDS

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# ACCOUNTING

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# PAYROLL & PERSONNEL

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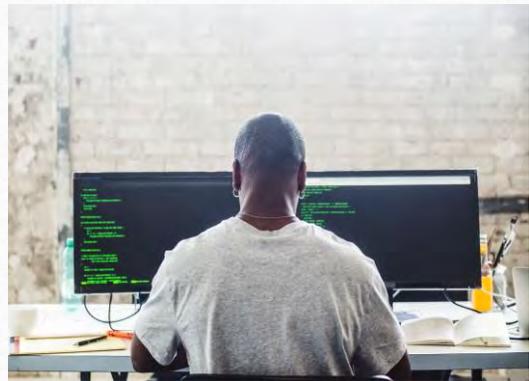
# PROPERTY & SECURITY

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# RECORDS MANAGEMENT & INFORMATION TECHNOLOGY

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**Official Judicial Branch  
Records Retention Schedules**

# Official Judicial Branch Court Records Retention Schedules

The Supreme Court and Judicial Council of Georgia resolve that, other than wills, original evidence, and federal tax liens, all original documents can be digitized and originals can be destroyed provided that (1) digitizing or microfilming is done according to Georgia Imaging Standards or Microfilm Standards; (2) a security copy of the digital format or microfilm is deposited in the Georgia Archives; (3) a reference copy of the digital format or microfilm format is kept in the office of the clerk of superior court and a reader-printer is available to facilitate reference. Records created digitally can be managed completely digitally according to these schedules. The Court and Council also affirm, pursuant to OCGA § 50-18-120, the resolution approved by the State Records Committee on January 18, 1996, stating: "All paper records of State agencies and local governments, and all records of the Courts of the State of Georgia which have been microfilmed and verified in accordance with said Micrographic Standards (Georgia Micrographic Standards) may be destroyed, unless specifically prohibited by law, code, resolution, order or an approved State Records Committee records retention schedule."

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## Felony Records

Record Type	Description	Retention	Schedule Number
Felony Case Files	Documents relating to trying felony cases in superior courts and documenting proceedings in those cases. Included are indictments; pleadings; motions; warrants; bond applications; sentences; correspondences; verbatim records or narrative recollections of judicial proceedings; certified records of court reporters' transcripts; certified records in narrative form of recollections of the motions, colloquies, objections, rulings, evidence (documentary or otherwise), charge of the court; well-bound books used to contain court reporters' transcripts of judicial proceedings; passport surrenders; and all other papers and proceedings in any judicial action based on a charge of felony offense punished by any term of imprisonment less than life, life imprisonment, or death.	<p>Capital Offenses: Permanent.</p> <p>Non-capital Offenses: 70 years after disposition.</p> <p>Upon the determination of the superior court clerk or chief judge that a record is of historical significance, the record may be held past its retention period and, if directed, the originals may not be destroyed.</p>	JB-001
Court Reporters' Note Files	Recordings, notes, other records which have not been reduced to typed or printed documents, or other records relating to generation of certified transcripts.	70 years after disposition.	JB-002
Article Two Habeas Corpus	Documents related to the filing of habeas corpus actions pursuant to OCGA §§ 9-14-40 – 9-14-53.	<p>Capital Offenses: Permanent.</p> <p>Non-capital Offenses: 70 years after disposition.</p>	JB-003

## Misdemeanor Records

Record Type	Description	Retention	Schedule Number
Case Files	Includes original papers which are called or serve as an: accusation, affidavit, appearance bond, arresting officer's affidavit, bail bond, cash bond, conviction, disposition, fine, indictment, judgment, motion, notice of appeal, notice of arraignment, notification of hearing, order, plea, pleading, sentence, subpoena, summons, waiver, warrant, or certified copies of the same transcript. This schedule does not apply to any record books which contain references to felony cases.	10 years after disposition.	JB-004
Docket Books	Books which generally contain essential information in summary form about each particular misdemeanor case adjudicated. Most dockets contain an alphabetical index in front of each book which references the defendant's name to the page number on which the case summary is docketed.	10 years after disposition.	JB-005
Minute Books	Books which contain photostatic copies of the accusation and disposition associated with each case or contain typewritten or handwritten entries regarding the defendant, charge, and disposition of each case.	10 years after disposition.	JB-006
Book of Fines and Forfeitures	Books which contain listings of fines and forfeitures received by the court regarding each particular misdemeanor offense.	10 years after last entry.	JB-007

## Traffic Records

Record Type	Description	Retention	Schedule Number
Case Files	Includes original papers which are called or serve as an: accusation, affidavit, appearance bond, arresting officer's affidavit, bail bond, cash bond, conviction, disposition, fine, indictment, judgment, motion, notice of appeal, notice of arraignment, notification of hearing, order, plea, pleading, sentence, subpoena, summons, uniform traffic citation, waiver, warrant, or certified copies of the same transcript. This schedule does not apply to any record books which contain references to felony cases.	10 years after disposition.	JB-008
Docket Books	Books which generally contain essential information in summary form about each particular traffic case adjudicated. Most dockets contain an alphabetical index in front of each book which references the defendant's name to the page number on which the case summary is docketed. This schedule applies to docket books which contain misdemeanor traffic records only.	10 years after disposition.	JB-009
Minute Books	Books which contain photostatic copies of the accusation and disposition associated with each case or contain typewritten or handwritten entries regarding the defendant, charge, and disposition of each case. This schedule applies to minute books which contain misdemeanor traffic violations only.	10 years after disposition.	JB-010
Book of Fines and Forfeitures	Books which contain listings of fines and forfeitures received by the court regarding each particular misdemeanor offense. This schedule applies to books which contain misdemeanor traffic violations only.	10 years after last entry.	JB-011

## Civil Records

Record Type	Description	Retention	Schedule Number
Civil Cases Not Proceeding to Final Judgment	Civil case files in which the plaintiff never carried through to disposition. Cases dismissed without prejudice are included. Not included are cases dismissed with prejudice or cases in which the judge's order specifies terms of an out-of-court settlement.	2 years after disposition.	JB-012
Civil Case Files	Documents relating to trying civil cases and documenting the proceedings in those cases. Included are pleadings and judgments in civil cases, complaints, summons, defensive pleadings, court orders, notices of appeal, appellate pleadings, and determinations of appellate courts.	20 years after disposition.	JB-013
Civil Dockets	Documents relating to indexing all pleadings filed in the course of civil actions, including independent motions which are to be decided by the judge without the intervention of a jury. Included are bound volumes which serve as an index to pleadings for each case. Entries vary from one time period to another and from one court to another but generally show term of court, names of parties and their attorneys, case numbers, nature of actions, and subsequent service and pleadings. Entries are in case number order (assigned by filing date). Most dockets contain an index to defendants and plaintiffs, showing case numbers for each case.	75 years if maintained separately from civil case files.	JB-014
Minute Books	Documents relating to recording proceedings and orders. Included are court orders, oaths, bonds, motions, certifications, transcripts, full proceedings, other documents regarding cases, charges to and presentments of grand juries, local rules of procedure, orders or other documents regarding court administrative matters, and other documents. Minute books are often divided, with civil and criminal matters in separate volumes.	Permanent.	JB-015
Record of Writs	Documents recording the text of each case heard by the courts, especially recording writs issued. Included are volumes containing, for each case heard by the court, copies of the complete text of the case or copies of any actions taken by the court.	75 years after disposition.	JB-016

## Civil Records

Record Type	Description	Retention	Schedule Number
Sealed Civil Depositions	Documents related to obtaining pre-trial testimony from parties and witnesses during discovery for civil cases filed under OCGA §§ 9-11-27 – 9-11-31. Files consist of sealed envelopes containing depositions taken of parties or witnesses. File may be in the form of stenographic transcripts, videotapes, or electronic or digital recordings. Envelopes are endorsed with the title of the action and the name of the deponent. Not included in this schedule are depositions which have been opened for use in the court thereby becoming part of the case file.	1 year after disposition.	JB-017
General Execution Docket and General Execution Docket Indexes	Documents relating to recording basic information concerning the execution of the court's decisions. Included are books with entries showing the date the case was adjudged, names of the parties and their attorneys, case number, date Fi. Fa. issued, and disposition of the execution. After 1971, photostatic copies of Fi. Fa. are used in place of these entries. Entries are in the order in which the Fi. Fa. are filed with the clerk's office.	20 years after disposition.	JB-018
Domestic Relations	All documents, excluding adoptions, relating to those cases resulting in the dissolution of a marriage, child custody, or award of alimony.	Permanent.	JB-019
Domestic Relations – Contempt Actions	All documents related to contempt actions arising out of domestic relations cases.	20 years after disposition.	JB-020
Name Changes	Case files relating to a name change.	Permanent.	JB-021
Personal Injury and Malpractice	Civil cases related to personal injury or alleging malpractice.	20 years after disposition.	JB-022
Collection Cases	An action containing pleadings on debt concerning a specific contract or account.	5 years or upon satisfaction or expiration of Fi. Fa.	JB-023
Appeals – Magistrate Court	Documents relating to cases appealed to the superior or state court based on a judicial decision of the magistrate court.	10 years after disposition.	JB-024
Adoption	All documents relating to an adoption case.	Permanent.	JB-025

## Jury Management Records

Record Type	Description	Retention	Schedule Number
Jury Master List	Documents relating to persons qualified for jury service. Included are lists composed of all persons qualified to serve as jurors — whether lists be tickets, computer printouts, digital format or microfilm format, or in any other form except computer file data storage banks.	10 years.	JB-026
Jury Questionnaire	Documents relating to selection and qualification of jurors. Included are completed jury questionnaire forms and consolidated lists (including computer output) where applicable.	Capital Offenses: Permanent. Non-Capital Offenses: 10 years after disposition.	JB-027
Juror Information Form	Documents relating to: (1) providing information to attorneys about summoned jurors to facilitate jury selection, and/or (2) correcting errors on or updating information on a juror master list. Included are juror information forms turned in by summoned jurors to a jury clerk on first day of jury service. Forms contain information provided by jurors and may include occupation, age, marital status, age and occupation of spouse, number of children, previous jury service, and similar data.	1 year.	JB-028
Grand Juror or Trial Juror List	Documents relating to summoning and service of grand jurors and trial jurors. Included are (1) lists of grand or trial jurors summoned at a term or week of court, (2) lists of grand or trial jurors sworn to serve at a term or week of court, and (3) lists of grand jurors serving at a term of court and trial jurors serving in a case before the court. Not included are the jury master list – jury box, jury qualifications questionnaires, and jury script.	10 years.	JB-029

## Property Records

Record Type	Description	Retention	Schedule Number
Deed Books	Books containing instruments pertaining to the ownership and transfer of ownership of real and personal property.	Permanent.	JB-030
Indexes to Deeds	Documents relating to maintaining an index for recorded deeds. Included are bound volumes containing grantor and grantee indexes to deeds recorded by the clerk. For each deed recorded the index shows the name of the grantor, the name of the grantee, the character of the instrument, the date of the instrument, the volume and page where recorded, and the date of recording. Usually there are separate volumes for grantors and grantees.	Permanent. If the office uses an indexing system in connection with a computer, any weekly, monthly, quarterly, annual, or other interim printouts (which are superseded by consolidated volumes) may be destroyed when the larger consolidation is received.	JB-031

## Property Records

Record Type	Description	Retention	Schedule Number
JB-032 through JB-037 refer to statements filed and indexed after January 1, 1964. Real property records in which are noted fixture filings or filings concerning crops, minerals, or accounts subject to OCGA § 11-9-103.			
Financing Statements	Documents indicating the names and addresses of the debtor and the secured party, signed by the debtor, and containing a "statement indicating the types or describing the items of collateral."	<p>(1) If notice of action involving statement given (including insolvency proceeding), hold statement or copy for duration of proceeding and 60 days thereafter or 6 years, whichever is later.</p> <p>(2) If continuation statement filed, hold financing statement for 6 years from date of continuance; destroy unless another continuation statement filed.</p> <p>(3) If real estate mortgage is effective as a fixture (DCC) filing, hold financing statement or copy for 1 year after mortgage released or satisfied of record or otherwise terminates.</p> <p>(4) If financing statement filed before July 1, 1978, hold 6 years and 2 months after filing; then destroy.</p> <p>(5) If a termination statement is filed, hold financing statement or digital format or microfilm format copy for 1 year; destroy after termination date.</p>	JB-032
Continuation Statements	Documents identifying the original financing statement by number and stating that the original statement is still effective which is signed by the secured party.	6 years after date of filing.	JB-033

## Property Records

Record Type	Description	Retention	Schedule Number
Statements of Release	Documents containing a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement.	6 years after date of filing.	JB-034
Statements of Assignments	Documents setting forth the name of the secured party of record, the debtor, the file number, the date of the filing of the financing statement, and the name and address of the assignee, and descriptions of the assigned collateral.	6 years after date of filing.	JB-035
Termination Statements	Documents stating that there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, indicating the financing statement's file number and/or signed by the secured party.	1 year.	JB-036
Indexes of Financing Statements	Books containing the name and address of the debtors and the file number of the financing statement as well as entries regarding receipt of continuation statements, termination statements, and statements of assignments and release.	20 years and destroy after 1/1/2020 unless financing is still active.	JB-037
JB-038 through JB-041 refer to records recorded prior to January 1, 1964.			
Original Instruments	Includes documents designed as bills of sale, personal property mortgages (including all instruments styled as "note" or "Personality Deed to Secure Debt"), contracts, conditional sales contracts, bills of sale to secure debt, liens, assignments, leases, liens of conveyances of crops, transfers, bonds for title, renewals (of debt), affidavits, agreements, or retention title contracts delivered to the clerk for recording but never picked up by or returned to the parties to the transaction to which the documents relate.	Return to parties; if impossible, destroy.	JB-038

## Property Records

Record Type	Description	Retention	Schedule Number
Record Books and Indexes Containing Entries Relating to Personality Only	<p>Consists of copies of original instruments written or typewritten on blank pages, or copies onto forms in a record book kept expressly for that purpose. Indexes may be contained in a separate volume from entries. Record Books include: books of bills of sale, deeds to personal property, books for bills of sale to secure debt, chattel mortgage record docket, chattel mortgages and lien docket, filing docket and general index to chattel mortgages, filing docket and general index to personality mortgages, personal property docket, personal lien docket, personality mortgages-grantor index, and public index to personality mortgages. Some of these books are single volumes or parts of a records series containing both volumes for personality and volumes for realty records.</p>	20 years except that Books created prior to 1900 must be offered to Department of Archives and History.	JB-039
Records Books and Indexes Relating to Both Personality and Realty	<p>Consists of copies of original instruments written or typewritten on blank pages or copied onto forms in a record book kept expressly for that purpose. Indexes to these entries may be contained in the record books themselves or may be in separate volumes. Books include: Book for Mortgage Liens, Book for Title, Contract Records, Factor's Lien Records, File Docket for Liens, Lease Record, Lien Book, Lien Stock Record, Mortgages and Lien Record, Mortgage Record, Promiscuous Record, Security Bonds and Deals, Security Deed Record, Filing Docket and General Index to Mortgages or Other Items, Filing Docket and General Index to Property, Filing Docket and Index to Mortgages, General Index to Deeds and Personality Mortgages, Grantee Index to Deeds and Personality Mortgages, Grantee Index to Mortgages, Grantor Index to Deals and Personality Mortgages, and Grantor Index to Mortgages.</p>	<p>Personality: 20 years.                      Realty: Permanent.                      Extract realty records and rebind if necessary.                      Treat personality records according to personality schedules.</p>	JB-040
Duplicate Index Books	<p>Duplicates of any Index Book.</p>	Verify entries; then destroy.	JB-041
Real Estate Transfer Declaration Forms	<p>Documents relating to transfer tax on real estate. Included is the duplicate copy of the real estate tax declaration form which is filed in the superior court clerk's office.</p>	2 years.	JB-042

## Property Records

Record Type	Description	Retention	Schedule Number
Federal Tax Lien Index	Documents relating to a discharged federal tax lien. Included is the federal tax lien index.	10 years from the date of discharge of the last lien recorded in the index.	JB-043
Federal Tax Lien Files	Documents relating to federal tax liens. Included are notice of a federal tax lien, discharge from a federal tax lien, and release and partial discharge from a federal tax lien.	<p>7 years unless on General Execution Docket, then 50 years.</p> <p>If federal tax lien index is kept, and if discharges are entered on same lien, as required by law, both notice of lien and discharge can be destroyed 7 years from final discharge date. Renewed liens and liens which were discharged in error (and for which notice has been received) are not discharged liens for the purposes of this schedule. When federal tax lien index is not marked as above, or where any other system (including General Execution Docket) is used, retain notice of federal tax lien and discharge for 50 years.</p>	JB-044

## Attorney Records

Record Type	Description	Retention	Schedule Number
State Bar Applications Without Examination	Documents relating to admission to State Bar of attorneys from other States. Included are motions for admission, answers of the State Bar, proceedings, rule nisi, and judge's orders.	70 years.	JB-045
Practicing Attorneys Registration Books	Documents relating to registration of practicing attorneys. Includes record of practicing attorneys, order of admission, and oath of commission. Information included is name, address, place, date of admission to practice, and retirement notice.	Permanent.	JB-046
Third-Year Law Students and Staff Instructors Files	Documents relating to authorization of third-year law student or staff instructor to assist District Attorney or practice legal aid. Included are law schedule dean's certificates, student, and staff instructor oaths.	70 years.	JB-047
Certification of Bar Admission Eligibility File	Certificates of a passing bar exam score and orders of judge for clerk to issue license to practice law.	70 years.	JB-048

## Election Records

Record Type	Description	Retention	Schedule Number
Election Records Files	Documents relating to the general and primary elections. Included are used and unused and void ballots, ballot stubs, oath of poll officers, numbered lists of voters, tally papers, voting machine proof sheets, and return sheets.	2 years after adjournment of the grand jury where documents were presented to and approved by the grand jury.  If there is a court case for any race documented by these records, retain until final settlement.	JB-049
Applications for Petitions to Recall the Probate Court Judge	Records related to granting authority to persons wishing to sponsor a recall drive for petitions for the recall of the judge of the probate court as provided for in OCGA § 21-4-3 (3) (B).	2 years.	JB-050
Calls of Recall Elections for Probate Judge	Calls for recall elections for a probate judge who also serves as election superintendent. See OCGA § 21-4-13 (c) (2).	2 years.	JB-051

## Other Records

Record Type	Description	Retention	Schedule Number
Notary Public Applications, Certificates and Dockets Application, and Certificates	Documents including electronic records relating to certifying persons to be notaries public. Included are applications for becoming a notary public, certificates of persons so commissioned, and docket books listing persons commissioned.	Applications and certificates: 9 years. Docket books: 50 years.	JB-052
Application for Trade Name and Trade Name Index	Documents relating to registration of trade name under which an individual or company is doing business. Included are applications for registration of trade name. Trade name registration index books include entries of owners, addresses, and names of businesses. In most counties, recent years of entries are photocopies of applications. Many of the books have a cumulative index which list business name and page number of application.	Applications: 1 year. Index Books: Permanent.	JB-053

## Other Records

Record Type	Description	Retention	Schedule Number
<p>Newspapers Containing Legal Advertisements</p>	<p>Documents relating to giving public notice, through newspaper advertisements, of official actions or as required by various laws. Included are copies of newspapers containing legal advertisements as required by law.</p>	<p>50 years if declined by library.</p> <p>Note: OCGA §§ 15-6-74 and 15-9-43 authorize newspapers to be maintained in digital format or microfilm format or by other photographic means. These Code sections and OCGA § 15-16-12 authorize clerks of superior court, judges of probate court, and sheriffs to enter into an agreement whereby one of these officials will maintain the official record of these newspapers for the other two.</p>	<p style="text-align: center;">JB-054</p>

## All Court Records

Record Type	Description	Retention	Schedule Number
Superior, State, Probate, and Magistrate Court Administered Programs	Documents relating to the administration of court programs including, but not limited to, the following: settlement conferences; parenting classes; educational workshops; counseling, social, and legal services; and program files associated with accountability courts, alternative dispute resolution, and pre-trial services.	Case files: 3 years from the date of last entry. Certificates: 3 years from the date of last entry.	JB-055
All Calendars	Documents relating to listing civil and criminal matters to be heard, dates for hearing, and styles of cases. Included are calendars for judges and magistrates. Calendars may be made for pre-trial proceedings, trials, motion hearings, small claims, appearances, appellate causes, and other reasons as the court sees fit.	1 year. A record copy of each series of calendar should be maintained by the clerks as this schedule specifies. Other copies generated for office use, publication, or notification purposes may then be destroyed at the end of the week or weeks of court for which they were produced.	JB-056
Order of Cremation	Court orders relating to the cremation of a human body.	10 years.	JB-057
Deeds and Condo Plats	Records documenting individual ownership or property that are filed with the local government.	Permanent.	JB-058
Deeds, Right of Way	Records authorizing use of land for road widening or public works.	Permanent.	JB-059
Deeds, Security	Deeds to properties on which an agency holds the second mortgage.	5 years after final payment.	JB-060

## Juvenile Records

Record Type	Description	Retention	Schedule Number
<p>Individual Juvenile Court Case Files; Excludes Termination of Parental Rights and Legitimation</p>	<p>The individual juvenile court case files shall serve as the minutes. Includes the following vital records: complaints, petitions, all court orders, rights forms, notices of appeal, publications, applications for publication, transcripts, any other items in juvenile court files which are juvenile court generated and do not fall within the category of non-vital records. Includes the following non-vital records: subpoenas, correspondence, intake data sheets, witness lists, route sheets, clerk or judges bench notes, applications for court appointed attorney, social histories, victim impact statements, any duplicates of court generated documents or records, essays, community service reports, applications for bond, custody reports generated by juvenile court for investigatory purposes, and case histories transmitted by another juvenile court.</p> <p>Includes non-vital documents generated by other persons or agencies such as the following: records of ankle monitoring agencies, police reports; Department of Family and Children Services reports, Department of Juvenile Justice reports, psychologicals, custody reports not produced by juvenile court, medical records, and school discipline/attendance records.</p>	<p>Vital Records: Delinquency: 25 years from the end of the calendar year of the date that the child was born.</p> <p>Dependency: 10 years after the last action in the case or 25 years from the end of the calendar year of the date that the child was born, whichever is later.</p> <p>Non-vital Records: 1 year.</p>	<p style="text-align: center;">JB-061</p>
<p>Parental Notification of Abortion Case Files</p>	<p>The individual juvenile court case files shall serve as the minutes. Documents relating to actions initiated by a minor, on such minors behalf or by next friend, for a waiver of the requirement that a parent be notified that an abortion is to be performed. Includes petitions, orders, medical statements, correspondence, etc.</p>	<p>90 days after disposition.</p>	<p style="text-align: center;">JB-062</p>

## Juvenile Records

Record Type	Description	Retention	Schedule Number
<p>Legitimation Case Files and Termination of Parental Rights Case Files in Which Rights Were Terminated</p>	<p>The individual juvenile court case files shall serve as the minutes. May include the following vital records: complaints, petitions, all court orders, rights forms, notices of appeal, publications, applications for publication, transcripts, any other items in juvenile court files which are juvenile court generated and do not fall within the category of non-vital records. May include the following non-vital records: subpoenas, correspondence, intake data sheets, witness lists, route sheets, clerk or judge's bench notes, applications for court appointed attorney, social histories, any duplicates of court generated documents or records, and case histories transmitted by another juvenile court. May include non-vital documents generated by other persons or agencies such as the following: police reports, Department of Family and Children Services reports, Department of Juvenile Justice reports, psychologicals, school discipline/attendance records, and custody reports not produced by juvenile court.</p>	<p>Permanent.</p>	<p>JB-063</p>
<p>Case Files of Juveniles on Probation or Supervision with the Court</p>	<p>Documents relating to a juvenile's status on probation or supervision with the court. Includes drug screens, school attendance records, reports of contact with probation officer, etc.</p>	<p>5 years after probation is terminated or when juvenile is 17, whichever is later.</p>	<p>JB-064</p>
<p>Court Reporters' Notes and Files</p>	<p>Documents relating to verbatim recording of oral proceedings before the court. Included are stenographic machine tapes and/or notes. May also include tape recordings, dictagraph belts, paper strips, steno pads, and other recording media including electronic formats.</p>	<p>2 years after disposition.</p>	<p>JB-065</p>

## Juvenile Records

Record Type	Description	Retention	Schedule Number
Docket Books	Documents relating to cases filed in juvenile courts. Included are docket books, bound and loose-leaf, and the pages thereof, in which is recorded information regarding children who are referred to juvenile courts and complaints which are filed against them or in their interest. Also included are computer records or other electronic records of the information required to be maintained in the juvenile docket book in juvenile courts which store the docket sheet information electronically in lieu of maintaining a separate juvenile docket book.	28 years from the end of the calendar year of the last entry.	JB-066
Court Calendars	Documents relating to listing of matters to be heard, dates for hearing, and styles of cases. Included are calendars for judges and associate judges.	1 year.	JB-067
Files and Records of Juvenile Court Administered Programs	Documents relating to the administration of court programs including but not limited to the following: accountability court programs, community service programs, diversion programs, restitution programs, community oriented risk-reduction programs, parenting classes, Tough Love programs, mentoring programs, tutoring programs, and counseling programs. Included are attendance records, referrals to other programs, testing results, certificates, etc.	5 years.	JB-068

## Juvenile Records

Record Type	Description	Retention	Schedule Number
<p>Traffic Case Files</p>	<p>The individual juvenile court case files shall serve as the minutes. May include the following vital records: uniform traffic citations, complaints, petitions, all court orders, rights forms, notices of appeal, publications, applications for publication, transcripts, any other items in juvenile court files which are juvenile court generated and do not fall within the category of non-vital records. May include the following non-vital records: subpoenas, correspondence, intake data sheets, witness lists, route sheets, clerk or judge's bench notes, applications for court appointed attorney, social histories, victim impact statements, any duplicates of court generated documents or records, essays, community service reports, applications for bond, and case histories transmitted by another juvenile court.</p> <p>May include non-vital documents generated by other persons or agencies such as the following: records of ankle monitoring agencies, police reports, Department of Family and Children Services reports, Department of Juvenile Justice reports, psychologicals, and school discipline/attendance records.</p>	<p>Vital Records: 7 years after disposition.</p> <p>Non-vital Records: 1 year after disposition.</p>	<p style="text-align: center;">JB-069</p>

## Probate Records

Record Type	Description	Retention	Schedule Number
Applications, Bonds, and Permits for Fireworks Displays	Applications for public display or exhibition of fireworks. Included are applications, bonds, evidence of liability insurance, and permits.	6 years.	JB-070
Election Tally Summary File	Included are election tally sheets.	6 years.	JB-071
Estate Case Files (Excluding Wills)	The qualification of a legal representative and the management and distribution of the assets of an estate. Included are: original and recorded copies of all proceedings in relation to estates, excluding probate of wills. Examples are: applications for letters of appointment and dismission of executors and administrators under OCGA Title 53; applications for year's support; as well as guardianships and conservatorships under OCGA Title 29; inventories and appraisements; applications for leave to sell property; and annual and final returns.	Permanent.	JB-072
(Hospitalization) Files Created Pursuant to Proceedings Under Chapters 3, 4, and 7 of Title 37 of the Official Code of Georgia Annotated and Proceedings Under Prior Official Codes Related Thereto (Involuntary Commitment Records)	The hospitalization and treatment of mentally ill, mentally disabled, alcoholics, drug-dependent individuals, and drug abusers. Included are originals of petitions, proceedings and orders relating to emergency admission, evaluation, and involuntary hospitalization, writs of habeas corpus, and protective orders, appointments of legal counsel and guardians ad litem, notices to parties, clinical or medical records of individuals, affidavits and certificates of examining physicians, and patient service plans. Hospitalization petitions may also contain guardianship applications.	75 years after disposition.	JB-073

## Probate Records

Record Type	Description	Retention	Schedule Number
Lists of Persons Who Have Been Adjudicated as Mentally Incompetent	Records relating to deleting from electors' lists the names of those persons who have been adjudicated as mentally incompetent. Included are lists prepared monthly by the judge of the probate court and filed with the registrar giving names, addresses, and ages of persons who appear to be disqualified from voting by reason of an adjudication of mental incompetency during the preceding month.	2 years.	JB-074
Marriage Records	Transcription, digitization, or photocopy of the marriage license recorded by the probate judge within 30 days of the marriage.	Permanent.	JB-075
Peddlers Licenses and Certificates of Eligibility Files	Application for peddler's license and certificate of eligibility for disabled, indigent, disabled veterans, and the blind for a free license. Included are books or files containing any of the following: (1) receipt stubs of certificate or license, (2) application or affidavit for certificate or license, (3) letters of character reference, (4) letters from physicians of U.S. Veterans Administration, (5) copies of applicant's military discharge, and (6) court copy of license.	2 years.	JB-076
Weapons Carrying License Application File	The licensing of county residents to carry a weapon. Included are approved and denied applications for licenses to carry a weapon and supporting documents. Applications contain information supplied by the applicants that is pertinent to their eligibility to apply for the license. Supporting documents include mental health waiver forms, law enforcement reports, rap sheets, and other documents relating to issuance of the license.	6 years.	JB-077
Public Officers' Oaths and Bonds	The oaths of office and bonds of public officials filed in the probate court. Included are copies of written oaths of office and accompanying certificates issued by the officer administering the oath which specify the day and year taken, official bonds of county officials, and books containing recorded copies of official bonds.	6 years. Records dated prior to 1900: Permanent.	JB-078
Wills	Wills of decedents. Included are original, photostatic, imaged, and recorded copies of probated wills of decedents. Specifically excluded are wills of living persons filed in the probate court for safekeeping and wills filed but not probated.	Permanent.	JB-079

## Magistrate Records

Record Type	Description	Retention	Schedule Number
Arrest and Search Warrants Files	Documents relating to arrest and search warrants. Included are audio and video applications for warrants, supporting affidavits, and evidence. Specifically excludes the original arrest warrants in which the defendant was bound over for trial by a magistrate to state or superior court. These original warrants should be transferred with the case file to the trial court.	10 years.	JB-080
Good Behavior Bonds	Documents relating to Good Behavior Warrants. Included are applications for warrants, supporting affidavits, and/or law enforcement reports or supplemental evidence, including audio and video of Good Behavior Warrant proceedings.	7 years. All original documents shall be kept in the magistrate court. See OCGA § 17-6-90.	JB-081
Civil Case Files	Documents relating to trying of civil cases in magistrate courts. Included are all pleadings, exhibits, transcripts, judgments, and related papers appropriate for inclusion in case files as required by statute or by the Uniform Rules for the Magistrate Courts. (Some courts maintain indexes to their case files and dockets. The retention of these indexes is covered in the schedule Magistrate Court Civil Dockets.) Includes affidavits for summons of dispossessory, applications for summons of foreclosure of personal property, and abandonment of automobiles or vessels.	10 years after disposition. If a judgment is renewed or enforcement is actively pursued in accordance with OCGA § 9-12-60 within the 10-year period, transfer case back to current files area and treat as a newly closed case.	JB-082
Transcripts, Recordings or Notes of Proceedings as Court Inquiry	Documents relating to certified verbatim records, digital recordings, and any other audio recordings or video recordings, including certified records of court reporters' transcriptions.	3 years from end of each calendar year or duration of sentence, whichever is longer.	JB-083

## Prosecuting Attorney Records

Record Type	Description	Retention	Schedule Number
Misdemeanor, Traffic and Ordinance Violations	Documents relating to the investigation and prosecution of misdemeanor and misdemeanor traffic violations under Georgia law and alleged violations of county ordinances which are brought against individuals and corporations.	5 years after all direct appeals are completed or right to a direct appeal has terminated.	JB-084
Prosecutor's Felony Case Files	Documents relating to prosecution of individuals for felony violations of Georgia law. This file series is within the District Attorney's office.	25 years after all direct appeals are completed or right to a direct appeal has terminated.	JB-085
District Attorney's Files on Child Support	Documents relating to civil actions brought by the District Attorney on behalf of a parent or guardian to obtain or enforce support of minor children. Included are petitions, pauper's affidavits, summonses and rule nisi, rules for contempt, orders, answers, depositions, interrogatories, other discovery papers, pleadings, transcripts, judgments, motions, District Attorney's personal notes, notices of appeal, briefs and other related documents.	3 years after case is closed by court or operation of law.	JB-086
District Attorney's Child Support Undocumented Case Files	Documents relating to cases referred to the District Attorney's office by the Department of Human Services pursuant to OCGA § 19-11-1 et seq. which were not docketed in any court due to insufficiency of the evidence or statements made by the custodial parent (recipient) which prevent initiation of a paternity action. Included are DHS referral documents, correspondence relating to case, notices to potential defendant and affidavit of custodial parent as to paternity.	3 years after administrative determination that evidence is insufficient to obtain a judgment.	JB-087
Prosecutor's Dismissed Misdemeanor and Misdemeanor Traffic Case Files	Records of cases referred to Prosecutor investigation of misdemeanor, misdemeanor traffic, or ordinance violations dismissed before filing. OBTS form forwarded to GCIC; if local practice requires it – return original to clerk.	3 years.	JB-088
Attorney Case Files	Records of documentation of agency attorney in advising and representing the agency.	6 years after settlement of case.	JB-089

## Municipal Records

Record Type	Description	Retention	Schedule Number
Executed Arrest Warrants	Summons for an individual who has not appeared in court for sentencing.	3 years after court appearance.	JB-090
Open Arrest Warrants	Summons for an individual who has not appeared in court for sentencing.	15 years.	JB-091
Traffic	Serious traffic (suspendable).	6 years after disposition.	JB-092
Cash Bond List	List of offenses under the court's jurisdiction and bond amount set for each offense.	3 years after superseded.	JB-093
Citation Intake List	List of citations received from public safety officers by the court.	1 year.	JB-094
Court Calendar	Documents relating to list of matters to be heard, dates, and styles of cases.	1 year.	JB-095
Court Docket	Books which generally contain essential information in summary form about each traffic case adjudicated.	7 years.	JB-096
DDS Electronic Transfer	List of convictions and failures to appear transferred to DDS.	7 years.	JB-097
Dismissed Misdemeanor and Misdemeanor Traffic Case Files	Documents relating to the investigation and prosecution of misdemeanor and traffic offenses under Georgia law and alleged violations of city ordinances which are brought against an individual.	3 years after closure.	JB-098
DUI Case File	Documents that support, refer, or reflect the adjudication of a DUI case.	10 years after disposition.	JB-099
DUI Notices/Photos	Notice of conviction of second subsequent DUI sent to local newspaper.	10 years.	JB-100
GCIC/NCIC Printouts	Driver and criminal histories printed for use by prosecutor and judge.	Until file closure.	JB-101
Jail List	List received showing defendants incarcerated from public safety or jail.	1 year.	JB-102
Misdemeanor Case Files, Traffic Court	Court adjudication of misdemeanor traffic citations issued by authorized public safety officers and documents specific to the case.	7 years after disposition.	JB-103
Misdemeanor Court Records – Case Files	Documents supporting the adjudication of a case.	10 years after disposition.	JB-104

## Municipal Records

Record Type	Description	Retention	Schedule Number
Misdemeanor Traffic Offenses Transferred to Another Jurisdiction	Citations, accusations, and summonses transferred to higher court for jury trial or another court of jurisdiction.	7 years after appearance in court.	JB-105
Prisoner Mail Logs	Record of all mail received from an inmate.	1 year.	JB-106
Probation Records	Official records pursuant to an individual probationary status, including probation officer, probationary conditions, and length of term.	7 years.	JB-107
Telephone Taps	Court order for telephone taps.	10 years.	JB-108
Grand Jury Presentment	Grand jury reports.	10 years.	JB-109
Legal Organ Designation	Declaring the local paper as the Official Organ.	7 years.	JB-110
Terms of Court	Quarterly reporting of opening and closing the court terms.	7 years.	JB-111
Writs of Habeas Corpus	Writs of habeas corpus.	7 years.	JB-112
Ordinance Violations	Records concerning ordinance violations. See OCGA § 15-10-63.	2 years.	JB-113

# Official Judicial Branch Administrative Records Retention Schedules

<b>ACCOUNTING (01)</b>			
Records	Description	Retention	Number
Accounting Records	Records include: accounts payable files; accounts receivable files; bank statements; cancelled checks, vouchers, and EFTS; cash balances and reconciliations; cost accounting records; deposit slips and reconciliations; invoices; journal entries (journal vouchers); outstanding obligations; payment schedules; purchase orders; receipts; returned checks; reconciliations; refund/disbursement requests; moving expenses; agency-paid individual memberships and activities in professional organizations; registration fees; and travel authorization and reimbursement records.	5 years.	GASC-01-001
Annual Financial Statements	Records which provide an annual statement of net assets and activities; often called a comprehensive annual financial statement or report.	Permanent.	GASC-01-002
Audit Reports (Agency Copies)	Reports prepared by the Department of Audits examining and verifying the agency's financial activities for a defined period of time; does not include the record copy maintained by the Department of Audits.	5 years or 2 successive audits, whichever is longer.	GASC-01-003
Bids and Competitive Selection Records	This series documents the procurement of equipment and service valued in excess of bid limit. This series may include but is not limited to: requests for proposal (RFP); requests for invitations to bid (RFI); requests for quotes (RFQ); vendors' proposals and bids; records for all bids received; and competitive quotes.	Capital Improvement Projects: 11 years; All other records: 7 years.	GASC-01-004
Budgeting Records	Records documenting budget requests, maintenance, and reports as well as the budget approved by the Legislature.	Approved Budget: Permanent; All other records: 6 years.	GASC-01-005

Collection Records	This series includes records documenting an agency's efforts to collect unpaid accounts; includes PeopleSoft collection reports.	5 years after account paid in full or deemed uncollectible.	GASC-01-006
Contracts and Agreements	This series documents the negotiation, execution, completion, and termination of legal agreements between an agency and other parties to acquire or provide services or products.	Capital Improvements: 10 years after expiration; Other contracts: 7 years after contract expiration.	GASC-01-007
Cooperative Federal Programs Budget Preparation, Project, and Allocation Records	Records used to develop, estimate, propose, and plan the preliminary budget requests for cooperative state/federal programs and reflect the process by which annual budget allotments are distributed.	5 years after the end of the fiscal year.	GASC-01-008
Cost Accounting Reports	Financial reports by cost center for all expenditures.	3 years.	GASC-01-009
Credit Card Administration Records	Records documenting administration of credit cards issued to individual agency staff or offices.	7 years.	GASC-01-010
Federal and State Grant Project Files	Records documenting federal and state-funded grant projects.	Final Narrative Summary: Permanent (GASC-02-008); Education Agencies: 5 years after submission of final report or denial of application; Non-Education Agencies: 3 years after submission of final financial report.	GASC-01-011
Federal Revenue Sharing Records	Records documenting federal, state, county, and municipal revenue-sharing; includes summaries, expenditures, and investments.	5 years after submission of final report.	GASC-01-012

General Ledger and Trial Balances	Records of final entry for all financial transactions.	7 years.	GASC-01-013
Internal Auditing Records	Records documenting the conduct of an internal review of agency financial accounts and processes.	5 years or 2 successive audits, whichever is longer.	GASC-01-014
Official Bonds and Oaths	Bonds required of state officials and custodians of funds.	5 years after expiration of term.	GASC-01-015
Signature Authorizations	Records documenting the certification of employees who are authorized to sign fiscal and contractual documents.	7 years after authorization expires.	GASC-01-016

## ADMINISTRATION (02)

Records	Description	Retention	Number
Administrative Rules Records	Records documenting reviews and changes to administrative rules issued in compliance with OCGA § 50-13-1 – 50-13-44.	Final rule: 5 years after expiration; Other records: Retain for useful life.	GASC-02-001
Annual Reports	Annual reports that summarize agency functions and activities.	Permanent.	GASC-02-003
Broadcast Logs	Records documenting agency daily broadcast activities.	Logs relating to a disaster or investigated by the FCC: Retain until authorized by FCC to destroy; Other logs: 2 years.	GASC-02-007
Correspondence – Administrative	This series includes communications received or sent that document significant events and/or the development of administrative structure, policy, procedures, and the historical development of the office.	Permanent.	GASC-02-004
Correspondence – General	This series includes correspondence that documents formal decisions regarding routine matters.	5 years.	GASC-02-005

Crisis or Disaster Records	Records documenting events and damages to an agency's property due to storms, riots, fires, drought, floods, and other acts affecting the agency facilities; may include photos, logs, reports, notes, and correspondence.	Records that document a lasting change to agency property or activities: Permanent; Other: See applicable retention schedule.	GASC-02-006
Executive Level Administrative Files	This series includes the records of an agency's director, deputy director, and division directors. Records with historical value include memoranda, reports, and other documentation concerning the administration of policy, coordination of agency functions, and management of program activity. Records of a routine or non-substantive nature that do not document policy decisions or significant programmatic and functional activities.	Records that document policy, coordination of agency functions, and management of program activity: Permanent; Other records: 5 years.	GASC-02-002
Federal and State Grant Reports	Final narrative summary submitted according to grant requirements of the funding agency.	Permanent.	GASC-02-008
Legal Case Files	Records documenting the work of the agency legal counsel in advising and representing the agency.	6 years after settlement of case.	GASC-02-009
Legal Opinions	Interpretations of the law and an agency's compliance with the law by the Attorney General or other legal counsel.	Until superseded.	GASC-02-010
Legislative Relations Records	This series may be used to review and plan institutional positions on legislative activities. This series may include but is not limited to: final reports; bill review and tracking records; copies of legislation; and working papers.	Final reports: Permanent; All other records: Retain for useful life.	GASC-02-011
Lobbyist Records	This series documents the activities of agency employees who engage in lobbying the state. Records may include: lobbyist registration statement forms; lobbyist termination forms; lobbyist expenditure report forms; lobbyist listings; and salary information.	5 years.	GASC-02-012

Meeting Agendas, Minutes, and Packets	Records documenting proposed and executed proceedings of agency meetings.	Approved Minutes, Agenda, and Final Packet: Permanent; Notes and records used to create the approved minutes and supporting documentation: Retain until minutes are approved.	GASC-02-013
News Release Records	This series documents newsworthy events of the agency. This series may include but is not limited to news releases issued by agency news and communications units arranged by topic and/or date of issue.	10 years.	GASC-02-014
Periodic Reports	Reports that describe the agency's functions and activities and include quarterly, monthly, weekly, and daily reports. Note: does not include annual reports (GASC-02-003).	Reports that are summarized in an agency's annual report: Retain until annual report is completed; Other reports: 2 years.	GASC-02-015
Photographs, Videos, and Films	Photographs, videos, films, and other visual representations of agency public service announcements, events, productions, promotions, tourism, training, and property.	Final Product: Permanent; Other: 5 years; Copies and poor images: Useful life.	GASC-02-016
Policies and Procedures	Standard operating practice for business processes.	Policies that affect the public: Permanent; Policies that do not affect the public: 3 years after superseded.	GASC-02-017
Printing Service Files	Records relating to printing requests, cost estimates, mock-ups, proofs, and printing plates.	Retain for useful life.	GASC-02-018
Publications	Newsletters, handbooks, pamphlets, and brochures published by an agency.	Permanent.	GASC-02-019

Speeches and recordings:  
Permanent; Drafts, source materials, and other materials: Retain for useful life.

Speeches  
Records relating to public speaking engagements of agency officials.

GASC-02-020

### ADMINISTRATIVE SUPPORT (03)

Records	Description	Retention	Number
Calendars	Desk calendars and other scheduling media.	1 year after the end of the calendar year in which the record was created.	GASC-03-001
Data Input Forms	Any type of form used to collect information for input into electronic form.	Destroy upon verification/quality control of data entry.	GASC-03-002
Indexes	Records which provide a ready reference or pointer into larger sets of records.	Retain until superseded or destruction of indexed set of records.	GASC-03-003
Mailing Lists	Various standard lists of names and addresses.	Retain for useful life.	GASC-03-004
Newspaper Clippings and Scrapbooks	This series includes newspaper clippings and scrapbooks, which may contain newspaper clippings, photographs, event programs, and other memorabilia.	Newspaper clippings: Retain for useful life. Scrapbooks: Contact Archives staff before disposition to ensure that any original materials contained in the scrapbook are retained for the duration of their retention period and that no permanent records are destroyed.	GASC-03-005

Reference Files	Publications, copies of records, and other materials that provide general reference for agency employees.	Retain for useful life.	GASC-03-006
Telephone and Fax Records	"While You Were Out" message slips; telephone and fax contact information; and related data.	Retain for useful life.	GASC-03-007
Transitory Records	Records with short-term interest that have no documentary or evidential value, such as routine requests for publications, transmittal letters, and agency event notices (holidays, charitable campaigns).	Retain for useful life.	GASC-03-008

### INFORMATION TECHNOLOGY (04)

Records	Description	Retention	Number
Computer System Documentation, Management, and Maintenance Records	Records documenting the addition, modification, maintenance, and removal of software and/or hardware from an agency's computer system. Records may include: computer equipment inventories; hardware performance reports; component maintenance records; system backup reports; backup tape inventories; system overviews; operations logs; job listings; system development logs; system specifications and changes; conversion notes; dataset logs; dataset inventories; dataset record layouts; hard copies of tables; data dictionaries; programming logs; program specifications and changes; record layouts; user views; control program table documentation; program listings; instruction manuals; software purchase records; software inventories; and licenses.	Computer Equipment Inventories: 4 years after surplus and all audit requirements have been met; Records related to backup: Retain for 2 backup cycles; All other records: Life of system, software, or component and all audit requirements have been met.	GASC-04-001
Information System Planning and Development Records	This series documents the planning and development of agency information systems. Records may include: information technology plans; feasibility studies; cost-benefit analyses; studies and surveys; system specifications and revisions; component proposals; technical literature; and vendor literature and proposals.	Implemented systems: Life of system and all audit requirements have been met; Unimplemented systems: Useful life.	GASC-04-002
Network, Computer, and Server Password and Security	Records documenting the issuance or selection of a network password and the administration of security and monitoring of the agency's network, computers, and servers.	1 year after superseded or the employee separates from the agency, and all audit requirements have been met.	GASC-04-003

System Architecture Documents and Wiring Schemas

Records documenting the location of wiring and the design of the overall agency network environment.

Until superseded or obsolete and all audit requirements have been met.

GASC-04-004

**PAYROLL (05)**

Records	Description	Retention	Number
Annual Payroll Earnings Reports	Summary of employees' payroll earnings for fiscal year, including deductions.	50 years after tax year in which the records were created.	GASC-05-001
Deduction Records	Records documenting individual employee's authorization to withhold taxes and other deductions from employees pay.	4 years after end of fiscal year.	GASC-05-002
Family Medical Leave Act (FMLA) Compliance Records	All records pertaining to FMLA's leave requirements, including dates and hours of FMLA leave; copies of employer notices, documents describing premium payments, employee benefits, and records of disputes over FMLA benefits.	3 years.	GASC-05-003
Garnishments	Records documenting the withholding of funds from an employee's wages at the request of the courts or a state agency.	5 years.	GASC-05-004
HIPAA/HITECH Records	These records include the policies and procedures implemented by agencies to comply with HIPAA/HITECH regulations.	6 years.	GASC-05-005
Periodic Tax Reports	Records documenting taxable and non-taxable income of an agency.	5 years.	GASC-05-006
Salary and Wage Records	Pre-payroll reports, monthly payroll check registers, monthly fund distribution reports, and payroll action forms.	5 years.	GASC-05-007
Unclaimed Pay Checks	Checks that remain unclaimed by employees.	1 year.	GASC-05-008

Unemployment Compensation Records	Documents relating to employee claims for unemployment compensation.	5 years after end of the fiscal year in which the transaction occurred.	GASC-05-009
Wage and Rate Tables	Records utilized to calculate straight time and overtime work schedules.	5 years.	GASC-05-010
Wage and Tax Statements	Information returns used to report wages paid to employees and the taxes withheld from them. Includes W-2s.	5 years.	GASC-05-011
Withholding Allowance Certificates (G-4 and W-4 forms)	Federal forms completed by an individual to establish the amount of taxes withheld from wages.	4 years after superseded.	GASC-05-012

### PERSONNEL (06)

Records	Description	Retention	Number
Accident Reports	Reports of employee accidents and injuries; including workers' compensation claims.	Workers' Comp Claims: 5 years and settlement of all claims due; Accident Reports not resulting in Workers' Comp Claims: 3 years.	GASC-06-001
Affirmative Action Records	Records documenting an agency's compliance with the requirements of the Equal Employment Opportunity Commission and response to federal program reviews, state compliance audits, annual reporting requirements, and internal audits.	Plans: Permanent; Audits, annual reports, and other records: 3 years.	GASC-06-002
Applications for Employment, Not Hired	Records documenting employment applications of persons not hired. Records may include but are not limited to: unsolicited, incomplete, and complete applications; supporting documentation, interview notes and materials; background surveys; and correspondence.	Unsolicited and incomplete applications: Useful life; All other records: 3 years.	GASC-06-003
Background Checks	Criminal and financial background checks on employees.	5 years.	GASC-06-004

Cafeteria Plan (Flexible Benefits) Records	Records documenting salary reduction-type plans authorized by the Internal Revenue Service.	6 years after termination of participant.	GASC-06-005
Continuation of Insurance Benefits (COBRA) Records	Copies of notices required by COBRA; documentation that notices were received; documentation of any circumstance in which COBRA is not offered due to gross misconduct.	6 years	GASC-06-006
Contracts – Employee	Service contracts between an individual and government agency.	7 years after expiration.	GASC-06-007
Converted Personal Leave Requests	Records documenting converted personal leave requests.	1 year after leave is used.	GASC-06-008
Drug Testing Records	Records documenting the random drug testing of employees to include pre-employment and reasonable suspicion.	Positives and refusals: 5 years. Negatives and cancelled drug tests and documents relating to the administration of the alcohol and controlled substance testing programs: 2 years.	GASC-06-009
Employee Grievance Action Case Files	Resolution of employee complaints against supervisor or other employees.	2 years after the complaint is filed or the case is resolved.	GASC-06-010
Employee Handbooks	Guidelines created to explain the internal operations and procedures of the agency to a new employee.	Permanent.	GASC-06-011

Employee Hazardous Materials Exposure Monitoring Records	Records monitoring the exposure of employees to hazardous materials.	30 years.	GASC-06-012
Employee Medical Files, Toxic/Hazardous Substance Exposure	Documentation of employee exposure to hazardous materials.	30 years after separation.	GASC-06-013
Employee Parking Records	Records documenting employee parking permit applications, cards, and permits.	5 years after permit expires or is superseded or separation of employee from the agency.	GASC-06-014
Employee Personnel Files	Records documenting an employee's work history with the agency, generally maintained as a case file; includes records of continuing education, performance evaluations, disciplinary actions, and background checks. Please note: no central agency maintains these records; it is the responsibility of individual agencies to maintain the personnel files of their employees.	Records documenting service, final leave status, and hire/no hire recommendation: 50 years; Other records: 7 years following separation of employee.	GASC-06-015
Employment Eligibility Verification Records	I-9 forms.	3 years after date of hire or 1 year after separation, whichever is longer.	GASC-06-016
Equal Employment Opportunity Commission (EEOC) Reports	Reports classifying employees by race and gender that document compliance with EEOC rules.	3 years.	GASC-06-018

Equal Employment Opportunity Commission and GA Commission on Equal Opportunity Complaints	Records documenting charges of discrimination filed against an agency.	2 years or until final disposition of the charge or action.	GASC-06-017
Family Medical Leave Case Files	Records documenting extended absence from work by an employee under provisions of the Family Medical Leave Act.	3 years.	GASC-05-003
Intern Records	This series documents the activities of interns working at the agency.	5 years.	GASC-06-020
Job Recruitment Materials	Records documenting efforts to advertise positions and attract qualified personnel.	2 years.	GASC-06-021
Leave Donation Records	Records documenting the donation of leave by employees to assist an individual who must be absent from work for an extended period of time due to illness.	1 year after leave used.	GASC-06-022
Leave Records	Records documenting hours worked, leave earned, and leave taken; does not include final leave status.	3 years.	GASC-06-023
Position Classification Materials	Records documenting job requirements, description, and salary range.	4 years after position is re-classified.	GASC-06-024
Pre-employment Assessments, Not Hired	Exams taken by those applying for positions with a state agency.	2 years.	GASC-06-025
Retirement Incentive Program Records	Records documenting employees who elect early retirement under government-offered incentive programs.	6 years.	GASC-06-026

SAVE Affidavits	SAVE (Systematic Alien Verification for Entitlements) Affidavits testifying to an individual's right to receive public benefits.	3 years.	GASC-06-027
Student Workers Permits	Permits to allow persons under 18 years old to obtain summer employment.	Return to issuing officer (school board) after termination or failure to appear for 30 days.	GASC-06-028
Training Records	Records documenting attendance and course content for continuing education training.	5 years.	GASC-06-029
Training Records – Breath-Alcohol Testing	Records relating to the training of individuals for breath-alcohol testing.	2 years after individual ceases to perform the testing function.	GASC-06-030
Volunteer Program Records	This series documents the activities and administration of an agency's volunteer program. Records may include: volunteer hour statistics; volunteer program publicity records; insurance requirement information; and inactive volunteer files containing applications and conditions of volunteer service forms.	Individual volunteer files: 3 years after separation; All other records: 3 years.	GASC-06-031
Work/Time Schedules	Records documenting employee's daily and weekly work schedules.	4 years.	GASC-06-032

## PROPERTY AND SECURITY (07)

Records	Description	Retention	Number
Blueprints and Specifications	Plans and specifications maintained by an agency for its own facility; used by facilities management to facilitate repairs and upgrades to the building.	As Built plans and specifications: Permanent; Interim and Never Built plans and specifications: 7 years.	GASC-07-001
Building/Grounds Maintenance, Remodeling, and Repair Records	Records documenting the condition, upkeep, and routine maintenance on agency facilities and grounds.	7 years.	GASC-07-002

Business Continuity Plans	Business recovery plans for man-made and natural disasters.	Until superseded.	GASC-07-003
Capital Construction Project Records	Records relating to the planning, administration, and implementation of capital construction projects; includes project descriptions and requirements, bid records, plan reviews, project schedules, contract changes, consultant contracts, and budgets.	11 years after completion of project.	GASC-07-004
Depreciation Schedules	Records documenting useful life and depreciation of agency-owned equipment and property, usually for insurance purposes.	4 years.	GASC-07-005
Employee Identification Records	Records documenting the issuance of employee identification cards, including restricted access.	4 years after superseded or employee separation.	GASC-07-006
Equipment and Vehicle Maintenance Records	Records documenting service history, mileage, damage repair, routine preventative maintenance and disposition of agency vehicles and equipment. Records type includes warranties, operating manuals, service contracts, and service logs for maintenance of agency-owned equipment and vehicles etc.	5 years after disposition of vehicle or equipment.	GASC-07-007
Facility Inspection Files and Reports	Records documenting inspection of facilities to comply with standards, rules, and codes affecting health and safety of the occupants; includes security and safety inspections.	3 years.	GASC-07-008
Federal Property Records	Records documenting the loan or lease of government equipment (federal) by state agencies.	7 years after expiration of contract or disposal of equipment.	GASC-07-009
Fuel and Oil Usage and Tax Reports	Periodic reports of the consumption of taxable and non-taxable diesel, gas, and oil in government-owned vehicles.	3 years.	GASC-07-010
Incident Reports	Reports of incidents of suspected criminal activity.	Internal documentation and incidents not reported to police: 5 years; Incidents reported to police: Retain until settlement of claims.	GASC-07-011

Insurance Policies	Records documenting insurance purchase for agency facilities or of membership in risk management cooperatives.	7 years after expiration of policy or membership.	GASC-07-013
Maintenance Work Orders	Records documenting routine maintenance on facilities and property.	5 years.	GASC-07-015
Property and Equipment Inventories	Listings of agency-owned property and equipment.	5 years after superseded.	GASC-07-014
Property Disposition Requests (Surplus Property Records)	Records documenting requests for change in status of state-owned property.	5 years.	GASC-07-016
Property Insurance Fund Claims	Records documenting requests for payment of insurance claims from the Georgia Department of Administrative Services Risk Management Division.	5 years after claim is paid or denied.	GASC-07-012
Real Property Ownership Records	Deeds, titles, purchasing records, and supporting documentation for land owned by an agency.	11 years after the year in which the property was sold or transferred.	GASC-07-017
Receipts of Responsibility	Records documenting property temporarily in use or possession of an employee.	5 years.	GASC-07-018
Security Access Records	Logs documenting when and who accessed restricted areas.	5 years.	GASC-07-019
Security Videos	Digital or analog video recordings and images from agency security systems. This series also includes digital or analog voice recordings of radio and telephone communications.	Known incident/accident: Retain until settlement of claims; No known incident/accident: 30 days.	GASC-07-021

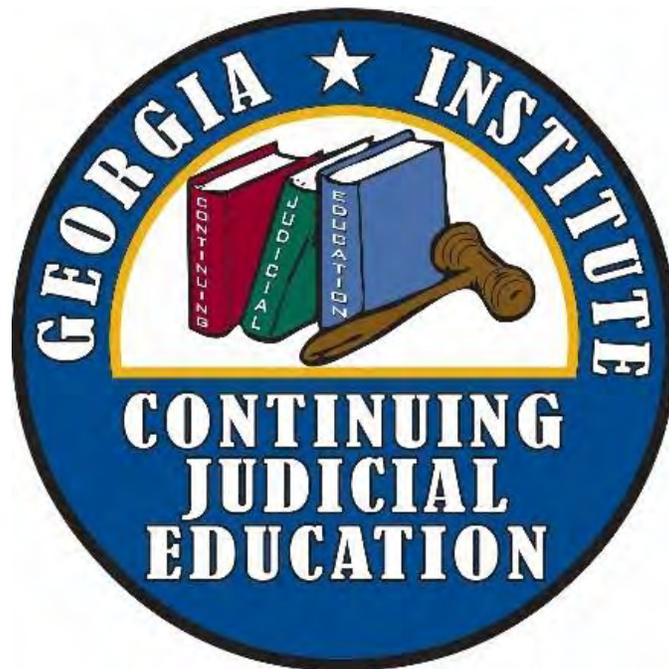
Security/Fire System Install and Maintenance Records	Records documenting agency security and fire alarm systems.	3 years after replacement of system.	GASC-07-020
Space Planning/Design Management Project Files	Evaluation and design of space for government agencies.	3 years after project completion.	GASC-07-022
Vehicle Accident Reports	Records documenting damage to agency-owned vehicles.	5 years.	GASC-07-023
Vehicle and Equipment Purchases	Records documenting the purchase of vehicles and equipment.	5 years after disposition of vehicles or equipment.	GASC-07-025
Vehicle Permits/Security Identification Records	Records documenting the issuance of vehicle decals providing access to secure areas.	2 years after superseded.	GASC-07-026
Vehicle Title Records	Records documenting agency ownership of vehicles.	Applications: Retain until receipt of title; Title: Retain for duration of ownership.	GASC-07-027
Vehicle Use Authorizations and Requests	Records documenting permission for employees to use their private automobiles for official business.	5 years after superseded or obsolete.	GASC-07-028
Visitor Sign-in Logs	Visitor sign-in logs.	1 year.	GASC-07-029

### RECORDS MANAGEMENT (08)

Records	Description	Retention	Number
Destruction Records	Records documenting the destruction of agency records.	Retain in office.	GASC-08-001

Microfilm Records	Records documenting the processing of microfilm to show compliance with standards; the preparation and filming of records; the inspection of film; and the transfer and acceptance of film to a security storage area.	Retain for life of film.	GASC-08-002
Microfilm Vault Monitoring Reports	Records documenting temperature and humidity conditions within a storage facility.	5 years.	GASC-08-003
Open Records Act Requests and Correspondence	Inquiries from members of the public requesting access to information under the Georgia Open Records Act.	3 years.	GASC-08-004
Records Schedules	Copies of approved agency records retention schedules.	5 years after superseded.	GASC-08-005
Records Transmittal Records	Records documenting the transfer of agency records into the custody of a records center facility.	Permanent records: Retain in office; Temporary records: 5 years after disposition of transferred record.	GASC-08-006
Reference Requests	Reference pull sheets documenting the retrieval of records from a records center facility.	4 years.	GASC-08-007

**Appeal  
Dates/Judgments/  
Fi. Fa.**



**Hon. Megan Kinsey**

# APPEAL DATES/JUDGEMENTS /FIFA

Megan Kinsey, Magistrate  
Butts County

## Judgements

- A finding by the Court that one party has a legal obligation to pay the party a specified amount of money
- Where do they come from? Commonly from Statement of Claims or Dispossessory
- Types of Judgments-
- Default-defendant fails to answer or appear for court. Collections can begin once filed by the clerk.
- Judgement for Plaintiff-Plaintiff has proved their case to the Court by Preponderance of the Evidence. Supposed to wait 30 days for payment or appeal process before filing collections.

# Judgements Cont.

- Judgement for Defendant-Plaintiff failed to prove their case and/or Defendant had proved their counterclaim by Preponderance of the Evidence.

Consent Judgement- Parties enter in an agreement for an amount owed and usually outlines a payment arrangement. A Default on Consent can be entered if a defendant does not do as agreed.

Ways to collect on Judgments-Writ of FIFIA, Garnishments (continuous, bank), Post Judgement Interrogatories

# Dates for Appeals-Judgements

- What is an appeal?
  - -apply to a higher court for a reversal of the decision of a lower court
- Appeals for Judgements must be filed within 30 days of the Judgement being signed and filed. (Judgments for Plaintiffs/Defendants) Default Judgments cannot be appealed
- Notice of Appeal should state which Court they wish to appeal too, if not send to the next court. State Court/Superior Court
- Once Notice is filed, an order should be presented to the Judge authorizing the appeal.
- Depending on how your jurisdiction handles these either:
  1. Make certified copies of all documents in the case, and forward those documents to the Court within 10 days
  2. Make copies of the case and forward originals to the Court within 10 days

## Dates for Appeals- Dispossessory Proceedings

- Appeals from Dispossessory Proceedings must be filed within 7 days of the date the judgement was signed and filed
- The Judgement should specify if past due rent must be paid into the registry of the court along with the filing fee
- Notice of appeal should specify what Court they wish to appeal to
- Upon receiving notice present Judge with an order to authorize the appeal
- According to how your jurisdiction handles-
- Either prepare certified copies of the case and forward them to the appropriate Court, within 10 days or make copies and send the originals within 10 days
- If the appeal is dismissed due to procedural grounds or a withdrawal, all rights are the same as if no appeal had been filed

## Satisfied Judgements

- Duties of Judgement creditor: Upon payment of the entire debt upon which a judgement or FIFA has been issued, the judgment creditor shall timely (within 60 days) direct the clerk(s) of the appropriate court(s) in writing to (1) cancel the writ of FIFA, if a writ was issued (2) mark the judgement satisfied. Failure to comply may subject the creditor to monetary damages, OCGA 9-13-80
- You may not receive Satisfactions from your self represented litigants, they simply do not know. To remedy, add something at the bottom of your judgments or create/use a form.
- Have you ever had someone who says they have paid the judgement or wants to pay, but the plaintiff cannot be found to satisfy the case? Remedies?
  - default hearings, allow the party to pay the amount into the registry of the court

# Writ of Fieri Facias/FIFA

- a document issued by the court for the purpose of recording a lien on the judgement debtor's property. It is also the legal instrument by which the sheriff or constable of a county may seize the assets of a judgement debtor.
- **Clerk's duties**-provide the form or accept the form from the party and receipt the filing fee. We collect \$29.00 (\$25 for Superior Court and \$4 for Magistrate Court, we also accept one check or separate checks)
- Check to see that it is based on a judgement
- Confirm the info is correct (plaintiff, attorneys, defendant judgment dates, amounts etc)
- Update your file, and sent the FIFA to Superior Court to be recorded along with the filing fee
- Once you received the recorded FIFA back, update your file and send original to plaintiff (this varies between courts)

# Alias FIFAs

- OCGA 9-13-8
- -Upon receiving a request/affidavit that the original FIFA has been lost or destroyed;
- **The Judge should prepare an order directing the Court to issue an "Alias" FIFA and include the date it was issued, where and when it was recorded**
- On a new FIFA be sure the party's info is correct (unless a new attorney has taken the case), the dates are correct and amounts
- **Be sure to include the word "Alias" and when and where the original FIFA was recorded**
- See example provided

# Questions?

- Does a clerk need a copy of the judgement with motion for FIFA?
  - depends on your local requirements. We do not require one since the judgment is ours and we have the original in our file. Most of the time, we receive the motion for FIFA along with the request for a default judgment
  - What if a clerk notices a difference or possible error on motion for FIFA?
    - check with your Judge. It could be the plaintiff added post judgment interest or a simple error. We would call or mail the motion back and give them a chance to correct it.
  - What form is there for an Alias FIFA?
    - see materials, one has been included
  - What cost does the Magistrate charge for an Alias FIFA?
    - we charge \$25.00, covers the Superior Court fees and forward it with the FIFA

# Questions cont...

How long is a judgment good for? So the clerk can make sure the plaintiff is within the statute of limitations?

- a Judgement becomes dormant after 7 years of the last "good faith" effort to collect. I do not think it is the clerk's responsibility to check whether a Judgment is good. Let the defendant mention that and the Judge hold a hearing.
- On a Dispossessory how long after a judgment is awarded can a Plaintiff get a writ?
- -If the case went to court, and the Judge ruled in the Plaintiff's favor, the Judge generally enters a Judgment Granting Writ. The Judgment includes what money is owed, and the last day for the defendant to vacate. On the 8<sup>th</sup> day, the Judge signs the Writ, and a copy is forwarded to the Sheriff's office
- -If the defendant failed to answer or appear for court, and the Plaintiff has made a motion a Judgment and Writ can be issued immediately.
- Plaintiffs now must make an attempt to have a writ served within 30 days or it is no longer valid.

# MAGISTRATE COURT OF BUTTS COUNTY

835 ERNEST BILES DRIVE  
JACKSON, GEORGIA 30233  
OFFICE: (770) 775-8220  
FAX: (770) 775-1954

---

REBECCA J. PITTS  
CHIEF MAGISTRATE

LAUREN W. KERSEY  
CLERK

MEGAN H. KINSEY  
MAGISTRATE

BRAD L. CHRISTENSEN  
MAGISTRATE

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,

V.

\_\_\_\_\_  
Defendant,

## AFFIDAVIT FOR ALIAS FIFA

Personally, appeared before the undersigned attesting officer, \_\_\_\_\_ who, after being duly sworn, says: That the original execution issued in the above-stated civil case has been lost or mislaid. Deponent further states that he has made a diligent search into the record and files of his office, and that said execution cannot be found and he makes this affidavit that an Alias may be issued.

Sworn and Subscribed to me this  
\_\_\_\_\_, day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Notary/Clerk of Court

**MAGISTRATE COURT OF BUTTS COUNTY, GEORGIA**

**Date Filed** Monday, October 15, 2012

**CASE NO.** 12-880GR

Josh & Kim Savage  
550 Rover Zetella Road  
Williamson, GA 30292

**Plaintiff(s) Name.**

**Garnishment**

vs.

Jason Osborne  
467 Bailey Mill Road  
Yatesville, GA 31097

**Defendant(s) Name, Address**

Eagle Truck Wash  
1149 Bucksnot Road  
Jackson, GA 30233

**Garnishee Name, Address**



BK=58  
FG=496

**ORDER FOR ALIAS WRIT OF FIERI FACIAS**

The Court having issued and recorded a Writ of Fieri Facias in the General Execution Docket of Butts County, Georgia on January 18, 2013 as outlined in Book 58, Page 254 in the Office of the Clerk of Superior Court of Butts County; and

This Court having received notice from the above plaintiff that said original Writ of Fieri Facias has either been lost or destroyed, the Court hereby authorizes the issuance and recording of an "Alias" Writ of Fieri Facias in this case. The Court hereby authorizes the Clerk of Magistrate Court to issue and submit to the Clerk of Superior Court an Alias Writ of Fieri Facias to be recorded in the General Execution Docket of Butts County, Georgia.

SO ORDERED, this 21st day of March, 2013.

REBECCA J. PITTS, CHIEF JUDGE  
MAGISTRATE COURT OF BUTTS CO., GA

**\*Alias\***  
**Original Lost**  
**WRIT OF FIERI FACIAS**  
 IN THE MAGISTRATE COURT OF BUTTS COUNTY  
 STATE OF GEORGIA

CIVIL ACTION NUMBER: 12-880GR  
 JUDGMENT DATE: 01/02/13

Josh & Kim Savage  
 550 Rover Zetella Road  
 Williamson, GA 30292  
 Plaintiff,

Not Represented

VS

Jason Osborne,  
 467 Bailey Mill Road  
 Yatesville, GA 31097  
 Defendant

Telephone & Area Code: \_\_\_\_\_

FiFa in hands of: \_\_\_\_\_

Eagle Truck Wash  
 1149 Bucksnot Road  
 Jackson, GA 30233  
 Garnishee

**LEVY**

STATE OF GEORGIA, COUNTY OF Butts  
 I have this day executed the within Fi.Fa. by levying upon and  
 seizing the following described property of defendant(s).  
 to-wit:

Levied at \_\_\_\_\_  
 Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
 (Deputy Sheriff)

**PROPERTY KNOCKED DOWN TO:**

Sheriff's Service	\$
Sheriff's Commission	\$
Sheriff's Deed	\$
Sheriff's Levy	\$
Advertising Fee	\$
Other	\$
Total	\$
Net Proceeds	\$

\_\_\_\_\_  
 Sheriff

**NULLA BONA**

A diligent search was made and no property of the defendant(s),  
 Jason Osborne, has been found in this County, on which to levy  
 This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Sheriff

Entered on General Execution Docket \_\_\_\_\_,  
 at Page \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

Signature: \_\_\_\_\_  
 \_\_\_\_\_, 20\_\_.

Defendant(s).

To all and singular the sheriffs of the State and their lawful  
 deputies:  
 In the above styled case, and on the judgment date set out, the  
 plaintiff(s) named above recovered against the defendant(s)

Principal	\$1,309.00
Interest	\$0.00
Atty Fees	\$0.00
Court Costs	\$91.00
Total	\$1,409.00

with future interest upon said principal amount from the date  
 of judgment at the legal rate. In the above styled case, and on  
 the judgment date set out, the plaintiff(s) named above  
 recovered against the defendant(s) named above, judgment in  
 the following sums:

Therefore, YOU ARE COMMANDED, that of the goods and  
 chattels, lands and tenements of said defendant(s), and  
 ESPECIALLY/ONLY of the following described property, to  
 You cause to be made the several sums set out in the foregoing  
 recital of the judgment in this case and have the said several  
 sums of money before the Superior/State Court of this County  
 at the next term of court, with this Writ to render to said  
 plaintiff(s) the principal, interest, attorney fees and costs

Witness the Honorable Rebecca J. Pitts, Judge of Said Court,  
 this the \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_  
 Judge Clerk *Megan Kinsey*

**CANCELLATION**

The within and foregoing Fi.Fa. having been paid in full the  
 Clerk of Superior Court is hereby directed to cancel it of  
 record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Magistrate Court of Butts County, State of Georgia**

\_\_\_\_\_  
\_\_\_\_\_

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Name and Address

Vs.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Defendant's Name and Address

**Notice of Appeal**

(Check applicable sections) Notice is hereby given the ( ) Plaintiff(s) ( ) Defendant(s), hereby appeal(s) a judgment entered in the Magistrate Court of Butts County to the Superior Court of Butts County.

**Civil Cases**

The judgment of the civil case herein was entered on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
(This appeal MUST BE filed within thirty (30) days of the foregoing date of judgment and filing fee for Superior Court of \$\_\_\_\_\_ in the form of a money order must accompany said appeal.)

**Dispossessory Cases**

The judgment of the dispossessory case appealed herein was entered on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. (This appeal must be filed with seven (7) days of the date of judgment set forth above)

**Appeals by Tenants**-Past due and future rent required to be paid into the registry of the court(s) and the Superior Court's filing fee of \$\_\_\_\_\_ in order to remain in possession of the premises. Furthermore after the case is appealed the tenant is required to pay all future rent as it becomes due into the registry of the court. Failure to abide by these provisions shall cause a writ of possession to be issued. See OCGA 44-7-56.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Plaintiff(s)/Defendant(s)

**Certificate of Service**

A copy of this Notice of Appeal shall be served on all parties. If an opposing party is represented by an attorney the service shall be made upon the attorney. I hereby certify that I have served the opposing party with a copy of this appeal by mailing a copy of this document to the opposing party at the address set forth above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Plaintiff(s)/Defendant(s)

# MAGISTRATE COURT OF BUTTS COUNTY

835 ERNEST BILES DRIVE

JACKSON, GEORGIA 30233

OFFICE: (770) 775-8220

EMAIL-BUTTSCOUNTYMAGISTRATECOURT@GMAIL.COM

---

REBECCA J. PITTS  
CHIEF MAGISTRATE

LAUREN W. KERSEY  
CLERK

MEGAN H. KINSEY  
MAGISTRATE

BRAD L. CHRISTENSEN  
MAGISTRATE

## **I have a Judgment, Now What?**

-Please do not ask to speak to the Judge. It is unlawful for the Judge to speak about the case without both parties present.

-In accordance with Georgia Law and The Magistrate Court's Uniform Rules it is also unlawful for any employee of the court (including the clerk) to give legal advice. If you feel you may need assistance with your filing you may consult an attorney.

-A judgment is a finding by the Court that one party has a legal obligation to pay the other party a specified amount of money.

-That judgment will not provide a timeline for the judgment to be paid. This court will not be responsible for collecting on the judgment or setting up payment arrangements. This is left to decide between the parties.

-No proceedings can be filed to collect on the judgment until after 30 days after the judgment has been filed.

-There are multiple ways to collect on a judgment. A brief overview:

1) Writ of Fi Fa-is a document that is issued by the clerk's office for the purpose of recording a lien on the judgment debtor's property, it may also be used as a legal instrument by which the sheriff of a county may seize assets of a judgment debtor.

2) Garnishment –a separate legal action that can be filed against the garnishee, this is a person or business entity that either owes funds to the judgment debtor, or is holding funds on behalf of the judgment debtor.

3) Continuing Garnishment-can be used when the debtor is a wage earner, it last for a period of 180 days and the appropriate sums will be deducted from the judgment debtor's wages on a 30 day recurring basis until the judgment is paid or the case has expired after 180 days of service.

4) Post-Judgment Interrogatories-the purpose for interrogatories is to ascertain what the assets, if any the judgment debtor has to satisfy the judgment debt.

-Please note that there is additional filing fees associated with these collections, please contact the clerk of court for the filing costs. You should thoroughly research these collection methods to find out which is best for you. If you are unsure of what to file, you should seek the advice of an attorney.

MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA

Date Filed \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name, Address  
vs

\_\_\_\_\_  
\_\_\_\_\_

Defendant(s) Name, Address

SATISFACTION OF JUDGMENT

Comes now the  Plaintiff(s)  Defendant(s), the judgment creditor in the above-styled case, and hereby states that the amounts set forth in the judgment of this case have been paid in full, to the satisfaction of the judgment creditor, therefore, the Clerk of Court is hereby authorized and directed to mark the docket of this case as "Satisfied and Paid In Full."

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Plaintiff(s)  Defendant(s), Judgment creditor

Certificate of Service

I hereby certify that I have served a copy of this Satisfaction of Judgment upon the other party as follows:

hand delivering a copy to that party

mailing a copy by first class mail to the address listed below:

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Plaintiff(s)  Defendant(s)

**Duties of Judgment Creditor:** Upon payment of the entire debt upon which a judgment or FiFa has been issued, the judgment creditor shall timely (within 60 days) direct the clerk(s) of the appropriate court(s) in writing to: (1) cancel the writ of FiFa, if a writ was issued; (2) mark the judgment satisfied. The failure to timely comply may subject the judgment creditor to monetary damages, O.C.G.A. § 9-13-80. The Writ of FiFa should be canceled with Clerk of Superior Court in each county where you filed the writ. Also, this form should be submitted to clerk on all judgment and consent judgments upon receipt of full payment.

MAGISTRATE COURT OF \_\_\_\_\_ COUNTY, GEORGIA

Date Filed \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name, Address

vs

\_\_\_\_\_

MOTION TO ISSUE JUDGMENT  
AND/OR WRIT OF FI.FA.

Defendant(s) Name, Address

\_\_\_\_\_

The [ ] Defendant(s) [ ] garnishee has/have failed to file an answer and more than 45 days have elapsed since the date of service of process upon the [ ] defendant(s) [ ] garnishee. I request that a judgment be entered.

[ ] I also request that a Writ of Fi.Fa be issued. [ ] Attached with this request is the sum of \$9.00 court costs for the issuance and recording of the Writ of Fi.Fa. is attached to this Request.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State & Zip

\_\_\_\_\_  
Day Time Tel. Number

Magistrate Court of Butts County State of Georgia

Case # \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

Vs.

\_\_\_\_\_  
Defendant

CERTIFICATE IN SUPPORT OF DEFAULT JUDGMENT

COMES NOW the Plaintiff(s), agent for the Plaintiff(s), or attorney for Plaintiff(s), certifying to the Court, in compliance with the Uniform Rules of the Magistrate Court, Rule 43.1 as follows:

1. Defendant(s) herein was/were served with a Summons and Plaintiff's Petition/Statement of Claim on \_\_\_\_\_ (service date) by (check one) \_\_\_ Personal Service \_\_\_ Notorious Service or \_\_\_ Tack and Mail
2. Said return of service was filed of record with this Court on \_\_\_\_\_.
3. No defensive pleadings were filed by the Defendant(s).
4. More than the time allowed by law for Defendant(s) to Answer or file defensive pleadings has elapsed.
5. Plaintiff shows that, Pursuant to the Service members Civil Relief Act, 50 U.S.C. § 501, et seq\*-for assistance, see the Defense Manpower Data Center Website <https://scra.dmdc.osd.mil/>

Check One:

\_\_\_ Defendant(s) is/are in military service ascertained according to the following or attached information: \_\_\_\_\_

\_\_\_ Defendant(s) is/are not in military service ascertained according to the following or attached information: \_\_\_\_\_

\_\_\_ Plaintiff is unable to ascertain whether or not Defendant(s) is/are in military service because \_\_\_\_\_

So Certified this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name/Title

Sworn and subscribed to me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court or Notary Public

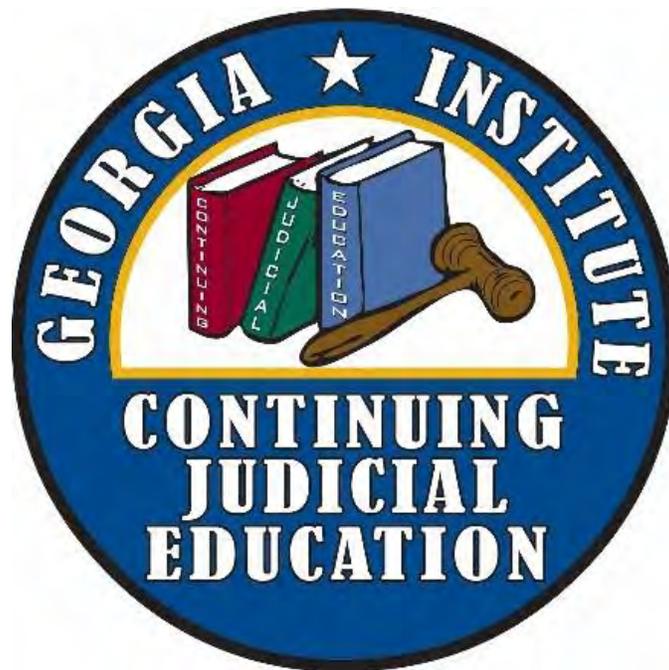
Request for Default on Consent Judgement

Plaintiff states that the Defendant has failed to follow the terms of the Consent Judgment signed on (date) \_\_\_\_\_ as follows: \_\_\_\_\_ and that payments in the amount of \$ \_\_\_\_\_ have been made and asks the court to issue a Judgment in their favor in the amount of \$ \_\_\_\_\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Plaintiff/Agent/Attorney

# Abandoned Mobile Homes



**Hon. Alan Harvey**

# Abandoned Mobile Homes

COUNCIL OF MAGISTRATE COURT CLERKS

JUNE 10, 2021

PRESENTED BY SENIOR MAGISTRATE JUDGE ALAN C. HARVEY

## O.C.G.A. §§44-7-110 -- 44-7-119

- ▶ Became law in April 2018
- ▶ Effective date – May 1, 2019

## FIRST THINGS FIRST!

“Nothing in this article shall be construed to require a local governing authority to appoint a local government agent.”

OCGA § 44-7-119.

No local government agent. NO CASE.

## Local government agent

OCGA § 44-7-112 (6): "Local government agent" means a person appointed by a local governing authority who is qualified to inspect an abandoned mobile home by demonstrating that he or she is qualified to determine if the abandoned mobile home is derelict or intact."

## Prerequisites to Relief

1. The mobile home must be “abandoned.”
2. The landowner must request that the L. G. A. assess the condition of the abandoned mobile home.  
OCGA § 44-7-113 (a)

Who determines “abandoned” landowner or L. G. A.?

The law seems to assume that the landowner made the determination of “abandoned” before contacting the L. G. A.

## What does “abandoned” mean? OCGA § 44-7-112 (1)

The mobile home:

- (1) has been left vacant by all tenants for at least 90 days without notice to the landowner and
- (2) there is evidence of one or more of the following:

## What does “abandoned” mean? - pg. 2

- (A) A tenant's failure to pay rent or fees for 90 days;
- (B) Removal of most or all personal belongings from such mobile home;
- (C) Cancellation of insurance for such mobile home;
- (D) Termination of utility services to such mobile home; or
- (E) A risk to public health, safety, welfare, or the environment due to such mobile home.

## Inspection by L. G. A.

Upon inspection, the L. G. A. shall classify the condition of the abandoned mobile home as either intact or derelict. OCGA § 44-7-113 (a)

## Inspection by L. G. A. – pg. 2

“Intact” means an abandoned mobile home which is in livable condition under applicable state law and the building and health codes of a local governing authority.

OCGA § 44-7-112 (4)

## Inspection by L. G. A. –pg. 3

“Derelict” means an abandoned mobile home which is in need of extensive repair and is uninhabitable and unsafe due to the presence of one or more of the following conditions:

- Inadequate provisions for ventilation, light, air, or sanitation; or
- Damage caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe. (The wording of the statute doesn't include intentional damage.) ???

OCGA § 44-7-112 (2) (A) and (B)

# Inspection by L. G. A. – pg. 4

This determination and any supporting documentation shall be provided to the landowner within 20 days of the landowner's request for inspection. OCGA § 44-7-113 (a)

If the abandoned mobile home is found to be intact, the landowner may record and foreclose on a lien for unpaid rent and accrued fees. OCGA § 44-7-113 (b)

If the abandoned mobile home is found to be derelict, the landowner can begin the process for removing the mobile home. OCGA § 44-7-113 (c)

## Test: Intact or Derelict?



# Derelict Mobile Homes - Notice

The L. G. A. shall post statutorily required notice in a conspicuous location on the abandoned mobile home. OCGA § 44-7-113 (c). (The subsection sets forth the required notice language.)

On the same day the notice is posted, the landowner shall send a notice to all responsible parties by registered or certified mail or statutory overnight delivery. OCGA § 44-7-113 (d) (1)

## D. M. H. notice sent by landowner

The notice shall include:

- A listing of all responsible parties and last known addresses;
- A description of the abandoned mobile home, including the make of the mobile home, the location of such mobile home, and the fact that the abandoned mobile home has been deemed derelict;
- A statement that responsible parties are entitled to request a hearing in Magistrate Court within 90 days from the date that appears on the notice to contest the determination that the abandoned mobile home is derelict and that failure to request a hearing within 90 days of receipt of the notice shall entitle the landowner to dispose of the derelict mobile home.

## Who is a “responsible party”?

- (A) Any person with an ownership interest in an abandoned mobile home as evidenced by the last payor of record as identified by a search of deeds or instruments of title;
- (B) Any holder of a recorded lien or the holder of any type of secured interest in such abandoned mobile home; or
- (C) A local government with a claim for unpaid taxes.

OCGA § 44-7-112 (9)

Note: A tenant who vacated the mobile home is not a R. P.

## What if landowner can't identify a “r. p.”?

The landowner shall place an advertisement in a newspaper of general circulation in the county where such mobile home is located.

No newspaper? Post it at the county courthouse in such place where other public notices are posted.

Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. 44-7-113 (d) (2)

Note: There is no time set forth for filing this notice. ??

## What if landowner can't identify a "r. p."? – pg. 2

The advertisement shall contain:

- (A) a description of the mobile home, including the make of the mobile home; and
- (B) the location of such mobile home, and the fact that such mobile home has been deemed derelict;
- (C) a statement that such responsible party is entitled to request a hearing in magistrate court by a date certain; and
- (D) the specific end date to contest the determination that such abandoned mobile home is derelict; and
- (E) failure to request such hearing by such date shall entitle such landowner to dispose of the derelict mobile home.

## Court Action OCGA § 44-7-114 (a)

A responsible party can request a hearing within the 90 day period described in OCGA § 44-7-113.

A landowner can request a hearing after the expiration of the 90 day period.

A hearing to confirm or deny the decision of the L. G. A. shall be held within 10 days of receiving a petition for such a hearing.

## Court Action – pg. 2

### OCGA § 44-7-114 (b)

The court shall hear evidence of the condition of the abandoned mobile home, which may include introduction of a copy of the determination from the L. G. A., and whether the notice provisions set forth have been met.

## Court Action – pg. 3

### OCGA § 44-7-114 (c)

If, after a full hearing, the court determines the abandoned mobile home to be derelict, the court shall issue an order finding such mobile home to be derelict and authorizing the landowner to dispose of such derelict mobile home. A landowner issued such order shall dispose of such derelict mobile home within 180 days of the date of such order.

- Landowner must notify Dept. of Revenue and local tag agent of the disposal.

# Lien Foreclosure on Intact Mobile Home

## Prerequisites to Lien Foreclosure

- ▶ A lien must be filed in the Superior Court in which the abandoned mobile home is located. OCGA § 44-7-113 (b)
- ▶ Demand must be made upon the responsible party for the amount of the lien plus any rent and fees accruing after the filing of the lien. (Rent after the filing of lien cannot exceed \$3.00 per day.) OCGA § 44-7-115 (2)

## Notice to “responsible party”

If the location of the responsible party is known, demand must be made by certified or registered mail or statutory overnight delivery. § 44-7-115 (2)

If the responsible party fails to respond or refuses to pay within 30 days of the delivery of the written demand, the landowner may move to foreclose on the lien. OCGA § 44-7-115 (3) (A)

## Notice to “r. p.” – pg. 2

If the responsible party cannot be located, notice shall be published in a newspaper of general circulation for two consecutive weeks. If the responsible party fails to respond or refuses to pay within 30 days after the last publication in the newspaper, the landowner may move to foreclose on the lien. OCGA § 44-7-115 (2)

Note: It appear the law allows publication in any newspaper of general circulation, unlike in the derelict process. Also, no posting in courthouse.

## Lien Foreclosure Procedure

A proceeding to foreclose on the lien must be filed in the Magistrate Court of the county in which the abandoned mobile home is located within one year from the time the lien is recorded. OCGA § 44-7-115 (1)

## Filing and Service

The landowner begins the foreclosure procedure by making an affidavit to the Magistrate Court showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of OCGA § 44-7-113 have been complied with, and such affidavit shall also aver that a demand for payment has been made and refused or that the identity of the responsible party cannot be ascertained.

OCGA § 44-7-115 (3) (A)

## Filing and Service – pg. 2

The person asserting the lien shall give the clerk or judge of the court the addresses, if known, of all responsible parties.

The clerk or judge of the court shall serve notice on such responsible parties by certified mail or statutory overnight delivery or, if the responsible party is unknown, by posting such notice at the county courthouse in such place where other public notices are posted.

OCGA § 44-7-115 (4)(A) and (B)

## Filing and Service – pg. 3

O.C.G.A. § 44-7-115 (4)(A)

The notice shall inform the responsible party:

- (A) of a right to a hearing to determine if reasonable cause exists to believe that a valid debt exists;
- (B) that such hearing shall be petitioned for within 30 days of receipt of such notice; and
- (C) that, if no petition for such hearing is filed within the time allowed, the lien shall conclusively be deemed a valid one, foreclosure thereof allowed, and a public sale pursuant to OCGA § 44-7-116 shall be authorized.

## Filing and Service – pg. 4

OCGA § 44-7-115 (3)(B) “In addition to the filing fees required by Code Section 15-10-80, the fee for filing such affidavit shall be \$5.00 per abandoned mobile home upon which a lien is asserted.”

Do you think \$5.00 covers the time and expense of sending the notice(s) by certified mail or statutory overnight delivery?

(Unknown responsible parties, post at the county courthouse.)

OCGA § 44-7-115 (4) (B)

# Hearings and Disposition

If no hearing is requested, the court shall authorize foreclosure upon and sale of the mobile home subject to the lien to satisfy the debt if such debt is not otherwise immediately paid. OCGA § 44-7-115 (6)

If a hearing is requested, it must be held within 10 days.

OCGA § 44-7-115 (5).

## Hearings and Disposition, pg. 2

If, at the hearing, the magistrate court determines there is reasonable cause to believe that a valid debt exists, the person asserting the lien shall retain possession of the mobile home or the court shall obtain possession of the mobile home, as ordered by the court.

If, after a full hearing, the magistrate court determines that a valid debt exists, the court shall authorize foreclosure upon and sale of the mobile home subject to the lien to satisfy the debt if such debt is not otherwise immediately paid.

Can the hearings to determine “reasonable cause” and “a full hearing” be combined into one hearing?

# Security Interest Holder

If the holder of a security interest or lien pays the debt and court costs, such person shall have the right to possession of the mobile home, and that person's security interest in or lien on such mobile home shall be increased by the amount so paid.

This must be done within 15 days of the order authorizing foreclosure.

A magistrate court order shall be issued to this effect, and the mobile home shall not be sold.

OCGA § 44-7-115 (6)

# Security Interest Holder – pg. 2

If the debt owed is not timely paid by the holder of a security interest or an appeal of the magistrate court decision has not been timely filed, the court shall issue an order authorizing the sale of such mobile home.

OCGA § 44-7-115 (6)

## Bad faith?

If the person asserting the lien did not act in good faith, damages may be awarded to the mobile home owner and any party which has been deprived of the rightful use of the mobile home.

OCGA § 44-7-115-(7)

## Appeals

An appeal must be filed within 7 days from the date the order was entered.

Once an appeal is filed, the clerk of the trial court shall immediately notify the magistrate court of the notice of appeal.

OCGA § 44-7-115 (8)

## Appeals – pg. 2

If the order of the magistrate court is against the responsible party and the responsible party appeals such order, the responsible party shall be required to pay into the registry of the court (1) all sums found by the magistrate court to be due in order to remain in possession of the mobile home, and (2) all future rent into the registry of the court as it becomes due until the issue has been finally determined on appeal.

OCGA § 44-7-115 (8)

## Clerk's Duties After Sale

The clerk of the magistrate court shall retain the remaining balance of the proceeds of a sale under Code Section 44-7-116, after satisfaction of liens, security interests, and debts, for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned mobile home or any interested party, then the clerk shall pay such remaining balance into the general fund of the municipality or county that employs the local government agent that made the determination that such mobile home was intact pursuant to Code Section § 44-7-113.

OCGA § 44-7-117

## Documentation for purchaser of abandoned mobile home at a sale.

The purchaser at a sale as authorized by this article shall receive a certified copy of the court order authorizing such sale.

OCGA § 44-7-118

## COUNCIL OF MAGISTRATE COURT JUDGES - FORMS AND FORMS GENERATOR

<https://georgiamagistratecouncil.com/>

Then click on either "Forms" or "Forms Generator" at the top of the page.

These are the forms listed under Forms:

Affidavit for Removal of Derelict Mobile Home

Notice for Removal of Derelict Mobile Home

Petition for Hearing on Derelict Mobile Home

Notice of Hearing on Derelict Mobile Home

Lien Foreclosure for Abandoned Mobile Home

Notice for Lien Foreclosure on Abandoned Mobile Home

## A short quiz

### Question # 1

The definition of responsible party includes which of the following?

1. A person with an ownership interest in an abandoned mobile home.
2. Any holder of a recorded lien of any type of secured interest in such mobile home.
3. A local government with a claim for unpaid taxes.
4. The last tenant who occupied the mobile home.
5. All of the above.
6. 1. – 3.

## Answer: 6

1 – 3. O.C.G.A. § 44-7-112 (9)

## Question # 2

- ▶ How many days from the date of notice does a responsible party have to request a hearing on a finding that an abandoned mobile home is derelict?
  1. 30 days
  2. 45 days
  3. 60 days
  4. 90 days

## Answer: 4

90 days.

O.C.G.A. § 44-7-114 (a)

## Question # 3

When can a landowner petition for a hearing to confirm or deny a finding that an abandoned mobile home is derelict? Which is the best answer?

1. The day after the expiration of responsible party's 90 day request period.
2. Any time after the expiration of the 90-day period that the landowner feels like filing.

## Answer: 2.

“... after the expiration of such 90-day period, a landowner shall petition a magistrate court to hold a hearing to confirm or deny the decision of a local government agent that an abandoned mobile home is derelict.” O.C.G.A. § 44-7-114 (a)

## Question # 4

When must the court hold a hearing on a request for a hearing on either a derelict or intact abandoned mobile home?

1. Within seven days of the filing of the petition.
2. Within ten business days of the filing of the petition.
3. Within ten days of the filing of the petition.

## Answer: 3

Within ten day.

O.C.G.A. § 44-7-114 (a) and O.C.G.A. § 44-7-115 (5)

## Question # 5

Upon the filing of an affidavit to foreclose on a lien on an intact abandoned mobile home it is the responsibility of the clerk or judge of the Magistrate Court to mail notice of a right to a hearing to known responsible parties.

True or false?

1. True
2. False

## Answer: 1

“...the clerk or judge of the court shall serve notice informing such responsible parties of a right to a hearing to determine if reasonable cause exists to believe that a valid debt exists; ...”

O.C.G.A. § 44-7-115 (4) (A)

## Question # 6

If, upon the filing of an affidavit to foreclose on a lien on an intact abandoned mobile home there are not any known responsible parties what does the clerk or judge do about serving notice?

1. Run an ad in the local newspaper for two weeks.
2. Post the notice in the Magistrate Court clerk's office.
3. Post the notice at the county courthouse in such place where other public notices are posted.

## Answer: 3

Any notice required by this paragraph shall be by certified mail or statutory overnight delivery or, if the responsible party is unknown, by posting such notice at the county courthouse in such place where other public notices are posted;

O.C.G.A. § 44-7-115 (4) (B)

## Question # 7

If there is a remaining balance of the proceeds of a sale under Code Section 44-7-116, after satisfaction of liens, security interests, and debts, the clerk of Magistrate Court must hold the funds for 12 months.

True or false?

1. False
2. True

## Answer: 2

The clerk of the magistrate court shall retain the remaining balance of the proceeds of a sale under Code Section 44-7-116, after satisfaction of liens, security interests, and debts, for a period of 12 months;

O.C.G.A. § 44-7-117

## Last question

If the clerk has fund remaining after the expiration of the 12 months, where does the money go?

1. Remains in the account of the Magistrate Court for court expenses.
2. Paid to the general fund of the county.
3. Paid to the general fund of the municipality or county that employs the local government agent that made the determination that such mobile home was intact.

## Answer: 3

If no claim has been filed against such proceeds by the owner of the abandoned mobile home or any interested party, then the clerk shall pay such remaining balance into the general fund of the municipality or county that employs the local government agent that made the determination that such mobile home was intact.

O.C.G.A. § 44-7-117

## Questions submitted by attendees

What forms are the clerk supposed to receive when someone files an AMH?

Derelict: § 44-7-114 (a) "a landowner shall petition a magistrate court to hold a hearing to confirm or deny the decision of a local government agent that an abandoned mobile home is derelict."

Intact: § 44-7-115 (3)(A) "The person asserting such lien may move to foreclose by making an affidavit to a magistrate court showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of Code Section 44-7-113 have been complied with, and such affidavit shall also aver that a demand for payment has been made and refused or that the identity of the responsible party cannot be ascertained. The landowner shall verify the statement by oath or affirmation with a signature affixed thereto."

## Questions submitted by attendees

How much is the cost to file an AMH and what are the add ons?

Intact: § 44-7-115 (b): in addition to the filing fees required by code section § 15-10-80, the fee for filing such affidavit shall be \$5.00 per abandoned mobile home upon which a lien is asserted;

Derelict: Good question! § 44-7-114 does not address court costs. This concern was expressed to the sponsor of this law two years ago. However, I think it is safe to assume that filing a petition on a derelict MH is a civil action and therefore § 15-10-80 applies.

§ 15-10-80 (a): "Upon filing any civil action the plaintiff shall pay a filing deposit as established by local court rule not to exceed \$22.00 which shall cover all costs of the action except service of process."

## Questions submitted by attendees

We have had about four cases filed in our office and all mobile homes were deemed intact. If a mobile home is deemed intact, then their next step is to file a lien at the Clerk's Office.

This step is where the landowners are having issues with. I am not sure if the Clerk's Office does not have a form for them to file or if its due to the landowner needing an Attorney to file the lien in the Clerk's Office.

A clarification would be greatly appreciated on that part as the landowners comes back to the Magistrate office with many questions about the lien process.

## Documents provided in printed materials

- "Abandoned Mobile Home Act" § 44-7-110 through § 44-7-119
- Benchbook section on Abandoned Mobile Homes
- Forms provided to the public by the Whitfield County Magistrate Court as well as a cheat sheet for clerks use. Graciously shared by *Judy Castaneda*, Clerk of Court, Whitfield County Magistrate Court

## Any other questions?

JUDGE MICHAEL BARKER  
MBARKER@CHATHAMCOUNTY.ORG

SENIOR JUDGE ALAN C. HARVEY  
ALANCHARVEY1@GMAIL.COM

§ 44-7-110. (Effective May 1, 2019) Short title

This article shall be known and may be cited as the "Abandoned Mobile Home Act."

§ 44-7-111. (Effective May 1, 2019) Legislative findings and intent

The General Assembly finds that abandoned mobile homes are a nuisance that cause blight and depress property values. This article is intended to provide local governing authorities with the authority to appoint an agent to determine the condition of mobile homes in order for landowners to remove or restore abandoned mobile homes left on their property. It is the further purpose of this article to provide landowners with the guidance necessary to efficiently and properly identify and dispose of abandoned mobile homes in this state while protecting the rights of any owner, lienholder, or other interested parties by performing a due diligence search, notification, and hearing process.

§ 44-7-112. (Effective May 1, 2019) Definitions

As used in this article, the term:(1) "Abandoned mobile home" means a mobile home that has been left vacant by all tenants for at least 90 days without notice to the landowner and when there is evidence of one or more of the following:

- (A) A tenant's failure to pay rent or fees for 90 days;
  - (B) Removal of most or all personal belongings from such mobile home;
  - (C) Cancellation of insurance for such mobile home;
  - (D) Termination of utility services to such mobile home; or
  - (E) A risk to public health, safety, welfare, or the environment due to such mobile home.
- (2) "Derelict" means an abandoned mobile home which is in need of extensive repair and is uninhabitable and unsafe due to the presence of one or more of the following conditions:
- (A) Inadequate provisions for ventilation, light, air, or sanitation; or
  - (B) Damage caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe.
- (3) "Dispose" means to destroy, recycle, or repurpose for use not as living quarters.
- (4) "Intact" means an abandoned mobile home which is in livable condition under applicable state law and the building and health codes of a local governing authority.
- (5) "Landowner" means the owner of real property upon which a mobile home is located.
- (6) "Local government agent" means a person appointed by a local governing authority who is qualified to inspect an abandoned mobile home by demonstrating that he or she is qualified to determine if the abandoned mobile home is derelict or intact.

(7) "Manufactured home" shall have the same meaning as set forth in Code Section 8-2-160.

(8) "Mobile home" shall have the same meaning as set forth in Code Section 8-2-160 and shall include a manufactured home.

(9) "Responsible party" means any person with an ownership interest in an abandoned mobile home as evidenced by the last payor of record as identified by a search of deeds or instruments of title, and shall include any holder of a recorded lien or the holder of any type of secured interest in such abandoned mobile home or a local government with a claim for unpaid taxes.

§ 44-7-113. (Effective May 1, 2019) Government agent to assess abandoned mobile home; lien on intact mobile home; derelict mobile homes; notice; governmental immunity

(a) At the request of a landowner, a local government agent shall be authorized to assess the condition of such abandoned mobile home. Upon inspection, the local government agent shall classify such abandoned mobile home as either intact or derelict and provide documentation citing such determination to the requesting landowner within 20 days of such request.

(b) If a local government agent determines an abandoned mobile home to be intact, a landowner shall have a right to file a lien on such abandoned mobile home in the superior court for the circuit where such abandoned mobile home is located and in the amount of any unpaid rent as of the date on which such lien is filed and accrued fees. Such lien may be foreclosed pursuant to the procedure set forth in Code Section 44-7-115.

(c) If a local government agent determines an abandoned mobile home to be derelict, such agent shall post notice of such determination in a conspicuous location on such abandoned mobile home. Such notice shall include a date of issuance and shall be in substantially the following form:

"You are hereby notified that this mobile home (describe make, model, and color, if known) located at (address or description of location) has been deemed abandoned and derelict. You are entitled to a hearing in magistrate court to contest this determination. If you fail to request a hearing within 90 days from the date that appears on this notice or if it is confirmed by a court that this abandoned mobile home is derelict, the owner of the land upon which this mobile home sits shall be entitled to dispose of the mobile home."

(d)

(1) Upon receipt of a determination that an abandoned mobile home is derelict by a local government agent, and on the same date the notice required by subsection (c) of this Code section is posted, a landowner shall send notice, which notice shall include a listing of all responsible parties and last known addresses, to all responsible parties by registered or certified mail or statutory overnight delivery. Such notice shall contain a description of the abandoned mobile home, including the make of the mobile home, the location of such mobile home, and the fact that such abandoned mobile home has been deemed derelict. Such notice shall include a statement that such responsible party is entitled to request a hearing in magistrate court within 90 days from the date that appears on such notice to contest the determination that such abandoned mobile home is derelict and that failure to request such hearing

within 90 days of receipt of such notice shall entitle such landowner to dispose of the derelict mobile home.

(2) If no responsible party can be ascertained, the landowner shall place an advertisement in a newspaper of general circulation in the county where such mobile home is located; if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a description of the mobile home, including the make of the mobile home, the location of such mobile home, and the fact that such mobile home has been deemed derelict. Such advertisement shall include a statement that such responsible party is entitled to request a hearing in magistrate court by a date certain and the advertisement shall state the specific end date to contest the determination that such abandoned mobile home is derelict and that failure to request such hearing by such date shall entitle such landowner to dispose of the derelict mobile home.

(e) Neither the local governing authority nor the local government agent shall bear any liability with respect to any lawful actions taken to make a determination that a mobile home is abandoned or derelict.

#### § 44-7-114. (Effective May 1, 2019) Hearing on findings of derelict mobile homes

(a) Within the 90 day period described in Code Section 44-7-113, a responsible party, or after the expiration of such 90 day period, a landowner shall petition a magistrate court to hold a hearing to confirm or deny the decision of a local government agent that an abandoned mobile home is derelict. If a petition is filed pursuant to this Code section, a hearing on such issue shall be held within ten days of the filing of such petition.

(b) The court shall hear evidence of the condition of the abandoned mobile home, which may include introduction of a copy of the determination from the local government agent, and whether the notice provisions set forth have been met.

(c) If, after a full hearing, the court determines the abandoned mobile home to be derelict, the court shall issue an order finding such mobile home to be derelict and authorizing the landowner to dispose of such derelict mobile home. A landowner issued such order shall dispose of such derelict mobile home within 180 days of the date of such order. Within 30 days of disposal of a derelict mobile home, the landowner shall notify the Department of Revenue and local tag agent of such disposal and such department shall cancel the certificate of title for such derelict mobile home, if such certificate exists.

#### § 44-7-115. (Effective May 1, 2019) Foreclosure of liens on abandoned or intact mobile homes

Notwithstanding any conflicting provisions in Code Section 44-14-349, all liens acquired upon an abandoned mobile home or intact mobile home under Code Section 44-7-113 shall be foreclosed as follows:

(1) Any proceeding to foreclose a lien on an abandoned mobile home determined to be intact by a local government agent shall be instituted in the magistrate court of the county where such mobile home is located within one year from the time the lien is recorded;

(2) The person desiring to foreclose a lien on an abandoned mobile home determined to be intact by a local government agent shall, by certified or registered mail or statutory overnight delivery, make a demand upon the responsible party in the amount of the lien and for the payment of rent and fees accrued after the filing of the lien; provided that the amount of such rent shall not exceed \$3.00 per day. If the responsible party cannot be located, notice shall be published in a newspaper of general circulation for two consecutive weeks;

(3) (A) If, within 30 days of delivery to the appropriate address of the written demand required by paragraph (2) of this Code section or within 30 days after the last publication in a newspaper, the responsible party fails to respond to such demand or refuses to pay, or if the responsible party cannot be ascertained, the landowner may move to foreclose such lien. The person asserting such lien may move to foreclose by making an affidavit to a magistrate court showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of Code Section 44-7-113 have been complied with, and such affidavit shall also aver that a demand for payment has been made and refused or that the identity of the responsible party cannot be ascertained. The landowner shall verify the statement by oath or affirmation with a signature affixed thereto.

(B) In addition to the filing fees required by Code Section 15-10-80, the fee for filing such affidavit shall be \$5.00 per abandoned mobile home upon which a lien is asserted;

(4) (A) Upon the filing of such affidavit, the person asserting such lien shall give the clerk or judge of the court the address, if known, of all responsible parties and the clerk or judge of the court shall serve notice informing such responsible parties of a right to a hearing to determine if reasonable cause exists to believe that a valid debt exists; that such hearing shall be petitioned for within 30 days of receipt of such notice; and that, if no petition for such hearing is filed within the time allowed, the lien shall conclusively be deemed a valid one, foreclosure thereof allowed, and a public sale pursuant to Code Section 44-7-116 shall be authorized.

(B) Any notice required by this paragraph shall be by certified mail or statutory overnight delivery or, if the responsible party is unknown, by posting such notice at the county courthouse in such place where other public notices are posted;

(5) If a petition for a hearing is filed within the time allowed pursuant to paragraph (4) of this Code section, the magistrate court shall set such a hearing within ten days of filing of the petition. Upon the filing of such petition by a party defendant, neither the prosecuting lienholder nor the court may sell the mobile home. If, at the hearing, the magistrate court determines there is reasonable cause to believe that a valid debt exists, then the person asserting the lien shall retain possession of the mobile home or the court shall obtain possession of the mobile home, as ordered by the court;

(6) If no petition for a hearing is filed, or if, after a full hearing, the magistrate court determines that a valid debt exists, the court shall authorize foreclosure upon and sale of the mobile home subject to the lien to satisfy the debt if such debt is not otherwise immediately paid. The holder of a security interest in or a lien on the mobile home, other than the holder of a lien created by Code Section 44-7-113, shall

have the right, in the order of priority of such security interest or lien, to pay the debt and court costs no later than 15 days after a magistrate court's order to authorize the foreclosure. If the holder of a security interest or lien does so pay the debt and court costs, such person shall have the right to possession of the mobile home, and that person's security interest in or lien on such mobile home shall be increased by the amount so paid. A magistrate court order shall be issued to this effect, and in this instance there shall not be a sale of the mobile home. If the debt owed is not timely paid by the holder of a security interest or an appeal of the magistrate court decision has not been timely filed pursuant to paragraph (8) of this Code section, the court shall issue an order authorizing the sale of such mobile home;

(7) If the magistrate court finds the actions of the person asserting the lien in retaining possession of the mobile home were not taken in good faith, then the court, in its discretion, may award damages to the mobile home owner and to any party which has been deprived of the rightful use of the mobile home; and

(8) Any order issued by the magistrate court shall be appealable pursuant to Article 2 of Chapter 3 of Title 5, provided that any such appeal shall be filed within seven days of the date such order was entered and provided, further, that, after the notice of appeal is filed with the clerk of the trial court, the clerk shall immediately notify the magistrate court of the notice of appeal. If the order of the magistrate court is against the responsible party and the responsible party appeals such order, the responsible party shall be required to pay into the registry of the court all sums found by the magistrate court to be due in order to remain in possession of the mobile home. The responsible party shall also be required to pay all future rent into the registry of the court as it becomes due in such amounts specified in paragraph (2) of this Code section until the issue has been finally determined on appeal.

§ 44-7-116. (Effective May 1, 2019) "Public sale" defined; procedure; penalty for noncompliance

(a) (1) As used in this subsection, the term "public sale" means a sale:

(A) Held at a place reasonably available to persons who might desire to attend and submit bids;

(B) At which those attending shall be given the opportunity to bid on a competitive basis;

(C) At which the sale, if made, shall be made to the highest and best bidder; and

(D) Except as otherwise provided in Title 11 for advertising or dispensing with the advertising of public sales, of which notice is given by advertisement once a week for two weeks in the newspaper in which the sheriff's advertisements are published in the county where the sale is to be held, and which notice shall state the day and hour, between 10:00 A.M. and 4:00 P.M., and the place of sale and shall briefly identify the goods to be sold.

(2) Upon order of the magistrate court, the person holding the lien on the abandoned mobile home shall be authorized to sell such mobile home at public sale.

(b) After satisfaction of the lien, the person selling such mobile home shall, not later than 30 days after the date of such sale, provide the clerk of the court with a copy of the bill of sale as provided to the

purchaser and remit the remaining proceeds of such sale, if any, to the clerk of the court. Any person who fails to comply with the requirements of this subsection shall be guilty of a misdemeanor.

§ 44-7-117. (Effective May 1, 2019) Clerk's role in management of proceeds

The clerk of the magistrate court shall retain the remaining balance of the proceeds of a sale under Code Section 44-7-116, after satisfaction of liens, security interests, and debts, for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned mobile home or any interested party, then the clerk shall pay such remaining balance into the general fund of the municipality or county that employs the local government agent that made the determination that such mobile home was intact pursuant to Code Section 44-7-113.

§ 44-7-118. (Effective May 1, 2019) Documentation for purchaser

The purchaser at a sale as authorized by this article shall receive a certified copy of the court order authorizing such sale. Any such purchaser may obtain a certificate of title to such mobile home by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the Department of Revenue. The Department of Revenue shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

§ 44-7-119. (Effective May 1, 2019) Appointment of local government agent not required

Nothing in this article shall be construed to require a local governing authority to appoint a local government agent.

## 5 Abandoned Mobile Homes

### **5. ABANDONED MOBILE HOMES**

#### 5.1 PREREQUISITES TO RELIEF UNDER THE ACT

##### 5.11 The mobile home must be "abandoned."

A. An abandoned mobile home is defined as a mobile home left vacant by all tenants for at least 90 days without notice to the landowner and when there is evidence of one or more of the following:

- (1) A tenant's failure to pay rent or fees for 90 days;
- (2) Removal of most or all personal belongings from such mobile home;
- (3) Cancellation of insurance for such mobile home;
- (4) Termination of utility services to such mobile home; or
- (5) A risk to public health, safety, welfare, or the environment due to such mobile home. OCGA § 44-7-112 (1).

5.12 The landowner must request the local government to assess the condition of the abandoned mobile home.

CAUTION: OCGA § 44-7-119 states: "Nothing in this article shall be construed to require a local governing authority to appoint a local government agent." Therefore, the procedures set forth in the Act will only be able to be used if the mobile home is in a county or city that has appointed a local government agent.

5.13 The mobile home can be determined by the local government agent to be intact or derelict.

A. "Intact" means an abandoned mobile home which is in livable condition under applicable state law and the building and health codes of a local governing authority. OCGA § 44-14-112 (4).

B. "Derelict" means an abandoned mobile home which is in need of extensive repair and is uninhabitable and unsafe due to the presence of one or more of the following conditions:

- (1) Inadequate provisions for ventilation, light, air, or sanitation; or
- (2) Damage caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe. OCGA § 44-14-112 (3).

5.14 This determination (and any supporting documentation) should be provided within 20 days of the landowner's request for inspection. OCGA § 44-14-113 (a).

A. If the abandoned mobile home is found to be derelict, the landowner can begin the process for removing the mobile home (see 5.2 below). OCGA § 44-14-113 (c).

B. If the abandoned mobile home is found to be intact, the landowner may record and foreclose on a lien for unpaid rent and accrued fees (see 5.3 below). OCGA § 44-14-113 (b).

## 5.2 PROCEDURE TO DISPOSE OF DERELICT ABANDONED MOBILE HOME

5.21 The local government will post a statutorily prescribed notice on the abandoned mobile home in a conspicuous place. OCGA § 44-7-113 (c).

"You are hereby notified that this mobile home (describe make, model, and color, if known) located at (address or description of location) has been deemed abandoned and derelict. You are entitled to a hearing in magistrate court to contest this determination. If you fail to request a hearing within 90 days from the date that appears on this notice or if it is confirmed by a court that this abandoned mobile home is derelict, the owner of the land upon which this mobile home sits shall be entitled to dispose of the mobile home."

5.22 ON THE SAME DAY THE NOTICE IS POSTED, the landowner shall send a similar notice to all responsible parties and last known addresses by registered or certified mail or statutory overnight delivery. The notice shall also include a listing of all responsible parties and last known addresses. OCGA § 44-7-113 (d)(1).

A. A "responsible party" is defined as:

(1) any person with an ownership interest in an abandoned mobile home as evidenced by the last payor of record as identified by a search of deeds or other instruments of title;

(2) any holder of a recorded lien or the holder of any type of secured interest in such abandoned mobile home; or

(3) local government with a claim for unpaid taxes. OCGA § 44-7-112 (9).

B. If no responsible party can be ascertained, the landowner shall place an advertisement in a newspaper of general circulation in the county where such mobile home is located; if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks.

(1) The advertisement shall contain a description of the mobile home, including the make of the mobile home, the location of such mobile home, and the fact that such mobile home has been deemed derelict. Such advertisement shall include a statement that such responsible

party is entitled to request a hearing in magistrate court **by a date certain** and the advertisement shall state the specific end date to contest the determination that such abandoned mobile home is derelict and that failure to request such hearing by such date shall entitle such landowner to dispose of the derelict mobile home. OCGA § 44-744 (d)(2).

### 5.23 Court Action

A. A hearing to confirm or deny the decision of the local government agent shall be held within 10 days of receiving a petition for such a hearing.

(1) A responsible party can request a hearing within the 90 day period described in OCGA § 44-7-113.

(2) A landowner can request a hearing after the expiration of the 90 day period. OCGA § 44-7-114 (a).

B. The court shall hear evidence of the condition of the abandoned mobile home, which may include introduction of a copy of the determination from the local government agent, and whether the notice provisions set forth have been met. OCGA § 44-7-114 (b). The landowner must prove all elements alleged in the affidavit in order to recover. "Abandonment" is defined as (1) vacancy for at least 90 days, plus (2) the existence of one or more of the five elements enumerated in OCGA § 44-7-112 (1). The issue of whether the mobile home has been left "vacant" is fact-specific, and may be rebutted at the hearing.

C. If, after a full hearing, the court determines the abandoned mobile home to be derelict, the court shall issue an order finding such mobile home to be derelict and authorizing the landowner to dispose of such derelict mobile home. A landowner issued such order shall dispose of such derelict mobile home within 180 days of the date of such order.

D. Since the statute is silent, this decision may be appealed within 30 days of the date the order was entered. OCGA § 5-3-20.

## 5.3 PROCEDURE TO FORECLOSE LIEN ON INTACT ABANDONED MOBILE HOME

### 5.31 Prerequisites to lien foreclosure

A. A lien must be filed in the superior court in which the abandoned mobile home is located. OCGA § 44-7-113 (b).

B. Demand must be made upon the responsible party (see OCGA § 44-7-112 (9)) for the amount of the lien plus any rent and fees accruing after the filing of the lien.

(1) If the location of the responsible party is known, demand must be made by certified or registered mail or statutory overnight delivery. OCGA § 44-7-115 (2). If the responsible party fails to respond or refuses to pay within 30 days of the delivery of the written demand, the landowner may move to foreclose on the lien. OCGA § 44-7-115 (3)(A).

(2) If the responsible party cannot be located, notice shall be published in a newspaper of general circulation for two consecutive weeks. OCGA § 44-7-115 (2). If the responsible party fails to respond or refuses to pay within 30 days after the last publication in the newspaper, the landowner may move to foreclose on the lien. OCGA § 44-7-115 (3)(A).

C. A proceeding to foreclose on the lien must be filed in the magistrate court of the county in which the abandoned mobile home is located within one year from the time the lien is recorded . OCGA §44-7-115 (1).

## 5.32 Court Action

### A. Filing and service

(1) The landowner begins the foreclosure procedure by making an affidavit to a magistrate court showing all facts necessary to constitute such lien and the amount claimed to be due. Such affidavit shall aver that the notice requirements of OCGA § 44-7-113 have been complied with, and such affidavit shall also aver that a demand for payment has been made and refused or that the identity of the responsible party cannot be ascertained.

(2) Upon the filing of such affidavit, the person asserting such lien shall give the clerk or judge of the court the address, if known, of all responsible parties and the clerk or judge of the court shall serve notice informing such responsible parties of a right to a hearing to determine if reasonable cause exists to believe that a valid debt exists; that such hearing shall be petitioned for within 30 days of receipt of such notice; and that, if no petition for such hearing is filed within the time allowed, the lien shall conclusively be deemed a valid one, foreclosure thereof allowed, and a public sale pursuant to OCGA § 44-7-116 shall be authorized.

(3) This notice shall be by certified mail or statutory overnight delivery or, if the responsible party is unknown, by posting such notice at the county courthouse in such place where other public notices are posted. OCGA § 44-7-115 (4)(B).

### B. Hearing, Orders, etc.

(1) If no hearing is requested, the court shall authorize foreclosure upon and sale of the mobile home subject to the lien to satisfy the debt if such debt is not otherwise immediately paid, OCGA § 44-7-115 (6).

(2) If a hearing is requested, it must be held within 10 days. OCGA § 44-7-115 (5).

(a) If, at the hearing, the magistrate court determines there is reasonable cause to believe that a valid debt exists, then the person asserting the lien shall retain possession of the mobile home or the court shall obtain possession of the mobile home, as ordered by the court. OCGA § 44-7-115 (5).

(b) If, after a full hearing, the magistrate court determines that a valid debt exists, the court shall authorize foreclosure upon and sale of the mobile home subject to the lien to satisfy the debt if such debt is not otherwise immediately paid. OCGA § 44-7-115 (6).

(c) If the holder of a security interest or lien does so pay the debt and court costs, such person shall have the right to possession of the mobile home, and that person's security interest in or lien on such mobile home shall be increased by the amount so paid. This must be done within fifteen (15) days of the order authorizing foreclosure. A magistrate court order shall be issued to this effect, and in this instance there shall not be a sale of the mobile home. If the debt owed is not timely paid by the holder of a security interest or an appeal of the magistrate court decision has not been timely filed pursuant to OCGA § 44-7-115 (8), the court shall issue an order authorizing the sale of such mobile home.

(d) If the actions of the person asserting the lien in retaining possession of the mobile home were not taken in good faith, then the court, in its discretion, may award damages to the mobile home owner and to any party which has been deprived of the rightful use of the mobile home.

5.33 An appeal must be filed within 7 days that the order was entered.

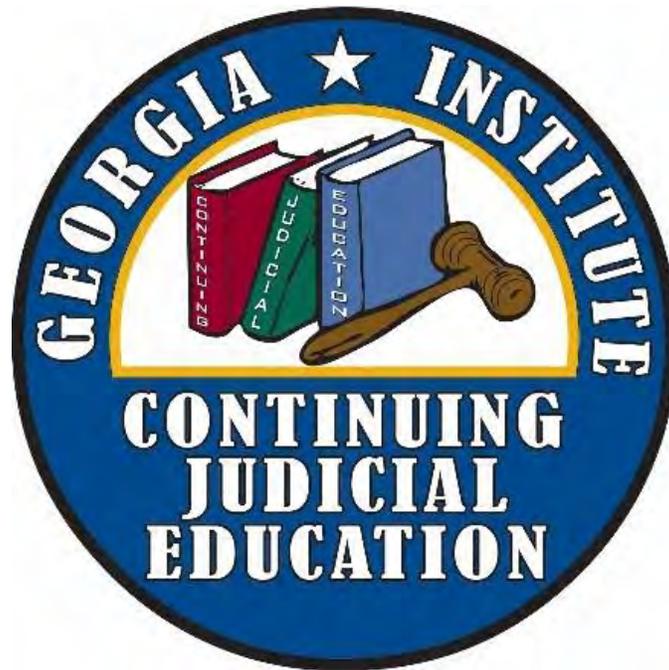
A. Once an appeal is filed, the clerk of the trial court shall immediately notify the magistrate court of the notice of appeal. OCGA § 44-7-115 (8).

B. If the order of the magistrate court is against the responsible party and the responsible party appeals such order, the responsible party shall be required to pay into the registry of the court all sums found by the magistrate court to be due in order to remain in possession of the mobile home. The responsible party shall also be required to pay all future rent into the registry of the court as it becomes due in such amounts specified in paragraph (2) of this Code section until the issue has been finally determined on appeal. OCGA § 44-7-115 (8).

5.34 Clerk's Duties After Sale

A. The clerk of the magistrate court shall retain the remaining balance of the proceeds of a sale under OCGA § 44-7-116, after satisfaction of liens, security interest, and debts, for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned mobile home or any interested party, then the clerk shall pay such remaining balance into the general fund of the municipality or county that employs the local government agent that made the determination that such mobile home was intact pursuant to OCGA § 44-7-113.

# GCIC



**Ms. leasha Reddit &  
Ms. Patrisha Wilson**



# Magistrate Court Training

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**Patrisha Wilson**

GEORGIA BUREAU OF INVESTIGATION  
GEORGIA CRIME INFORMATION CENTER  
PLANS AND PROGRAM DEVELOPMENT

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## **COURSE OBJECTIVES**

- Explain the need for POR
- Define a Protective Order
- Explain How to get access to POR
- Explain and Demonstrate How lower courts will use POR to input no contact bond orders.
- Introduction to Computerized Criminal History User Interface.

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## GCIC Overview

- Division of the Georgia Bureau of Investigation
- Repository of CJJ for Georgia
- Provide Programs
- Provide rules, policies, and training.



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## Programs overview

### •POR

- Program that allows agencies to enter information pertaining to protection orders and no contact bond orders.

### •CCH

- Program that allows agencies at every level in the criminal justice arena to enter and update arrest and disposition information.

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## The Protective Order Registry

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## What Is Domestic Violence

- Domestic Violence is the willful intimidation, physical assault, battery, sexual assault and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, psychological violence and emotional abuse.
- Domestic Violence is an epidemic affecting individuals in every community regardless of age, economic status, sexual orientation, gender, race, religion or nationality.

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## Domestic Violence

- According to statistics gathered by the Georgia Coalition Against Domestic Violence, Domestic Violence is the leading cause of injury to women in Georgia between the ages of 15 and 44 with at least 1 out of every three women in this age group being abused at least once by their partners during their lifetime.
- All too often this violence becomes deadly.
- Georgia ranks 25th in the nation for its rate of men killing women.
- Between 2010 and 2017 over 700 Georgians were killed by firearms in Domestic Violence incidents.

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## What Is a Protective Order

A **restraining order** or **protective order** is an **order** used by a court to **protect** a person or entity, and the general public, in a situation involving alleged domestic violence, harassment, stalking or sexual assault.



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## "Family Violence and Stalking Protective Order Registry Act."

- O.C.G.A. 19-13-50, also known as the Protective Order Registry Act was signed into effect by former Governor Roy Barnes in 2001. The law implemented a centralized database for protective orders. The Georgia Protective Order Registry became operational on July 1, 2002.
- The purpose of the registry is to enhance victim safety and provide law enforcement officers and courts 24/7 access to issued protective orders.
- GCIC has the responsibility of maintaining the registry and ensuring there is a systematic index of the protective orders and their modifications.

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## No Contact Bond Orders

- OCGA 17-6-1(f)(2). "For offenses involving an act of family violence, as defined in Code Section 19-13-1, bail or other release from custody shall be set by a judge on an individual basis and a schedule of bails provided for in paragraph (1) of this subsection shall not be utilized; provided, however, that the judge shall include a listing of specific conditions which shall include, but not be limited to, having no contact of any kind or character with the victim or any member of the victim's family or household, not physically abusing or threatening to physically abuse the victim, the immediate enrollment in and participation in domestic violence counseling, substance abuse therapy, or other therapeutic requirements."
- The use of no contact bond orders can be very broad and be used in different instances from county to county. Your county government will define the best way to use no contact bond orders in addition to what acceptable in O.C.G.A.

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## Why Would You Want Access

- The protection order registry is now going to provide your agency the ability to input no contact bond orders.

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### GCIC Responsibilities

- Providing law enforcement officers, prosecuting attorneys and the courts 24/7 access to protective orders that have been issued by the courts of this state and foreign courts
- The Protective Order Registry shall contain a complete and systematic index of all valid protective orders and any modifications thereof.
- Shall be linked to the National Crime Information Center and shall ensure that any protective order or modification thereof is entered into the registry within 24 hours of receipt from the Clerk of Superior Court.

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### POR: Program Features

- Login registration and password reset process – process is paperless and automated, so turnaround is faster.
- All information will now be modified, and supplemental information added via the Georgia Protective Order Registry Program.
- Any changes or modifications made on the Georgia Registry will automatically be transmitted up to NCIC. (orders should now be in sync)
- The layout and presentation of order detail information has improved and it can be printed out in a user-friendly format. Viewing and printing images has improved – the entire order or distinct pages can be printed all at once instead of having to click each one and view/print accordingly.

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### POR: Program Features

- Ad Hoc reports can be run in the new system and reports can also be emailed to agencies.
- Improved process for the continuance/dismissal and modification of orders and you will have access to the history.
- Restrict edit capability will only allow users to update order information for their agency.
- A QPOR message key has been created and can be utilized when a record is not found on NCIC

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**Required Training**

Prior to requesting access users must complete Security Awareness training.

This training is located on our Learning Management System which is located on the GCIC website.

<http://gcicweb.gbi.state.ga.us>

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**Accessing LMS**

Georgia Crime Information Center

Programs • Compliance • FBI Advisory Process • Forms • GCIC Publications • Security Tools

The SSL-VPN is experiencing intermittent connection issues. GTA is aware of the issue and we will let you know when the issue has been resolved.

**Services and Information**

- Access LMS
- Access Procedures
- Appropriat Services
- Contact Us
- File Transfer Protocol Services (FTPS)
- GCIC Training Association, Inc. Symposium: **Learning Management System (LMS)**
- LMS Office Hours
- News You Can Use
- NRIS Issues
- Opening Clocks to Recovery (OCR) and Limited System Access
- Report All Issues
- Update Agency Contact Information

2021 Symposium - Registration

GCIC Network Operator Certification Availability

Shout Out: Highest Reporting Rates

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Use LMS Login if you or your agency already has an account with in LMS.

Use the LMS Account Management form to create an Agency Account if your Agency does not have an account with in LMS.

For any questions regarding access to LMS, please contact us at [LMShelp@gbj.ga.gov](mailto:LMShelp@gbj.ga.gov)

Georgia Crime Information Center

Programs • Compliance

Training • Learning Management System (LMS)

**Learning Management System (LMS)**

The CJIS Network Operator Certification Course is now enrollment. All operators will be required to do an initial updated course curriculum. This includes operators who certification is required only or before, the 2 year original certification and operators are not obligated by GCIC to take. GCIC Operations Bureau 2021-22 provides additional information or concerns can be forwarded to the LMS Helpdesk [LMShelp@gbj.ga.gov](mailto:LMShelp@gbj.ga.gov) or 404-244-2770 option 3.

LMS Login

LMS Account Management Form (pdf)

How to register for classes in LMS (pdf)

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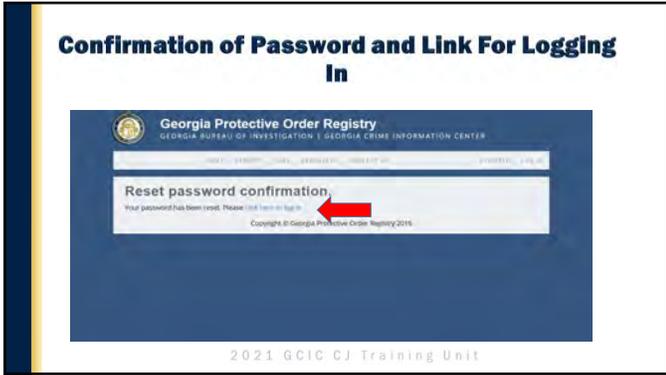
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## Log In Screen

Georgia Protective Order Registry  
GEORGIA BUREAU OF INVESTIGATION | GEORGIA CRIME INFORMATION CENTER

HOME SERVICES ABOUT RESOURCES CONTACT REGISTER

Enter username and password to access the system:

Username:

Password:

Remember me

[Forgot your password?](#)

Copyright © Georgia Protective Order Registry 2016

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## Reset of Forgotten Password

Georgia Protective Order Registry  
GEORGIA BUREAU OF INVESTIGATION | GEORGIA CRIME INFORMATION CENTER

HOME SERVICES ABOUT RESOURCES CONTACT REGISTER

Enter username and password to access the system:

Username:

Password:

Remember me

[Forgot your password?](#)

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## EMAIL REQUIREMENT

Georgia Protective Order Registry  
GEORGIA BUREAU OF INVESTIGATION | GEORGIA CRIME INFORMATION CENTER

HOME SERVICES ABOUT RESOURCES CONTACT REGISTER

Password Reset

Enter your e-mail address and instructions how to reset your password will be sent:

Email:

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WVPP?

Respondent

Respondent First Name (NAM)

Respondent Middle Name (NAM)

Respondent Last Name (NAM)

Respondent Suffix:

OTN  OTN will be required on all New Contact Blood orders.

UID

Respondent Gender (SEX)

Respondent Race (RAC)

Respondent Date of Birth (DOB)  mm/dd/yyyy

Respondent SSN (SOC)

Respondent Height (HGT)

Respondent Weight (WGT)

Respondent Hair Color (HAI)

Respondent Eye Color (EYE)

Respondent Medical Condition (CMC)

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Petitioner

Petitioner First Name (PPN)

Petitioner Middle Name (PPN)

Petitioner Last Name (PPN)

Petitioner Suffix

Petitioner Gender (PSX)

Petitioner Race (PPR)

Petitioner Date of Birth (PPB)  mm/dd/yyyy

Petitioner SSN (PSN)

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WVPP?

Protected Party

Protected Party First Name (PPN)

Protected Party Middle Name (PPN)

Protected Party Last Name (PPN)

Protected Party Suffix

Protected Party Gender (PSX)

Protected Party Race (PPR)

Protected Party Date of Birth (PPB)  mm/dd/yyyy

Protected Party SSN (PSN)

Although only one protected party can be added on the add screen, additional protected parties can be added once the order has been entered and saved.

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Order Conditions

- 01 - The subject is restrained from assaulting, threatening, abusing, harassing, following, interfering or stalking the protected person and/or the child of the protected person.
- 02 - The subject shall not threaten a member of the protected person's family or household.
- 03 - The protected person is granted exclusive possession of the residence or household.
- 04 - The subject is required to stay away from the residence, property, school or place of employment of the protected person or other family or household member.
- 05 - The subject is restrained from making any communications with the protected person, including but not limited to, personal, written or telephone contact, or their employers, employees or fellow workers, or others with who the communication would be likely to cause annoyance or alarm the victim.
- 06 - The subject has visitation or custody rights of the child(ren) named.
- 07 - The subject is prohibited from possessing and/or purchasing a firearm or other weapon.
- 08 - See the Miscellaneous Field for the comments regarding the specific terms and conditions of the order.
- 09 - The protected person is awarded temporary exclusive custody of the child(ren) named.

Miscellaneous (MS)

400 up to 500 characters of text here to describe the order as desired

Must select at least one order condition for the order to make it in the FBI NCIC. PCO #8 is probably most applicable for No Contact Bond Orders

Unsave

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## Protective Orders can be Queried by:

**ENHANCEMENT: WILD CARD FUNCTION**

- Order Number
- Petitioner Name
- Respondent Name
- County
- Status

The New POR Program has A wild card function that Will allow you to query the POR with partial information.



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## Searching by Petitioner Or Respondent's Name



Georgia Protective Order Registry  
GEORGIA BUREAU OF INVESTIGATION | GEORGIA CRIME INFORMATION CENTER

Find Protective Order

Search

Petitioner Name: [ ] County: [ ]

Respondent Name: [ ] County: [ ]

County: [ ] Status: [ ]

Find Protective Order Find Help

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## Query by Respondent Name



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## Response From Respondent's Name Query



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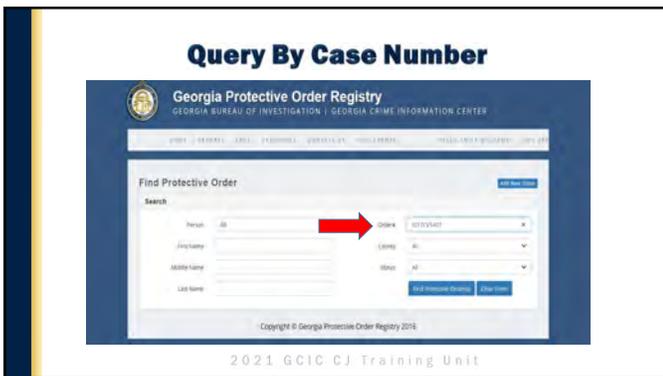
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## Query By Case Number



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## Response To Query By Case Number

ENHANCEMENT: VIEW SCANNED ORDER FROM ORDER(S) FOUND SECTION

Order#	Person/Order	Person	Order Type	Effective Date	Expiration Date	County	Status
20200427	PRINCE CHARING	CHARBELLA CHARING	WF	8/20/21	8/26/21	DEKALB	ACTIVE
20200427	DURO ELEPHANT	FRIDELLA ELEPHANT	WF	8/20/21	8/26/21	DEKALB	ACTIVE

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## Message when No Orders Found Matching Search Criteria

No orders found matching search criteria.

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## View the Order

Order#	Person/Order	Person	Order Type	Effective Date	Expiration Date	County	Status
20200427	PRINCE CHARING	CHARBELLA CHARING	WF	8/20/21	8/26/21	DEKALB	ACTIVE

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## Protective Order Details

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## Validation of Protective Orders

- Once the Protective Order is transmitted to NCIC, it becomes the responsibility of the local Sheriff's Office and is entered under the Sheriff's Office Originating Agency Identifier (ORI). Your agency will need to work with the local Sheriff's office to ensure the no contact bond orders are validated properly.

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## Contact Us

2021 GCIC CJ Training Unit

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**What is the CCH User Interface?**

- The GCIC system that houses Georgia criminal history record information.
- System for criminal justice officials to enter, update and/or modify information on arrests, prosecutor actions and any disposition, sentencing, and correctional supervision of offenders.
- Georgia system- contains **Georgia** criminal history records only
  - No national data

GCIC Customer Support Unit

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**Who is required to forward criminal history record information to GCIC?**

**O.C.G.A. § 35-3-36** Criminal justice agency responsibilities

It shall be the duty of all chiefs of police, sheriffs, prosecuting attorneys, courts, judges, parole and probation officers, wardens, or other persons in charge of penal and correctional institutions in this state to furnish the center with any other data deemed necessary by the center to carry out its responsibilities under this article.

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## How to request access to the CCH UI?

- Access the GCIC website, <http://gcicweb.gbi.state.ga.us/>
- Navigate to the FORMS tab. Complete/submit the 2 forms below.

1



For help with the CCH user request form, contact the CCH Helpdesk at 404-244-2639, option 1 or 404-244-2639 (option 1)

2



- A **The User Relationship Workbook**
- B **4) Email the entire completed workbook to your ARM**  
Click on the link to Find Your ARM
- (A) The completed VPN form is emailed to the Agency Relations Manager (ARM).
- (B) Click the link in the form to find the designated ARM.

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## Criminal history record information security

- Criminal justice agencies must manage information system accounts, including establishing, activating, modifying, reviewing, disabling and removing accounts.
  - Agency head should appoint an employee to manage user accounts
    - Same forms used to add user are used to remove user access
- Use a secure destruction method, such as shredding or burning.
  - Destruction must be handled or supervised by criminal justice agency employees.

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## Criminal history record integrity

- Do not share CCH passcodes with others
- Information entered must be accurate, complete and timely
- Data entered must be supported by documentation
  - Court disposition documents, arrest action documents

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## How criminal history records are created through the CCH UI



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## Learning Nugget!

### State Identification Numbers (SIDs) Offender Tracking Numbers (OTNs) Charge Tracking Numbers (CTNs)

- SID is a unique identifier assigned to an offender upon their first arrest. The SID identifies the offender on all subsequent arrests.
- OTN is assigned each time an offender is arrested and fingerprinted
  - Used to identify the offender and add judicial data to a specific arrest; a critical element for criminal record identification, correction and update
- The CTN is the OTN and the charge number



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## Agency user responsibilities

Arresting agency	Charging court	Prosecutor	Trial Court	Corrections
<ul style="list-style-type: none"> <li>Modify arrestee ident data, update records</li> <li>Delete arrests- created in error, invalid, duplicate</li> <li>CCH record restrictions notifications</li> <li>Enter arrest actions</li> <li>Add subsequent charges to arrest (SCA)</li> <li>Transferred to another agency (TCS)</li> <li>Not forwarded for prosecution (NFP)</li> <li>Forwarded for Prosecution (FPP)</li> </ul>	<ul style="list-style-type: none"> <li>Enter court actions- bail denied/granted, bind over, transfer to higher court</li> <li>Correct/modify/delete data submitted by its ORI</li> <li>Add charge (CTN) with court action</li> <li>Enter final dispositions- guilty, dismissed, nolle prosequi</li> <li>Enter record restrictions</li> </ul>	<ul style="list-style-type: none"> <li>Amend arrest charges</li> <li>Correct/modify/delete data submitted by its ORI</li> <li>Enter prosecutor actions and final dispositions- indicted, no bill, NPGJ, dead docket, dismissed, guilty</li> <li>Add charges (CTNs) to arrest</li> <li>Enter record restrictions</li> </ul>	<ul style="list-style-type: none"> <li>Amend arrest charges</li> <li>Correct/modify/delete data submitted by its ORI</li> <li>Enter final dispositions, sentences and sentence conditions</li> <li>Add charges (CTNs) to arrest</li> <li>Enter record restrictions</li> </ul>	<ul style="list-style-type: none"> <li>Enter correctional supervision actions- transferred, received, released</li> </ul>

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### Charging court

- Enter court actions- bail denied/granted, bind over, transfer to higher court
- Correct/modify/delete data submitted by its ORI
- Add charge (CTN) with court action
- Enter final dispositions- guilty, dismissed, nolle prosequi
- Enter record restrictions

## CCH Roles & Responsibilities

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### Charging court

#### Entering a court action or disposition

1. Navigate to **Charging Court Segment**, Enter OTN, Click QUERY.
2. Select the correct CTN, Click EXPAND ALL, Select the correct CTN, Enter Action Code, Date, ORI and Case Number
3. Click SAVE

**If a Action is added in error, Click the red X to DELETE it.**

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### CHARGING COURT

#### Adding a CTN

1. Navigate to the **Charging Court Segment**, Enter OTN, Click QUERY
2. Click ADD NEW CTN, Enter Offense, Warrant#, Offense Severity
  - Click EXPAND ALL and Enter Action
3. Click SAVE

**Adding a new CTN in this segment, requires that a court ACTION is also added.**

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## CHARGING COURT

A view of the Charging Court action on the criminal history report

Charge 2

Charge Tracking Number 88414487855-902  
 Charge Literal POSSESSION OF COCAINE  
 Statute 16-13-30(a), GA  
 NCIC Offense Code 3532  
 State Offense Code 3508  
 Severity FELONY

Magistrate  
 Magistrate Agency GAGCIC11J (GIC TEST MAGISTRATE COURT)  
 Magistrate Action TRANSFERRED TO DISTRICT ATTORNEY OFFICE  
 Magistrate Action Date 2020-04-30  
 Magistrate Case Number 255CR25

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## Charging Court Review

- Charging courts that add additional charges to a subject's record using the Charging Court segment must also enter a Magistrate action on the charge.
- Adding a Magistrate Court action to a CTN prevents a TER

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## Charging Court Actions

CCH CODE	DESCRIPTION	EFFECTIVE DATE	RESTRICT	COMMENTS
888	COURT ORDERED RESTRICTION (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT
949	AMENDED	19000101		EXISTING CODE ADDED TO SEGMENT
949	AMENDED - RESTRICT (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT
920	AMENDED TO NON-FINGERPRINTABLE CHARGE	19000101		EXISTING CODE ADDED TO SEGMENT
513	DISMISSED - COMPLETED CONDITIONAL DISCHARGE SENTENCE	19000101		EXISTING CODE ADDED TO SEGMENT
913	DISMISSED - COMPLETED CONDITIONAL DISCHARGE SENTENCE - RESTRICT (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT
916	DISMISSED - COMPLETED PRETRIAL DIVERSION PROGRAM	19000101		EXISTING CODE ADDED TO SEGMENT
916	DISMISSED - COMPLETED PRE-TRIAL DIVERSION PROGRAM - RESTRICT (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT
910	GUILTY (CONVICTED/ADJUDICATED)	19000101		EXISTING CODE ADDED TO SEGMENT
999	NO FURTHER ACTION ANTICIPATED - RESTRICT (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT
300	NOLLE PROSEQUI/NOLLE PROSSESS	19000101		EXISTING CODE ADDED TO SEGMENT
900	NOLLE PROSEQUI/NOLLE PROSSESS - RESTRICT (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT
302	TOLLED	19000101		NEW
304	UNTOLLED	19000101		NEW
908	COURT ORDERED RESTRICTION (NON-CJ PURPOSES)	19000101	YES	EXISTING CODE ADDED TO SEGMENT

1/21 REV. 2016

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### Trial Court

- Amend arrest charges
- Correct/modify/delete data submitted by its ORI
- Enter final dispositions, sentences and sentence conditions
- Add charges (CTNs) to arrest
- Enter record restrictions

CCH Roles & Responsibilities

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### TRIAL COURT SEGMENT SCREEN

- Must have Trial Court authority on CCH UI userid profile for ORI
- May only delete information entered by your ORI
- May use NEXT and PREVIOUS buttons to navigate between CTNs
- May use screen to:
  - Enter disposition, sentence, and sentence conditions
  - Amend charges
  - Add CTNs



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### Parts of the final disposition



**Disposition**

**Sentence**

**Sentence Condition**

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**Charges Reduced to a Local Ordinance**  
Effective Jan 1, 2021

- 1. LOCAL ORDINANCE** - Charges reduced to a local ordinance. OCGA 35-3-37(h)(2) (after accusation), allows a charge to be restricted for non-criminal justice purposes when the charge is reduced to a local ordinance.
  - a. Non-convictions** - the court should enter the restriction disposition as normal, e.g., 905 - DISMISSED (RESTRICT NON-CJ PURPOSES) for each charge to be restricted.
  - b. Convictions** - the court should enter the guilty disposition as normal. If the court has ordered restriction, the disposition code "988-LOCAL ORDINANCE-RESTRICTED PER OCGA 35-3-37" may be added to each charge to be restricted. **This disposition code is available for use 01/01/2021**
- 2. Related to 16-13-2 Conditional Discharge** for drugs. The new law has added the language allowing a court order to restrict a charge *prior* to sentence completion under certain conditions. For this purpose, GCIC has created disposition code 912: **CONDITIONAL DISCHARGE RESTRICTED PRIOR TO SENTENCE COMPLETION PER OCGA 35-3-37**. When the person has completed their sentence the 912 disposition should be changed to 913 with the order of completion date to reflect the person has completed their sentence. **This disposition code is available for use 01/01/2021.**

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**Failure to appear in court**

Arrestee fails to appear in court and judge issues FTA bench warrant.

**TRIAL COURT SEGMENT**

- Query OTN
  - Locate Correct CTN
  - Locate Charge Information
  - Click (+) to expand charge information
- 1 TRIAL COURT COMMENTS**- type comments Failure to Appear in Court and date of warrant.
  - 2 ADD SENTENCE**- add S08 code and other details.
  - 3 Click SAVE**
- Adding a court action prevents & removes a TER

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**Failure to appear in court**

Arrestee fails to appear in court and judge **DOES NOT** issue FTA bench warrant.

**TRIAL COURT SEGMENT**

- Query OTN
  - Locate Correct CTN
  - Locate Charge Information
  - Click (+) to expand charge information
- 1 TRIAL COURT COMMENTS**- type comments Failure to Appear in Court and WARRANT NOT ISSUED
  - 2 ADD SENTENCE**- add S09 code and other details.
  - 3 Click SAVE**
- Adding a court action prevents & removes a TER

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## A view of the criminal history record

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Court Disposition      (Cycle 001)
Case Number           255596
Court Agency          GAGCIC15J GCIC TEST COURT ORI
Subject's Name        TEST, JONATHAN RECORD

Charge                1
Charge Tracking Number 88414486996-001
Charge Literal         BURGLARY
Charge Description     FAILURE TO APPEAR IN COURT- WARRANT ISSUED
                     5/20/2020
Statute               16-7-1: GA
State Offense Code    2203
Severity              Felony
Disposition            WARRANT ISSUED (2020-05-21; Other)
    
```



- Add a new disposition, when the offender appears in court.
- Do not delete the previously entered court action.

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## Failure to Appear in Court

Failure to Appear in Court is a finger printable offense that requires a final disposition.

- 310** GUILTY (CONVICTED/ADJUDICATED)
- 999** NO FURTHER ACTION ANTICIPATED – RESTRICT (NON-CJ PURPOSES)
- 376** SETTLED 19000101
- 976** SETTLED - RESTRICT (NON-CRIMININAL JUSTICE PURPOSES)

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## Violation of Probation & Parole (VOP)

- VOP is a new arrest that requires that the offender is fingerprinted for a new offense of Violation of Probation/Parole.
  - This creates a new arrest cycle/OTN
- Probation, Parole officials, are responsible judicial agency is responsible for entering a VOP disposition.
  - VOP has distinct CCH codes.

### VOP DISPOSITION CODES:

**328** CONTINUE ON ORIGINAL ORDER OF PROBATION/PAROLE ORDER

**519** PROBATION REVOKED

**522** PAROLE REVOCATION

**555** DISCHARGED FROM PAROLE/PROBATION

### Other Codes:

**507** WARRANT DISMISSED/WITHDRAWN

**399** NO FURTHER ACTION ANTICIPATED

**999** NO FURTHER ACTION ANTICIPATED - RESTRICT (NON-CJ PURPOSES)

Missing VOP dispositions is a major problem that prevents the dissemination of complete criminal history record information to requestors.

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**TRANSACTION REQUEST SEGMENT- running a GA criminal history record**

**A SID number is required to run a Georgia record.**

- Run (IQ) to locate the SID, if unknown; Must have offender Name, Sex, Race, DOB.



- IQ performs a name-based search and returns a list of individuals with similar names or other identifiers. Determine the correct offender. Retrieve the SID.



- Use the SID to run a (FQ) full GA criminal history report.



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### Disposition Recovery

- The CCH repository contains over 14.6 million arrests representing over 23.6 million charges.
  - More than 7.5 million charges have no disposition applied to the criminal history.
- Missing dispositions impede GCIC efforts to provide accurate and timely criminal history records for
  - criminal justice purposes
  - public safety purposes- background checks for licensing and employment, especially related to employment with at-risk populations including children, the elderly and disabled.

**You Know the Problems, Now What?**

It's time to gather your data and get it entered! Follow the steps below to improve your disposition reporting rate and improve the accuracy and completeness of criminal history records!



#1  
Request Your Agency's Data

#2  
Divide and Conquer

#3  
Enter into CCH

#4  
Celebrate!

Request your agency's OPEN ARREST REPORTS by email- [lmshelp@gbj.ga.gov](mailto:lmshelp@gbj.ga.gov)

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### CCH Resources

- Resources for the public [www.gbi.ga.gov](http://www.gbi.ga.gov)
- Resources for criminal justice agencies
  - Training
    - 404-244-2770 Option 3
    - [lmshelp@gbj.ga.gov](mailto:lmshelp@gbj.ga.gov)
  - CCH Corrections
    - 404-244-2639 Option 1
    - [gacriminalhistory@gbj.ga.gov](mailto:gacriminalhistory@gbj.ga.gov)
  - Website- <http://gcicweb.gbi.state.ga.us/>
  - Request user id for CCH UI- [chuserid@gbj.ga.gov](mailto:chuserid@gbj.ga.gov)

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**Need Help? Contact us!**

•POR Group	•GCIC Trainers
Email:	Email:
<a href="mailto:gapor@gbi.ga.gov">gapor@gbi.ga.gov</a>	<a href="mailto:Lmshelp@gbi.ga.gov">Lmshelp@gbi.ga.gov</a>
	Phone: 404-244-2770
	option #3

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**Questions?**



2021 GCIC CJ Training Unit

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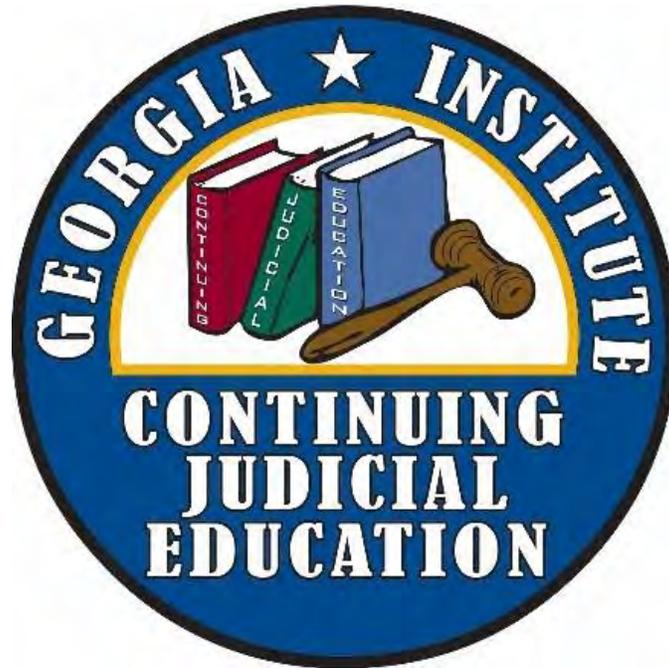
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# Legislative Update



**Hon. Brendan Murphy**

# 2021 Legislative Update

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Judge Brendan F. Murphy,  
Chief Magistrate of Cobb County

Magistrate Court Clerks' Annual Training  
June 10-11, 2021      Jekyll Island, Georgia

## Copyright Notice

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- This presentation contains the creative works of others which are being used under a claim of fair use under 17 U.S.C. 107.



July 1, 2021

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COVID-19 Legislation

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## HB 635

### Location for Judicial Acts

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- New O.C.G.A. § 15-10-2(b)
- “Each magistrate shall have authority to perform any judicial act which he or she is lawfully entitled to perform, regardless of where such magistrate is located when such judicial act is performed.”
- No vacations!
- Effective May 4, 2021



## HB 635

### Alternative Locations

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- Amends O.C.G.A. § 15-6-18
- State and Superior Court may be held at alternative locations
- Designated by county governing authority
- Does not have to be at county seat
- Number of considerations
- Including jury trials

## HB 635

### Non-jury trial Requests

---

- O.C.G.A. § 17-7-4
- The “accused in any felony or misdemeanor case may elect in writing to be tried by the court sitting without a jury by filing such request with the clerk of court and serving such request upon the prosecuting attorney and the judge...”
- Court may still order a jury trial.
- Prosecutor’s objection to be considered but is not dispositive
- Sunsets on June 30, 2022

## SB 163

### Speedy Trials during Judicial Emergencies

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- Amends O.C.G.A. § 38-3-62
- Allows Chief Judges of State/Superior Court to temporarily toll/suspend statutory speedy trial demands during declared judicial emergencies
- Chief Judge must certify certain findings
- Safeguards in place if Chief Judge does not act or acts inappropriately
- Constitution is still in effect!
- Sunsets June 30, 2023

# Courts

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## HB 97 Oath for Chief/Designated Clerk of Probate Court

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- Amends O.C.G.A. § 15-9-36
- Chief Clerk or Designated Clerk, must take the prescribed oaths.
- Oath required of all civil officers + Oath found in new O.C.G.A. § 15-9-36(d)
- Administered by Probate Judge and recorded in the Court's minutes



## SB 202

### Civil and Magistrate Court Appointments

---

- Adds new O.C.G.A. § 21-2-546
- Upon vacancy, Governor appoints Chief Judge of local “Civil and Magistrate Courts”
- Defines when appointed judge must stand for election

## HB 579

### Public Safety and Judicial Facilities Act

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- Amends O.C.G.A. § 36-75-1 *et seq.*
- Single county Public Safety/Judicial Facilities Authority may issue bonds if approved by governing authority of the county
- Public referendum no longer needed



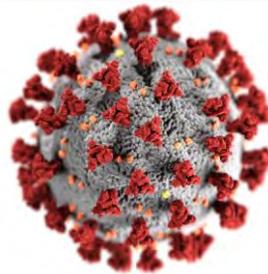
# Civil

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## HB 112 COVID-19 Liability Immunity

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- Amends Ga. L. 2020, p. 798
- Georgia COVID-19 Pandemic Business Safety Act
- Extends immunities, rebuttable presumption of assumption of the risk, etc. concerning “COVID-19 liability” until July 14, 2022



## SB 33

### Human Trafficking Tort

---

- New O.C.G.A. § 51-1-56
- Creates a cause of action that victims of Human Trafficking (O.C.G.A. § 16-5-46) may bring against perpetrators
- Civil action stayed during pendency of criminal case
- Suit may be brought within ten years after cause of action arose or ten years after the victim reaches 18 y/o, if a minor at time of offense
- A.G. can bring action

## HB 90

### Timber Torts

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- Amends O.C.G.A. § 51-12-51
- Buyers in the ordinary course of business pursuant to the UCC shielded from certain liability when purchasing trees, minerals, or other rights



## SB 234

### Georgia Uniform Mediation Act

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- Adds new O.C.G.A. § 9-17-1 *et seq*
- Certain “mediation communications” are privileged
  - May be waived
- Limits mediators making reports to decision makers
- Requires mediators to make an inquiry to ensure impartiality and make disclosures
- Allows attorney or other individual to attend mediation
- Adopts “Model Law on Int’l Commercial Mediation and Int’l Settlement Agreements Resulting from Mediation” for international commercial mediations

## HB 210

### Odometer readings

---

- Amended O.C.G.A. § 40-3-25
- Odometer mileage does not have to be on title:
  - Gross vehicle weight > 16,000 pounds
  - Manufactured in or before 2010 model year and transferred at least 10 years after January 1 of the calendar year that corresponds to the vehicle’s model year
  - Manufactured in or after 2011 model year and transferred at least 20 years after January 1 of the calendar year that corresponds to the vehicle’s model year

## SB 143

### Liens: Mechanics and Materialmen

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- Amends O.C.G.A. § 44-14-366(g)(2)
- Correction in the statutory Affidavit of Nonpayment form
- Changes reference from “lien” to “affidavit”



## TPOs

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## SB 75

### Lease Termination – Stalking Orders

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- Amends O.C.G.A. § 44-7-23
- Allows victims of Stalking protected by a civil or criminal stalking order to terminate residential leases
- Effective 30 days after presentation of written notice + copy to landlord
- Same code section for civil and criminal family violence orders

## HB 231

### Dating Violence TPOs

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- New O.C.G.A. § 19-13A-1 *et seq*
- New Dating Violence TPO
- Does NOT change the definition of Family Violence
- Same criminal penalties for violation

## HB 236 TPO Security Checks

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- New O.C.G.A. § 19-13-4.1
- Upon obtaining Family Violence TPO, Petitioner may request periodic security checks from local law enforcement



## Criminal

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# Criminal Procedure

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## SB 174 Unsecured Judicial Release Bonds

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- Amends O.C.G.A. § § 17-6-1(e) and 17-6-12
- Adds “an appointed judge filling the vacancy of an elected judge” to those with authority to issue UJR bonds
- Elected and “judge sitting by designation” can also issue
  - Designation Order?
- Adds Burglary (F), Entering Auto (F), Family Violence (M), and Stalking (M) to list of bail restricted offenses
- Effective May 4, 2021

## HB 562

### Warrants for DFCS Case Managers

---

- Amends O.C.G.A. § 17-4-40(c)
- Includes DFCS Case Managers in list of persons that only Superior/State/Probate Judges can issue warrants for
- Offense alleged has to have been committed while in the performance of his/her duties
- Effective May 3, 2021



## HB 479

### Arrests – Private Persons

---

- Repeals O.C.G.A. § 17-4-60-62 concerning arrests by private persons
- New O.C.G.A. § 17-4-80 allows some private persons to detain others in certain circumstances:
  - Retail, food service, business entity suspecting theft
  - MUST release or contact law enforcement within a reasonable time
  - Limits on type of force that may be used
- Amends O.C.G.A. § 51-7-60 re: false arrest/imprisonment action to reflect new language (detention vs. arrest and limitations)

## HB 479

### Arrests - LEO

---

- Amends O.C.G.A. § 17-4-20
- Except as prohibited by law, LEO may arrest outside of his/her jurisdiction without a warrant:
  - If offense is committed in officer's immediate presence/immediate knowledge
  - When in immediate pursuit for an offense committed within the LEO's jurisdiction OR
  - While aiding another LEO in his/her jurisdiction

## Ordinances

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## HB 465

### False Alarm Ordinances

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- Adds new O.C.G.A. § 36-60-28
- By ordinance, local government can hold:
  - “**Alarm system contractors**” responsible for false alarms cause by their errors and
  - “**Alarm system users**” responsible for other false alarms



## SB 119

### Burning without a permit

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- Amends O.C.G.A. § 12-6-90
- Unless prohibited by local ordinance, allows burning of certain yard debris without a permit
- Specific requirements and liabilities in the code section



# Theft Offenses

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## HB 94 Theft x Possession: Stolen Mail

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- New O.C.G.A. § 16-8-24
- Possess stolen mail addressed to 3+ different addresses AND
- Possess a minimum of 10 pieces of stolen mail
- 1-5 year (F); (M) in discretion of the sentencing judge
- Each set of 10 pieces of mail to 3+ address = additional count



## HB 94

### Porch Piracy

---

- New O.C.G.A. § 16-8-25
- Takes 3+ packages
- Without permission
- From porch, steps, or immediate vicinity of any entrance or exit
- Of a dwelling
- Of 3+ different addresses
- 1 – 5 year (F); (M) in discretion of the sentencing judge



## HB 327

### Organized Retail Theft

---

- New O.C.G.A. § 16-8-14.2
- Intentionally organizes, plans, finances, direct, manages, or supervises 1+ persons to
- Appropriate property of a store or retail establishment
- To his/her own use without paying OR to deprive the owner of the property the value thereof
- 1+ stores over a period of 180 days
- With intent to sell such property
- Aggregate value of the property > \$24,999.99
- AND is placed or is to be placed in the control of retail fence or other person
- Special venue provision: any county in which an incident of organized retail theft occurred
- 3- 20 year (F)

# Sexual Offenses

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## HB 258 Consent Not a Defense

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- Response to State v. Williams, 2020 Ga. LEXIS 85 (Decided 2/10/2020)
- Consent is not a defense to:
  - Sexual Battery (F) and Aggravated Sexual Battery (F)
  - When the alleged victim is < 16 y/o AND
  - Conduct for purpose of sexual arousal
  - Subsections do NOT apply if alleged victim is 13 – 16 y/o, accused is 18 y/o or younger, and no more than 48 months older than alleged victim

## SB 78

### Posting Sexually Explicit Images

---

- Amends O.C.G.A. § 16-11-90
- Prohibits posting sexual content of another w/out consent for harassment or that causes financial loss
- Expands definition of prohibited conduct to keep up with technology
- Enhances penalty to a felony in some scenarios



## SB 117

### Prohibiting Sexual Conduct/Contact Between Persons in Position of Trust and Minors

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- Amends O.C.G.A. § 16-6-5.1
- Creates new definition of “Person in a position of trust”
  - Individual with whom parent/guardian has entered into an agreement entrusting such individual with responsibility of education and supervision of a minor
- Improper Sexual Contact by a Person in Position of Trust – 1<sup>st</sup> Degree (F)
  - Sexually explicit conduct
- Improper Sexual Contact by a Person in Position of Trust – 2d Degree (F)
  - Sexual contact, excluding sexually explicit conduct

## HB 255

### Sexual Assault Protocol Committee

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- Amends O.C.G.A. § 15-24-2 by adding subsection (g)
- Chief Superior Court Judge responsible for establishing Circuitwide Committee
- Must meet annually
- Representative from Magistrate Court
  - Each County?
- Amendment requires Committee to submit “certification of annual compliance” to CJCC
- CJCC informs Governor, LG, Speaker, and Chief Justice re: noncompliant Circuits

## Miscellaneous Offenses

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## HB 367 VGCSA

- Amends multiple VGCSA code sections to update various controlled substances and dangerous drugs



## HB 362 Game, Fish, and Weapons Definitions



- Amends various code sections concerning definitions of certain fish species
- Amends various code sections concerning primitive weapons

## SB 85 Hazing

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- Amends O.C.G.A. § 16-5-61
- Max Gruver Act
- Specifically prohibits hazing by pressuring consumption of drugs, alcohol, food, etc.
- Expands definition of “school organization”
- [www.maxgruverfoundation.com](http://www.maxgruverfoundation.com)



## HB 363 Elder Abuse

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- Repeals O.C.G.A. § 16-5-20(e) – Simple Assault Against a Person 65 y/o +
- Repeals O.C.G.A. § 16-5-23(g) – Simple Batt. by Employee Against Resident
- Repeals O.C.G.A. § 16-5-23.1(j) – Battery by Employee Against Resident
- Repeals O.C.G.A. § 16-8-12(b) – Theft x Deception > \$500 against person 65 y/o +

## HB 363

### Elder Abuse

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- Amends O.C.G.A. § 16-5-100
- Adds definition of “abuse of access” to Elder/Disabled Adult Exploitation
  - Illegal taking of resources
  - When access was obtained
  - Due to the alleged victim’s mental/physical incapacity

## SB 4

### Prohibiting Patient Brokering

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- New O.C.G.A. § 26-5-80
- Unlawful to receive payment for referral of patients to “substance abuse providers”
- Numerous carveouts in the definitions
- (M) or (F), depending on number of patients
- A.G. or D.A. can also seek injunctive relief

## SB 4

### Fraudulent Billing

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- New O.C.G.A. § 33-1-16.1
- Prohibits fraudulent billing in drug testing
- Misdemeanor



## SB 202

### Election Offenses

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- Amends O.C.G.A. § 21-2-568
  - Acceptance of absentee ballot for delivery a (F) except for certain exceptions
- Adds new O.C.G.A. § 21-2-568.1
  - With certain exceptions, observing whom an elector is voting for is a (F)
- Adds new O.C.G.A. § 21-2-568.2
  - Photographing/recording a ballot while marking or marked is a (M)
- Amends O.C.G.A. § 21-2-414
  - Providing money, gifts, food, or drink to electors w/in 150 feet of polling place is a (M)
  - Officials may provide water

## SB 235 Masks

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- Amends O.C.G.A. § 16-11-38
- Clarifies that wearing a mask to prevent infectious disease is not a violation



## Traffic Offenses

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## HB 534

### Drag Racing/Reckless Stunt Driving

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- New O.C.G.A. § 16-11-43.1
  - Promotes or organizes an exhibition of illegal drag racing – (H&A M)
- New O.C.G.A. § 40-6-390.1 – Reckless Stunt Driving
  - Drag racing in reckless disregard for safety (4<sup>th</sup> conviction = felony)
- Reckless Stunt Driving can be basis for serious felony driving offenses (Homicide by Vehicle – 1<sup>st</sup> Degree, Serious Injury by Vehicle)
- Reckless Stunt Driving can be basis for other serious driving misdemeanors (Feticide by Vehicle – 2d degree, Aggressive Driving)

## HB 353

### Lane Changes and Bicycles

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- Amends O.C.G.A. § 40-6-56
- Amends manner in which vehicles are to pass bicycles
- Limits penalty to \$250 fine



## HB 693

### Farm Tractors on Interstates

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- New O.C.G.A. § 40-6-308
- (b) “Farm tractors” prohibited from interstates
- Exceptions
- (c) Other drives to yield right of way



## HB 165

### Obstructed Windshield

---

- Amends O.C.G.A. § 40-8-73
- Allows a hands-free device mount on the windshield
- Must “minimize” obstruction of the view



## SB 165

### Autonomous and Slow-moving Vehicles

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- Amends O.C.G.A. § 40-8-4 to allow for amber strobe light in lieu of signs
- Amends O.C.G.A. § 40-8-1 to exempt autonomous vehicle from certain equipment violations

## SB 222

### State Nut

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# Pecan!

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# HB 488 Magistrate Court Pay

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- Congratulations!
- Judges and Clerks
- 5% increase to the minimum
- Rolls COLAs into the statute
- Effective January 1, 2022



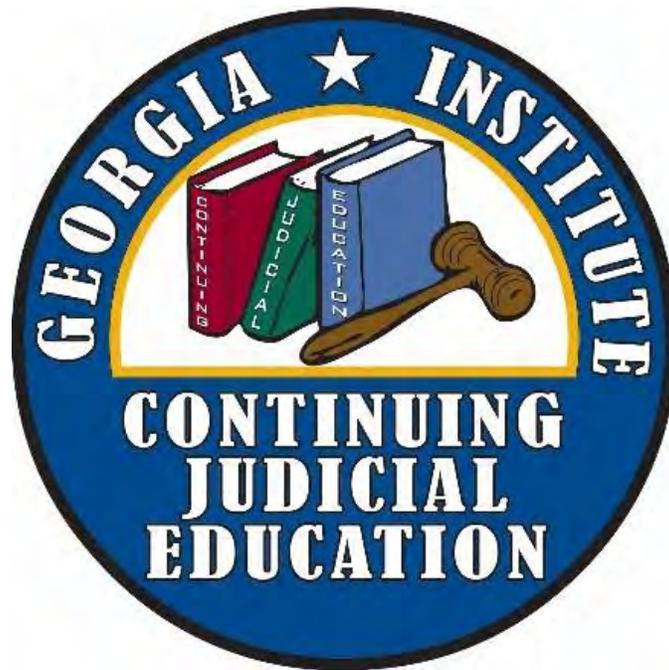
## Additional Resources

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- **AOC/JC Enacted Legislation Report:** <https://georgiacourts.gov/enacted-legislation>
- **AOC/JC Tracked Legislation:** <http://legislation.georgiacourts.gov>
- **General Assembly:** <http://legis.ga.gov>

# Foreign & Dormant Judgments



**Hon. Jennifer Lewis**

# What is a Foreign Judgment and what can I do to revive a Dormant Judgment?

Judge Jennifer Lewis

Chief Magistrate

Camden County

912-576-5658 / [jlewis@co.camden.ga.us](mailto:jlewis@co.camden.ga.us)

## There are two types of Foreign Judgments

- Those that are issued in another country or nation
- The Foreign Money Judgments Recognition Act applies
- Those that are issued in another states court in the United States
- The Uniform Enforcement of Foreign Judgments Law applies
- The UEFJA has been formally adopted by 48 states and the District of Columbia
  - The holdouts are California and Vermont

First – the creditor must have a valid final judgment in another state.

Next – the creditor will need an authenticated copy of that judgment. See Example 3

The authenticated copy of the judgment will come from the court where the judgment was rendered and will have an attestation by the Clerk of the issuing court with the Seal of the Court (if one exists). It will also have a certification from a Judge of the issuing court that that Attestation is in proper form.

**NOTE: THIS IS NOT THE SAME AS A CERTIFIED COPY OF THE JUDGMENT**

## What needs to be filed with the Georgia court?

- (1) Affidavit of Filing a Foreign Judgment
  - OCGA 9-12-133(a) See Example 1
- (2) Notice of Filing Foreign Judgment
  - OCGA 9-12-133(b) See Example 2
- (3) Authenticated Copy of the Foreign Judgment
  - OCGA 9-12-132 See Example 3
- (4) Your normal filing fee for a civil case
- (5) Note: Venue is in the county where the judgment debtor resides

## What do I do now?

The clerk **shall promptly mail notice of the filing** of the foreign judgment to the judgment debtor at the address given and shall note the mailing the in docket.

NOTE: OCGA 9-12-133(b) says “mail.” It does not say mail via certified return receipt or to personally serve the judgment debtor.

## What can the judgment debtor file?

Remember – the case is **NOT** being re-tried in the state of Georgia. We are simply trying to make a determination of whether or not the judgment should be given full faith and credit in the state of Georgia. They will not be filing a traditional “Answer” to the claim.

The judgment debtor must file a Motion for Stay with the court and show cause why the judgement should not be domesticated. For example, they may show the court that an appeal from the foreign judgment is pending or will be taken.

## What should you do with the file after mailing notice to the judgment debtor?

I suggest that you hold the file on your desk, or in your holding file to track the case. If after 30 days there has not been a Motion to Stay that has been filed, the judgment can be formally domesticated by the court. See Example 4

## What can the judgment creditor do with a domesticated judgment?

It's time for the to start the collection process. They can record the judgment through a FiFa, they can serve interrogatories, they can file garnishments, etc.

## What if someone requests an Exemplified Copy of a judgment rendered by my court?

- Make a copy of the judgment from the file
- Prepare an Exemplification Order See Example 5
- The clerk will sign in two areas and the judge will sign in one area and affix their court seals
- The fee is \$2.50

# Where can I find information on Foreign Judgments?

OCGA § 9-12-130 through OCGA § 9-12-138

## What is a Dormant Judgment?

- Georgia judgments are good for seven (7) years. If not renewed prior to the seventh year, the judgment will become DORMANT and will be unenforceable.
- However, Georgia does have a provision that will allow a creditor an additional three (3) years to file a judgment renewal action – known as a scire facias OR a by a new action to revive.
- If no renewal action is filed between years seven (7) and ten (10), the judgment will be forever time barred and void.
- A judgment can be renewed as many times as necessary to collect and each renewal extends the judgment life by another seven (7) years.

## What is a Petition for Scire Facias?

It is a request for a judicial writ, filed by the holder of a dormant judgment requiring the person or person against whom it is brought to show cause why the judgment should not be revived. It is not an original action, but is the continuation of the action in which the judgment was obtained.

See Example 6

## What is the writ of scire facias?

This is a writ, issued by the clerk where the judgment was obtained which requires the judgment debtor to appear and show cause why the dormant judgment should not be revived. It shall be served by the sheriff 20 days before the court date. Personal service is required.

See Example 7

## What happens now?

It will be up to the judgment debtor to show sufficient cause why the judgment should not be revived. Failure to do so will result in the judge signing the Order Reviving Dormant Judgment.

See Example 8

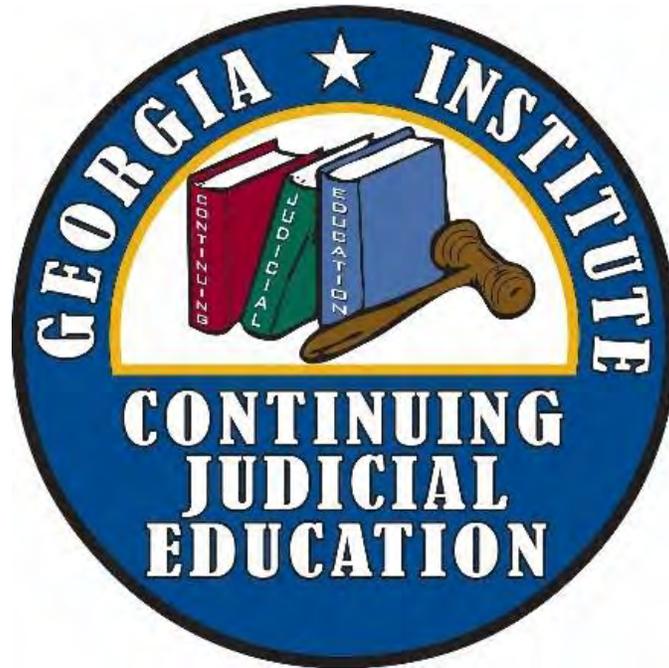
## What can the judgment creditor do with a revived judgment?

It's time for the to start the collection process. They can record the judgment through a FiFa, they can serve interrogatories, they can file garnishments, etc.

# Where can I find information on Foreign Judgments?

OCGA § 9-12-60 through OCGA § 9-12-68

# Criminal Overveiw



**Hon. David Crosby**

# Criminal Overview

Hon. David W. Crosby  
Chief Magistrate  
Brooks County

[dcrosby@brookscountyga.gov](mailto:dcrosby@brookscountyga.gov)

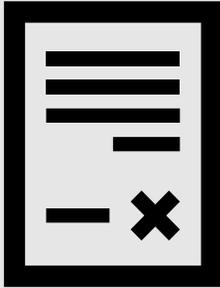
229-305-2686

## Introduction



- The criminal justice system must respond in the name of society when crimes are committed.
- The criminal justice system protects individual rights as part of the law enforcement function. This happens for both the accused and the victim.

# Pre-Warrant Applications - Introduction



- Pre-Warrant Applications can be filed in the court by a citizen who thinks a crime has been committed under Georgia Law.
- These DO NOT require an incident report from law enforcement, however some courts require one.

## Pre-Warrant Applications – First Five

### File

- The Applicant will file an application requesting a warrant for the arrest of another person.

### Provide

- Provide the Applicant with the proper intake form.

### Obtain

- If it is office policy, have the applicant provide an incident report.

### Determine

- Determine if the charge will be a felony or a misdemeanor.

### Present

- Present application to judge for review under the following circumstances.

# Pre-Warrant Applications - Circumstances

## Signed

- There is an immediate safety threat
- There is an evasion or further obstruction attempt
- The person is currently incarcerated
- The person is a fugitive from justice
- The offense is for deposit account fraud and the person has previously been served a ten-day notice
- The offense is for an act of family violence

## Denied

- There is an issue as to whether the application sets forth probable cause



## Pre-Warrant Applications – Finalizing

### Mail

- If a pre-warrant application hearing is required, prepare a Notice of Hearing with scheduled court date to be mailed to all parties and witnesses.

### Prepare

- Prepare draft of warrant for judge to have at the pre-warrant hearing, if applicable, include a proposed bond on the schedule.

## Concept Check

1. Which of the following is grounds for a warrant application to be denied?
  - A. The person whose arrest is sought will attempt to evade arrest
  - B. The offense for which application for the warrant is made consists of an act of family violence
  - C. The application holds an issue regarding whether there is probable cause
  - D. The person who is sought is currently incarcerated

## Deposit Account Fraud- Introduction



- **§ 16-9-20 - Deposit account fraud**
- A person commits the offense of deposit account fraud when such person makes, draws, utters, executes, or delivers an instrument for the payment of money on any bank or other depository in exchange for a present consideration or wages, knowing that it will not be honored by the drawee.
- One of the following conditions should be met

# Deposit Account Fraud- Introduction

- The accused had no account with the drawee at the time the instrument was made, drawn, uttered, or delivered;
- Payment was refused by the drawee for lack of funds upon presentation within 30 days after delivery and the accused or someone for them shall not have tendered the holder thereof the amount due thereon, together with a service charge, within ten days after receiving written notice that payment was refused upon such instrument.
- Notice mailed by certified or registered mail or statutory overnight delivery is returned undelivered to the sender when such notice was mailed within 90 days of dishonor to the person at the address printed on the instrument or given by the accused at the time of issuance of the instrument.

## Deposit Account Fraud – First Four

### File

- The Applicant will file an application requesting a warrant for the deposit account fraud warrant.

### Provide

- Provide the Applicant with the proper intake form.

### Obtain

- Have the applicant provide the ten-day letter the victim mailed, and the certified mail receipt.

### Determine

- Add the fees, fines, and returned to check amount to determine the total the defendant owes.

## Deposit Account Fraud – Finalizing

### Prepare

- If the person whose arrest is sought has previously been served with the ten-day notice, present the warrant to the judge for signage than send to the Sheriff's Department.

### Mail

- If a pre-warrant application hearing is required, prepare a Notice of Hearing with scheduled court date to be mailed to all parties and witnesses.

## Concept Check

1. Which of the following is required for a deposit account fraud citation?
  - A. The certified mail receipt
  - B. A copy of the returned check
  - C. The ten-day letter the victim mailed
  - D. All the above

## First Appearance Hearing

- A hearing that is held to advise of the charges against them, advise of their rights, and set bond if eligible.
- If there was not a warrant, first appearance hearings must be scheduled for no later than 48 hours after the arrest.
- If there was a warrant, first appearance hearings must be scheduled no later than 72 hours after the arrest.



## Concept Check

1. How long is the window for scheduling a first appearance hearing without a warrant?
  - A. 48
  - B. 36
  - C. 72
  - D. 24

## Preliminary Hearings

- A preliminary hearing is a hearing scheduled so that the court may determine if there is probable cause for the case to proceed
- A preliminary hearing is not required if:
  - An indictment has been returned
  - An accusation has been filed on a misdemeanor
  - The defendant has tendered bail (unless there are special conditions on the bond)
  - However, the Judge can schedule a hearing in his/her discretion

## Arrest Warrants - Introduction

- An arrest warrant is a judges order to LEO to arrest and bring to jail a person charges with a crime.
- Before an arrest warrant is issued the LEO or victim must make a sworn statement that the accused committed a crime.



# Arrest Warrants – Filings and Returns

## Assign

- Assign docket number to arrest warrant application

## Present

- Allow warrant to be presented to judge

## Copy

- If signed, make a copy of the warrant and return the original to the officer

## Transfer

- Defendant is arrested, the original warrant should be returned to the court for transfer of the appropriate prosecuting attorney

# Search Warrants - Introduction

- Is a legal document signed by a judge (after a finding of probable cause) authorizing a LEO to enter and search premises.
- Search warrants can be issued for the collection of DNA and blood samples in certain crimes.
- Most offenders on probation have a 4<sup>th</sup> amend wavier.



## Search Warrants – Filings and Returns

### Assign

- Assign docket number to search warrant application

### Present

- Allow warrant to be presented to judge

### Copy

- If signed, make a copy of the warrant and return the original to the officer

### File

- When the return comes in, copy the return and file it under the same docket number

## Subpoenas

Subpoena is defined as a summon issued to a person and/or documents to be presented on a particular Court date as testimony or evidence on behalf of the plaintiff or defendant, prosecution or defense.

A request for subpoenas can be filed by any party in the case. It is helpful to make sure the request for subpoena contains the person's name and address along with details and location of the specific documents being requested

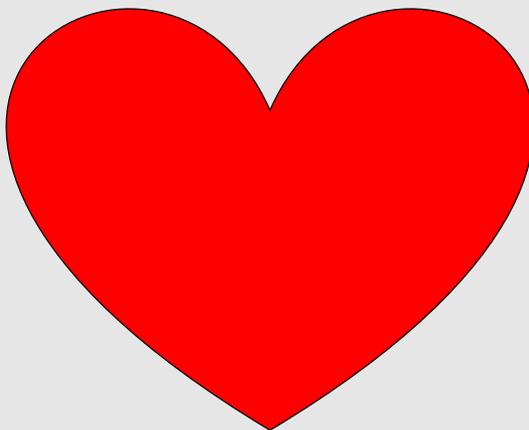
The clerk has the authority to issue subpoenas as long as the case is in your court

## Subpoenas – Requirements

The issued subpoena must include all the following:

- The name and address of the person subpoenaed
- The location and street address of the courtroom and case style information or title of the proceeding
- A written command signed by a Clerk or Judge for the subpoenaed individual to appear, attend, and give testimony or notice to produce evidence at a certain date, time and location for the specific case.
- You may issue blank subpoenas to an Attorney of record at their request for them to complete and sign
- A subpoena can be served by any Sherriff or Deputy Sherriff, or any person over the age of 18. A signed certificate of service must be provided to the court to verify the service. Subpoenas also may be served by registered or certified mail.
- The calculation and tender of witness fees is up to the party requesting the subpoena

Clerks are the HEART of Magistrate Court!



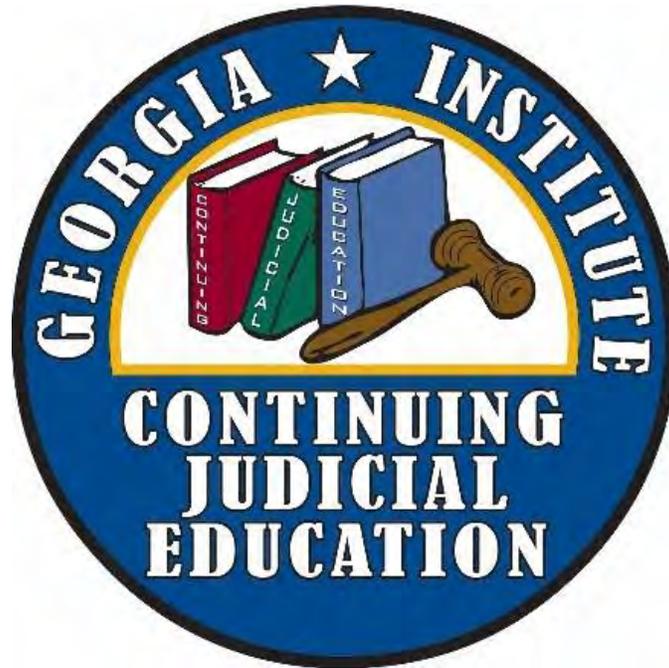
*That's all Folks!*



Questions/Comments

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# Q&A Session



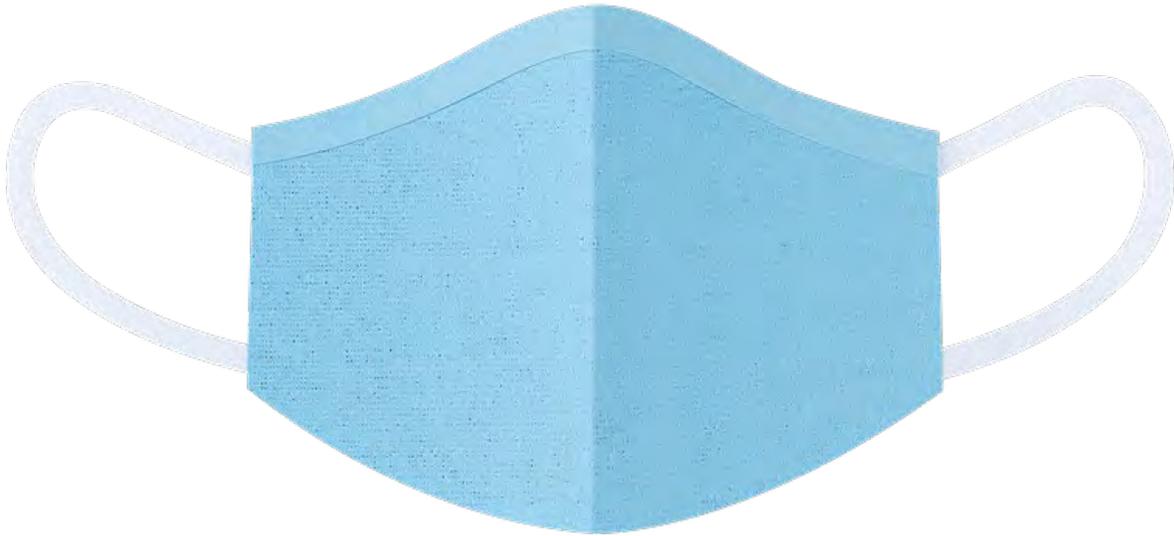
**Hon. Carla Brown,  
Hon. Judy Castaneda, &  
Ms. Tammy Douglas**

**[NO HANDOUTS]**

# ICJE POINTS OF CONTACT

CONSTITUENT GROUPS	ICJE STAFF	OFFICE NUMBER	EMAIL ADDRESS
<p>Superior Court Judges            State Court Judges            Magistrate Court Judges            Magistrate Court Clerks            Judicial Staff Attorneys</p>	<p><b>Lindsey Colley</b>            Event Coordinator            &amp;  <b>(Position Vacant)</b>            Event Planner</p>	<p>706-369-5813             TBD</p>	<p><a href="mailto:lcolley@uga.edu">lcolley@uga.edu</a>             TBD</p>
<p>Probate Ct Judge/Non-Traffic            Probate Ct Judge/Traffic            Municipal Court Judges            Municipal Court Clerks            Accountability Court Judges</p>	<p><b>Laura Kathryn Hogan</b>            Event Coordinator            &amp;  <b>Casey Semple</b>            Event Planner</p>	<p>706-369-5836             706-369-5807</p>	<p><a href="mailto:lkhogan@uga.edu">lkhogan@uga.edu</a>   <a href="mailto:csemple@uga.edu">csemple@uga.edu</a></p>
<p>Office Manager            Financials</p>	<p><b>Emily Rashidi</b>            Business Operations            Manager</p>	<p>706-369-5842</p>	<p><a href="mailto:emily.rashidi@uga.edu">emily.rashidi@uga.edu</a></p>
<p>Multi-Class Live &amp; Online            Superior Court Clerks            Juvenile Court Judges            Juvenile Court Clerks            Probate Court Clerks            International Groups            USCR 43.6</p>	<p><b>Susan Mason</b>            Electronic Media            /Event Coordinator</p>	<p>706-369-5818</p>	<p><a href="mailto:susan.mason@uga.edu">susan.mason@uga.edu</a></p>
<p>ICJE Executive Director</p>	<p><b>Doug Ashworth</b>            Cell # 706-201-7680</p>	<p>706-369-5793</p>	<p><a href="mailto:dashworth@uga.edu">dashworth@uga.edu</a></p>

**Please protect yourself  
and your fellow participants at this event by complying with  
applicable State of Georgia and/or CDC guidelines and/or  
recommendations for slowing the spread of COVID.**



**If you observe any fellow participant who is not complying  
with guidelines that you believe he or she should be complying with,  
please approach them directly - and respectfully - to encourage them  
to protect themselves and all other participants.**

**Please Note:**

**ICJE Staff members are complying with protocols promulgated by the UGA Preventative Measures Advisory Board (“PMAB”); and, with any applicable State of Georgia and/or CDC guidelines and/or recommendations. The ICJE Staff has no regulatory or supervisory authority to direct any participant to wear a mask, to wear gloves, to social distance, or to comply with guidelines or recommendations.**