



**Judicial Council of Georgia
Standing Committee on Access to
Justice Quarterly Meeting
August 14th, 2024
12:00 p.m. – 2:00 p.m.**

**Join us In-Person at the AOC Ratley Conference Room!
244 Washington Street SW Suite 300 Atlanta, GA 30334**

RSVP by Email: deonte.mayfield@georgiacourts.gov

Lunch will be served at 11:30pm, Meeting Starts @ 12 noon

Welcome and Introductions: Chair Justice Verda Colvin – Vice Chair Judge Sara Doyle

Written Reports: Summary of May 1st, 2024 and June 8th, 2024(DOB)

SAVE THE DATES – Upcoming Events

Georgia Legal Services Pro Bono (GLSP) Conference: September 5th- 6th in Savannah, GA

A Taste for Justice: October 10th, 5:30pm in Macon, GA

GLSP Hosting Legal Services Corporation (LSC): October 28th – 30th

Upcoming A2J Committee Meeting Date: November 20th, 2024, at the Nathan Deal Judicial Building

A2J Committee Project and Community Updates

- I. GJP Model Disposition Forms Update** – Wade Askew – 10 mins
- II. GLSP Legal Kiosk Project** – Mitzy Sharp Futro – 7 mins
- III. White Paper/Carl Vinson Update** – Michelle Barclay -7 mins
- IV. SRL Forms Working Group Update (Legitimation, and Custody)** – Judge Dear Jackson & Deonte Mayfield - 5 mins
- V. Joint A2J & ATJ Committee Initiatives Update** – Bill Adams - 10 mins
 - *Adoption of the Remote Hearings Resolution* - (Justice Verda Colvin)
 - *Expansion of the 3rd Year Practice Act for Civil Law* – (Judge Sara Doyle)
 - *Incentivize Pro Bono for CLE Credit* – (Karlise Grier)
- VI. Landlord Tenant Early Resolution Working Group/GSU Eviction Policy Report** – Judge Cassandra Kirk – 10 Mins
- VII. DOCO Law Library Project Update** – Nai'ja Bridges & Deonte Mayfield – 5 mins
- VIII. Old Business** – Annual Diversity of Bars Meeting, Award Recognitions
- IX. New Business** – GLSP Pro Bono Conference, LSC Board Visit, Middle Georgia Justice
A Taste for Justice

Meeting Expected end time 1:30-1:45pm

244 Washington Street SW • Suite 300 • Atlanta, GA 30334
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Judicial Council of Georgia

Standing Committee on Access to Justice

Wednesday, August 14th, 2024

12:00 p.m. – 2:00 a.m.

Conference Call Login:

https://georgiacourts-gov.zoom.us/rec/share/gExXJwqh1S94_qcqNdiQWlGLNxZpOyj83kVGA8-6JNoo2hm2rE6kD-51v0_RDFK.ELK3i1tk1Zgd8tWA

Passcode: =vP4ES&5

In-Person Attendees: Chair-Justice Verda Colvin, Vice Chair-Judge Sara Doyle, Judge Belinda Edwards, Susan Coppedge, Mike Monohan, Mitzy Sharp Futro, Rachel Barnhard, Wade Askew, Doug Ammar, Judge Bryan Ramos, Judge Pierce Hand-Seitz, Anne Kirkhope, Mazie Lynn Guertin, Judge Cassandra Kirk, Karlise Grier, Dee Dee Worley, Judge Tabitha Ponder, Noelle Lagueux-Alvarez, Latoinna Lawrence, Cynthia Clanton, Deonte Mayfield

Online Attendees: Judge Cynthia Adams, Judge Bill Hamrick, Judge Clarence Cuthpert, Will Simmons, Michelle Barclay, LaShawn Murphy, Sarah Anderson, Benjamin Torres, Roodgine Bray, Bill Adams, Jessie Farah, Judge Jana Edmondson-Cooper, Judge Shawn Rhodes, Judge Leisa Blount, Nai'jah Bridges, Kazuma Sonoda Jr.,

GJP Model Disposition Forms Update

Wade Askew from Georgia Justice Project shared the update with the committee. Wade shared context for the creation of these model disposition forms. On July 1, 2013, law went into effect establishing restrictions of non-convictions under O.C.G.A. §§ 35-3-37(h)(2), 35-3-37(j)(1), 35-3-37(j)(2), or 35-3-37(j)(3). Our particular concern is with O.C.G.A. § 35-3-37(h)(2). It states that non-conviction records shall be restricted if an arrest does not result in conviction unless a specified exception applies under O.C.G.A. § 35-3-37(i). In other words, non-conviction records must be restricted -- without need of a petition -- unless a prosecutor affirmatively indicates a statutory exception is present. Our expectation was that almost all non-conviction cases would be restricted upon a case resolving in ways other than a conviction (nolle prosequere, dismissal, found not guilty, diversion completed, etc.). Data was recently collected from GCIC to see how implementation of that law is going. We found that nearly 4 million non-conviction cases have **not** been restricted in the past 10 years across the state -- this represents 70% of non-conviction records. In theory, this may be a code issue with the clerk's office as disposition codes are inputted into the system. A best practice to resolve this can be the use of sealing/restricting options readily available on non-conviction disposition forms for the judge to check at the disposition. Another alternative could be the use of standing court orders within local jurisdictions. Justice Colvin advised Wade and the working group to include the President of the Clerk Association into this

conversation. The working group will continue the conversation and potentially seek approval of these new forms from the respective Council of Judges.

GLSP Legal Kiosk Project

Mitzy Sharp Futro from Georgia Legal Services Program shared the update with the committee. Mitzy gave the committee an introduction to the ongoing legal kiosk project with GLSP. Legal Service Corporation awarded a technology improvement grant to develop and deploy 6 self-help legal kiosks. Mitzy gave appreciation to the CALER data given by the committee in the selection of potential locations for the kiosks to be housed. Locations that are under consideration are: one in the trifecta of Brooks, Thomas or Lowndes County, Clay County, Wilcox County, Tift County, Dougherty County and Hancock County. Each kiosk will be at least 60 miles from a GLSP office. The kiosk themselves will have the standardized approved forms, guided interviews, and instructional videos. Also, access to conferencing applications, GeorgiaLegalAid.com, and a referral network for pro bono or low bono attorneys will be available for kiosk users. This initial pilot project will focus strictly on family law with Divorce w/without children. Extensive work continues with the vendor, A2J tech, designing the hardware and user interface. Currently, the advisory committee for this project is soliciting initial responses from vendors to provide the document automation piece. Next steps are to retain the vendor for the guided interviews and automation, as well as, hiring a new staff person to help keep moving the project forward. Testing will occur before and after the release of the kiosks. The initial kiosk should be deployed for testing end of this year.

White Paper/Carl Vinson Update

Michelle Barclay shared the update with the committee. Phase 2 of the Carl Vinson study on two self-help centers has begun. The report focuses on the center in South Georgia and one in North Georgia with expected results around this time next year. This study will provide a return on investment analysis and collect data for future annual reporting. A white paper was submitted to the Judicial Council's Budget Committee requesting \$100,000 to start a grant program for self-help centers, especially for the two centers involved in the current study. If this program enters existence, it will have similar structure to the grant program for domestic violence and other grant programs within the judiciary. The budget request was approved by the Budget Committee, and it advances to the Judicial Council for a vote.

Rachel Barnhard from the Georgia Bar Foundation gave an update about the grant recently awarded to the self-help center in Albany, GA. \$300,000 will be disbursed to the center for this year. Rachel shared the concept of critical access hospitals and how that model can also serve well for the legal deserts within our state. As a fail-safe, this model will guide the Bar Foundation in aiding critical legal infrastructures scattered throughout our state.

Judge Lisa Blount asked for a press release about the recently awarded grant. Director Nai'ja Bridges of the Albany Center did share her fear with disclosing this grant award with the local community as it has deterred local funding in the past. A typed-up press release will be drafted and shared with the committee for feedback.

SRL Forms Working Group Update (Legitimation, and Custody)

Deonte Mayfield shared to update with the committee. The legitimation packet that we have been working on has been given to Judge Dear Jackson for submission to the Council of Superior Court Judges for approval of standardized use. Judge Dear-Jackson connected our office with the FLIC in DeKalb County to help make more needed edits to the packet. Also, the AOC and the DeKalb County FLIC partnered together in applying for the NCSC Fall Forms Camp Program to revamp the legitimation packet. Unfortunately, our application was not selected, however, work continues this packet with hope of submitting for final approval to the council by end of the year. The working group continues its work on the custody forms. Also, with new incoming leadership to the respective councils for the classes of courts, this working group will take the opportunity to resubmit the Landlord Tenant Forms that were denied by the last year.

Joint A2J & ATJ Committee Initiatives Update

Retired Judge Bill Adams shared with the committee his thoughts on his recent write up for AJC. The State Bar's Access to Justice Committee lead the charge for an article to be published by AJC to discuss the justice crisis in our state. Judge Adams articulated some of his words from the article.

Justice Verda Colvin, Judge Sara Doyle, Karlise Grier and Dee Dee Worley gave updates related to these initiatives. Justice Colvin began the discussion of the Remote Hearing Resolution by the Conference of Chief Justices and State Court Administrators. Justice Colvin spoke with Chief Justice Boggs about this need for remote hearings and was informed the unlikely possibility for this policy to be set in stone. Justice Colvin will continue this important conversation with the Chief and many other courts to support the effectiveness of remote hearings. Mazie Lynn Guertin asked what the hesitation of adopting this practice within the courts, and Justice Colvin responded that all courts may not have the same technological capabilities as others within our state. Justice Colvin also shared possible constitutional implications but reassured the push for this initiative.

Judge Sara Doyle speaks on the current Supreme Court Rule for 3rd Year Law Students to practice in the civil arena. Since there is a statute for the 3rd Year Practice of law students on the criminal side, Judge Doyle asked the committee on whether a new statute was needed, or can implementation begin now for law students to engage in the civil arena? Michael Monahan spoke on the establishment of this rule from the State Bar. Many 2nd and 3rd year

law students can engage in pro bono work if there is a supervising attorney. Judge Doyle and the committee will seek communication with the various law schools to create a program for law students to engage in pro bono work and serve unrepresented litigants. Judge Tabitha Ponder shared a contact, Billie Jo Kaufman from Mercer Law, as someone to help organize this A2J network. The current Supreme Court rule expires in January 2026.

Judge Doyle shifted the discussion to the Pro Bono for CLE credit initiative. Since the early 90s, a pro bono voucher system has been in place to help incentivize pro bono work. If you do 3 cases, then you receive \$150 voucher towards CLE cost. Currently, this voucher system appears outdated compared to other state models that incentivize pro bono. To adjust our current system this committee needs to decide from the different bodies that vote on this matter, i.e. the Board of Governors, State Bar, Supreme Court or CCLC.

Karlise Grier and Dee Dee Worley shared with the committee. The current voucher system in place seems out of step with the times and cost of the current CLE rates. The voucher system has been in place since the nineties, and since 2020 there has been decline of vouchers used. The vouchers are manual cards with a specific number that ICLE would issue, and the State Bar Pro Bono department would receive a list of those volunteers from GLSP or any approved legal service provider. In the coming year, ICLE is proposing a new automated system with a new database of approved legal service providers. Regarding the budget of this voucher system, it is a \$30,000 line-item budget from CCLC to ICLE. It costs on average \$250 for an ICLE course, so 6 hours is equivalent to \$250 credit. Modifications to the current system should be made as we consider adding the self-help center model as another way for attorneys to engage in Pro Bono work both in criminal and civil law. Legal clinics offered by FLICs will at least take a 3-hour commitment. Karlise and Dee Dee examined closely the models that Tennessee and Alabama currently have in place for Pro Bono CLE credit. Alabama is an annual CLE state with a 3-hour cap for CLE credit, one CLE credit hour for 6 pro bono service hours. Tennessee is an annual CLE state with a 3-hour max, one CLE credit hour for 5 pro bono service hours. Tennessee is an annual CLE state with a 3-hour max, one CLE credit hour for 5 pro bono service hours. Georgia would follow either of these models. Questions to anticipate are how many hours of pro bono service for CLE credit and what is the cap? Dee Dee Worley's commission is the Commission on Lawyer Competency (CCLC). For any rule changes to continuing legal education, CCLC will first review then it will be sent to the Board of Governor and finally to the Supreme Court for adoption. Dee Dee Worley mentioned that something like this rule change could be decided solely by CCLC as a regulation. Currently, there is a new rule up for adoption that would go into effect 2025. This new rule is that attorneys must complete 18 CLE credits within two years (24 months). CCLC plans to meet in October.

Landlord Tenant Early Resolution Working Group/GSU Eviction Policy Report

Judge Cassandra Kirk shared the update with the committee. The working group is considering to reviving a project proposal that was denied grant funding from NCSC. The proposal consists of rolling out mediation for landlord-tenant disputes through Tracy Johnson's Office, Georgia Office of Dispute Resolution. The working group will seek out other grant opportunities to fund this project. This program will be helpful in the middle end but not the front end as it relates to the issue of legal representation for unrepresented litigants in the civil arena. The working group will also consider rolling in resources through the legal kiosk project. Judge Kirk also shared with the committee the results from the Georgia Eviction Policy Report. Currently, Georgia is ranked low in majority of the categories listed in the report such as access to counsel, legal aid, post judgment, etc. Going forward the working group will resubmit the landlord-tenant forms for approval from the Council of Magistrate Court Judges. Also, this committee will brainstorm on how Georgia's Courts can play a role in enhancing our scores on the criteria from the report. Judge Pierce Hand Seitz asked for clarification of the mediation program and its usefulness for the tenants. Judge Kirk responded to his question with an example of Fulton County's Mandatory Mediation Only Calendar and how this gives power back to the tenant to negotiate before the final judgement. Director Nai'ja Bridges joined the conversation to shine light on the service and notices for these types of disputes. Justice Colvin asked for this conversation to be discussed more in depth within the working group and return to the committee with a flushed out analysis of where Georgia can enhance its scores in landlord-tenant disputes.

DOCO Law Library Project Update

Deonte Mayfield and Director Nai'ja Bridges shared the update with the committee. The self-help center hosted its first record restriction clinic on August 13th. Gate City Bar Association along with Bey & Associates sponsored the clinic and sent attorneys to Albany from Atlanta. Director Bridges shared with the committee the center's new partnership with the public library for their amnesty month in September. During this month the center will host two more clinics, one for legitimation and the other for divorces both with and without children. For the patrons that attend the clinics the packet cost fee will be waived. The center will continue a series of clinics for the community.

Old Business

Justice Colvin briefly spoke on the diversity of bars meeting and the minutes from that meeting. Justice Colvin gave kudos to members of the committee for recent award recognitions.

New Business

Justice Colvin spoke on upcoming dates to save to include Middle Georgia Justice's Annual Fundraiser and the LSC Board Visit to Atlanta in October. Before the adjournment of the

meeting, Doug Ammar and Wade Askew from GJP spoke on the need for court notices and how they could help in the reduction of failure to appear rates. For the past three years, GJP has been engaged in this subject and pushing for legislative support. Wade explained the connection of suspended licenses from the cause of failure to appear for court. GJP is working with a national group that focuses on text reminders for court. Wade mentioned Judge Hope in Athens that has a model in place for text reminder court notices in Municipal Court. This court spends less than 10 minutes to send out these reminders to the litigants at very low cost. In the long run, GJP is looking for legislation on this possibly in 2026. For the time being, jurisdictions have the means to implement this practice within their courts today through phone number collection from booking/arrest or the citation form. Mazie Lynn Guertin

Meeting Adjourned at 2:00 p.m.

OPINION

Georgia's justice gap has easy solutions to keep Georgians more productive

We can help Georgians solve their civil legal issues, move on and live better lives.

By Bill Adams

June 24, 2024

Georgia has a justice gap.

For many people who need support at crucial moments in their lives — such as divorce, child support, child custody, estate and property or other civil matters — they simply don't have the funds to hire a lawyer.

[Legal aid studies show](#) that the proper functioning of an efficient economy requires the availability of a fair and balanced legal system to adjudicate legitimate disputes and preserve individual rights. Legal assistance is critically important to helping Georgians remain productive.

As Georgia Supreme Court Chief Justice Michael P. Boggs said in his [State of the Judiciary address](#) to the Georgia Legislature this year, the “lack of legal advocacy can make it harder to access other needs such as housing, medical care and child support. And it can mean people don't have access to a lawyer at a most critical moment in their lives.”

As with other gaps in America, such as in wealth, income, health and education, the underlying cause for the justice gap is poverty. More than [60% of Americans live paycheck to paycheck](#). Whether it's a need for car or home repairs or a lawyer, most people have no money in reserve for these life needs.

We're not just talking about people who are destitute; we're talking about people with pretty good jobs who live paycheck to paycheck. Legal fees aren't in the budget.

Legal Services Corporation's most recent [Justice Gap Report](#) said, “Low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems.”

And in Georgia, that gap is even wider compared with our peers, according to a [Carl Vinson Institute of Government presentation](#). Florida provides a [robust network of legal self-help centers](#) and has a very public advocate for improving access to justice in their [Bar Foundation](#). [North Carolina](#) and [Maryland](#) do as well. Our state provides some services like this in the metro areas, but as soon as you get outside urban cores, people often have no access to attorneys.

Georgia has 34,000 lawyers, but they tend to be clumped in urban areas. At least 10 counties in Georgia don't have any lawyers, a phenomenon that's become known as legal deserts.

And though Atlanta Legal Aid and Georgia Legal Services lawyers work hard daily to meet the legal needs of Georgians, those organizations don't have enough funding to meet all the needs that I see daily, especially for family law matters.

We know that without legal help, these problems persist and fester — damaging individuals, families, neighborhoods and communities. That is why I've worked hard with many others to get [Middle GA Justice](#) (MGJ) off the ground to fill the civil justice gap. MGJ works to remove obstacles and barriers to fulfilling one's potential by providing legal assistance to those in need. But MGJ, which is funded by foundations and donors, is just one small drop in the bucket of legal assistance Georgia residents need.

A [report from Texas](#) concluded that investing in legal aid services leads to a sizable stimulus in the Texas economy by helping people trapped in legal problems move forward (which in turn leads people to have more stable housing and employment, helps them transfer properties and even pay taxes).

It's time for Georgia to implement some simple solutions that will help Georgians solve their civil legal issues, move on and live better and more productive lives.

Here are two easy solutions I'm calling on our Georgia Legislature and Georgia Supreme Court to implement to fill Georgia's justice gap:

- 1) We need coordinated state, county and city investment to improve access to justice. It's time to invest in both an "Ikea" solution (self-help guidance) and more legal services provided by lawyers. We call upon our leaders to ask the Georgia Legislature to invest more funding into legal self-help centers and legal aid services.
- 2) It's also time to start reconsidering the rules for the practice of law. Other states allow nonlawyers to become licensed form preparers to help people navigate their legal problems if they cannot afford a lawyer. A pilot program in Georgia would be helpful to

explore this innovative idea. We call upon our Supreme Court to allow experimentation to allow nonlawyers to help fill the gap.

Now is the time to invest in our legal aid services and experiment while Georgia enjoys a budget surplus, thanks to its wise economic decisions and reputation as the No. 1 place to do business.

The state will certainly witness a positive return on investment through the increased productivity of Georgians, especially those who live in legal deserts.

It's up to us, and it's time we strengthen access to justice, for all.

Bill Adams, a retired State Court Judge of Bibb County and lawyer with Adams Law Firm in Macon, received the 23rd Annual Thomas O. Marshall Professionalism Award.

A Virtual Path to Justice: Paving Smoother Roads to Courtroom Access

By Amy Petkovsek

Share:



Pre-2020, it would have been difficult to imagine sitting in front of a screen in your living room to show a doctor the rash on your child's arm, or a virtual space where therapists treat clients hiding in cars and huddling in a room holding a phone screen to work through depression and anxiety. Yet, these "temporary" alterations are now woven into the provision of services in our post-isolation world. The pandemic presented a multitude of challenges, but we also learned how to virtually access life-changing services that will continue to help many people. One such service is seeking justice via a virtual court system like never before.



The pandemic presented a multitude of challenges, but we also learned how to virtually access life-changing services that will continue to help many.

ADOBE STOCK

In the initial weeks of the pandemic in spring 2020, attorneys, litigants, and court personnel struggled to imagine how to be productive in the new reality. Initial attempts to connect to courtrooms virtually were limited, clunky, and time-consuming. There were no previously established methods to enter evidence, speak privately with co-counsel or clients, or provide language interpretation services. Jokes about the attorney who appeared on Zoom as a cat spread across all social media platforms. “I’m a lawyer, not a cat!” made children giggle and attorneys fearful that they, too, would become a meme.

However, courtroom justice recovered. There were glimpses into accessibility for clients that never existed before. Courtrooms across the nation began having critical discussions about what types of services might remain virtual. Scheduling hearings became a five-minute Zoom meeting instead of a two-hour drive to exchange calendar dates. Postponements could be conducted between trials. Lawyers who represented clients on the margins of society realized technology presented a tremendous opportunity to create and sustain access for clients with limited financial resources to attend court.

Immediate Benefits

One of the broadly applicable benefits of remote courtroom hearings for low-income clients in civil legal proceedings is the ability to attend a hearing from any location, thus saving costs in myriad ways.

First, transportation costs are eliminated. Paying for a bus, a train, or gas for a car no longer is a concern. There is no need to pay parking meters, a daily parking garage fee, or the ticket when a meter expires after an unexpectedly long wait in court. In the past, clients sometimes risked a “driving without a license” charge by borrowing a car and driving to court with an expired or suspended driver’s license to avoid missing a crucial court hearing. Today, clients can avoid making the same decision. Additionally, clients save money on food while out of the home for an extended six- to eight-hour wait for a 15-minute court hearing. Clients can save on childcare and no longer lose many hours of revenue-generating time. Virtual hearings take exactly the time that the court proceedings last. A low-income client can return to work or pick up extra Uber or DoorDash shifts. The additional hours of transportation, finding parking, buying food, childcare drop-off and pickup, and waiting around for your turn before the judge are avoided entirely.

There are other benefits beyond money. Clients can stay in their “comfort zone.” They can attend court virtually from their home, car, workspace, or the home of a trusted friend. When a client leaves that space to venture into a courthouse where they’ve never set foot before, they often report feeling unsafe, unsure of themselves, less familiar, judged for their appearance and lack of knowledge, and confused. There is the process of figuring out where the courtroom is located, where the waiting areas are, how to nurse a child, where to eat, how to go outside and take a smoke break, and how to navigate the court security systems. All of these scenarios are potential anxiety-provoking discomforts that are eliminated when the hearing is remote. Also, the client is often able to have someone “with” them virtually in a way they could not be in person. A spouse, friend, neighbor, or family member can sit alongside them to offer support during the remote hearing. That same person likely could not take a day off of work and travel to the in-person court hearing with the client.

Across the United States, children in the foster care system are required to attend court hearings. In the past, in-person hearings required these youth to miss entire days of school, including tests, soccer practices, assemblies, and field trips. Foster children clients often remark that they never are eligible for “perfect attendance” awards, simply due to their required presence in court. What is more, parents are sometimes “no-shows,” hearings are rescheduled, and foster clients miss additional days of classes. Remote hearings allow foster youth to take 30-minute breaks, sit in the guidance counselor’s office, and return directly to class. The option to participate remotely and still have the normalcy and support of school has made a world of difference for foster youth across the nation.

For undocumented individuals, the benefits of remote hearings are also significant. Attending a court hearing in person, whether the hearing is related to egregious behavior by a landlord or to seek child custody, becomes a much riskier and more challenging task when the client risks interaction with federal deportation officials. Whether or not interactions with Immigration and Customs Enforcement are a reality at local state courts, there is a substantial fear in the undocumented immigrant community that such interactions will occur, and thus, important hearings are missed. With remote access, clients can participate in the judicial system without risking upending their lives and families.

Prior to 2020, impoverishment was the direct cause of many court postponements. Litigants not having access to childcare, transportation, and enough cell phone minutes to speak with an attorney all were reasons for courts to reschedule hearings. Now,

fewer hearings are postponed or canceled solely for reasons of poverty. The ability to join virtually from any location takes the judicial system one step closer to an even playing field. Clients are also not as concerned with purchasing new clothes to appear “suitable” for court, and a client’s overall appearance is no longer judged by a jury or court officials as it once was. Taking in-person presence out of the equation helps minimize the damage done by implicit and explicit biases.

There are also physical health benefits to our clients who live on the margins. Clients living in poverty are especially vulnerable to illness and germs, in part because they do not have affordable health care. These same clients frequently work in public spaces, and they return home to crowded living conditions. Allowing their courtroom experience to be germ-free is a way to protect these susceptible clients from further exposure to COVID-19, flu, and other diseases. Moreover, clients with physical mobility issues are saved from the distress of navigating stairs, unfamiliar terrain, long paths to courtrooms, and hours of sitting uncomfortably, all of which exacerbate existing physical conditions.

Continued Hurdles

Despite the abundance of benefits, there are certainly continuing challenges that need to be addressed to make the virtual path to justice the most beneficial it can be for clients. There needs to be consistent access to a stable, strong internet connection nationwide. In cities, there are a multitude of accessible locations in public spaces that allow for virtual court participation and a strong internet connection, including recreation centers, libraries, schools, and legal aid offices. These same options are not always available in rural areas, and internet networks remain spotty and expensive in these regions. Internet providers have started to step up and improve both infrastructure and costs, but this is a continuing area of limitation on an otherwise robust justice delivery system. A related yet easier pothole to fill on the road to justice is access to working technology equipment. Gratefully, there are many national programs across America to provide Chromebooks, cellular devices, and other technology to those without access. Additionally, many public school systems offer such equipment to each child, providing a way to access court in every household. It will be a continued effort, however, to replace, update, and maintain these technologies.

There are non-tangible concerns as well, including concerns related to privacy issues, as clients may need to choose connections to court where others cannot overhear parts of private hearings. There are clients who attend hearings while driving, which

presents both safety and distraction concerns. It is, at times, more difficult for attorneys to discuss pressing and private matters with clients if they are not in the same locations. Clients may be distracted by pets, children, construction, and ringing doorbells and phones in ways that they would not be if they were present in person. If the judge can see a client's home background, there may be judgments about cleanliness, space, or caregiving that would typically be unseen. Most concerning is the risk to clients seeking protection from domestic violence. These clients may feel that there is no way to speak their truth safely from an in-home hearing. It is essential for organizations that specialize in representing victims and survivors of domestic violence to have a strong voice in best practices for remote hearing participation, which often includes the client joining virtually from a predetermined, safe location.

Long-Term Implications

In March 2020, when the world was tipped upside down, a shift to virtual hearings became a necessity. Now we can choose if and when to use the remote option and how to best support clients virtually. We are free to develop efficient procedures and safety mechanisms. The implications for justice and the removal of barriers in civil proceedings are tremendous. Moving forward, there are issues, concerns, and problems that must carefully be addressed and remedied by careful planning, being strategic in our thinking, and including our low-income clients in decision-making about how to best implement remote court participation. The path to virtual justice is long, but the walk will help us improve justice for years to come.

Author



Amy Petkovsek, Esq.

Executive Director, Community Law Center

Amy Petkovsek, Esq., is the executive director of the Community Law Center, where she oversees innovative and zealous legal advocacy efforts across Maryland communities. She previously directed the development of the Community Lawyering Initiative, Lawyer in the Library, and Lawyer in the Schools programs at Maryland Legal Aid.

ENTITY:

CIVIL RIGHTS AND SOCIAL JUSTICE

TOPIC:

CIVIL RIGHTS AND CONSTITUTION, COURTS & JUDICIARY, TECHNOLOGY



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**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 3

In Support of Clear Policies for Virtual and Remote Hearings Post-Pandemic

WHEREAS, at their 2020 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 1, which sets forth six principles to guide technological changes for post-pandemic court technology; and

WHEREAS, at their 2021 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 2, urging courts to apply the guiding principles for court technology to remote and virtual hearings and support technological innovations to facilitate access to justice, so that all court users obtain the help they need and are treated fairly and with dignity; and

WHEREAS, during the COVID-19 pandemic, technology has been a vital tool to enable courts to maintain operations and has been an important learning opportunity for courts; and

WHEREAS, the ability to participate in remote and virtual hearings through videoconferencing or telephonic appearances may bring benefits to attorneys, parties, and self-represented litigants, including saving time and resources; and

WHEREAS, some courts have ceased using remote and virtual hearings in some or all cases, thereby requiring court users, the public, and court employees to return to the courthouse in person to complete court hearings; and

WHEREAS, preliminary data suggests that appearance rates at court hearings are higher when litigants can appear remotely or virtually; and

WHEREAS, the public's ability to observe court proceedings online may enhance public understanding of, and confidence in, the fairness and impartiality of courts and judges; and

WHEREAS, the use of technology, and its possible expansion to include hybrid hearings, also raises critical questions about litigants' rights and their access to justice, and what courts and other stakeholders can do to mitigate any potential harms; and

WHEREAS, even as courts transition towards more in-person court operations, courts should not stop the usage or adoption of technology for court operations, including the filing of court documents, jury selection, and remote and virtual hearings; and

WHEREAS, the Conference of Chief Justices and Conference of State Court Administrators recognize that courts should continue to leverage technology to ensure litigant access to procedural and legal information and court services, and to make appearances possible and safe via remote and virtual means when practicable; and

WHEREAS, some jurisdictions have already established policies governing how remote and virtual hearings are to be conducted going forward;

NOW, THEREFORE, BE IT RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators urge their members to adopt policies at the state level regarding the use of remote and virtual hearings to ensure the continued use of remote hearings where appropriate and to ensure consistency, fairness, and safety in the conduct of remote hearings.

In developing these policies, we urge courts to:

1. Assess what technology platforms are best suited to the needs of the court and users
2. Ensure that all court users are able to participate in remote and virtual hearings regardless of access to equipment, broadband or comfort with technology;
3. Determine whether there are categories of hearings that are better suited to remote and virtual formats, while continuing to think creatively about how to expand the use of remote and virtual hearings to other case types;
4. Ensure that language access resources and accommodations under the Americans with Disabilities Act are provided to litigants in remote and virtual proceedings;
5. Draft these remote hearing policies in plain language and share them widely so that court users, the public, and court employees understand what is permissible;
6. Collect data and user feedback about remote and virtual hearings; and
7. Assess remote hearing policies regularly and adjust these policies as needed.

BE IT FURTHER RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators urge the National Center for State Courts to engage in rigorous evaluation of innovative efforts, provide guidance, develop best practices, and share resources on the continued use of remote and virtual hearings; and

BE IT FURTHER RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators offer leadership and encourage, where appropriate, collaborations with federal, state, and local government agencies and legislative bodies, private funders, and other civil justice system partners to support and provide financial resources to increase broadband and address other solutions that reduce the barriers to technology access.



User Name: Deonte Mayfield

Date and Time: Tuesday, April 30, 2024 1:33:00PM EDT

Job Number: 223181291

Document (1)

1. [O.C.G.A. § 15-18-22](#)

Client/Matter: -None-

[O.C.G.A. § 15-18-22](#)

Current with Chapters 354 through 408, with the exception of Chapters 391 and 396, of the 2024 Regular Session of the General Assembly. The Statutes do not reflect possible future codification directives from the Revisor of Statutes pursuant to Code Section 28-9-5. Additionally, the Statutes may be affected by prior or subsequent legislative enactment, revision, or executive action.

***Official Code of Georgia Annotated > TITLE 15 Courts (Chs. 1 — 25) > CHAPTER 18
Prosecuting Attorneys (Arts. 1 — 5) > Article 1 General Provisions (§§ 15-18-1 — 15-18-32)***

15-18-22. Use of third-year law students and law school staff instructors as legal assistants in criminal proceedings.

- (a) This Code section shall be known and may be cited as “The Law School Public Prosecutor Act of 1970.”
- (b) With the increasing docket in criminal matters, it is in the public interest to provide legal assistance to district attorneys and, in connection therewith, to utilize the services of third-year law students and staff instructors in criminal proceedings as a form of legal intern training which will promote the efficiency of criminal proceedings.
- (c) As used in this Code section, the term:
- (1) “Criminal proceeding” means any investigation, grand jury, trial, or other legal proceeding by which a person’s liability for a crime is investigated or determined, commencing with the investigation, return of an indictment, or filing of the accusation and including the final disposition of the case.
 - (2) “District attorney” means any district attorney of this state, the Attorney General, the director of the Prosecuting Attorneys’ Council of the State of Georgia, or any solicitor-general or solicitor of a state, municipal, or recorder’s court or any assistants of such officers.
 - (3) “Law school” means a law school within or outside this state which is approved by the American Bar Association or which is authorized to operate under [Code Section 20-3-250.8](#) or which was chartered and began operation in this state prior to February 10, 1937, and continued in operation in this state on July 1, 1970.
 - (4) “Staff instructor” means a full-time professional staff instructor of a law school in this state who has been admitted to the bar of another state but who has not yet been admitted to the bar of this state.
 - (5) “Third-year law student” means a student regularly enrolled and in good standing in a law school within or outside this state who has satisfactorily completed at least two-thirds of the requirements for the first professional degree in law (J.D. or its equivalent) in not less than four semesters or six quarters of residence.
- (d) An authorized third-year law student or staff instructor, when under the supervision of a district attorney, may assist in criminal proceedings within this state as if admitted and licensed to practice law in this state except that all indictments, presentments, pleadings, and other entries of record must be signed by a district attorney or by his duly appointed assistant and that, in the conduct of a grand jury investigation, trial, or other criminal proceeding, a district attorney or his duly appointed assistant must be physically present.
- (e) A third-year law student or staff instructor may be authorized to assist a district attorney in such form and manner as the judge of the superior court may prescribe, taking care that the requirements of this Code section and the good moral character of the third-year student or staff instructor are properly certified by the

O.C.G.A. § 15-18-22

dean of the law school. Before entering an order authorizing him to assist the district attorney, the judge shall further require of the student or instructor an oath similar to the oath required by a district attorney.

(f) As to each third-year law student or staff instructor authorized to assist a district attorney, there shall be kept on file in the office of the clerk of the superior court in the county where such authority is to be exercised the dean's certificate, the student's and instructor's oaths, and the judge's order as contemplated under subsection (e) of this Code section. The authority to assist a district attorney as allowed under this Code section shall extend for no longer than 18 months. If during this period any change occurs in the status of the student or instructor at the law school in which he or she was enrolled or employed, that is, if the student ceases his or her enrollment, is suspended, or is expelled or if the instructor ceases his or her employment or is released by the school, any such authority shall terminate and be revoked.

(g) Any third-year law student or staff instructor authorized to assist a district attorney under this Code section is not required to possess the qualifications for election or appointment to the office of district attorney or assistant district attorney as defined in [Code Section 15-18-3](#).

History

Code 1933, § 9-401.2, enacted by Ga. L. 1970, p. 336, § 2; Ga. L. 1978, p. 1949, § 1; Ga. L. 1990, p. 8, § 15; Ga. L. 1990, p. 1166, § 1; Ga. L. 1994, p. 313, §§ 1, 2; Ga. L. 1996, p. 748, § 4; Ga. L. 1997, p. 1319, § 14.

Annotations

JUDICIAL DECISIONS

Physical presence of district attorney not required. —

Existing statutory framework constitutes an express authorization for a district attorney to delegate to the district attorney's assistants the performance of such of the district attorney's prosecutorial duties as the law formerly required that the district attorney personally perform; accordingly, any former requirement that a district attorney's "direction and control" of a prosecution be evinced by the district attorney's physical presence is now obviated. *State v. Cook*, 172 Ga. App. 433, 323 S.E.2d 634, 1984 Ga. App. LEXIS 2539 (1984).

Opinion Notes

OPINIONS OF THE ATTORNEY GENERAL

Student assistants not admitted and licensed in general sense. —

Statement that the student may assist the district attorney "as if admitted and licensed" necessarily implies that the student has not actually been admitted and licensed; the fact that there are strict rules governing what a student prosecutor may and may not do makes it clear that, while the student is practicing law in the sense that the student is performing acts that a layman is not authorized to perform, the student has not thereby been admitted and licensed to practice law in a general sense. 1976 Op. Att'y Gen. No. 76-28.

Third-year practice does not affect eligibility for district attorney. —

Third-year law student who serves as a legal assistant to a district attorney pursuant to former Code 1933, § 9-401.2 (see now [O.C.G.A. § 15-18-22](#)) does not thereby become "duly admitted and licensed to practice law in the superior courts" for the purposes of determining eligibility to the office of district attorney under former Code 1933, § 24-2901 (see now [O.C.G.A. § 15-18-3](#)). 1976 Op. Att'y Gen. No. 76-28.

Research References & Practice Aids

Cross references.

Regulation of practice of law generally, [§ 15-19-50](#) et seq.

Law school legal aid agencies, [§ 15-20-1](#) et seq.

Third-year law students, *Ga. Sup. Ct., Rules 91* — 96.

Law reviews.

For article, “See One, Do One, Teach One: Dissecting the Use of Medical Education’s Signature Pedagogy in the Law School Curriculum,” see [26 Ga. St. U.L. Rev. 361 \(2010\)](#).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see [65 Mercer L. Rev. 295 \(2013\)](#).

For article, “Class Warfare: The Disappearance of Low-Income Litigants from the Civil Docket,” see [65 Emory L.J. 1531 \(2016\)](#).

RESEARCH REFERENCES

ALR.

Propriety and effect of law students acting as counsel in court suit, 3 A.L.R.4th 358.

Hierarchy Notes:

[O.C.G.A. Title 15](#)

[O.C.G.A. Title 15, Ch. 18](#)

[O.C.G.A. Title 15, Ch. 18, Art. 1](#)

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User Name: Deonte Mayfield

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Document (1)

1. [Ga. Sup. Ct. 91](#)

Client/Matter: -None-

Ga. Sup. Ct., Rules 91:

Search Type: Natural Language

Narrowed by:

Content Type
Statutes and Legislation

Narrowed by
-None-

[Ga. Sup. Ct. 91](#)

The rules incorporate all state and federal rule changes received by the publisher through April 17, 2024, for state and federal courts.

GA - Georgia State & Federal Court Rules > Rules of the Supreme Court of Georgia > XV. Student Practice Rule

Rule 91. [Effective until January 1, 2026] Purpose.

The purpose of this Rule is to recognize and support experiential learning opportunities that currently exist for law students in Georgia and to broaden the potential range of such opportunities, thereby expanding access to justice through the work of properly qualified and supervised law students who are permitted, as if admitted and licensed to practice law, to represent and appear on behalf of units of government and persons unable to afford legal services. By expanding the range of work that law students may do as if admitted to practice, this Rule does not, however, address nor intend in any way to restrict the wide variety of activities in which law students currently assist lawyers in their practice of law, including both law school educational programs and traditional work as law clerks.

Annotations

Notes

Editor's notes. —This rule was adopted effective August 15, 2015, superseding former Rule 91.

This rule was amended effective January 1, 2024. For the version of this rule effective January 1, 2024, see the second version of this rule.

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Document (1)

1. [Ga. Sup. Ct. 92](#)

Client/Matter: -None-

Ga. Sup. Ct., Rules 91:

Search Type: Natural Language

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Content Type
Statutes and Legislation

Narrowed by
-None-

[Ga. Sup. Ct. 92](#)

The rules incorporate all state and federal rule changes received by the publisher through April 17, 2024, for state and federal courts.

GA - Georgia State & Federal Court Rules > Rules of the Supreme Court of Georgia > XV. Student Practice Rule

Rule 92. [Effective until January 1, 2026] Activities permitted by a registered law student.

An eligible law student registered for student practice pursuant to this Rule, when under the supervision of a member of the State Bar of Georgia, may, as if admitted and licensed to practice law in Georgia, advise, prepare legal instruments, appear before courts and administrative agencies and otherwise take action on behalf of:

- (1) any state, local, or other government unit or agency;
- (2) any person who is unable financially to pay for the legal services of an attorney; or
- (3) any non-profit organization the purpose of which is to assist low or moderate income persons.

When a registered law student appears before a court or agency, the judge or presiding officer has authority to prescribe the form and manner by which such student may participate in proceedings. A registered law student may neither ask for nor receive any compensation or remuneration of any kind from any client for whom the student renders services; but this shall not prevent the student from receiving compensation, or a scholarship, stipend or other remuneration from a law school, governmental entity, or other non-profit agency in acknowledgment of the services the student is performing. Nothing in this Rule prohibits a supervising attorney, or organization employing such supervising attorney, from applying for, charging, or collecting a fee relating to activities of the registered law student authorized by this Rule that the attorney or organization otherwise may properly apply for, charge, or collect. Communications between the client of a supervising attorney and a registered law student shall be privileged to the same extent as communications protected by attorney-client privilege and work product doctrine and protected as confidential under the Georgia Rules of Professional Conduct, and the presence of a registered law student during communications between the supervising attorney and the client shall not waive any otherwise applicable evidentiary privilege or duty of confidentiality.

Nothing contained in this Rule shall affect the right of any person who is not admitted to practice law to do anything that he or she might lawfully do prior to the adoption of this Rule nor the right of lawyers to use assistants in their practice as permitted by the Georgia Rules of Professional Conduct.

Annotations

Notes

Editor's notes. —This rule was adopted effective August 15, 2015, superseding former Rule 92.

This rule was amended effective January 1, 2024. For the version of this rule effective January 1, 2024, see the second version of this rule.

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Document (1)

1. [Ga. Sup. Ct. 96](#)

Client/Matter: -None-

Ga. Sup. Ct., Rules 91:

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Content Type
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-None-

Ga. Sup. Ct. 96

The rules incorporate all state and federal rule changes received by the publisher through April 17, 2024, for state and federal courts.

**GA - Georgia State & Federal Court Rules > Rules of the Supreme Court of Georgia > XV.
Student Practice Rule**

Rule 96. [Effective until January 1, 2026] Appearance and argument before the Georgia Supreme Court.

Law students authorized to practice under the Student Practice Rules, see Rules 91-96, or the Law School Graduate Rules, see Rules 97-103, may co-author briefs, indicating their status on the signature line. A law student participating in a clinical program at a Georgia law school may be authorized to make oral argument if the supervising attorney of the program files a motion to authorize the law student to argue and includes in the motion the name of the student seeking to argue, the extent of the attorney supervision to prepare the student for argument, and a statement that the supervising attorney will be personally present and prepared to supplement any oral statement made by the student. The Court must give specific approval for the law student's participation in the argument. Law students and recent law school graduates are not eligible to present oral argument based on their participation in legal training programs organized in the offices of governments and non-profit organizations.

Annotations

Notes

Editor's notes. —The former rule was deleted effective August 15, 2015.

This rule was added effective September 9, 2019.

This rule shall be effective as to cases that docket on or after December 2, 2019.

This rule was amended effective January 1, 2024. For the version of this rule effective January 1, 2024, see the second version of this rule.

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Supreme Court of Georgia Dramatically Expands Student Practice

Supporting Experiential Education and Broadening Access to Justice

by Clark D. Cunningham

“I will in all other respects conduct myself personally and professionally in conformity with the high standards of conduct imposed upon members of the State Bar of Georgia.” On Sept. 16, 2015, the Chief Judge’s Courtroom of the Superior Court of Cobb County resounded with these words as Supreme Court of Georgia Presiding Justice P. Harris Hines completed administration of Georgia’s new law student practice oath for 15 second-year law students. Justice Hines then gave these students a solemn charge: “What a wonderful opportunity this is for you all! As the first group of students to practice law your second year, you have a great responsibility. The success of this program is dependent on you. I know you will do well and will conduct yourselves personally and professionally in the highest accordance of the law.”¹

On March 12, 2015, the Supreme Court of Georgia replaced a student practice rule that dated back to



Photo by Timothy Cole

Justice P. Harris Hines administers the new student practice oath of office on Sept. 16, 2015.

1992 with an entirely new rule with the purpose “to support experiential learning opportunities . . . and . . . expand access to justice.”² The most far-reaching effect of the new rule is that law students are now eligible for student practice after the first year of law school; the old rule limited student practice to students who had completed two-thirds of their legal education. Other significant changes include: (1) an expanded definition of eligible client; (2) allowing any member of the State Bar of Georgia to supervise student practice; (3) specific requirements for supervising student attorneys; and (4) clear authority for student attorneys supervised pursuant to these require-



Photo by John Amis

Participating students stand with Justice P. Harris Hines after reciting the new law student practice oath. (First row, left to right) Phenisha Bresnock, Chae Mims, Serreen Meki, Jamila Watts, Lacey Wheeler, Sydney Hill, Karyn Pagnotta, Marie Wilcox; (second row, left to right) Mariya Davis, Geoffrey Hafer, Gregory Mullin, Ivy Oxendine, Stephen Kaplan, Karen Lowell, Daniel Lee, Christian Blayne May; and (third row) Justice P. Harris Hines.

ments to engage in all aspects of a lawyer’s work “as if admitted and licensed to practice law.”³

History of the New Student Practice Rule

The new rule was the product of five years of work by the Chief Justice’s Commission on Professionalism (CJCP) and the Board of Bar Examiners (Bar Examiners). In 2010, then-Chief Justice Carol W. Hunstein established a new Access to Justice Committee of the CJCP and charged it with developing innovative ways to improve access to justice. That committee, noting that many states had updated their rules to allow second year practice, including our neighboring states of Tennessee and North Carolina, proposed amending the existing student practice rule to allow students to practice after completing three semesters.⁴ In 2012 CJCP approved the committee’s recommendation and Chief Justice Hunstein referred the proposed amendments to the Bar Examiners for consideration.⁵

Former Superior Court Judge Ralph Simpson, then-chair of the Board of Bar Examiners, appointed a Student Practice Committee comprised of himself, former Superior Court Judge Thomas Cauthorn and former State Bar President John Sammon as chair.

As a result of a comprehensive review of national resources and models, the Bar Examiners’ committee decided, instead of just amending the existing rule, to draft “a comprehensive new student practice rule that was informed by the best of current policies around the country and designed in light of important trends in legal education, the practice of law and the need for legal services.”⁶

By recommending that student practice be allowed as early as the completion of the first year and expanding the scope of student practice, the Bar Examiners’ committee wanted to create opportunities for Georgia’s law schools to expand experiential education and integrate it more deeply into the entire curriculum.⁷ Many of the sources consulted by the Bar

Examiners’ committee called for the improvement of legal education to achieve the kind of “coordinated curriculum aimed at deep understanding, complex technical competence, and deeply internalized moral responsibility”⁸ exemplified by medical and other types of professional education. Consistent with such calls for legal education to lay the foundation for developing a professional identity informed by the deep values of the profession, the Bar Examiners’ committee saw the proposed rule as not only expanding opportunities for students to receive practical experience, but also as promoting “a culture of service to meet unmet legal needs for future lawyers that will hopefully continue during their entire legal career.”⁹

During 2014, the Bar Examiners’ committee as well as the full Board of Bar Examiners met repeatedly with representatives of Georgia’s five law schools to finalize the draft of the new rule.¹⁰ The final version was approved by the Bar Examiners and submitted to the

Court, which approved it effective Aug. 15, 2015.¹¹

Implementation of the New Rule and its Impact on Legal Education

As of Jan. 12, 2016, 488 law students had been registered for student practice under the rule, including 162 second-year students.¹² For example, the 15 second-year students sworn in by Justice Hines on Sept. 16 were then able under the new rule to appear in Cobb County Superior Court on behalf of domestic violence victims as part of a new course at the Georgia State University College of Law (GSU) operated in partnership with Legal Aid of Cobb County.¹³ This six-credit course, entitled Transition to Practice, was specifically designed to take advantage of the new rule to teach professional responsibility and the fundamentals of law practice by immersing students right after the first year in the world of real practice through a combination of actual client representation, fieldwork with a solo or small firm lawyer and intensive simulation of law firm practice. By the end of the fall semester the GSU students had represented 16 domestic violence victims and obtained orders of protection for all clients seeking such orders, either through winning court orders in an adversarial evidentiary hearing or through negotiation on the day of hearing.

Reflective essays completed by Transition to Practice students indicated that the new rule's purpose of launching the development of professional identity early in the law school experience was being accomplished. For example, Geoffrey Hafer wrote: "Our first domestic violence case was incredibly influential in shaping my thinking in terms of the legal profession's core values, professionalism and future career options. Prior to this course, I had no practical experience. Meeting our client for the

first time really opened my eyes to the kind of impact our profession truly has on those in our community I have had 'jobs' throughout my life in the service industry but this was something entirely different. I wanted to help her, needed to help her It was incredibly exciting on the one hand as a learning experience but frightening on the other should I somehow miss something, lose her confidence or worse We were playing a role in a very pivotal moment in her life. Experiencing this struggle helped center again in me the reason why I came to law school I am not certain yet what I want to do ultimately but this experience has assured me that I have chosen the correct profession."

For the Fall 2015 semester at the University of Georgia School of Law, Prof. Alexander Scherr, director of Civil Clinics, used the new student practice rule to provide statewide information and referral services on landlord-tenant issues in cooperation with the Georgia Legal Services Program. Law students were registered under the new rule to participate in the Public Interest Practicum, a course that does not involve litigation but provides extensive experience with interviewing, case development, counseling, writing to clients and informal negotiation. Quick advice was provided over the phone to many and Scherr ended up opening more than 60 landlord-tenant cases for more extended work.

Scherr reports that registration under the new student practice rule gave both him and the students "greater confidence that they could operate with more autonomy in talking with and advising clients in a non-litigation setting." "The knowledge that the new rule permitted them to act as lawyers under close supervision made for a much more compelling experience for the students," he explained. "It also expanded the number of low-income clients we could serve in an urgent, time-sensitive caseload."

Frequently Asked Questions About the New Rule

What are student lawyers allowed to do?

The old rule only referred specifically to assisting with court proceedings. The Bar Examiners' committee wanted the new rule clearly to authorize student practice that was co-extensive with all the work that a licensed attorney can do. Thus the new rule states that a student lawyer, "when under the supervision of a member of the State Bar of Georgia, may, as if admitted and licensed to practice law in Georgia, advise, prepare legal instruments, appear before courts and administrative agencies and otherwise take action on behalf of" an eligible client.¹⁴

Who are eligible clients?

The new rule expands the scope of client eligibility from "indigent person" to "any person who is unable financially to pay" for legal services and also includes nonprofit organizations if their purpose "is to assist low or moderate income persons" as well as "any state, local, or other government unit or agency."¹⁵ The new rule is thus intended to "impact the need for access to legal services by low-to-moderate income Georgians who would be unable to afford it."¹⁶

Can attorneys in private practice now supervise student practice?

Yes. The old rule only allowed supervision by a prosecutor, public defender or "a licensed practicing attorney who works or volunteers for a court or for a not-for-profit organization which provides free legal representation to indigent persons or children." The new rule permits supervision by any "member of the State Bar of Georgia," thus opening up the use of student lawyers for law firm pro bono work.¹⁷

Is there a new procedure for becoming a student lawyer?

Yes. Under the old rule, law student practice was authorized by an order entered by “the judge of the court” where the student would be “assisting with proceedings”; such orders could not extend more than one year. Authorization for student practice under the new rule is issued by the Office of Bar Admissions through a registration process that requires certifications from a law school dean (or designate) and the law student.¹⁸ Law students then receive a certificate and “student attorney number” that remains in effect until graduation, unless registration is terminated by the director of the Office of Bar Admissions.

Can registered law students charge fees?

No, but the rule does permit the student to receive compensation, a scholarship, stipend “or other remuneration from a law school, governmental entity or other nonprofit agency” in acknowledgment of the services the student is performing. The rule does not prohibit an attorney “from applying for, charging or collecting a fee relating to activities of the registered law student,” the attorney otherwise may properly apply for, charge or collect, although this language must be read together with the definition of an eligible individual client as a person “unable financially to pay for the legal services of an attorney.”¹⁹

What are the responsibilities of attorneys supervising registered law students?

The new rule contains an entire section devoted to the responsibilities of a supervising attorney,²⁰ which include the following:

- review, approve and personally sign any document prepared by a student that is filed in any court or tribunal;

- review and approve any document prepared by a student that would have binding legal effect on a person or entity receiving student-practice related services;
- require that any document signed by a law student states that the student is acting as a registered law student pursuant to this rule;
- obtain a signed consent from a person or entity being represented acknowledging that the supervising attorney is being assisted by the registered law student; and
- generally counsel and assist the student, and in particular provide guidance in matters of professional responsibility and legal ethics, in order to assure proper practical training of the student as well as effective representation.

When must a supervising attorney be present when a registered law student engages in student practice?

The rule only requires a supervising attorney to be physically present during the conduct of a grand jury investigation, administrative proceeding, hearing, trial or “other proceeding” and creates an exception if the judge “determines that the physical presence of the supervising attorney is not necessary.”²¹ Although still requiring proper supervision, the rule does not require a supervisor’s physical presence for student practice outside these settings.²² (GB)



Clark D. Cunningham holds the W. Lee Burge Chair in Law & Ethics at Georgia State University College of Law, is the director of the National Institute for Teaching Ethics and Professionalism, and is the co-editor of the International Forum on Teaching Legal Ethics

and Professionalism. He has been a member of the Georgia Chief Justice’s Commission on Professionalism since 2002 and served as the Reporter to the Student Practice Committee of the Georgia Board of Bar Examiners. His contact details are available at www.ClarkCunningham.org.

Endnotes

1. ‘Make Us Proud’ Justice Hines Tells Students, GEORGIA STATE LAW: NEWS & EVENTS (Oct. 2, 2015), <http://law.gsu.edu/2015/10/02/make-us-proud-justice-hines-tells-students/> (last visited Dec. 23, 2015); see also Meredith Hobbs, *Second-Years Practice Law in New GSU Course*, FULTON COUNTY DAILY REPORT, SEPT. 17, 2015.
2. GA Sup. Ct. R. 91 (Student Practice Rule: Purpose). Available at: <http://www.teachinglegalethics.org/georgia-student-practice-rule> (last visited Dec. 23, 2015).
3. See EXECUTIVE SUMMARY OF PROPOSED STUDENT PRACTICE RULE APPROVED BY GEORGIA BOARD OF BAR EXAMINERS (Dec. 12, 2014) (hereinafter EXECUTIVE SUMMARY), available at: <http://www.teachinglegalethics.org/georgia-student-practice-rule> (last visited Dec. 23, 2015).
4. At least 22 states, now including Georgia, authorize student practice in the second year. Student practice rules for all fifty states plus the District of Columbia are available at: <http://www.teachinglegalethics.org/category/lawyer-regulation/student-practice> (last visited Dec. 23, 2015).
5. EXECUTIVE SUMMARY, *supra* note 3, at 1.
6. *Id.* at 1. The Bar Examiners’ committee asked the author to serve pro bono as its Reporter. *Id.* at 2.
7. EXECUTIVE SUMMARY, *supra* note 3, at 5 (also noting that “[n]o law school in Georgia is forced to change any of its existing programs under the proposed rule”).
8. *Id.*
9. EXECUTIVE SUMMARY, *supra* note 3, at 6.
10. EXECUTIVE SUMMARY, *supra* note 3, at 2-3.
11. Order, Ga. S. Ct. (amending Supreme Court Rules Part XV,

Rules 91-95) (March 12, 2015), <http://www.teachinglegalethics.org/georgia-student-practice-rule> (last visited Dec. 23, 2015).

12. STUDENT PRACTICE RULE STATISTICS, Office of Bar Admissions, Supreme Court of Georgia (Dec. 2, 2015).
13. This course was developed by the author and co-taught with two adjunct professors, Tiffany Roberts, Deputy Director of the National Institute for Teaching Ethics & Professionalism, and Kate Gaffney, Staff Attorney, Legal Aid of Cobb County.
14. GA Sup. Ct. R. 92 (Activities Permitted by a Registered Law Student). The new rule does not affect the right of lawyers to use nonlawyer assistants as permitted by the Rules of Professional Conduct, *id.* and GA Sup. Ct. R. 91 (Purpose); however, the rule does "have the effect of providing clear safe-harbor protection to law students registered under the program and gives their supervisors protection from charges of aiding and abetting the unauthorized practice of law," EXECUTIVE SUMMARY, *supra* note 3, at 5. See Formal Advisory Opinion No. 00-02, (2000) ("Regardless of the task in question, lawyers

should never place nonlawyers in situations in which the nonlawyer is called upon to exercise what would amount to independent professional judgment for the lawyer's client. Nor should a nonlawyer be placed in situations in which decisions must be made for the lawyer's client or advice given to the lawyer's client based on the nonlawyer's legal knowledge, rather than that of the lawyer. Finally, nonlawyers should not be placed in situations in which the nonlawyer, rather than the lawyer, is called upon to argue the client's position.").

15. GA Sup. Ct. R. 92.
16. EXECUTIVE SUMMARY, *supra* note 3, at 6 (citing Chief Justice Hugh Thompson's 2014 State of the Judiciary Address). See also *id.* at 3.
17. GA Sup. Ct. R. 92 (Activities Permitted by a Registered Law Student). See also EXECUTIVE SUMMARY, *supra* note 3, at 3.
18. GA Sup. Ct. R. 94 (Procedures for Registration). The dean must certify that the student has completed legal studies equivalent to at least two semesters of full-time study, is currently in good academic standing, and, to the best of the knowledge of the dean,

is of good moral character and is prepared to begin the work authorized by the rule. The law student must submit evidence that the student has taken a prescribed oath and certify that the student has read and is familiar with the Georgia Rules of Professional Conduct and will comply with all provisions of the Georgia Rules of Professional Conduct applicable to activities undertaken by the student pursuant to the student practice rule.

19. GA Sup. Ct. R. 92 (Activities Permitted by a Registered Law Student). See also EXECUTIVE SUMMARY, *supra* note 3, at 4 ("The proposed rule also makes clear that an attorney assisted by a student attorney is not prohibited from applying for or collecting an otherwise lawful fee, such as a motion for attorney fees permitted in certain types of cases.")
20. GA Sup. Ct. R. 95 (Supervision of a Registered Law Student).
21. *Id.*
22. Cf. Formal Advisory Opinion No. 00-03 (2000) (a lawyer must be physically present to supervise the work of a nonlawyer conducting a real estate closing) and generally Formal Advisory Opinion No. 00-02 (2000).



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