

THE GAVEL

The Official Newsletter
of the Georgia Council of Probate Court Judges

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MESSAGE FROM THE PRESIDENT



Well July 1st has rolled around and I anticipate that it will be the end of the month before we

all settle down because of the changes of new legislation. The past ten years have brought many changes to the Probate Courts and there is one thing for sure, we are a court that can adapt.

House Bill 89 was obviously a paramount change. I think the most important impact of the bill deals with our process for handling a firearms application and they are as follows:

1. We must –communicate to the fingerprinting agency/department within a 2 day period, that an application has been made in our court. Judge self was kind enough to produce a waiver of sorts that puts the applicant on notice that there is a 2 day time frame for Court, but if the applicant fails to present themselves to the appointed agency/department within the two day time period then there will be a delay in obtaining the criminal history.

2. Upon the return of the criminal history(ies) we must file stamp the history(ies) {I would also suggest file stamping the application

upon its return with the history(ies) because the history(ies) will eventually be destroyed.

3. If there is no history that prohibits the issuance of the permit we must issue within 10 days of receipt of the all the background history(ies).

4. If there is a history that will prohibit or potentially prohibit the issuance of the permit then you should establish a policy for your office that will bring a resolution to the outstanding prohibitor(s) within a timely manner.

5. If you deny a permit you should enter an order setting out the facts that substantiated your findings and conclusion to deny the permit.

Senate Bill 508 Changes

1.) We now have extended our terms of Court to a three month term as opposed to our former month to month term. So the terms of Probate Court are now

July, October, January and April. This will most likely have a greater impact on the larger courts, except those handling traffic. If there is a request for speedy trial the prosecutor will have two terms (six months) to bring a case for a bench trial versus the one month time period they had prior to the change.

2) Minor and Adult Conservatorship/Guardianships files can now be viewed by

- a) Ward's Attorney
- b) Minor
- c) Minor's parents
- d) Minor's Attorney
- e) Guardian
- f) Conservator
- g) Guardian's or Conservator's Attorney
- h) Surety for the bond for that case
- i) Surety's Attorney

Any other person must petition to view the case and the court must hold a hearing to determine good

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cause to open the case for their viewing.

3) When we enter an Order for No Administration where the estate contains real property, we will be required to set forth in the order what interest the parties receive in the real property. The division of the real property will be based on the agreement submitted by the heirs in the petition. It will be imperative that the agreement be completed in a manner that the court can follow and that all the heirs have agreed to that distribution in the agreement. This is what the court will follow when entering the final order. The Court must record (only if there is real property) the order in the Clerk's office. The order must have a PT61 form filed with the order and the recording cost will be \$10.00 for the first page and \$2.00 for any additional pages. At this time it does not appear that the increase fees for the superior court will impact this filing.

4) Article 6 Courts now have concurrent jurisdiction with Superior Court and can construe wills.

5) The Probate Court Training Council now be comprised of representatives that tract our training districts. Each district must elect a training council member. If your district is an odd # it will be a 2 year appointment, if your district is an even #, the appointment will be for 4 years. We will need to have all the training council members in place by July 29th or sooner if possible

HB 111

1) All probate courts can now accept petitions for the creation of a delayed birth certificate. These most often come from persons who were not born in a hospital. They must have submitted a

search request through State Vital Records and received a certificate from the state that no birth certificate is on record before they can petition the Court for a delayed birth certificate. They must then present that certificate and any other evidence as well as testimony, proving their date of birth, their parent's names, and location of birth. This will vary extensively depending on the petitioner's age.

3) There is also a change in how and when we can accept Paternity Acknowledgments.

a) If the PA is signed at the hospital prior to the submission of the birth certificate – it is not required to be notarized.

b) If a PA is sought after the submission of the birth certificate, it must be notarized.

c) A PA cannot be completed after 1 year of the birth of the child. The parents will now be required to seek proof of paternity in superior court. The vital records

notice of change was impacted by SB 88

Traffic Changes

HB 336-DUI mandatory sentence increase

SB 350 deals with Drivers licenses and Driving with suspended license

HB – 1245 Indigent Defense and changes including Joshua's Law; and indigent guidelines
SB 488 Foreign Nationals and Home Country Licenses

Elections

HB 296

HB 993

HB 1098

HB 1112

SB 387

New Forms

1. Form 8 Petition for Letters of Administration w/Will Annexed (Previously Probated)

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Council of Probate Court Judges 2008-2009 Officers



(Left to right: Judge Darin McCoy (Evans Co.) Secretary-Treasurer, Judge Tammy S. Brown (Barrow Co.) President-Elect, Judge Lynwood Jordan, Jr. (Forsyth Co.) 1st Vice President, Judge Lillis J. Brown (Rockdale Co.) President)

Probate Judge Executive Committee Minutes

Atlanta Sheraton Hotel • Atlanta, GA • January 29, 2008

The meeting was called to order at 3:30 p.m. Judge Clarke welcomed everyone in attendance.

Approval of Minutes

Judge Clarke called for a review of the minutes from the November 13, 2007 meeting at the Hyatt Regency Hotel in Savannah, Georgia. Following the review, Judge Baker noted he was not in attendance and Judge Ferguson remarked on page four under the Court Rules and Forms Committee report "New Administration Form" should be changed to read "new forms". Being properly moved and seconded the minutes were approved.

Website Template Presentation/PCIS

Mr. Basto previewed the prototype for the probate court website template. The websites will be located on the Council of Probate Court Judges website under the "Probate Court Website by County" link. He explained it will be dynamic in regards to the courthouse picture and court information pulled from the AOC database. This means that any updates to information will be in real-time. Any probate court in Georgia can have a web presence with their own URL using Domain Name System (DNS) entries, which would be very user

friendly. For example, the county being featured is Jones County, their address would be jonescountyprobate@georgiacourts.org. Mr. Basto emphasized the format is a template and any changes would be wholesale. All counties would have the same information currently presented or whatever the Council chooses. He reiterated any changes would be at the request of the Council and would affect all templates. He requested Ms. Murphy to send out the template for review and feedback.

Next Mr. Basto introduced Mr. Byron Branch to update members on the new Probate Court

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President's Message cont.

2. Form 9- Petition for No Administration
3. Form 12-Petition for the Appointment of Guardian/Conservator for a Proposed Ward – Adds a certificate to be sent to GBI-GCIC to note that ward has been declared Incompetent
4. Form 21-Bond of administrators, Conservators & Executors –Now includes Temporary Administrator and Guardians
5. Form 31-Application for permit to Conduct Public Fireworks Display

*Note fee is incorrect on this form –should be \$25.00

That is where we are now. What is in the future? In August we have our COAG. The COAG dates are: August 11- 13, at the King & Prince at St. Simons. Because of election schedules traffic training has been scheduled in connection

with summer COAG. There is a shared training of all the groups that deals with personnel issues. Our non-traffic training has changed from the published schedule, and the new schedule will be forth coming.

Our strategic planning session is scheduled for September 29- October 1, at Lake Blackshear Resort. Training Council members, District and Committee Chairs are asked to plan to attend.. Any judge can attend and this is the time we will work on out our goals for the upcoming year. Subjects on the agenda now include:

*Legislative change as to minimum requirements for Probate Judges

*Legislative change to create the ability for associate judges to be appointed

*Look at the legislative requirements for operation hours for the

courts

*Discuss and decide on goals for council

*Discuss and decide on goals for the training council

If there are any other ideas or recommendations please let you district chair know and or let me know. I have received several calls and because this is your council your input is always important and worth of consideration.

I want to close with great thanks to Judge Self, Judge Jordan, Judge McVay, and Judge Clarke for their help in drafting and presenting legal arguments, forms and ideas regarding the firearms license changes. I am anticipating that by August as we gather in St. Simons, there will be addition discussion regarding all the changes and in particular firearms.

I look forward to hearing from you and I hope to see many of you in August.

Executive Committee Minutes cont.

Information Software (PCIS). Mr. Branch announced the old PCIS System is dated so they are bringing back an updated version for those courts interested. The AOC has obtained funding to acquire a private company to create a web-based system. Courts will not have to be access the system through Citrix it will be totally web-based. Many probate courts have used PCIS in the past and liked it. They have retained that template and are trying to be true to it. To complete the update it will take about 24 months. In final, he gave a brief preview of the software.

Judge Cason inquired as to how many courts use the current version. Mr. Branch responded there are 17-18 users.

Financial Reports

Association Funds – In Judge McCoy's absence, Judge Clarke directed member's attention to the three page Treasurer's Report on association funds. The report indicated the Council's assets, as of December 31, 2007, totaled \$61,615.99 from three banking accounts, including \$48,652.84 from the investments from two certificates of deposits secured at the Tippins Bank & Trust (\$15,000.00) and South Georgia Bank (\$33,652.84). Included was a BB&T Bank transaction report from 11/1/07 -12/31/07 showing a balance for the period in the amount of \$10,611.98

Next, Judge Clarke reminded everyone of the request from the Institute of Continuing Judicial Education (ICJE) to pay for the 2008 spring evening banquet scheduled to be held at the Botanical Gardens. After discussion, a motion was presented and passed to pay from the

Association funds the balance for the evening banquet not received through vendor funds.

- **State Funds** – Ms. Murphy presented the report on State-appropriated funds activity as of January 1, 2008. Total funds appropriated for FY08 were \$160,138.00. This amount includes \$20,000.00 appropriated for legal research (Westlaw) and \$65,000.00 for updating the Guardianship Video. The Council has an existing balance of \$85,869.33 with year-to-date expenses totaling \$32,061.84. The first payment has been paid to the videographer for the Guardianship Video, which is reflected under "Contracts". Revenue as of December 31, 2007 generated from handbook and standard form sales in the amount of \$3,563.00 has been received. Total Council funds available were reported as \$89,432.33.

President's Report

Judge Clarke was contacted by Judge Tilley regarding proposed legislation by Department of Family and Children Services (DFACS) to grant juvenile courts the ability to appoint permanent guardians. Members agreed not to oppose the legislation. He then announced he also was contacted by Ms. Elizabeth Barr, Georgia Department of Archives and History, requesting the probate courts to commit to completing an online survey regarding records retention and archiving. Judge Cason added if all 159 judges participate, grant funds would be made available in this area. A motion was entered and passed to make a request of all probate judges/courts to participate in the Department of Archives online

survey.

Next Judge Clarke updated members on the collaborative initiatives of the Probate/Municipal/Magistrate and State Courts. A conference call was setup by Judge Clifton, President of the Council of Municipal Court Judges to start conversation amongst the Councils regarding unifying efforts. Judge L. Brown who also participated in the call added these would be long-term initiatives with planning being ongoing.

Following this, Judge Clarke reported next month he is scheduled to attend a Judicial Council legislative meeting to discuss proposed legislation of all the Councils. He announced he had been contacted by Cynthia Clanton, Legal Counsel at the AOC questioning if judges with Article Six jurisdiction had to have practiced law in Georgia for seven years. His response to Ms. Clanton was the Code section paraphrases that of the superior court judges.

In final, he encouraged all members to attend the State of the Judiciary Address scheduled for February 13th at 11:00am.

AOC Report

Ms. Lewis introduced Ms. Tonya Griesbach, Assistant Director for Legislative Affairs and Mr. John Mays, Legislative Intern for the Probate Courts. Ms. Griesbach announced the legislative website is updated daily with information and can be accessed by logging on to www.georgiacourts.org and clicking on the Legislation affecting Georgia's Judiciary link.

Ms. Lewis extended thanks from the Council of Municipal Court Judges for the probate

Executive Committee Minutes cont.

judges' participation in their collaborative efforts. There are probate judges serving on at least three of the municipal judges committees.

She stated that the first web version of the Gavel is posted on to the Council website. AOC staff would like to work with Judges Jordan and Self to update the Council website, content and appearance. Mr. Jamal Malloy the AOC Webmaster, is very talented and has created some great websites. To view some of his work she directed members to view the Board of Court Reporting (www.georgiacourts.org/agencies/bcr) and the Council of Municipal Court Judges (<http://www.georgiacourts.org/councils/municipal>) websites.

District Reports

District Three – Judge Powell reported members met the day prior; they are trying to meet quarterly. Discussion took place about presenting training for their clerks in the district. This is done in part due to strains on budgets. She has spoken with Mr. Basto about different avenues to present training.

District Eight - Judge Forehand reported his district consists of 17 counties, with an average of 12 attending each meeting. Their district meets every second Tuesday of the month.

Committee Reports

Automation Committee – Judge Jordan announced the committee would be working with the AOC to update the Council website.

Caseload Committee – A written report of the delinquent counties through third quarter reporting was distributed to members for review.

Clerks Advisory Committee – A written report was included behind tab three. In addition to the written report, Ms. McDonald reported for Ms. Perry who left early due to illness. Ms. McDonald informed the members that some of the advisory committee members met during the Clerks Faculty Development Seminar earlier in the month to discuss tasks for the project. Members have started research on the handbook and plan to meet face-to-face in Walton County prior to the spring meeting. The Committee members would like some assistance with reimbursements from the Council.

Court Rules and Forms Committee - Judge Ferguson presented two forms for approval by the Executive Committee: GPCSF 8 Court (Admin with Will Annexed) and GPCSF 9 Complete (No Admin Necessary). After a brief discussion being properly moved and seconded, the GPCSF 8 Court was approved as submitted. The GPCSF 9 was tabled awaiting pending legislation.

There are two concerns regarding the drafting of the new the GPCSF 31 Fireworks Permit form. She expressed the need for assistance with drafting the cover letter (instructions) and there is pending legislation about the bond change. After a brief discussion, it was decided to place the form on hold until the pending legislation was discerned. Additionally, Judge Green suggested speaking with the Insurance

Commission about the legislation.

Firearms Committee – Judge L. Brown reported in Judge Tate's absence that the Speaker was very receptive to needs of the probate judges. Judge Tate has requested language giving right to investigate those who are not eligible, 10 days instead of five. In addition, there was a request for standards to be added for Georgia Law to comply with Federal Law. Judge Bracewell added a number of probate judges assisted with this piece of legislation; however, Judge Tate did a wonderful job being a primary spokes person regarding this Bill. She relayed the information clear and concise. He noted Judge Deborah Anderson of Paulding County was instrumental in setting up the appointment with the Speaker.

Legislative Committee - Judge Bracewell presented the 2008 agenda for the CPCJ He noted there would be one probate bill with all pieces rolled into it. There may be the possibility of at least two bills or attaching some to other similar legislative pieces. Mark Middleton, CPCJ Lobbyist set up a meeting with Senator Myer Von Bremen to discuss the probate agenda. Judge Lillis Brown did an excellent job of explaining each agenda item. He has agreed to sponsor and obtain co-sponsors for the bill. The third section of the legislative agenda is set to be studied by committee and introduced during the 09 session.

Following this, discussion took place regarding protocol for legislative initiatives that affect the entire Council. Everyone agreed that Council members need to be

Executive Committee Minutes cont.

careful with correspondence to legislators on hot issues. After discussion members agreed that these type of legislative initiatives should come through the President and the Legislative Committee prior to taking any action.

Liaison to Municipal & Co. Probation Advisory Council – Judge L. Brown reported Judge Burton the current representative for the probate court judges is retiring this year. He has requested a new appointment before his term ends so this person can attend meetings with him to gain an understanding of business of the Council. Judge Brown will seek a replacement and requested any judge with traffic jurisdiction who may be interested in serving to contact her.

Retirement Committee – Judge Green reported there would be a good number of judges retiring this year. He is requesting retirees to contact the Retirement Board. Judge Cason inquired what the 20-year service cap was. Judge Greene responded \$36,900.00.

Next, he directed members' attention to the retirement survey results behind tab three. This information was requested in response to the editorial written in the Atlanta Journal Constitution regarding the retirement funds of Ms. Juanita Hicks, the immediate past Superior Court Clerk in Fulton County.

Traffic Committee - Judge Ogletree requested an announcement regarding the Traffic Seminars be place in Gavel.

Vital Records – Judge Baker reported the probate courts are now able

to print birth certificates from the VEIS system. Courts will also have the authority to issue certified birth certificates from any county.

Solicitors Committee – Judge Green and Judge Ogletree are serving as probate representatives on a collaborative committee with the municipal and magistrate court judges. The committee is looking into the need for solicitors in the courtrooms and training through the Prosecuting Attorney's Office. The next meeting is scheduled for February 20th at the Administrative Office of the Courts, Macon office.

Supreme Court Pandemic Committee – Judge Cason reported she is serving on this committee Chaired by Justice Melton. The committee is on the verge of completing a handbook regarding the pandemic epidemic and the role of the judiciary; it should be available in April.

Probate Judges Training Council

Judge L. Brown report the curriculum for the spring seminar is set out. In addition, there will be three opportunities for judges with traffic jurisdiction to attend training. Two sessions will be in conjunction with the municipal judges and the third will be held during the summer COAG conference.

Old Business

SJI Grant Proposals (update)

Judge Clarke reported the Council has received grant funds in the amount of \$64,568.00 from SJI to update the conservators videos for minors and adults The

first meeting is scheduled for February 19th at the Administrative Office of the Courts, Macon office.

Live Scan Funding (update)

Ms. Lewis reported the Criminal Justice Coordinating Council (CJCC) would not be able to assist with funding at this point. However, other avenues are being explored such as the GAPS program, which members heard about during the training session. She has also contacted the Department of Homeland Security regarding funding. They directed her to contact the Georgia Emergency Management Agency (GEMA) All Hazards Committee. The committee has seven districts, which the Probate Council could apply for Live Scan funding. The allowance would be five per district. Ms. Lewis explained the process is very informal.

Duties of Personal Representative (update)

Judge Jordan explained he has conversed with Judge Clarke about the Copyright of the pamphlets. Currently the DPR's are posted to the Council website (AOC) in four different formats. Although the Council holds the Copyright, he is concerned about the chance of different versions that may surface. The main concern is where authorization of the Copyright needs to be. After a brief discussion, it was determined the Copyright would remain with the Council of Probate Court Judges controlled through the AOC.

Next discussion took place regarding allowance of printing charges for the pamphlets. A motion approved to allow charges

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for distribution (printing costs) of the booklets up to \$3.00 by probate courts

Floyd Propst's Benchbook and Handbook Contract

Judge Clarke reported the direction for updating the Georgia Probate Court Benchbook and the Handbook for Probate Judges of Georgia, 2nd Edition need to be reassessed. This is due in part to the cost of the current contracts being a strain on the Council budget and the need for a more efficient manner of accessing the resources. He then deferred discussion to Mr. Patterson to apprise the members on the cost associated with the resources. Mr. Patterson reminded the member they approved an increase to the contracts for the updates at the spring 2007 meeting. This amount does not include printing and mailing costs that depend on the volume of the updates. He explained this is a large amount of the budget. In this age of technology, there should be a more effective way to get the information to the judges. After consideration, a motion was

put forth and approved to place the handbook and benchbook in the Behind the Bench password protected section of the Council website for accessing.

Following this, discussion turned towards the updating of the resource books. Members discussed the various ways they could be updated i.e. contractual, by committee or through a publisher. Judge Toomer suggested the Benchbook Committee explore alternative ways of revising both books. Judge Greene noted that at the inception of this project many years ago, questions arose about how ethical it was to pay a Council member to draft the updates. This should be considered when going forward with options. Members of the committee are as follows: Judge Toomer, Chair, Judge L. Brown, Judge Ferguson, Judge Self, II, and Judge Voyles.

Judge Toomer will inform Judge Propst that the Council is looking into alternative ways of updating the handbook and bench book in addition to inquiring if any updates are owed to the Council.

New Business

National College of Probate Judges (NCPJ) Dues

Judge Clarke reported Judge McCoy received the billing for membership dues for the NCPJ. Last year the dues were paid through their private funds and need to revisit the expenditure again this year. After a brief discussion, a motion was put forth and passed to discontinue payment of the dues through Council funds and to request payment from the counties/judges. The AOC was directed to send a letter along with invoices to the affected judges notifying them of the Council's decision.

Adjournment

There being no further business, Judge Clarke announced the next meeting would be in conjunction with the Spring Conference in April 16th at 9:00 a.m. The meeting was adjourned at 5:55 p.m.

JUDGE MCCOY NAMED GEORGIA'S OUTSTANDING ELECTION SUPERINTENDENT

Evans County Probate Judge Darin McCoy received the Frances Duncan Award as Georgia's Outstanding County Election Superintendent on June 3, 2008 at the Georgia Election Officials Conference on Jekyll Island. The award, given every two years, is named for Georgia's first state Election Director Frances Duncan. Nominations for the award are made by each of Georgia's 159

election superintendents. There are 67 counties remaining where the Probate Court Judge continues to serve as election superintendent. The remaining 92 counties have appointed boards of elections in place to handle the election duties. Secretary of State, Karen C. Handel traveled to Jekyll Island to make the presentation and address the election officials.



News from District Three

May 28, 2008

District Three met on April 17, 2008 in conjunction with the Athens Spring Seminar. Present at the meeting was Judge Toomer, Judge Rosh, Judge Brown, Judge Clarke, Judge Ferguson, Judge Stephenson, Judge Dodd, Judge McVay, Chief Clerk (soon to be Judge) Keith Wood and welcomed guests Judge Self and Judge Jordan. We met at Harry Bissett's where we enjoyed good food and great fellowship. A brief business meeting was held but, due to the amount of fun being had by all, vague notes were taken on the back of a napkin. We did manage a group photo to commemorate the evening as it was the first of many celebrations to honor our members who will be retiring at the end of the year: Judge Dodd, Judge McVay and Judge Stephenson.

The District has been busy

planning and implementing District Clerk's training. The concept was approved at the District meeting held in Atlanta in January as a response to increased budgetary constraints. Training



was held on May 20th and 21st at the Gwinnett Justice Center. May 20th was devoted to licensing training and the seminar was taught by Judge Tammy Brown and Christina Watts with GCIC. Part of the training was devoted to the new concealed weapon permit law that goes into effect on July 1, 2008. The training held on May 21st was devoted to

estate/probate training and included segments taught by Judge Clarke, Judge Lillis Brown and Attorney Mark Brandenburg from the Probate Court of DeKalb County. The seminar was from 10 until 2 each day with lunch being catered. The cost was \$25 per clerk and approximately 15 clerks attended each day. Participants will be allowed to count this training toward the Clerk's Certification Program. Initial feedback from the training has been positive and we plan to offer more programs in the future.

Judge Powell will continue to represent the District as Director for the upcoming year and Judge Rosh has graciously volunteered to serve as treasurer for the group to ease the duties on our current treasurer, Judge Brown, who will be serving the Council as President this year. Judge Powell will also represent the District on the Training Council.

The 10th, 11th & 12th Districts Meets

The 10th, 11th and 14th Districts held their quarterly meeting at Judge Darin McCoy's office at the Evans County Courthouse, Claxton, Georgia. Those present were: Judge Darin McCoy, Interim Judge Mavis Thornton, Judge Diane Hallman, Judge Calvin Bennett, Judge Lee DeLoach, Judge Charles Beasley, Judge Don Wilkes, Interim Judge Judy Suhor, Judge Gloria Dubberly, Judge Brenda Howard, Judge Marie Middleton, Mr. Mike Smith (Communications Director for Georgia Superior Court Clerks Cooperative

Authority (GSCCCA), Ms. Rachel Rice (Training Coordinator for GSCCCA) and Ms. LaShawn Murphy (GAAOC).

Secretary-Treasurer Judge Marie Middleton gave a report that was in our account, which is \$1,070.40. Notices will be sent out this month for the 2008-2009 dues.

Elected to serve on the Training Council for the 10th District was Judge Gloria Dubberly, 11th District was Interim Judge Judy Suhor and 14th District Judge Calvin Bennett.

We went to Harry's BBQ for a delicious lunch and then returned to Judge McCoy's office where Ms. Rachel Rice and Mr. Mike Smith talked with us about our fee schedule, updated us on changes and how to fill out the reports for GSCCA.

We discussed several topics with the main concern being the new firearms law and application that would go into effect July 1.

Respectfully submitted by
Judge Marie Middleton, Secretary-Treasurer

Report on the NCPJ Spring Conference

by William J. Self, II

The 2008 Spring Conference of the National College of Probate Judges was held May 18 - 21 in St. Louis, MO. Georgia judges in attendance were Woody Jordan of Forsyth County, Marva Rice of Hancock County, and Bill Self of Bibb County. This conference was a first-ever "value conference" for NCPJ. The conference was at the Marriott St. Louis Airport, where the rates were quite reasonable. There also was no banquet, which helped keep down the costs. While overall attendance was down, attendance by new members and first timers was up. It is hard to know whether the high costs of travel we are presently experiencing was as much of a factor in the decreased attendance as was the fact that it was not at a resort location.

The curriculum for the confer-

ence was exceptionally good. Session 1: The Missouri Plan: A Selection System under Attack. Session 2: Political Attacks on the Fairness of America's Judiciary. Session 3: Guarding the Guardians: Promises Practices for Court Monitoring. Session 4: Guardianship Accounting - A Model. Sessions 5-6: Improving Care at the End of Life: What Probate Judges Need to Know about Brain Injuries, CPR, ANH and Palliative Care. All of the speakers were good, but the final speaker, Dr. Robert L. Fine, MD, from Baylor University Health Care System, was excellent.

I had never before been to St. Louis. I found that the city has much to offer, much of which seems to be "the well-kept secret." All of the museums - and there were many, the zoo and the

botanical gardens all offer free admission. The Arch is an awesome site. The food was great all over town.

The Fall 2008 Conference will be in Savannah November 12 - 15, the week before the Fall COAG Conference also in Savannah. I will serve as Curriculum Chair for that Conference. I hope to have a great program lined up. I know that it will be difficult for some of you to attend both NCPJ and COAG, but I do hope that a respectable number of Georgia judges will be able to attend, since we serve as the host state. Please mark your calendars now.

We Have a Bestseller on our Hands

The Committee on Access and Fairness in the Courts maintains several publications relating to court issues that are helpful to citizens and court personnel. Most recently, we distributed over 5,000 Basic Rules of Court Conduct pamphlets within a month to courts across the state. The pamphlet is available in eight languages and provides helpful tips on court etiquette and security. The pamphlet is available online through the Committee website www.georgiacourts.org/agencies/gcafc/index.html

Anyone wishing to receive hard copies of the pamphlet may con-

tact Silvia A. Gaines, Program Manager at 404-463-3927 or via email gaines@gaaoc.us. (Orders are limited to 200 copies per language per order).

Languages Available:

Arabic, Chinese, French, Korean, Somali, Spanish, Vietnamese, English

Other publications available:

Brochures

*New publication: Georgia Committee on Access & Fairness in the Courts – provides an overview of the committee.

*Guide to Bias-Free Communication (Under revision)

*Interacting With Persons With Disabilities

*Court Conduct Handbook (Under revision)

Handbook

*A Meaningful Opportunity to Participate

Video

*Georgia Bailiffs: Diplomats in a Multicultural Society

NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) 2008 USER CONFERENCE

Report by Judge Susan Tate

At the urging of Eric Moore of the NICS State Support Team and the request of Judge Lillis Brown, I attended the FBI's 2008 User Conference held in Richmond, Virginia June 3-5, 2008. The conference presenters and attendees included a plethora of FBI, ATF and DOJ personnel (for those of you not up on your acronyms, these are, respectively: the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the Department of Justice). This event was well attended by state police and employees of various state agencies who use the NICS system, some of whom, like Georgia probate judges, have the responsibility of issuing or denying firearms licenses in accordance with state and federal law, and some of whom have the responsibility of monitoring, assisting or enforcing laws regarding FFL's. (Okay, I admit I haven't looked up this acronym, but I know the group of people to whom it refers: gun dealers who are authorized by the federal government to sell firearms. I think it stands for Federal Firearms Licensees, because these dealers have to be licensed under the Brady Gun Control Act, as amended. If I'm wrong, then your guess is as good as mine.

We began the conference with the pledge of allegiance, and even though it made me feel like a youngster in school again, there was something very reassuring

about doing this in a room full of FBI/ATF agents and state police. Speakers featured at plenary sessions and in breakout workshop sessions largely covered topics you might expect such as an overview of the NICS program including upcoming changes, Drugs and Firearms, Misdemeanor Crimes of Domestic Violence, an Immigration Overview, Reading Rap Sheets and Research Statements and Protection Orders. There were also topics about new requirements and initiatives. Including information about the Relief from Disabilities procedures states will have to establish in order to enable their licenses to continue to qualify as an ATF Qualified Alternate Permit, and the new State Index, which NICS will be creating, with the input and help of the states over the next year or two. The Relief from Disabilities program is something I expect the GBI to take the lead on, although I believe legislative action will be needed, so I am sure our input will be appreciated. The State Index, like the NICS index, will contain the names of persons who have been found to be ineligible to receive a license, except these persons will have been disqualified under state law, not federal law.

As you can see, with plans for a State Index to be created, it is all the more important for us to submit information as requested by FBI/NICS, which brings me to my next subject: the most important things I learned at the conference.

1. Submit all drug offenders to the NICS index. Even though the federal prohibitors do not match our permanent one, these folks are prohibited under federal law from possessing a firearm for being unlawful users of a controlled substance. The point was also clearly made that this is a rolling year, e.g. if a person violates their probation by using again and they fail a drug test, the "year" starts over. When multiple arrests create the inference (see below), the year starts with the most recent arrest and starts over when and if the person is convicted. (But if the charge is dismissed, that arrest can no longer be used to disqualify a person.)

2. All that's required is an inference of use of a controlled substance other than as may be prescribed by a physician. An inference could be established by:

- a. defendant's admission of using within the past year
- b. a positive field test
- c. a positive lab test
- d. multiple incidents or arrests (2 or more within the last 5 years)
- e. conviction within the last year
- f. possession of paraphernalia, but only if the residue tests positive

Note further that the inference can be shown even if the charge was just a traffic citation. NICS

(NICS) 2008 USER CONFERENCE cont.

guys offer these research suggestions: call the arresting officer to ask whether the person was tested and, if so, whether the test was positive. If they're on probation, call the probation officer.

3. We have an answer to my longstanding question involving the "committed to a mental institution" prohibitor. Two people, a NICS presenter and an ATF attorney, resoundingly agreed that if a person has been committed to outpatient treatment through our involuntary treatment procedures, that person is DISQUALIFIED from receiving a license. The ATF lawyer even gave me a case cite for a case holding as much. It will be sent over the list serve soon. I understand that the mental health regulations are being re-written, so once they finish, I'm not sure how much of the old criteria will remain.

4. A new interpretation also is going to allow individuals who have been reinstated to capacity to regain eligibility to possess firearms and to obtain a license.

That's what the job of the agency processing Relief from Disabilities applications will have to handle, but there will have to be an appeal procedure to the court, and we don't know yet which court that will be, though I can make some guesses about that. (Note: people in the federal system, say a federal agency determination which has disqualified them under this prohibitor will be automatically relieved from their disability if the same agency determines their capacity is restored. The Veteran's Administration pushed hard for this for veterans who suffer temporarily from post traumatic stress syndrome.)

5. As you can see, as a state we have our work cut out for us in the area of data collection and reporting, not only for people subject to treatment orders but for those for whom a guardianship or conservatorship has been established. Congress has passed the NICS Improvements Act, P.L. 110-180, which authorizes significant sums of money to be appropriated to help states improve their

record-keeping systems and database technology. Of course, the money has not yet been appropriated, but NICS is expecting this to happen in the next budget cycle. States will not be mandated to change what they have, but financial incentives will be offered for them to bulk up in this department – excuse me, to upgrade our information systems. The idea is that better information will improve public safety and reduce delay for lawful gun buyers. We all would do well to learn this language.

6. The good news is that NICS is working hard on a major project to get dispositions and solid information necessary to our decision-making for the last 20 years. We are expected to help with this effort, so SEND IN YOUR DISPOSITIONS when you obtain them after discovering a hole in the criminal history.

There you have it. More than you ever wanted to know about the NICS User Conference. Good luck making these decisions and coping with the changes. I am always available to help when I can.

T.I.P.S.

Traffic Information Processing System

TIPS is a NO COST software program that allows courts to transmit traffic citations to the Department of Driver Services electronically. TIPS was developed by the Governor's Office of Highway Safety and the Administrative Office of the Courts.

Contact us for more information:

Kelly McQueen

System Placement and Program Planner

404.463.5420 • mcqueenk@gaaoc.us

www.georgiacourts.org/aoc/tips

We Are the Georgia Chapter of NAMI The National Alliance on Mental Illness

What is NAMI?

National Alliance on Mental Illness is the nation's largest grass-roots mental health organization dedicated to improving the lives of persons living with serious mental illness and their families. Founded in 1979, NAMI has become the nation's voice on mental illness, a national organization including NAMI organizations in every state and in over 1100 local communities across the country who join together to meet the NAMI mission through support, education, and advocacy

What is the NAMI mission?

The purpose of NAMI Georgia, Inc. is to relieve the suffering and improve the quality of life for mentally ill Georgians and their families. This is accomplished by:

1. Developing, nurturing and coordinating a statewide network of family support groups to strengthen and educate those living with a mental illness.
2. Promoting public policies, which expand services and improve treatment for ill persons living with a mental illness, and supporting research leading to the eradication of mental illness.
3. Educating the people of Georgia about mental illness in order to improve resources, services and knowledge by reducing misinformation and stigma.

What does NAMI do?

Our chapters, or Affiliates, offer regular Support Group Meetings for those with a diagnosis, and for their family and friends. These groups provide a place that offers respect, under-

standing, encouragement, and hope. They also provide Education Classes for those with a diagnosis, and for their family and friends.

We work with the Governor, the Legislators, the Department of Human Resources, other State Agencies, and other mental health advocacy groups. We continually strengthen and develop our relationships with these organizations to improve the system of care in Georgia. See our Advocacy page for further information

We have outreach programs that range from 30 minute presentations for general audiences to a 40 hour training course for Law Enforcement. These programs bring understanding and insight to people unfamiliar with what mental illness really is.

CONGRATULATIONS

Congratulations to **John Buxton**, son of **Judge Mary Jo Buxton**, on winning a Gold Medal in the Georgia/Alabama Jr. Olympics. John who has been shooting competitive trap and skeet for a few years will be heading to the National Jr. Olympics in Colorado Springs in August. At the National Competition, competitors compete for the opportunity to be selected for membership on the USA National Olympic Development Team. Good luck to him on this endeavor!

Congratulations to **Judge Judy Mullis** on the birth of her grand daughter, **Aubrey Kendall Allen** born June 16, 2008 at 8:38 a.m. The bundle of joy was born to the proud parents Amy (daughter) and Timmy Allen. Both mom and baby are doing fine.

Exemplary Faculty Award is Presented to Judge Self, II

Judge William Self, II was presented the Exemplary Faculty Award at the Statewide Crisis Intervention Team banquet, hosted by the National Alliance on Mental Illness (NAMI-GA) and the Georgia Bureau of Investigation, May 16, 2008. Judge Self, who is an instructor for the CIT Officers Program, received glowing praise about what an effective and fun instructor he is. The Georgia Crisis Intervention



Team (CIT) Program is a dynamic collaboration of professionals committed to ensuring that persons with mental illnesses and other brain disorders receive treatment, in lieu of incarceration in most cases. The program includes a law enforcement training component delivered via a forty-hour course curriculum approved by the Georgia Peace Officer Standards and Training Council as follows:

- Classroom instructional training involving various mental health topics that address mental

illnesses, developmental disabilities, and addictive diseases

- Site visits to local emergency receiving facilities and state psychiatric hospitals
- Performance-based training involving the development of de-escalation techniques and crisis intervention skills via role-play scenarios

Law enforcement officers who successfully complete the course are equipped with the skills necessary to safely and effectively respond to individuals with mental health needs and in crisis.

National Association of Women Judges www.nawj.org

NAWJ MEMBERSHIP APPLICATION

The National Association of Women Judges' mission is to: Promote the judicial role of protecting the rights of individuals under the rule of law through strong, committed, diverse judicial leadership, fairness and equality in the courts, and equal access to justice.

Since 1979, the National Association of Women Judges has fought to preserve judicial independence, ensure equal justice and access to the courts for women, minorities and other historically disfavored groups, to increase the number and promote the advancement of women judges at all levels, and provide cutting-edge judicial education. NAWJ's diverse membership includes women and men at all levels of the federal, state, tribal, military and administrative judiciary from every state and territory in the nation, as well as attorneys, law clerks, law students and law professors committed to our mission of diversity and equality in the system of justice.

MEMBERSHIP CATEGORIES

SITTING JUDGE

Sitting judges hold judicial positions and are in good standing in the practice of law.

LIFE MEMBER

Life members are voting members who make a one-time financial contribution and are not obligated to pay future dues.

ASSOCIATE MEMBER

Associate members hold judicial positions not requiring bar membership. They share the privileges of membership, but may not vote or hold office.

RETIRED JUDGE

Retired members have retired and are unavailable for judicial duties. They may vote and share the privileges of membership.

AMICUS JUDICII, LAW CLERKS, LAW STUDENTS

Amicus Judicii, Law Clerk and Law Student members are interested in supporting NAWJ goals, but are not otherwise eligible for membership. They may not vote or hold office, but receive NAWJ mailings and publications, and share in all other privileges of membership.

Everyone who shares NAWJ's vision of justice for all is welcome to membership.

PERSONAL INFORMATION

Full Name: _____

Title: Chief Justice Chief Judge Justice Judge Ms. Mr. Other _____

Court / Agency: _____

Street: _____

City/State: _____

Zip Code: _____ Country: _____

Phone: _____ Fax: _____

E-Mail: _____

Does your position require admission to the practice of law? Yes No

Please Check: Federal State Gen. Juris Ltd. Juris Admin.

Elected Appointed Years on Bench _____

Subject Matter Jurisdiction _____

Please select a membership type:

- Life Member \$3,000¹
- Sitting Judge \$200²
- Associate Member \$175
- Retired Judge \$175³
- Amicus Judicii \$175
- Law Clerk \$50
- Law Student \$25

Payment Type: Visa MC AMEX Check (payable to NAWJ)

Card No: _____ Exp. Date ____ / ____

Signature: _____

¹ One-time only fee. May be made in 3 installments.

² Dues for first-time members is \$175.

³ Retired judges with changed circumstances may pay an optional reduced membership fee of \$100.



2008 Spring Conference



and Banquet - Athens GA



Condolences

Condolences to the family of retired **Judge Iree Pope**. Judge Pope served Richmond County from January 1957 - February 1998.

Condolences to **Judge Beverly Nation** (Oglethorpe County) on the passing her sister, Ms. Betsy Wynne.

Condolences to the family of **Judge Walter Virgil Strickland**. The former Evans County Probate Judge, 88, died at his residence. He served Evans County from 1985 until 1992. Since his retirement, he has served as Assistant

Election Superintendent from 1993 through the Presidential Primary in February of this year.

Condolences to the family of former Bacon County Probate **Judge Jerri Jackson**. Judge Jackson passed away on June 24th.

Condolences to the family of **Judge H. Kelmer Durden**, age 79, of Swainsboro, GA. Judge Durden died on Thursday, July 10, 2008. He served Emanuel County for 20 years as Ordinary and Probate Judge from 1967 to 1986.

Condolences to the family of **Mrs. Celia Whittle Piper** the former Probate Judge of Ben Hill County. She passed away Tuesday, July 8, 2008. Judge Piper retired from service in 1980.



The Gavel

Georgia Council of Probate Court Judges
Administrative Office of the Courts
244 Washington Street, SW, Suite 300
Atlanta, GA 30334

JUDGE SAM DAVIS
Editor

DAVID L. RATLEY
Director

CHRIS PATTERSON
*Associate Director for
Court Services*

ASHLEY G. STOLLAR
Graphic Design