

*The Official Newsletter
of the Georgia Council of Probate Court Judges*

Volume 10, Number 5

December 2002

Well, by the time this edition of The Gavel reaches you, the holidays will be over and we will be in a new year. Time is surely flying! We had a great fall conference in Savannah in November. It was a nice break for all of us who held elections. Let me take this time to congratulate all of those who serve as election superintendents on the outstanding job each of you did. This was surely one of the biggest projects ever and we aced it!

Plans are underway for the upcoming legislative session. We will be attempting to pass a resolution in the legislature to get our non-partisan amendment on the ballot. We are relying on our lobbyist, Mark Middleton, to advise us on exactly what steps to take.

As you know, with all of the changes at the Capitol this year, it's almost a guessing game as to what to do next. I hope all of you are planning to attend our winter conference the first week in February in Atlanta. We will be offering training hours and "Legislative 101", a day at the capitol. You should have your registration information by now from COAG.

It is my sincere wish that the year 2003 will be the best for all of us. It is indeed an honor to serve as Your President. Let's all work together for a better Council.

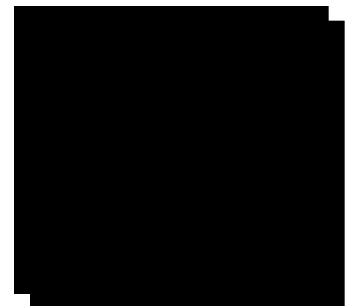
Sincerely,

Darin McCoy
Your President

By: Judge Marie Middleton, Secretary

The First District Probate Judges had their annual Christmas Party on December 12, 2002 at the Red Barn on St. Simons Island, Georgia. Those in attendance were Judges Sam Davis, Jr., Martin Gillette, Darin McCoy, Marcus Sweat, Jr., and their wives. Also, Judges Brenda Howard, Debra Howes, & Marie Middleton and their husbands, and Judges Don Wilkes, Troy C. Paul, and other guests. All enjoyed good food and fellowship. First District President, Judge Brenda Howard presented all judges with a Christmas ornament. The Judges of the First District wish everyone a Happy New Year.

The Council of Probate Court Judges has paperweights for sale for \$20.00. If any additional information is needed please contact Judge Betty Cason, Probate Court of Carroll County, Carroll County Courthouse, Room 204, Carrollton, GA 30017, Telephone 770-830-5240, FAX 770-830-5995 or email ccprobaat@bellsouth.net



CPCJ Mid-year Meeting

Savannah, GA • November 12, 2002

Judge McCoy called the meeting to order at 4:28 p.m. He welcomed everyone and asked for a moment of silence in memory of Judge Bernice Gilder of Glynn County.

FINANCIAL REPORT

State Funds

Mr. Johnson of the Administrative Office of the Courts reported on the state funds as of October 31, 2002. This may be found as attachment #1. He explained that the total state funds available were \$63,150.00 and through the sale of handbooks and benchbooks the Council's revenue from sales should total \$15,000.00 by the end of the fiscal year. Mr. Johnson noted that as of November 7, 2002, the Council had a total of \$7,617.45 in revenue, which is about half of what it anticipates getting this year. Judge McCoy noted that Mr. Johnson is a staff person from the AOC who is working with the Probate Judges and he has already proven an asset to the council.

Association Funds

Judge Cranford reported on the association funds and informed the council that the CPCJ has \$13,514.10 in its savings account and \$10,905.90 in its checking account. She also reported that the council has a total of \$59,833.38 in investments, \$8,966.88 in inflows, and \$4,689.13 in outflows leaving a total of \$84,253.38 in total assets. The council has begun to spend more than it takes in during a

year. Because of this the Executive Committee has approved a dues increase to \$100. This will be mailed in January.

REPORT FROM THE PRESIDENT

Judge McCoy announced two new elected judges, the first from Emanuel County is Judge Don Wilkes and from Glynn County Judge Debbie Howes. Judge Wilkes beat out eight contenders for his seat, and Judge Howes defeated three attorneys without a runoff. Judge Sallylu Hart has retired and Vickie Burnett has taken over the probate judge duties in Thomas County. There are still two open seats that will be decided in a run-off election—Irwin County and Twiggs County.

Judge McCoy reported that the strategic planning session was held in September and asked all the judges who attended to stand for recognition.

REPORT FROM THE EXECUTIVE COMMITTEE

Judge McCoy gave a brief report on activities. He reported that the committee voted to raise the dues to \$100 and it will host the Judicial Council reception on December 3 at the Georgian Terrace at 7:00 p.m. The Judicial Council will meet the next day. He also reported that we are looking into translating the most commonly used standard forms into Spanish and that Ms. Moore is taking bids on this project. Judge McCoy noted that the election officials should be commended for pulling off a difficult task in such

a successful manner. The executive committee decided to poll the probate judges who handle elections to see what, if any, stand the council should take on election boards.

STRATEGIC PLAN

Judge McCoy reported on the Strategic Planning session held at Lake Lanier Islands. He informed the committee of the council's new Mission Statement which is to represent the common interests of probate judges in matters under our charge and to enable the probate courts to fulfill their statutory responsibilities by utilizing all available resources including the time, talent, and experience of our members. Judge McCoy also informed the committee of the council's new Vision Statement which states that the Council of Probate Court Judges will be the primary body responsible for: increasing the knowledge and participation of our members; identifying and meeting our mutual needs; and articulating and achieving mutual goals thereby becoming the architect of the future of Georgia Probate Courts. Judge McCoy reported that the council decided to focus on three strategic directions for the current year: 1) Communication: Improve Technology/Increase Membership Participation; 2) Education: Develop an Automated Curriculum; and 3) Participation: Membership Roles.

He also reported that Judge Guess, Chair of the Committee to Increase Membership Participation

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CPCJ Mid-year Meeting *continued*

along with Judges Lillis Brown, Betty Cason, Pat Hardaway, LaVerne Ogletree, and Susan Tate met on October 21, 2002 and drafted the proposed change to the district map which was included with the agenda. Copies of the maps have been sent to each district director asking them to discuss the map at their district meetings and let the committee know if these new districts will work.

COMMITTEE REPORTS

Judge Cason reported on the paperweights which have been purchased for re-sale. They are available for \$20 and will make nice gifts for district speakers or other ideas.

Judge Bracewell, legislative co-chair, and Mark Middleton, lobbyist for the council, reported on

legislation. Most of the election superintendents are happy with how the election process went. There are still a few races that are undecided. He commended all who handled elections for a job well done. We anticipate more and better from Mr. Middleton who started with us after the beginning of the last session but was able to get up to speed very quickly.

Mr. Middleton announced that today the Democratic Caucus has decided that Terry Coleman will be the Speaker of the House and DuBose Porter will be the Speaker Pro Tem. Also, several state senators were rumored to be considering switching parties so that the Senate may have a Republican majority. Mr. Middleton and his firm are doing their best to stay on top of what is going on,

attending meetings and anticipate being able to work with the new team. It is apparent that the new governor is surrounding himself with experienced people. He advised the Council to focus on what it wants, put together the substantive arguments and go after them. We will need to forge new alliances and work with the new legislators. One of the strengths of the judges is their political connected-ness. Almost a third of the people who will be serving in the House are brand new and nearly that many are in the Senate. They will be looking for help. He recommends that we make contacts with these new people as soon as possible.

Judge Guess gave some remarks concerning a re-write of the guardianship title. The committee has been working on this for about five years. They are a committee of the fiduciary section of the State Bar. The Board of Governors has to approve their legislation before it can be introduced. They would not approve a revision until they knew how the probate judges felt about this. The committee went to the judges at their legislative committee meeting in September and the legislative committee voted to approve the revision. It was also presented to the executive committee who has also approved this. It has a long implementation date so there will be a lot of time to fine tune the bill and get it the way it needs to be. To review a copy, contact the AOC.

It was noted that Boards of Elections almost became a fact in

Schedule for COAG Meeting February 3-7, 2003

The Winter COAG meeting will again be held at the Sheraton Atlanta Hotel. Call 404-659-6500 to make your reservations.

Monday, February 3rd

4:30-6:30 p.m. Executive Committee Meeting

Tuesday, February 4th

9 a.m.-12 p.m. Probate Judges Training

Wednesday February 5th

7:00-9:00 a.m. Breakfast for Legislators

9:00 a.m.-12:00 p.m. Field Trip to the Capitol

1:30-4:30 p.m. Joint Training Session (Personnel and Labor Law)

Wednesday night there will be a reception honoring members of the General Assembly.

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Indigent Defense Commission Publishes Findings

The Chief Justice's Commission on Indigent Defense issued its full report to the Supreme Court of Georgia on December 12, 2002. The report calls on the state to assume responsibility for paying for indigent defense services and to establish and enforce basic standards for indigent defense programs.

"The concepts of fairness and equal justice are basic to our American system of government and to our identity as Americans," said Charles R. Morgan, chairman of the commission. "This report is in essence about ensuring fairness for all citizens."

Under current Georgia law, the primary burden of paying for indigent defense services falls on county governments. In 1999 – the most recent year for which complete figures are available-- Georgia counties spent \$40,591,424 to pay for legal representation for defendants charged with a crime, while the state contributed \$5,893,227, or 11%, over the relevant period. An additional \$4,115,772 came from interest on special funds. State funds and interest income are administered by the Georgia Indigent Defense Council (GIDC).

The Commission concluded that the state is failing to meet its constitutional duty to protect the rights of indigents and to fund indigent defense. Georgia ranks second from the bottom among 10 comparable states in per capita funding of indigent defense. Because the system is fragmented, the quality and delivery of indigent defense varies widely from one county to another. The Commission found there is no

effective state-wide structure in place to enforce compliance with guidelines on indigent defense.

In 76 counties, indigent defendants are represented by lawyers drawn from a county-appointed panel of private attorneys. In 55 counties, indigent cases are assigned to contract attorneys who often must take on more clients than they can effectively represent. Full-time public defenders — the system the Commission considered most likely to result in fair and effective representation — are employed in 21 counties.

The Commission found that indigent juvenile defendants are especially vulnerable to the inadequacies of the current system. In addition, there is no uniform approach to identifying and assisting indigent defendants with mental disabilities. It is estimated that indigent persons represent about 80% of all criminal defendants in Georgia.

The Commission's report recommends that the state take over responsibility for paying for constitutionally adequate indigent defense. It calls for Georgia's indigent defense system to be reorganized on the basis of the state's 49 judicial circuits, instead of its 159 counties. The system, to be phased in over a three-year transition period, would be administered through a Georgia Indigent Defense Board representing all regions of the state.

The Commission's findings were based on testimony from 65 witnesses, including county commissioners, sheriffs, judges, public defenders, prosecutors, and spokespersons for minority groups. The Commission also

drew on the expertise of officials from other states, site visits to courtrooms and a special report prepared by The Spangenberg Group of Newton, MA, a nationally recognized criminal justice research group which has conducted studies in all 50 states.

The Supreme Court of Georgia established the Commission in December, 2000 "to study the status of indigent defense in Georgia, to develop a strategic plan and to set a timetable for its implementation."

The 26-member Commission was chaired by Charles R. Morgan, Executive Vice President and General Counsel, BellSouth Corp. Paul M. Kurtz, Associate Dean, University of Georgia School of Law, served as Reporter.

The Commission's report can be viewed at the AOC's website, <http://www.georgiacourts.org/aoc/idcreports.html>

Mid-year Meeting cont.

the last session. The Council will soon send out a survey to all judges who handle elections to see if there is a general consensus on whether probate judges should maintain this responsibility. We want to be able to speak with one voice on this issue. By a show of hands it was ascertained that there were 41 judges who handle elections present. Several questions were discussed. Several who have given up elections were asked how it has worked. Most felt it was a good thing to have given it up. Many who still handle elections have had to put pro-

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Interpreters Registry to Be Published for Hearing Impaired

Deaf people face special problems in Georgia's courts and criminal justice system. According to Jennifer Whitcomb, executive director of the Georgia Council for the Hearing Impaired in Decatur, 20% of the cases her agency deals with relate to individuals who have problems with the legal system. The problems include lack of access to interpreters in court rooms and serious miscommunication regarding consequences.

Requirements

The Americans with Disabilities Act (ADA) requires courts to make accommodations to ensure that deaf people have full access to justice and equal treatment under the law. Deaf people cannot be charged for the cost of "auxiliary aids" needed for effective commu-

nication. These are considered general expenses of court administration.

Auxiliary aids include qualified interpreters, assistive listening headsets, television captioning and decoders, telecommunications devices for deaf persons (TDD's), and videotext displays. However, many courtrooms in Georgia are not equipped with the necessary assistive listening devices for hearing impaired individuals who do not use interpreters, Whitcomb said.

Qualified Interpreters

The Georgia Supreme Court Commission on Equality and the Administrative Office of the Courts are working to help courts find qualified interpreters for the deaf and hearing impaired. A "qualified interpreter" as defined

by the U.S. Department of Justice, "... an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary."

According to Georgia law (OCGA §24-9-104) interpreters are mandated in administrative and judicial proceedings for the hearing impaired, particularly when legal counsel has been appointed.

Ms. Stephanie Chambliss, Program Director, Georgia Commission on Equality is to publish a comprehensive list of certified interpreters for the deaf. The list is to be published on the Georgia Supreme Court website (www.georgiacourts.org) in early winter. However, during the interim, should you need or require an interpreter for the hear-

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Mid-year Meeting cont.

bate work aside to work on the elections. The compensation is not adequate for the work it causes. A few small counties feel they would not have enough to do in their office without elections. Several felt the compensation should be raised if probate judges keep it. Some felt that it is another argument for getting probate judges on non-partisan status. Local legislation is another option that could be used to change a county situation if state legislation is not introduced or passed. A final show of hands indicated that of those judges present who handle elections, 30 want to give it

up, 6 want no change, and 5 are undecided.

Non-partisan issue. This is the third year we will be seeking this legislation and we hope to pass it. The Council was cautioned that it needs to speak with one voice. Individual probate judges must speak to their legislators and let them know that this is an important issue. This will allow us to promote common issues. Any letters written to legislators concerning this subject should be copied to Mark Middleton so he knows who has corresponded. Email is another way to contact legislators, be sure to copy Judge

Bracewell and Mr. Middleton.

The IDC contacted Judge McCoy to get our support in amending OCGA § 17-12-38.1 which would allow indigent defense for defendants in probate courts. The executive committee has approved this request.

OLD BUSINESS

There was no discussion of old business.

NEW BUSINESS

There was no discussion of new business.

Historical Records Grant Program 2003

(Grant Application Seminar — January 28th)

Secretary of State Cathy Cox is pleased to announce the Georgia Historical Records Advisory Board's (GHRAB) Historical Records Grant Program for 2003. The grant program is designed to promote preservation of and access to historical documents and advance the use of technology in Georgia's repositories and local government offices. Grant Application Guidelines for 2003 will be available December 16, 2003. The basic components of the program are:

Eligible Organizations

Organizations that care for historical records and provide public access to those records on a regularly scheduled basis. This may include local government offices, historical societies, libraries, museums, and similar organizations.

Grant Periods & Deadlines

Grant periods are 12 months and projects begin October 1, 2003.

Application Deadline is July 15, 2003. The required site visit by GHRAB grant staff must be completed before June 14, 2003.

Grant staff will review preliminary draft applications if submitted by July 1, 2003.

Grant Amounts

Grants will be awarded up to \$5,000 for one organization, up to \$10,000 for a cooperative project. Grants of \$10,000 or more may be considered depending on fund availability. Applicants must provide a 25% cash or in-kind match of the grant request. Grant requests over \$5,000 will require a portion of the match to be cash.

Types Of Projects

Projects may include but are not limited to inventories of collections, establishing records management programs, arrangement and description of materials, microfilming or using information technology to provide for the

management and long-term accessibility of records.

Application Process

Attend an application seminar (recommended), schedule a site visit (required), and complete an application.

GRANT APPLICATION SEMINAR - JANUARY 28

Applicants for GHRAB grants are strongly encouraged to attend a grant application seminar. During the seminar, we discuss the application process, types of projects, and tips for developing competitive grant applications. The seminar is free but registration is required. The seminar will be held in Atlanta at the Capitol Education Center, 180 Central Avenue, from 1 p.m. to 3 p.m.

To register for the grant application seminar, schedule a site visit, or request an application, contact Elizabeth Aloi Barr at 404-656-2362 or ebarr@sos.state.ga.us

Interpreters Registry cont.

ing impaired; you may contact her at (404) 463-3927 or chamblis@gaaoc.us

Ms. Chambliss currently has a list of referral agencies that provide professional certified and qualified interpreters.

Interpreters and/or courts presently utilizing sign language interpreters are encouraged to contact Ms. Chambliss if they would like to be listed on the registry.

Interpreting Resource International, Inc.
(770) 982-1141 (available 24 hours a day)
(770) 247-2531 Pager
(770) 982-1149 Fax
Website: iri@3DWord.com

Sign Language Interpreting Specialist, Inc.
(770) 531-0700 (available 24 hours a day)
(770) 947-0894 Fax
Website: www.slisinc.com

Georgia Interpreting Services Network
(404) 521-9100
(404) 521-9121 Fax
Website: www.gisn.org

Registry of Interpreters for the Deaf
www.rid.org

Mark Your Calendar

March 4-7, 2003 • Probate Court Clerks Spring Seminar

Country Inn and Suites, Helen
Rates: \$55-\$69

April 16-18, 2003 • Probate Judges Spring Seminar

Georgia Center, Athens
800-774-2760 for rates and reservations

May 4-7, 2003 • Election Seminar

Savannah

June 16-20, 2003 • COAG

Brasstown Valley, Young Harris
Rates: \$159 single or double

August 10-13, 2003 • Traffic Seminar

Sea Palms Resort, St. Simons Island
Rates: \$105 Deluxe
\$107 Executive Studio
\$145 One Bedroom Suite

September 23-26, 2003 • Probate Court Clerks Fall Seminar

Comfort Inn/Beachview Club, Jekyll Island
Rates: Comfort Inn - \$79-\$99
Beachview - \$99-\$139

November 18-21, 2003 • COAG

Hyatt Regency, Savannah
Rate: \$141 single/double

The Gavel

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