

The Official Newsletter
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of Probate Court Judges

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The Gavel



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Greetings and Happy New Year!

I hope everyone had a great holiday and is excited to get back to the office and back to the work of Probate Courts across the state. I will echo the sentiments of Judge McRae that it is always good to be back in the office when you been away whether the absence is due to surgery, vacation, or holiday time off. I hope that you will keep this concept in the back of your mind this year so that if you are ever feeling frustrated or burned out you will consider the prescription of taking a few days off. Your office will manage and you will likely come back with renewed energy and a fresh perspective.

As Judge Jordan has described in his recent emails, the legislative session is upon us and will dominate the work of our Council for the next few months. As always, be alert to your emails and any calls to action from Judge Jordan and Judge Daughtrey. Your calls to your local representatives are important and make more of a difference than you may realize.

Our next event will be in Atlanta on February 18 and 19th for our Legislative COAG session. Suzanne Cross had indicated to us this morning that she is in the process of finalizing the schedule. Keep an eye out for further information.

Our next opportunity to be together is in Athens on April 7th-11th. We will have traffic training as well as our Accreditation Program classes. We will also have our Executive Committee meeting and our business meeting. I encourage you to attend the business meeting so that you will be aware of what is going on within our Council. As always, there is a place for you to serve within our Council. We all have different gifts and talents and areas of interest. What great things we could accomplish together if everyone donated a small part of their time and talents.

I thank you for allowing me to serve as your President. It is a rewarding experience to serve such a humble and hard-working group of public servants.

Kelley S. Powell
Henry County Probate Judge



From the Editor

Many of you can surely attest that there has been an avalanche of activity within the Probate Courts since our last issue. We have attended Civil Practice and Guardianship Training classes in Athens and Tifton in conjunction with the Judges Certification Program. Many have contributed to the New Judges Mentor Program and training sessions. We have been trained to implement the changes in Behavioral Crisis services emanating from the U.S. Supreme Court ruling and Justice Department suit directing Georgia to move many mental health patients from in-patient to out-patient facilities. Many have attended

district meetings as well. Most attended the annual Constitutional Officer Association of Georgia classes. Still others have worked with Georgia DHR, Division of Public Health, Office of Vital Records to implement the new death certificate registration module in GAVERS (Georgia Vital Events Registration System). Many of us have also participated in or attended the training sessions for Probate Court Clerks.

Some of the challenges facing our Probate Courts are familiar such as budget and staff constraints, while some are new like the Behavioral Health law changes. The need for and the value of training has never been greater.

I continue to be amazed at the

shared talent pool that makes up our Probate Judge "College" across the State in counties small and large, rural and urban. Together we are meeting the challenges facing the Probate Courts and the great spirit of collegiality that permeates helps make that possible. I trust this issue is informative and shines some light on your many accomplishments and talents.

Respectfully yours,

Judge Tony Thompson, Editor,
Candler County Probate Court



Candler County Courthouse

The Constitutional Officers Association of Georgia elected new officers at the Fall Conference held October 7-10, 2013 Savannah Georgia

New COAG Officers



Left to right:
Judge Darin McCoy, Secretary/Treasurer, Evans Co. Probate Court
Tommy Tedders, Tax Commissioner Bibb Co. Vice President
Carolyn Williams, Superior Court Clerk, Pike Co., President-Elect
Sheriff Mike Jolly, Harris Co., President

THE QUALITIES OF A NEW O.C.D. CLERK!

Judge Teresa Jennings
McIntosh County Probate Court

We recently attended training in Statesboro and every time my clerk can go, I take her. Judge Darin McCoy was one of the instructors and let me preface my article by saying how helpful he has been to me and my court. Judge McCoy spoke on all of the mandatory materials the Probate Court was to provide to marriage license applicants. Well, if we are all truthful, we were lacking many of these documents.

My new clerk made it her personal mission to obtain ALL of the necessary documents we are to provide. Having difficulty, she contacted the Department

of Public Health over Judge "McCay's" (name used by the director) district as well as ours and the person she spoke with said that even they didn't have these documents. So my clerk continued to pursue these documents; she even contacted the Sickle Cell Anemia Association and is now on a first name basis with their representative. They now contact MY CLERK for assistance. They are now re-writing their new brochure since working with my clerk. How funny is that!! I tell her she is their new spokesperson.

To the best of my knowledge, we are currently the only court in our area with ALL the mandatory brochures required. Now, this has truly been an adventure for us all and I will tell you, if laughter is the best medicine, my office is healed. As my clerk meant, we were going to be in compliance if that meant calling Washington and I mean D.C. I am so grateful and blessed to have such a dedicated clerk and one with a sense of humor. Every office should have an O.C.D. Bloodhound Clerk. I do and she is not available for hire. Way to go Christen Bradley!



McIntosh County Courthouse

Districts 10, 11 and 14 met to discuss Involuntary Outpatient Commit

Judge Beth Mosley,
Effingham County Probate Court

On October 4, 2013 Districts 10,11, &14 met at East Georgia State College in Swainsboro. The meeting was hosted by Judge Don Wilkes. The focus of the meeting was to discuss Involuntary Outpatient Commitments.

Judge Susan Tate was our guest speaker. She made a presentation and it was followed with informative discussion.

Judge Wilkes also invited Pineland, Ogeechee Mental Health, and his sheriff.

Judge Tate provided an outline of important code sections, as well as Petitions, and a list of Emergency Receiving Facilities.

The information was very valuable. Everyone took part in the discussion. Following the meeting we had lunch in the Robert Brown dining room on campus.

Thank you Judge Wilkes and Judge Tate and all who participated for a successful event.

Those in attendance included district members:

Judge Don Wilkes - Emanuel Co.
Judge Asholyn Lamp - Jefferson Co.
Judge Paul McNeal - Jeff Davis Co.
Judge Nancy Aspinwall - Liberty Co.
Judge Lee Deloach - Bulloch Co.
Judge Moye Howard - Pierce Co.
Judge Calvin Bennett - Ware Co.
Judge Tony Thompson - Candler Co.
Judge Beth Mosley - Effingham Co.
Judge Larry Threlkeld- Toombs.

Also attending were:

Susan Dobson- Effingham County Senior Clerk
Sarah Cook- Clarke County Probate Court
Skipper Stipemaal- Clarke County Probate Court
Nicholas G. Clark- Liberty County Probate Court
Ron Williford- Jefferson County Probate Court
Dina McDonald CSB- Middle GA
Cynthia Cone Pineland BHDD Patricia Donaldson Pineland BHDD Michelle Meadow Pineland BHDD
Amy Tribble- Ogeechee Behavioral Health
Dan Barnard, Clinical Director- Ogeechee Behavioral Health
Amy Howell General Council DBHDD
Andrew Johnson Legislative Director DBHDD
Guest Instructor: Judge Susan Tate of Clarke County Probate Court



Judge Lynnwood Jordan, Jr. at the CPCJ strategic planning session.

Districts 10, 11 & 14 Meeting



9th District Meeting

The 9th district met in Wrightsville at Nana's Restaurant on Sept 24th. Judge Don Wilkes of Emanuel County was the special guest and gave a short talk on an upcoming Mental Health meeting. Also in attendance was Judge Asholynn Lampp, Jefferson County and Judge Russell Sheppard, Washington County.



Mental Health Initiatives Around The State

Judge Susan Tate
Clarke County Probate Court

At least two probate judges were either solely or jointly responsible for organizing regional mental health joint trainings and/or collaborative meetings with probate judges, mental health treatment personnel and law enforcement. Representatives from the Department of Behavioral Health and Developmental Disabilities (a/ka/DBHDD or the Department of Behavioral Health) were in attendance at both meetings, which proved invaluable for all who intended. Kudos to Judge Marc D'Antonio and Judge Don Wilkes.

Judge Vickie Burnette in Thomas County has begun the cumbersome process of putting together a similar training/meeting in her neck of the woods in south Georgia. Please contact Judge Burnette if you are interested in helping with that effort or if you have any ideas about what topics should be covered or who should be invited. Judge Lee DeLoach participated in CIT training recently in his county.

Congratulations to Judge Pam Ferguson in Clayton County for having successfully gotten a mental health court in her county up and running on June 3, 2013.

Judge Ferguson persisted in exploring various avenues and her efforts were finally rewarded. Judge Ferguson has been designated by the Chief State Court judge to preside over a mental health court calendar for misdemeanor cases. They are currently looking for a part-time coordinator.

Judge Keith Wood is also spearheading an effort to start a mental health court in Cherokee County. More congratulations are in order here, as his planning group has obtained a grant to get the court up and running. Judge Kelli Wolk, Cobb county, continues to facilitate communications as to various matters when needed on the mental health front, interfacing with folks from her own Superior Court judges who are planning a treatment court, to the GBI and DBHDD.

Cobb County law enforcement just hosted an "idea trust" meeting on December 16, 2013 to debut their proposed legislation. Mental health professionals, mental health advocates and others attended, as well as representatives from DBHDD. The proposal is the result of a task force created earlier this year to address problems law enforcement and paramedic/EMT/EMS personnel run into when they encounter a person who is actively or admittedly contemplating suicide, or even attempting suicide, but is unwilling to go to see their

doctor or a therapist or even to go to a local hospital. Their idea is to change O.C.G.A. § 37-3-41 by adding a new paragraph (e) which would authorize a physician (or other qualified mental health professional specified in subsection d) to sign a certificate based on the direct observations of a licensed paramedic or licensed emergency medical technician. The proposal goes on to provide that as soon thereafter as possible, the physician would personally evaluate the patient to determine if the certificate is "further appropriate." The advocates present were opposed, but it seemed to me that the opposition was not nearly so adamant as that voiced when the Gwinnett County police mounted a similar attempt a couple of years ago to expand police powers in this type of situation.

After the meeting I approached Mary Shuman of DBHDD, who was receptive to my suggestion that GCAL personnel be trained in the law regarding involuntary evaluations and to involve probate judges in the process. If this gets off the ground, we may be asking for volunteers. Thanks to all who contributed to this article. I hope everyone's holidays were warm and wonderful.

The Functions, Rules and Responsibility of Probate Court Judges

Judge William J. Self II
Senior Judge

With more than two decades of experience serving as Probate Court Judge in Bibb County, William J. Self, II, has often been asked about the diverse roles and responsibilities of this elected office. He offers the following inside look at some of the routine, as well as more specialized functions of this important county position.

Most people recognize that probate judges issue marriage and weapons carry licenses, administer oaths to public officials, and perform many other clearly administrative or ministerial duties. These duties have their genesis in the fact that probate judges were the original county governing authority. Probate judges also are authorized to perform marriages, and many do.

But, probate judges do so much more than those things; they are judicial officers; they try cases; they render decisions and issue orders. Probate courts are courts of record under Georgia law. They exercise exclusive, original jurisdiction in almost all matters concerning administration of estates of deceased persons, the appointment and monitoring of guardians and conservators of incapacitated adults, the appointment of per-

manent and temporary guardians of minors, the appointment and monitoring of conservators of minors, the appointment and monitoring of conservators for missing persons, the determination of the presumption of death of missing persons, the court-ordered sterilization of developmentally disabled females at risk of pregnancy and court-ordered evaluation, and the civil commitment to involuntary treatment of persons believed to be in need of treatment for mental illness and/or addictive disease. Probate judges may determine the transfer and placement of patients who are incapable of giving informed consent, when there are no persons available and willing to act on the patient's behalf. Probate judges can determine the funeral arrangements for a deceased person whose family is in irreconcilable disagreement over the issue. Probate judges may be called upon to determine whether life-sustaining treatments should or should not be terminated for a person incapable of making an informed decision. Except in certain probate courts, there is no right of trial by jury; the probate judge is both the finder of fact and the determiner of the law. It is, thankfully, true that most will

probate and estate administration matters are uncontested. If most were contested, more probate courts would find it necessary to have associate judges and/or hearing officers to try all of the cases. A formal, recorded hearing is required by law in all adult guardianship/conservatorship cases. Even when the matter is uncontested, in order to protect the due process rights of the person who is the alleged incapacitated adult, the hearing and declaration of a final order takes a minimum of 30 – 45 minutes.

However, contested estate and guardianship/conservatorship trials can rival any contested divorce or child custody case in superior court. A probate judge's decision in those cases can significantly impact family members, family factions, charitable entities, foundations, elderly persons and incapacitated adults, as well as, potentially, millions of dollars. There is no amount or value limit on the jurisdiction of the probate courts in these cases. The original decision in the James Brown case was in the probate court.

In adult guardianship/conservatorship cases, complete control of all of the wealth of a person can come under the jurisdiction and supervision of the probate

court. If it becomes necessary to appoint a guardian or conservator for the very wealthiest citizen of a county, the decision who shall serve and the subsequent supervising and monitoring of the service of the person appointed fall initially within the exclusive jurisdiction of the probate court.

Decisions of probate judges in adult guardianship cases can impact issues arguably infinitely more important than money and property. In appointing a guardian for an adult, the probate judge may remove from a person the right to decide where to live, to decide whether to marry, to consent to or refuse medical treatment, to make a will or create a trust, to revoke an existing will or trust, etc. Who is appointed may impact end of life decisions, and, in certain cases, no termination of life-sustaining treatment may be done without approval from the probate judge. The initial decisions in the Karen Ann Quinlan and Terri Schiavo cases were made in probate courts. Few legal disputes involve such divergence of opinion, involve greater emotions, or have greater impact, physically and emotionally, than those involving end-of-life decisions.

In a number of counties in Georgia, the probate judge also serves as the “traffic judge” for the county, trying and deciding

traffic offenses, fish and game law offenses, and certain additional misdemeanor offenses. These matters are tried in the state court in those counties having a state court. While no court exists for the purpose of raising revenue for a county, probate courts which have this additional jurisdiction almost without exception bring in more revenue than the costs of operation of the probate court, a net fiscal benefit to the county. Similarly, a number of probate judges also serve as the chief magistrate and, thereby, serve in and supervise two separate and distinct courts.

Georgia is somewhat unique in that there are two levels of probate courts. In counties having a population of 90,000 or more and in which the probate judge is an attorney who meets the qualifications to serve as a superior court judge, the probate court becomes an “Article 6 Probate Court,” referring to Article 6 of Chapter 9 of Title 15 of the Georgia Code. These special probate courts are, in essence, raised to the level of a superior court. There is a right to trial by jury, and appeals are taken only to the Court of Appeals and the Supreme Court. The distinction here is that in all non-Article 6 Probate Courts, a case may be appealed to the superior court of the county, where the case is tried again (*de novo*), with the right to a jury trial be-

fore a law-trained judge.

Whether in connection with a decedent’s estate, the appointment of a guardian or conservator of a minor or incapacitated adult, or the involuntary treatment of family member or friend for mental illness or addiction, probate courts in Georgia are the one court with which almost everyone will have contact at some point during their lives. Probate judges daily impact the lives of the citizens of our counties. Probate judges and their staffs are truly public servants whose services affect, impact, and touch the lives of all county citizens.

In Our Thoughts....

Judge Gene Lowery, Catoosa County Probate Judge was recently diagnosed with liver cancer. This is his third bout with cancer and his treatment is currently delayed due to some other health issues. Please keep him in prayer and consider making a donation to his medical expenses care of Walker County Probate Court PO Box 436, LaFayette, GA 30728

Judge Susan Griner, Probate Judge from Berrien County lost her father Senior Judge John Patten Webb on August 12, 2013. He was born October 15, 1916 in Berrien County to the late Lossie Webb and the late Vidora Artemish Parrish. He retired as Judge of Probate Court for Berrien County after 33 years of service and was awarded Judge Emeritus status. He was a Standard Oil distributor for 30 years before becoming Probate Judge. He was a member of Nashville United Methodist Church and served as church treasurer for 30 years. He was a mason in Duncan Lodge 234 F&AM and received his 65 year pin in 2011 and was also a member of Eastern Star. He was the widower of Robbie Nell Tyson Webb who died in 2007. In addition to his parents, he was preceded in death by 5 brothers: Talmadge Webb, Garth Webb, Luther Webb, Emory Webb and

Edgar Webb. He is survived by his daughter: Susan W. (Sonny) Griner of Nashville; 2 sons: John P. (Clara) Webb, Jr. of Rabun Gap, and Lamar (Linda) Webb of Nashville; and numerous grandchildren.

Retired Clayton County Probate **Judge Eugene E. Lawson** passed away on November 5 2012 at his home in Newman Ga. Born in Cleveland, Tennessee on July 30, 1937 he was predeceased by his son, Philip Lawson. He is survived by his wife, Mildred E. Lawson; three children - Deborah Butcher, Eddie Athearn, and Barbara Parker; seven grandchildren - Melissa Padgett, Elizabeth Thompson, Chip Athearn, Leigh Klein, Kyle Athearn, Jenna Parker, and Callie Parker; and several great grandchildren. Judge Lawson began practicing law in Jonesboro in 1971. He served as a Prosecutor of the Clayton County Juvenile Court from 1973 until he was elected Clayton County Probate Judge in 1983. He retired from the bench in 2003. He was a past president of the Probate Judges Council of Georgia. Judge Lawson taught at the Continuing Judicial Education Center at the University of Georgia from 1984 until his retirement in 2003.

Judge Lee Deloach (Sharon Deloach) lost his father-in-law

Harry Mixon 84, of Ocilla, July 20, 2013. Born in 1928, to the late Warren and Martha Van Sutton Mixon he was a 1946 graduate of Ocilla High School, then attended ABAC and South Georgia College. He earned his Bachelors degree from the UGA and Juris Doctorate from UGA Law School in 1959. He practiced law in Irwin County for almost 55 years, serving with father, Warren, and later with his son, Warren. His wife, Lila, was also a fixture in the office of Mixon and Mixon. Mr. Mixon served eight years in the Georgia General Assembly and was very instrumental, along with his Ben Hill County counterpart Brad Dorminy, in securing the technical school currently known as Wiregrass Georgia Technical College. A lifelong member of Ocilla Baptist Church, he was a former deacon and 50-plus year teacher of Sunday school class. He had a passion for Irwin County, its history and families. He was a member of Ocilla Lodge #134, F.&A.M., a fifty-plus year member of Hasan Shrine in Albany, and was a Paul Harris Fellow in the Ocilla Rotary Club. Mr. Mixon was a member of the Georgia Bar Association, the Tifton Bar association, and city attorney for Ocilla. He is survived by his wife of 65 years: Lila Lee Mixon of Ocilla; daughter: Sharon & Lee DeLoach of

Statesboro; son: Warren & Lisa Mixon of Ocilla and many grandchildren.

Judge Nancy Aspinwall lost her son Magistrate Judge David "Trey" Lealand Aspinwall III, 44, July 29, 2013 at his residence after short illness. He was a native and lifelong resident of Liberty County graduating from the Bradwell Institute in 1987, then graduating from University of Georgia in 1991. He was a member of the First Baptist Church of Hinesville. He served as a justice for the University of Georgia Judiciary, deputy for the Liberty County Sheriff's Office, worked

with the Georgia State Department of Revenue, and served as Liberty County Magistrate Judge for the past eight years. He is preceded in death by father, David Lealand Aspinwall, Jr; his paternal grandfather, David Lealand Aspinwall, Sr.; and maternal grandparents, Robert and Pearl M. Kitchings. He is survived by his mother, Nancy K. Aspinwall of Hinesville; one brother, Rev. John A Aspinwall (Melissa) of Jesup; one nephew, John Cameron Aspinwall of Jesup; one niece, Megan Elizabeth Aspinwall of Jesup; paternal grandmother, Dixie C. Lomaine of Jesup; and several aunts and uncles.

Retired Towns County Probate **Judge Wayne Garrett**, of Hiawassee passed away on Dec 14, 2012. He served as Probate Judge for many years. He was also a veteran of the United States Army.

Clerk of Superior Court, **Deborah Clark**, of Lee County lost her only child Keri Clark in a car accident on August 13, 2013. She was 23 years of age. Her daughter worked in Savannah, GA as a 911 Operator and was awarded the Dispatcher of the Year award for 2013.

From The Gavel Archives

The Gavel Issue Volume 8, Number 1 September 1999

Georgia Council of Probate Judges President Hon. Helen Harper of Laurens County reported on the Summer COAG meeting which included a presentation by Peter Schinkel from the Secretary of States Archives and History division on records retention. She also reported that Constitution and ByLaws committee chair Judge Lee Deloach would present bylaw revisions to the fall COAG conference. It was reported that Judge Marion Guess would receive the Treat Award at the National Probate Judges College. *The Gavel editor was Judge Darin McCoy of Evans County and The Gavel was produced by LaShawn Murphy of the AOC.*

Accolades

The Gate City Bar Association Judicial Section on December 5th held its 2013 Legacy Awards. Fulton County Probate Judge Pinkie Toomer received the Judge Thelma Cumming Moore Legacy Award; it was awarded by Georgia Court of Appeals Judge M. Yvette Miller.



Save The Dates!

2014 Winter COAG February 18 - 19th GA Tech Hotel & Conference Ctr., Atlanta GA

2014 Spring Conference April 8 - 11th GA Center, UGA, Athens GA

2014 Fall COAG October 13 - 16th Marriott Riverfront Hotel, Savannah GA

Class: The Basics of Alzheimer's Disease

Judge Don Wilkes of Emanuel County Probate Court invites all Probate Judges to attend "Lunch and Learn for Probate Judges" to be held Friday, February 7th or Thursday, February 20, 2014
From 10:30am - 1:30pm

Location: Sudie A. Fulford Learning Center on the campus of East Georgia College in Swainsboro, Ga. The Alzheimer's Association, Georgia Chapter will present a unique educational program that will incorporate a workshop The Basics: Memory Loss, Dementia and Alzheimer's Disease as well as host Second Wind Dreams® Virtual Dementia Tour ® - an experiential tour to feel and sense the challenges of living with a dementia.

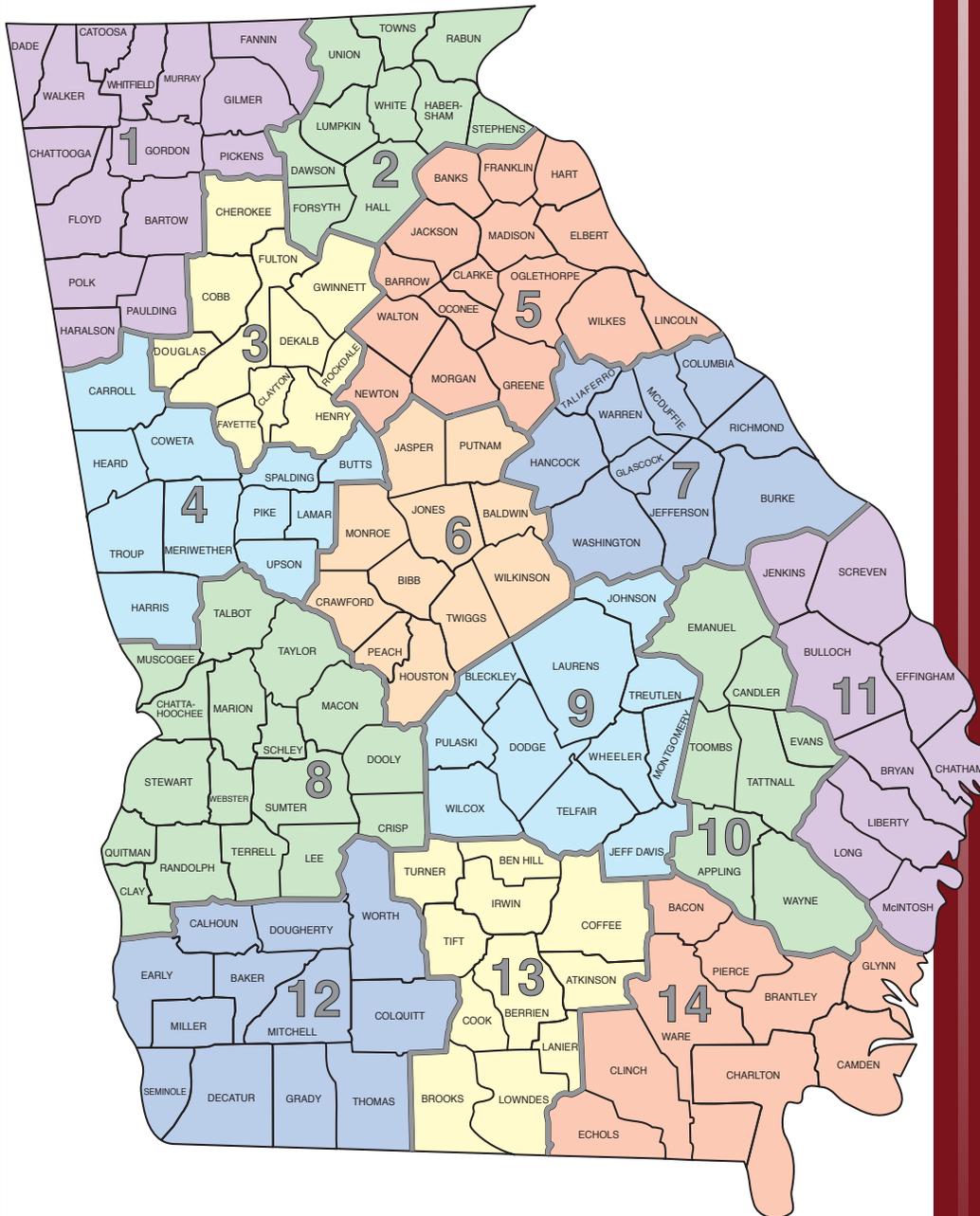
The workshop includes:

- Symptoms and effects of Alzheimer's disease and other types of dementia
- How Alzheimer's affects the brain
- Causes and risk factors
- How to find out if it's Alzheimer's disease
- The benefits of early detection
- How to address a diagnosis of Alzheimer's disease
- Stages of the disease
- Treatment
- Ways the Alzheimer's Association can help

At the conclusion of the workshop attendees will have the opportunity to participate in the Virtual Dementia Tour®, an individual experience through simulated dementia to help you have a better understanding of the physical and mental challenges of those with dementia.
(The Virtual Dementia Tour was created by Atlanta-based Second Wind Dreams®.)

CPCJ

DISTRICT REPRESENTATIVES



DISTRICT 1
JUDGE DEBORAH ANDERSON

DISTRICT 2
JUDGE DWAIN BRACKETT

DISTRICT 3
JUDGE ANN JACKSON

DISTRICT 4
JUDGE KATHRYN MARTIN

DISTRICT 5
JUDGE SUSAN TATE

DISTRICT 6
JUDGE TODD BLACKWELL

DISTRICT 7
JUDGE LEE MOSS

DISTRICT 8
JUDGE ROONEY BOWEN III

DISTRICT 9
JUDGE TORI J. HUDSON

DISTRICT 10
JUDGE LARRY THRELKELD

DISTRICT 11
JUDGE BETH MOSLEY

DISTRICT 12
JUDGE WES LEWIS

DISTRICT 13
JUDGE CHASE DAUGHTREY

DISTRICT 14
JUDGE CALVIN BENNETT

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