

**Daily Update for Tuesday, April 12, 2011
Legislative Day 39**

Senate Session:

Local Calendar:

HB 193 - Union County; chief magistrate elections; provide

HB 193 provides that the chief magistrate of Union County shall continue to serve in that capacity until the expiration of his or her term of office on December 31, 2012. At the nonpartisan general election of 2012, a successor chief magistrate shall be elected by the voters of Union County for a term of four years beginning on January 1, 2013, and until a successor is elected and qualified. Thereafter, successor chief magistrates shall be elected by the voters of Union County at the nonpartisan general election immediately preceding the expiration of the term of office and shall take office on the first day of January immediately following such election for a term of four years and until a successor is elected and qualified.

The governing authority of Union County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, no later than 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

HB 193 PASSED out the Senate.

HB 194 - Union County; probate court judge elections; provide

HB 194 provides that all elections for the office of judge of the probate court of Union County conducted after January 1, 2012, be nonpartisan elections. The sitting judge of the probate court shall serve out the term of office for which he or she was elected and shall be eligible to succeed himself or herself.

The governing authority of Union County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, no later than 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

HB 194 PASSED out the Senate.

HB 570 - Charlton County; compensation for chief magistrate; provide

HB 570 provides that the judge of the Probate Court of Charlton County shall also serve as the chief magistrate of the Magistrate Court of Charlton County on and after January 1 2013.

HB 570 PASSED out the Senate.

HB 600 - Candler County; compensation of solicitor; change provisions

HB 600 amends an Act establishing the State Court of Candler County. The bill changes provisions relating to the compensation of the solicitor. The solicitor shall receive a salary equal to 90 percent of the salary of the judge of the court to be paid in the same manner as the judge's salary is paid.

HB 600 PASSED out the Senate.

HB 602 - Bacon County; board of elections, selection and appointment; change composition

HB 602 reconstitutes and changes the composition to the board of elections and registration for Bacon County. All appointments to the board shall be promptly certified by the board of commissioners of Bacon County to the clerk of the Superior Court of Bacon County. The bill provides for the qualification and removal of members and for filling vacancies. The Board of Elections and Registration of Bacon County shall cause, through its legal counsel, this Act to be submitted for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended, within 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

HB 602 PASSED out the Senate.

Rules Calendar:

HB 24 - Evidence; revise, supersede, and modernize provisions; provide definitions

HB 24 is the rewrite of the Evidence Code of Georgia, Title 24, to provide that Georgia law track federal evidence rules more closely. The bill includes a provision on court foreign language interpreters and interpreters for the hearing impaired. The Supreme Court may establish fees to be paid by persons desiring certification to cover the costs of certifying, regulating, and training court qualified interpreters. The Judicial Council supports this legislation.

HB 24 was TABLED by the Senate.

HB 30 - Restrictive Covenants - reasonable restraint of trade

HB 30 is an attempt to define and codify reasonable restraints on trade (primarily restrictive covenants in employer-employee type relationships), as well as assumptions and presumptions to be applied by courts in determining the reasonableness of contractual restraints. Finally, there are directives to the court that lean toward upholding and enforcing restrictive covenants.

Amendment 1: The proposed amendment requires 2/3 of votes from the General Assembly relating to the acquisition of property and attempt to obtain the permission for a casino. This will allow the General Assembly to oversee the process and impose conditions and requirements.
Amendment 1 was ADOPTED.

HB 30 PASSED out the Senate as AMENDED.

HB 101 - Bicycles; safety; change provisions

HB 101 amends Title 40 of the O.C.G.A, relating to motor vehicles and traffic by updating bicycling laws in Georgia.

Amendment 1: The proposed amendment provides that a distance of 3 feet is required between an operating vehicle and a bicycle. **Amendment 1 was ADOPTED.**

HB 101 PASSED out the Senate as AMENDED.

HB 129 - Conveyances; future conveyance of real property; prohibit fee

HB 129 amends Code Section 44-14-1 of the O.C.G.A., relating generally to mortgages, conveyances to secure debt, and liens, so as to prohibit a fee for a future conveyance of real property except under limited circumstances. It provides that the fee charged to transfer real property should be eliminated except under limited circumstances. The fee can only be required when it is associated with the conveyance of the property to be paid to an association with the purposes of exercising the powers of any condominium, or a property owners' association with the purposes of exercising the powers of property owners. The fees should only be used to pay common expenses for the operation of the association.

HB 129 PASSED out the Senate.

HB 158 - Elections; nonpartisan election; change date

HB 158 amends Chapter 2 of Title 21 of the Official Code of Georgia Annotated, to primaries and elections generally. Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy to the Secretary of the State no earlier than 9:00 AM on the fourth Monday in April and no later than 12:00 PM on the Friday following the fourth Monday in April. Each candidate for a county judicial office desiring to have his or her name placed on the nonpartisan election ballot shall file notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on the fourth Monday in April immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in April.

Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy, giving his or her name, residence address, and the office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on the third Wednesday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the third Wednesday in June. Each candidate for a county judicial office, a local school board office, or an office of a consolidated government, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on third Wednesday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the third Wednesday in June.

No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections. Also, it has to be filed no later than seven days after the close of the qualifying period for nonpartisan elections in the case of nonpartisan elections for state or county offices.

The names of all candidates who have qualified with the Secretary of State for the office of judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court of this state and the names of all candidates who have qualified with the election superintendent for the office of judge of a state court shall be placed on the ballot in a nonpartisan election to be held and conducted jointly with the general primary in each even-numbered year.

Offices the General Assembly provided by local Act for election in nonpartisan primaries and elections shall no longer require nonpartisan primaries. These officers shall be elected in nonpartisan elections held and conducted in conjunction with the general primary in even-numbered years.

HB 158 PASSED out the Senate.

HB 162 - Sexual offender registry; photograph minor without parent permission; prohibit

HB 162 amends Code Section 42-1-2 of the O.C.G.A., relating to the sexual offender registration review board. It prohibits any person, who is required to register on the state sexual offender registry, from photographing a minor without the permission of the minor's parent. Any person who knowingly violates this code section shall be found guilty of a misdemeanor of a high and aggravated nature.

HB 162 PASSED out the Senate.

HB 238 - Legal defense for indigents; powers and duties of council; change provisions

HB 238 amends Chapter 12 of Title 17 of the O.C.G.A, relating to legal defenses for indigents, so as to change certain provisions relative to the powers and duties of the Georgia Public Defender Standards Council. The Board shall be reduced to nine members and will no longer represent districts. Furthermore, the director is given more authority, including the hiring and firing of circuit public defenders.

HB 238 provides for the creation of a circuit public defender supervisory panel which is comprised of three members, one of whom shall be a circuit public defender, and all shall be attorneys who regularly practice in that particular judicial circuit. The chief judge of the superior court of the circuit shall appoint one member. The Governor shall appoint one member and one member shall be appointed by the chairperson governing authority or sole commission. The circuit public defender supervisory panel, by majority vote, shall appoint not more than three people to serve as the circuit public defender in the circuit. The circuit public defender may be removed for cause by the director. If the circuit public defender wants to appeal such removal, he or she may appeal the decision to the council. The director's decisions on policies and the removal of circuit public defenders may be overturned by a two-thirds vote of the entire council.

HB 238 PASSED out the Senate.

HB 265 - 2011 Special Council on Criminal Justice Reform for Georgians; Joint Committee; create

HB 265 creates the 2011 Special Council on Criminal Justice Reform for Georgians and the Special Joint Committee on Georgia Criminal Justice Reform – which are automatically repealed on July 1, 2012.

The council shall conduct a thorough study of the state's current criminal justice structure and make a report of its findings and recommendations for legislation to the Governor, Lieutenant

Governor, Speaker of the House of Representatives, and Chief Justice of the Supreme Court no later than November 1, 2011.

During the 2012 session of the General Assembly, the chairperson of the joint committee shall introduce in the House of Representatives one or more bills or resolutions incorporating the recommendations of the council. The legislation shall be referred by the Speaker of the House of Representatives only to the joint committee and no other committee of the House of Representatives.

Amendment 1: The proposed amendment changes the number of members of the Special Council from 12 to 13 and changes the members appointed by the governor from 2 to 3.

Amendment 1 was ADOPTED.

HB 269 - Drivers' licenses; provide definitions; background checks; provisions

HB 269 amends Chapter 5 of Title 40 of the O.C.G.A., relating to drivers' licenses. Any person 14 years of age or older who has been issued a restricted noncommercial Class P instruction permit because a parent or guardian is medically incapable of being licensed to operate a motor vehicle due to visual impairment, must be accompanied whenever operating a motor vehicle by the physically impaired parent or guardian or by a person at least 21 years of age who is licensed as a driver for a commercial or noncommercial Class C vehicle. The accompanying person must be fit and capable of exercising control over the vehicle, and must occupy a seat beside the driver.

A driver's license suspended as a result of a conviction of a violation of Code Section 40-6-391 will not become valid and will remain suspended until a person submits proof of installation and maintenance of an ignition interlock device for a period of six months coinciding with the issuance of an ignition interlock device limited driving permit as provided in Code Section 40-5-64 unless waived due to financial hardship.

HB 269 adds a new subsection to Code Section 42-8-111, relating to court ordered installation of ignition interlock devices. This new section allows exemptions granted due to financial hardship be exempt from the subject-matter jurisdiction limitations imposed in Code Sections 40-13-32 (Restrictions on ability of courts to change or modify traffic law sentences or judgments) and 40-13-33 (Limitation on habeas corpus challenge of misdemeanor traffic conviction).

A license will be reinstated if a person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program and pays a restoration fee of \$310.00. The restoration fee is \$300.00 when the reinstatement is processed by mail. A driver's license suspended pursuant to Code Section 40-5-67.1 will not become valid and will remain suspended until a person submits proof of completion of a DUI Alcohol or Drug use risk reduction fee of \$410.00. The restoration fee is \$400.00 when the reinstatement is processed by mail.

Amendment 1 and 2: The proposed amendments add the context of HB 309 relating to the establishment of an electronic state data base to help prevent crimes. **Amendment 1 and 2 were ADOPTED.**

Amendment 3: The proposed amendment provides that a person who has a license suspended or revoked should be notified through certified mail. **Amendment 1 was ADOPTED.**

HB 269 PASSED out the Senate as AMENDED.

HB 314 - Jessie's Law; enact

HB 314 amends Subpart 2 of Part 1 of Article 16 of Chapter 2 of Title 20 of the O.C.G.A., relating to compulsory attendance for students in elementary and secondary education. A foster care student who attends court proceedings relating to the student's foster care shall be credited as present by the school for any day, portion of a day, or days missed from school.

HB 314 PASSED out the Senate.

HB 390 - Criminal cases; state have right of direct appeal; authorize

HB 390 authorizes the state to have the right of direct appeal rather than seeking a certificate for immediate review when a defendant's motion for new trial or extraordinary motion of new trial is granted.

HB 390 PASSED out of the Senate

HB 485 - Wildlife control permits; release trapped feral hog into unfenced area; prohibit

HB 485 amends Article 1 of Chapter 2 of Title 27 of the O.C.G.A., relating to hunting, trapping, and fishing licenses and permits, so as to change certain provisions relating to wildlife control permits. It prohibits releasing any trapped or transported feral hog into any area that is not fenced to prevent the escape of the feral hog onto the land of another. Any person who violates the law, upon conviction, will be guilty of a misdemeanor of a high and aggravated nature and will be punished by fine and the fine will not be less than \$1500.00. In addition, any person who previously was issued a license or permit previously issued under the title will not be reissued for a period of 3 years after the date of the conviction. The licensee or permit holder will be notified in person or by letter sent by certified mail or statutory overnight delivery of the revocation to the name and address indicated on the application for the license or permit.

HB 485 PASSED out of the Senate

The Senate is adjourned until 10:00 am Thursday, April 14, 2011.

House Session

Rules Calendar:

SB 33 - Waste Reduction Act of 2011; Zero-Base Budgeting Act; application to the budget process; analysis of departmental/program objectives

SB 33 adds a new code section, 45-12-75.1, to the "Budget Act". The new code section requires that the Governor in preparing his or her budget report, and budget units in preparing their budget estimates under Code Section 45-12-78 (which includes the judicial branch agencies), make use of zero-base budgeting. The requirements shall apply with respect to the budget report presented to the General Assembly in January of 2012 and each year thereafter.

The Joint Fiscals Affair Subcommittee shall require each agency to use zero-base budgeting at least once every six years and shall not require any agency or program to use zero-base budgeting more than once every four years. In the years in which zero-base budgeting applies, each budget shall include in its budget estimate an analysis summarizing the prior two fiscal years and proposed spending plans by program, object class, and revenue sources.

SB 33 also authorizes the creation of the Joint Legislative Budget Office as a successor to the Senate Budget Office and the House Budget Office.

SB 33 PASSED out of the House.

SB 39 - Courts; create mental health court divisions; assignment of cases; provide for planning groups and work plans; standards

SB 39 enacts enabling legislation for mental health courts and provides for the Judicial Council of Georgia to create standards for mental health courts.

SB 39 PASSED out of the House.

SB 47 - Georgia Magistrate Courts Training Council; training for magistrates/senior magistrates; composition/responsibilities; provisions

In 2009 a provision for Magistrate training to be reduced from 20 hours to 12 - for years 2009 and 2010. In 2011 the hours return to 20. This request would give the Magistrate Court Training Council the flexibility to decide on a yearly basis of what training hours would be required. The window is 12 to 20 hours.

SB 47 PASSED out of the House.

SB 57 - Drivers' Licenses; prohibit persons convicted; offense against a victim who is a minor; driving commercial motor vehicles; transport 16/more persons

SB 57 amends Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to the duty of the driver of a vehicle meeting or overtaking a school bus and reporting of violations. The driver of a motor vehicle overtaking a school bus displaying its visual signals shall be liable for a civil monetary penalty. The amount of the fine shall be \$300.00 for a first offense, \$750.00 for a second offense, and \$1,000.00 for each subsequent offense in a five-year period.

SB 57 PASSED out of the House.

SB 80 - Evidence; provide for DNA analysis of persons arrested for felony offenses

SB 80 amends Code Section 5-5-41, Code Section 17-5-56, Chapter 4 of Title 24, and Article 2 of Chapter 3 of Title 35 of the O.C.G.A., relating to requirements as to extraordinary motions for new trial generally, maintenance of physical evidence containing biological material, proof generally, and the Georgia Crime Information Center. Any person convicted of a felony offense held in a detention facility or placed on probation shall have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA analysis. This shall also apply to any person convicted of a felony prior to July 1, 2011, and is currently incarcerated in a detention facility, serving a probation sentence, or serving under a jurisdiction of the Board of Pardons and Paroles.

Language from HB 299 was added to the SB 80. The language amends Chapter 4 of Title 24 of the O.C.G.A., by transferring provisions relating to DNA analysis upon conviction of certain sex offenses to a new article of Chapter 3 of Title 35 of the O.C.G.A., relating to the Georgia Bureau of Investigation.

Language from HB 402 was also added to SB 80. This language amends Article 2 of Chapter 3 of Title 35 of the O.C.G.A., relating to the Georgia Crime Information Center, so as to change provisions relating to disclosure and dissemination of criminal records to private persons and

businesses. The center shall not provide records of arrests, charges, or dispositions when access has been restricted. It changes provisions relating to inspection, purging, modifying, or supplementing of criminal records. If an individual believes his or her criminal records to be inaccurate or incomplete, he or she may request the original agency having custody of the detail records to purge, modify, or supplement them and to notify the center of the changes. The bill provides time frames within which certain actions must be taken with respect to redistricting access to records or modifying, correcting, supplementing, amending or sealing criminal records. If the criminal history record is believed to be inaccurate, incomplete, or misleading, the individual may request the entity having custody or control of the challenged information to modify, correct, supplement, amend, or seal the information and to notify the center of the changes within 60 days. If the entity declines to act within 60 days of the request or the individual believes the entity's decision to be unsatisfactory, within 60 days of the end of the 60 day period or the unsatisfactory decision, whichever occurs last, the individual shall have the right to appeal to the superior court of the county where the entity is located.

The court shall conduct a de novo hearing and may order relief as it finds to be required by law, including, ordering that all records in the custody of the court be sealed and removed from public disclosure. If the court declines to expunge, modify, or supplement an individual's criminal record, or if the court's order is contrary to the desires of the agency or prosecuting attorney, a party may file an action in the superior court where the agency is located. The ruling of the court shall not be reversed absent a showing of an abuse of discretion. The court shall conduct a de novo hearing and may order relief as it finds to be required by law, including, ordering that all records in the custody of the court be sealed and removed from public disclosure. The ruling of the court shall not be reversed absent a showing of an abuse of discretion. Any individual whose criminal history record information is restricted shall not have to disclose the fact of the arrest record on an application for employment.

SB 80 PASSED out of the House.

SB 82 - Elections; provide for oaths of election superintendents/supervisors and designees of board of election

SB 82 relates to primaries and elections generally. It provides for oaths of election superintendents and election supervisors and designees of boards of election. It provides that appointments of poll officers will be made available to the public. It clarifies who may vote in runoff primaries. A runoff primary will be in continuation of the primary and only persons who were entitled to vote in the primary will be entitled to vote and only those votes cast for the persons designated for the runoff shall be counted in the tabulation and canvass of the votes cast. Any elector who votes in the primary of one party shall not be eligible to vote in a primary runoff of any other party other than a primary runoff of the party in whose primary the election voted. It provides that the list of persons who have qualified with the state executive committee of a political party will be provided to the office of the Secretary of State. It clarifies the manner of appointment of registers. Electors and poll officials are allowed to use cellular phones, camera, or other electronic communication or photographic devices once the person has entered the polling place.

SB 82 PASSED out of the House.

SB 93 - Controlled Substances; "dangerous drug"; provisions

SB 93 amends Chapter 13 of Title 16 of the O.C.G.A., relating to controlled substances by adding certain drugs to the Schedule I, III, IV, and V controlled substances list. SB 93 also adds certain drugs to the definition to "dangerous drugs".

SB 93 PASSED out of the House.

SB 112 - Military Parents Rights Act; procedures governing parental rights in the event one parent is subject to military deployment

SB 112 amends Article 2 of Chapter 9 of the O.C.G.A., relating to the Child Custody Intrastate Jurisdiction Act. It provides that if a deployed parent is required to be separated from a child, a court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until 90 days after the deployment ends, unless the modification is agreed to by the deploying parent. Upon motion of a deploying or non-deploying parent, the court shall enter a temporary order modifying parental rights and responsibilities or parent-child contact during the period of deployment or mobilization. It also provides that either parent may file a motion to modify the temporary order upon the return of the deploying parent and that the court shall allow the deploying parent to present testimony and evidence by electronic means with respect to parental rights and responsibilities of parent-child contact if reasonable advance notice is given. When determining whether a parent has failed to exercise parent-child contact, the court shall not consider any time period during which the parent did not exercise any contact due to the parent's military duties.

The court may award attorney's fees and costs if the court considers that there was unreasonable failure and delay caused by either party to resolve parental rights and responsibilities or parent-child contact matters or failure of either party to provide timely information about income and earnings to the other party.

SB 112 PASSED out of the House.

SB 115 - Child Support; exclude foster care payments from the calculations of gross income for determination of child support obligations

SB 115 amends Code Section 19-6-15 of the O.C.G.A., by excluding foster care payments from the calculation of gross income for determining child support obligations

SB 115 PASSED out of the House.

SB 139 - Appellate Practice; provide for appeals involving nonmonetary judgments in child custody cases

SB 139 provides for appeals involving nonmonetary judgments in child custody cases; changes provisions relating to judgments and ruling deemed directly appealable; and changes provisions relating to cases requiring application for appeal. Where an appeal is taken for a judgment or order granting nonmonetary relief in a child custody case, the judgment or order shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order.

SB 139 PASSED out of the House.

SB 172 - Adoption; require home study by an evaluator; recommend placement; definitions

SB 172 amends Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption. This bill requires a home study by an evaluator, appointed by the court, prior to the placement of a child into the home of adoptive parents by a third party who is neither a stepparent nor a relative.

SB 172 PASSED out of the House.

HB 78- General appropriations; State Fiscal Year July 1, 2011 - June 30, 2012

HB 78 is the General appropriations bill for FY 2012. Click [here](#) to review the bill.

The House and Senate ADOPTED the CONFERENCE COMMITTEE REPORT to HB 78.

The House is adjourned until 9:30 am, Thursday, April 14, 2011.