



Capitol Connection

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and click on "Legislation Affecting Georgia's Judiciary"

Summertime under the Gold Dome

The Georgia General Assembly may not have been in session, but committees continued to meet over the summer. The House Judiciary Non-Civil Committee started early this summer preparing for the upcoming 2010 Legislative Session. While no legislation can be introduced, changed or voted on, much of the "prep work" is being done this summer and fall. Rep. Rich Golick (R-Smyrna), Chair of the House Judiciary Non-Civil Committee, intends to use the interim for discussion of complex bills that are sitting in the committee. There will be meetings to address open records, gun bills, sex offender, cock fighting, and death penalty and jury verdicts. It is the Chair's intent to have public hearings during the interim and vote on all the bills within the first two weeks of the 2010 Session. Due to the State's budgetary issues, very few study committees were established during the 2009 Legislative Session. Thus, some full committees are meeting instead of study committees.

Please check our website at www.georgiacourts.gov and click on "Legislation Affecting Georgia's Judiciary" for up-to-date information on meeting schedules, legislation and other news at the State Capitol.

Budget Update

June 30, marked the end of the fiscal year 09 budget with a shortfall of nearly 2 billion dollars below the original revenue projection. The state has \$565 million remaining in its revenue reserve fund, which leaves the state with almost nothing in reserve if the recession continues and revenue collections keep falling below projected levels during fiscal year 2010.

During the month of June, Gov. Sonny Perdue decided to withhold 25 percent of the judiciary's June allotments in an effort to balance the state budget in the last month of the fiscal year. The governor eventually withdrew his demand and state judges voluntarily reduced their spending in June by 25 percent by not paying monthly bills and deferring certain expenses until July, when state fiscal year 2010 begins. However, the judiciary made it clear they would request funding in the 2010 budget to make up for the fiscal year 2009 expenses.

There have been recommendations for a special legislative session to adjust the budget to reflect the drop in revenues expected over the next 12 months, but in July Gov. Perdue announced that he and top lawmakers struck a deal

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Upcoming Meetings:

- Aug. 28 – The Child Support Commission
10:00 AM - 12:00 PM
125 CAP
- Sept. 22 – House Judiciary Committee
10:00 AM - 2:00 PM
132 CAP

that allows them to avoid a special legislative session.

Sexual Offenses: Minimum age for prosecution

In June, the House Judiciary Non-Civil Committee heard testimony on **HB 582** which sets the minimum age for prosecution of the offenses of prostitution and masturbation for hire to age 18. HB 582 was introduced during the 2009 Legislative Session by Representative Wendell Willard (R-Sandy Springs), but was not seen in Committee during the session. During the meeting, Committee members heard testimony from representatives of various Georgia agencies, e.g. the Fulton County District Attorney's office, City of Atlanta Police Department, and the Barton Child Law and Policy Clinic. Most of the testimony before the committee was in support of the legislation, with some possible amendments. Currently police officers are not permitted to apprehend minors that are suspected of practicing prostitution without a pick-up order. The Fulton County District Attorney's office expressed their support for the legislation, but strongly suggested adopting an amendment which would allow officers to detain minors if there is "reasonable belief" of prostitution.

Rep. Willard expressed to the Committee the purpose of the bill is to show minors lack the mental capacity to voluntarily engage in prostitution or masturbation for hire. Thus, individuals under the age of 18 who perform these acts should not be criminally prosecuted. Some Committee members were concerned that if the legislation were passed in its current state, it may give the "green light" for certain minors to voluntarily subject themselves to prostitution under the notion that they cannot be criminally prosecuted.

No vote was taken on the legislation – the meeting was strictly for testimony. The Committee has not set a date for the next meeting.

Mandatory Minimum for Gang Activity

Representative Steve Davis (R - McDonough) introduced **HB 213**, legislation addressing criminal street gang activity in school safety zones, early last session. No action was taken on the bill by the House Judiciary Non-Civil Committee during the 2009 Session. However, testimony on the bill was heard during the Committee's June 16th meeting. HB 213, if enacted, will increase penalties for criminal street gang activity occurring within a school safety zone. The required minimum mandatory sentence imposed will be increased by an additional two years. There was concern raised from the District Attorneys surrounding mandatory minimums, primarily do to the high cost. However, there was no total opposition to the legislation.

The Committee did not take any action on the bill. No date has been set for the next hearing on HB 213.

The Billy Foulke Seatbelt Act

In the June 15th House Judiciary Non-Civil Committee hearing, members of the Committee heard testimony surrounding **HB 142**, The Billy Foulke Seatbelt Act. Rep. Melvin Everson (R - Snellville) is the sponsor of this bill, which increases the penalties for teenage drivers convicted of multiple violations of failure to use a seat safety belt. Rep. Everson stated that a Committee Substitute to HB 142 will be offered that changes the penalties from a fine to a point system. The first offense of no seat belt will be one point. The second offense will be two points, and so on. Committee members expressed concern about the parents having to pay for the increase in insurance because of the child's increase in points for violation. Other members expressed concern about having a seatbelt law at all.

The Committee did not take action on HB 142. No date has been set for the next hearing on HB 142.

Plea Discussions

Rep. Kevin Levitas (D-Atlanta) introduced **HB 392** in the 2009 Legislative Session. The House Judiciary Non-Civil Committee held a hearing on HB 392 on June 24. HB 392 allows for the prosecution to withdraw from a plea agreement. Currently, only the defense can withdraw from a plea agreement. There was much discussion on whether or not this bill is needed. The defense bar expressed opposition for HB 392 stating that a plea agreement shows that the defendant has already worked with the prosecutors.

No vote was taken on HB 392 – the meeting was strictly for testimony. The Committee has not set a date for another hearing on HB 392.

Habeas Corpus

Rep. Steve Davis (R-McDonough) presented **HB 214** to the House Judiciary Non-Civil Committee on June 24. Rep. Davis introduced HB 214 in the 2009 Legislative Session in response to the lengthy time convicted criminals spend on Death Row. HB 214 will shorten the time to challenge a conviction for a felony, including a conviction for a death penalty sentence, from four years to one year. Rep. Davis and members of the Prosecuting Attorneys Council testified that the delay to challenge a conviction is a tactic that the defense uses. Members of the Committee, including Rep. Mark Hatfield (R-Waycross), had concerns about changing the time frame for challenging a death penalty sentence. Rep. Hatfield stated that it is more than filling in the blanks of a form. A lot of investigation and information gathering must take place prior to filing suit. Many members of the Committee noted that death penalty cases and the process will need to be looked at more closely along with time limits.

No vote was taken on HB 214 – the meeting was strictly for testimony. The Committee has not set a date for another hearing on HB 214.

Crime Victims' Bill of Rights

HB 567, sponsored by Rep. Don Parsons (R-Marietta), allows for victims of crimes to be notified of any public hearing, court case, change in case or release of accused and to be in attendance. HB 567 also allows for the right of restitution which was the biggest point of contention during the House Judiciary Non-Civil Committee meeting on June 24. Many of the Committee members wanted to amend the bill to include restitution as part of the judge's sentencing orders. Several members expressed concern, including Rep. Rich Golick (R-Smyrna), that judges are not as aggressive as they should be in regards to restitution. A member of the Cobb County Victims Office cautioned the Committee that offices like hers are working on very little resources and staff, and to consider these obstacles when making changes.

No vote was taken on HB 567 – the meeting was strictly for testimony. The Committee has not set a date for another hearing on HB 567.

Illegal Immigrant Deportation

Sen. John Douglas (R-Social Circle) presented **SB 136** to the House Judiciary Non-Civil Committee on June 24. SB 136 codifies what the Board of Pardons and Paroles is currently doing. SB 136 allows for immediate deportation of illegal immigrants who have already been deported and came back into the State. The federal government is using Georgia, Arizona and New York as pilot states to implement this type of program on a national level. SB 136 codifies what is being done so the program does not go away when the federal government ends the pilot program.

No vote was taken on SB 136 – the meeting was strictly for testimony. The Committee has not set a date for another hearing on SB 136.