

2007 - 2008
Senate Special Judiciary Committee

Senator Michael S. Meyer von Bremen
District 22
Committee Member
Post Office Box 72065
Albany, Georgia 31708-2065

Senator Ed Tarver
District 22
Committee Member
Post Office Box 15473
Augusta, Georgia 30919-1473

Senator David Adelman
District 42
Vice Chairman
Post Office Box 1231
Decatur, Georgia 30031-1231

Senator Curt Thompson
District 5
Ex-Officio
6320 Glenbrook Drive
Tucker, Georgia 30084

Senator Judson Hill
District 32
Committee Secretary
3102 Raines Court
Marietta, Georgia 30062

Senator Dan Weber
District 40
Committee Member
1117 Wynterhall Lane
Dunwoody, Georgia 30338

Senator Bill Cowsert
District 46
Committee Member
Post Office Box 512
Athens, Georgia 30603

Senator Seth Harp
District 29
Committee Member
Post Office Box 363
Midland, Georgia 31820

Senator Ronald Ramsey
District 43
Committee Member
5271 Snapfinger Woods Drive
Decatur, Georgia 30035

Senator Kasim Reed
District 35
Committee Member
1755 Loch Lomond Trail
Atlanta, Georgia 30331

Senate Special Judiciary Committee Rules 2007 Session

Introduction:

Each member of the Committee should be mindful of the Senate Rules especially regarding attendance.

1. A Quorum of the Committee shall be 5 members.
2. The Chairman shall determine which bills and resolutions are to be considered and the order in which said measures are considered.
3. The Chairman shall have the authority to refer bills and resolutions to subcommittees for study. Such subcommittees in turn shall have the authority to make recommendations on such measures to the full Committee at such time as shall be designated by the Chairman.
4. The Committee shall convene, recess, and adjourn upon the order of the Chairman.
5. A bill or resolution will be considered only after presentation by its principal author or other legislator whose name appears first or second on the list of authors or co-sponsors, unless the author or co-sponsor has made other arrangements with the Chairman.
6. No member of the Committee shall be allowed to vote by proxy.
7. Members may not abstain from voting unless the member or any member of the Senator's immediate family has a direct pecuniary interest in the result of such vote which interest is distinct, unique or peculiar to the Senator or the Senator's immediate family.
8. Any member or members of the Committee who disagree with the majority report of the Committee shall be privileged to file a minority report if they so desire.
9. These rules may be amended upon a motion duly made and subsequently approved by two-thirds of the members of the Committee.
10. Where these rules are silent on a specific issue, the Rules of the Senate as adopted shall govern.

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Monday, January 22, 2007 at 3:00 P.M.

The following Senators were present:

Meyer von Bremen of the 12th

Cowsert of the 46th

Harp of the 29th

Ramsey of the 43rd

Tarver of the 22nd

Note: Senators Adelman, Hill, Reed, Thompson and Weber were absent.

Chairman Meyer von Bremen called the meeting to order at 3:00 P.M.

Senator Weber arrived at the meeting at 3:35 P.M.

Chairman Meyer von Bremen asked each member to introduce themselves, and then introduced the committee staff.

Chairman Meyer von Bremen briefly discussed the new quorum number on the committee rules. Senator Harp moved to adopt the committee rules and Senator Tarver seconded the motion. The motion carried unanimously.

The following legislation was discussed:

SB 11 (Shafer, 48th) – A bill to be entitled an Act to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to provide that judges of superior and state courts who are performing ordered military duty may continue in office and be eligible for reelection during such duty; to provide for qualifying for election by mail, messenger, or agent during such duty; to provide that performing ordered military duty shall be a basis for requesting assistance from other courts; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Shafer presented for Senate Bill 11, noting as the war continues, the need for this bill grows stronger; and the language was drawn from the Fulton County District Attorney Office, who has a similar policy.

Senator Tarver asked if this legislation covered judges away on active duty who are also up for reelection. Senator Shafer affirmed, directing the committee to Section 2 of the bill.

Senator Ramsey asked Senator Shafer why the municipal courts were not initially addressed in the drafting of this legislation. Senator Shafer responded that previously, this circumstance was handled locally for municipal courts.

Chairman Meyer von Bremen asked Senator Shafer if there were any current rules by which a judge could qualify for reelection absentia. Senator Shafer was unaware, but agreed to research for an answer if the committee rendered a DO PASS vote.

Chairman Meyer von Bremen then asked the committee members for the correct spelling of absentia. Senator Cowser, Senator Tarver and Shawn Marie Story with Legislative Counsel agreed the correct spelling included a “t”. Senator Meyer von Bremen urged the committee to verify this before the bill is submitted to the Senate floor.

A DO PASS motion was made on [Senate Bill 11](#) by Senator Harp. Senator Tarver seconded the motion. The motion carried unanimously.

[SB 18 \(Harp, 29th\)](#) – A BILL to be entitled an Act to amend Chapter 23 of Title 15 of the Official Code of Georgia Annotated, relating to court-connected alternative dispute resolution, so as to add municipal courts to the list of courts that may charge additional filing fees for civil actions and cases filed to fund alternative dispute programs; to change the composition of the Board of Trustees of County Fund for the Administration of Alternative Dispute Programs; to include cities within the chapter; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Harp introduced Senate Bill 18, citing the unique position the Columbus Municipal Court is in regarding its civil jurisdiction and resulting case load. Passage of Senate Bill 18 will make the ADR process available in Columbus to potentially reduce the case load. Senator Harp noted that Legislative Counsel asked to add the word “resolution” to line 5, before the word “program” but after the word “dispute”, and likewise on line 12.

Senator Tarver asked if this legislation would apply to the municipal court in Richmond County, which has a similar situation with their civil court. Senator Harp advised that it should, and also welcomed a response from Mr. Shinji Morokuma, the Director of the Georgia Office of Dispute Resolution.

Mr. Morokuma added that recent changes in the GODR’s guidelines would now include Augusta in the 10th circuit for ADR, which would cover superior and magistrate courts in that circuit.

Chairman Meyer von Bremen asked Senator Tarver for more information regarding Richmond County’s civil and municipal court makeup, which Senator Tarver provided.

Chairman Meyer von Bremen asked Senator Harp why this legislation only addressed municipal courts. Senator Harp indicated that Legislative Counsel asked that the provision be written generally, which is why municipal courts were covered.

Chairman Meyer von Bremen noted this language could create misrepresentation issues among the municipal judges and the jurisdictions they represent; including judges on the committee even if their court was not interested in ADR.

Shawn Marie Story with Legislative Counsel offered insight as to why the request was made for more general language.

Mr. Morokuma with GODR offered additional information, suggesting any court collecting filing fees, which are in turn paid into the ADR Fund, should have representation. However, he notes that representatives from every city that desires an ADR program could grow quite cumbersome.

Chairman Meyer von Bremen requested comments from Tom Gehl with the Georgia Municipal Association.

Mr. Gehl, who noted having lightly reviewed the bill, was unsure municipal judges would be able to take on the time commitment of committee work.

Senator Harp asked if there were many municipal court judges that this legislation would impact.

Chairman Meyer von Bremen suggested amending the legislation, limiting the language to impact “only municipal courts having civil jurisdiction”. This change would appear on page 2, line 6, and again on line 16. Chairman Meyer von Bremen questioned the need for such a change on line 22, but Senator Harp determined there was no need for it. Chairman Meyer von Bremen also recapped the necessary changes on lines 5 and 12 previously discussed.

Senator Cowsert agreed with Chairman Meyer von Bremen that the general language could result in some unintended representation and affiliation with ADR in a particular court system.

Senator Tarver asked the committee for support should he submit a resolution to the Senate Floor for a similar bill applicable to Richmond County Civil and Municipal Courts. Senators Harp and Meyer von Bremen both agreed to support Senator Tarver’s bill, should a DO PASS vote be given on SB 18.

Shawn Marie Story agreed the language should be limited.

Tom Gehl informed the committee that his office researched the question regarding municipal courts and emailed him that there are no other courts with civil jurisdiction like the one in Columbus, which addressed the concerns raised by the committee.

A motion was made by Senator Tarver for DO PASS, and seconded by Senator Ramsey that **SB 18 DO PASS BY SUBSTITUTE**. The vote was unanimous.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:35 p.m.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Tuesday, January 30, 2007 at 2:00 P.M.

The following Senators were present:

Meyer von Bremen of the 12th

Cowsert of the 46th

Hill of the 32nd

Ramsey of the 43rd

Reed of the 35th

Tarver of the 22nd

Thompson of the 5th

Weber of the 40th

Note: Senators Adelman and Harp were absent.

Chairman Meyer von Bremen called the meeting to order at 2:00 P.M.

Senator Weber arrived at the meeting at 3:35 P.M.

The following legislation was discussed for hearing purposes only.

SB 30 (Staton, 18th) – A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to invasions of privacy, so as to prohibit certain uses of the names or pictures of service members of the armed forces of the United States; to provide a penalty; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Staton presented Senate Bill 30 to the committee and gave background on the legislation by citing similar bills were passed in Oklahoma and Louisiana, while current legislation can be found in Texas and the U.S. Congress. Primarily, this bill is to thwart the efforts of a war protestor in Arizona, and others like him, who utilize the names and photos of soldiers on merchandise such as t-shirts, and then sell these items for a profit. The parents and family members of these soldiers have asked the names be removed, but these requests are ignored. Senator Staton then read the bill in part, and assured the committee he was not pushing this bill to limit speech or impede on any rights, but to eliminate the exploitation of service members for profit at the expense of the service members' family. Senator Staton agreed that the language may need tweaking, and he not being an attorney, would defer to the wisdom of the committee to make the language work.

Chairman Meyer von Bremen acknowledged other states having definitions included in their law, which narrowed the interpretation.

Senator Curt Thompson expressed concern about the general nature of the bill and does not want to infringe on “newsworthy” disclosures. The Senator urged that the law should allow the press and news organizations more leeway than this bill currently provides.

Senator Staton concedes there is a distinction for newsworthy reporting.

Senator Curt Thompson asked if [SB 30](#) makes this distinction, expressing the word “commercial” found in the language of the bill is too strong. Senator Curt Thompson used an example with Dillard’s, asking if they used the photo or likeness of a service member to advertise a sale they were having, if that would be a violation.

Senator Staton indicated that Dillard’s decision to create such an advertisement would be in poor taste, but may not violate the bill.

Senator Curt Thompson expressed concern for this, citing a plaintiff’s attorney would need more clarity on the interpretation of this bill.

Senator Weber asked if Senator Staton was familiar with the current law that regulates this issue.

Senator Staton was vaguely familiar with the current law.

Senator Weber asked Senator Staton if he was aware of the t-shirts now for sale around the nation, depicting soldiers on it with the caption, “Help us Kerry, We’re Stuck in Iraq”.

Senator Staton was aware of such t-shirts, considered them satire and did not intend for this legislation to impact things of that nature. Senator Staton reiterated that when commercial gain is the driving reason for the use of service member names and/or pictures, this law should stop them.

Senator Weber asked Senator Staton if he would be willing to expand the definitions in the bill.

Senator Staton believed the bill already speaks to business enterprise, not so much political campaigning and the like, but is willing to clarify the language if deemed necessary.

Senator Judson Hill applauded Senator Staton’s efforts on introducing this bill, expressing his belief that the Dillard’s advertisement would not be impacted by this bill. Senator Judson Hill agrees the language should be cleaned up regarding, “surviving spouse”, perhaps revised to authorize, “legally appointed designee”. Senator Judson Hill asked Senator Staton where he would like to go from here.

Senator Staton indicated the next step is to work on the language of the bill.

Chairman Meyer von Bremen agreed that finalizing the language of the bill is in order, and SB 30 may be available for vote at either the next meeting, or the meeting after that.

Senator Tarver asked Senator Staton why he chose a criminal as opposed to a civil penalty.

Senator Staton had considered civil, and now acknowledges both may be warranted. Senator Staton chose criminal because families in his district are not affluent in great numbers, and to initiate a civil suit could be burdensome for some of his constituents. Senator Staton believes the criminal aspect gives those constituents the right to file a complaint and the District or Prosecuting Attorney can advocate for them at no cost.

Senator Curt Thompson suggested adding a severability clause, noting that Justice Scalia with the Supreme Court is absolute about political advertisements. Senator Curt Thompson further suggests for Senator Staton to avoid language that may limit political speech, warning the backlash would prove to make it unconstitutional.

Senator Weber asked Senator Staton if he were to take a picture of Senator Douglas, who is a former service member of the armed forces, and use it in a political way, would that violate SB 30 as written.

Senator Staton indicated SB 30's purpose is to address service member names and/or photos if intentionally used for commercial purposes. In Senator Weber's example, the use of the picture of Senator Douglas was unintentional. Senator Staton reiterated if the use denotes exploitation, then a violation has occurred.

Senator Tarver asked Senator Staton what would happen if the "sale" aspect of the bill were no longer an issue. If t-shirts were given away, would this be an effective way to get around the law.

Senator Staton acknowledged Senator Tarver's point, but also asserted this bill is aimed at people who refuse to stop exploiting the soldiers at the request of the family.

Senator Weber asked Senator Staton if the bill would apply only if the unauthorized use was of the service member in his capacity as a member of the military.

Senator Staton suggested a distinction could be made in the language of the bill, separating an "in capacity" use from a "likeness as a civilian" use.

Chairman Meyer von Bremen asked for Senator Staton's interpretation if General Washington's likeness was used in a President's Day sale advertisement, or a more modern example, such as General Eisenhower or General Schwarzkopf, using that photo to promote Georgia Tourism or in campaign materials.

Senator Staton believed the bill would apply to the General Eisenhower example, but not the General Schwarzkopf example because the bill isn't targeting political speech. The General Washington example may or may not apply, depending on public domain and publishing guidelines that the Senator is not familiar with.

Chairman Meyer von Bremen opened the floor to the individuals who had signed the list to speak, and called Senator John Douglas of the 17th.

Senator Douglas asked the Chairman's permission to bring his Senate Aide with him to speak, and the Chairman agreed.

Senator Douglas recognized the members in the committee who have served in the armed forces. The Senator urged the committee to think of their fellow service members when voting on this legislation, and how pressing it is to help those families who are impacted by the behavior targeted in this bill, so they can avoid more embarrassment. Senator Douglas pointed out that anti-war protestors with pictures and names of soldiers could use those pictures and names to say anything without the person's permission. Senator Douglas highlighted this behavior as another example of exploiting and preying on the military, like pay day loan officers hanging around military bases. Senator Douglas recalled last session when [SB 606](#) was presented for vote in the Senate, a bill that prohibited disruptive conduct at funerals, including snapping photos of the deceased for profit. Senator Douglas reminded the committee that SB 606 passed 55/0 in favor, and asked the committee to vote favorably for [SB 30](#) as well.

Senator Douglas introduced his intern, Mr. Richard Ingram, as a former service member in the United States Armed Forces, and asked the Chairman to allow him to say a few words.

Chairman Meyer von Bremen allowed Mr. Ingram to speak to the committee.

Mr. Ingram introduced himself to the committee, stating where and with what installation he served. He revealed he was retired from the military at 22, and had lost his arm during his tour in Iraq. He proclaimed himself still a soldier, but first and foremost a patriot, and urged the committee to support the other soldiers fighting in the war. Initially, there were 28 in his installment that fought in Iraq, of which only 23 returned home alive. He believes the deceased must remain at rest, that soldiers are saviors and must be protected from people who wish to exploit them, the way they have exploited religion in the past. He feels that is wrong, and asked the committee to support the bill.

Chairman Meyer von Bremen commended Mr. Ingram for his bravery and willingness to serve his country in the war. Senator Meyer von Bremen then asked Senator Douglas about the treatment of articles that honor the veterans, by getting their names and calling local papers, soliciting advertisements, but no consent is obtained before or after it is printed.

Senator Douglas recognized the difference between what he may think is right, and commercial use. Senator Douglas expressed his opinion that families should be compensated for such use, as opposed to the media's use for reporting the news.

Senator Weber suggested adding a civil penalty and making expenses and attorneys fees recoverable.

Senator Douglas indicated it did not matter to him either way, criminal or civil, just so long as the message gets across to the targeted individuals.

Senator Tarver applauded the effort Senator Staton has put into proposing this legislation. As a former member of the U.S Armed Services, Senator Tarver asked what Senator Douglas hoped this legislation would prevent. Senator Tarver highlighted there are seemingly lots of ways to get around this law. Senator Tarver suggested working the possibility of a civil action in this bill to help these families.

Senator Douglas urged the committee to err on the side of prohibiting the use of a soldier's likeness, rather than not helping the soldiers at all.

Chairman Meyer von Bremen introduced Regan Marsh with Troutman Sanders Public Affairs Group as the next speaker on the list.

Mr. Marsh expressed the letter of the law was broad for this legislation, enough so to concern his client, the Georgia Press Association. However, though the bill is vague, it can be narrowed and he is willing to work with Senator Staton to accomplish this end.

Senator Curt Thompson asserted it was key to hone in on someone who is trying to make a profit.

Mr. Marsh indicated the word "commercial" is too broad; papers use images and when covering a parade, are not always able to get all the names of the participants in the photo. Mr. Marsh reiterated that entities like the Georgia Press Association do not want to violate the law just by doing their job.

Senator Curt Thompson expressed concerns about battlefield photos being impacted by this legislation, as CNN and other news media organizations are indeed commercial.

Chairman Meyer von Bremen asked if there were additional questions or comments.

Chairman Meyer von Bremen acknowledged the committee members heard the comments and see the potential for broad prosecution under the current language of [SB 30](#). Chairman Meyer von Bremen suggested Mr. Marsh work with Senator Staton to perfect the language of this bill, and return to present the changes to the committee members at the next meeting for additional discussion and possibly a vote.

Mr. Marsh agreed to help in any way possible to improve the language of this bill.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:35 P.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Thursday, February 8, 2007 at 3:00 P.M.

The following senators were present:

Meyer von Bremen of the 12th
Hill of the 32nd
Harp of the 29th
Ramsey of the 43rd
Tarver of the 22
Thompson of the 5th, Ex-Officio
Weber, 40th

Note: Senator Reed was absent.

Chairman Meyer von Bremen called the meeting to order at 3:00 P.M.

Senator Adelman and Cowsert arrived at the meeting at 3:31 P.M.
Senator Judson Hill left the meeting at 3:32 P.M.

The following legislation was discussed:

SB 94 (Wiles, 37th) – A bill to be entitled an Act to amend Article 3 of Chapter 7 of Title 44 of the Official Code of Georgia Annotated, relating to dispossessory proceedings, so as to define a term; to clarify the process for judgments by default; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Wiles introduced Senate Bill 94, stating the nature of dispossessory proceedings and the unwillingness of the courts to unify their understanding of the power of the writ of possession, causing varying procedures including a dispossessory hearing in some jurisdictions, but none in others. Additionally, some courts in Georgia hold the landlord and his lawyer responsible for clean up costs if the writ of possession is filed in their court as opposed to the superior court. This bill makes the writ operate more like a judgment.

Senator Tarver asked if the bill will make both a writ and a judgment required.

Senator Wiles said no, they are still two different documents.

Senator Tarver indicated he has seen them as one.

Senator Wiles stated they are actually two different documents, one authorizes the other.

Chairman Meyer von Bremen asked the members if there were any further questions.

Senator Ramsey asked Senator Wiles if this was a problem in only one court.

Senator Wiles answered yes, but it is a big problem that the court is not willing to help fix. In fact, it was the court that suggested the Senator take it up as a bill.

Senator Tarver asked if Senator Wiles had spoken with any other judges regarding help.

Senator Wiles indicated he had not.

Senator Tarver acknowledged Judge Richard Slater from Augusta as a member of the audience, and asked for his experience on the issue.

Judge Slater indicated he does not preside over many possessory dispositions, but the few he has heard, submit orders to break locks and such, and he does not accept those. In his jurisdiction, the writ and judgment are all one document.

Chairman Meyer von Bremen recognized Judge Slater and welcomed him to the committee meeting. He then asked Senator Wiles if he was ready to proceed on to Section 2 of the bill.

Senator Wiles introduced the next section of the bill, pointing out the similarities between the existing law and the proposed legislation, except that this bill will make it clear that no additional showing of proof is necessary to obtain the judgment.

Chairman Meyer von Bremen asked if Senator Wiles' cases were all liquidated damage cases.

Senator Wiles said yes, where the defendant is served, no response is received. The majority of the courts allow the default judgment. However, a minority of courts require a hearing.

Senator Weber acknowledged that Senator Wiles is trying to streamline the process, and asked Senator Wiles if he knew the percentage of commercial tenants that challenge the process.

Senator Wiles said about 75%.

Senator Weber asked if the affidavits swear to the fact that service of process was made.

Senator Wiles said no.

Senator Weber asked if the defendant is a day or two late in responding does the judge then have discretion to open the case.

Senator Wiles indicated the judge has no discretion in this situation. The defendant has 7 days to respond to service, after that, the default judgment is entered. The current law is quite clear and this bill does not impact that aspect of the law.

Senator Weber asked if Senator Wiles thought seven days was enough.

Senator Wiles believed that it was, citing bills proposed in previous sessions to move that time limit from seven days to five days. Senator Wiles said there is time between the service and the hearing, and also the seven days after the hearing or default to appeal.

Senator Tarver stated the language seems to compel a judge to take the money that is owed as it is stated.

Senator Wiles indicated the judges cannot advocate that this bill kicks in after the defendant has been served, no answer is received, and a judgment is rendered. The law says that now, this bill does not create that scenario.

Senator Tarver did not question Senator Wiles' experience, but indicated he has seen judges ask about things like an excessive late fee.

Senator Wiles acknowledged Senator Tarver's statement, but also acknowledged that this bill does nothing to change that aspect of the current law. The current law does not give that kind of discretion to judges in dispossessory proceedings where service has gone unanswered.

Senator Weber agreed with Senator Wiles in that the current law says the same thing.

Chairman Meyer von Bremen asked if the members had any other questions on SB 94. He also acknowledged that the audience could sign in to make comments if they so desired.

Senator Tarver offered to assist with the language of this bill. Senator Wiles graciously accepted Senator Tarver's offer.

Chairman Meyer von Bremen acknowledged that the language Senator Tarver had in mind would greatly help Senator Wiles' bill.

Senator Wiles agreed with the Chairman that Senator Tarver's language would help the bill.

Chairman Meyer von Bremen announced the meeting would stand in recess to allow Senator Wiles to look at proposed language provided by Senator Tarver.

The committee stood at ease for a few minutes.

Chairman Meyer von Bremen called the meeting back to order and announced the proposed change to the bill, in Section 1, line 12 after “conditions”, and offered the change for vote, which passed unanimously.

Senator Tarver motioned to vote on the committee substitute, Senator Weber seconded the motion, **SB 94 do pass by substitute.**

SB 41 (Harp, 29th) – A BILL to be entitled an Act to amend Code Section 9-11-4 of the Official Code of Georgia Annotated, relating to process in civil practice, so as to provide for service upon persons residing in gated and secured communities; to provide for filing the return of service; to provide for state-wide registration of permanent process servers; to change certain provisions relating to process in civil practice; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Chairman Meyer von Bremen called for Senator Harp to introduce Senate Bill 41 for overview only, no vote.

Senator Harp introduced the bill, acknowledging service processors as an asset in metro areas. If necessary, the bill could be limited to counties with populations below 50,000, so as not to negatively impact the county sheriffs who handle service of process in rural areas. This bill is most important when tolling a statute or getting service done when the statute of limitations is close to running. Rural sheriffs are opposed because they don't want a law that will impact their ability to do this, but sometimes, it has to get done, and a professional is the only option.

Chairman Meyer von Bremen asked for clarification that this bill is not removing temporary process servers, but creating permanent process servers and regulating their profession.

Senator Harp affirmed, this bill is creating a pool of professional process servers that are trained and educated and can get the job done.

Chairman Meyer von Bremen asked if there is anything to address private investigators who may also be process servers who use the license to get in the gated community and then do investigation work on another case.

Senator Harp referred to the removal language in the bill, citing that as an appropriate reason to remove a service processor.

Chairman Meyer von Bremen asked if any committee members had any questions.

Senator Weber asked what the rural sheriffs' concerns were.

Senator Harp indicated the sheriffs were fearful of losing business in the process service arena. Law enforcement is a full time job, and the sheriffs have to make that top priority.

If service of process comes into play, the sheriffs get to it when they get around to it. Sometimes, the nature of the process needs more diligence than that.

Senator Tarver asked if the bill would place obligations on residents to grant access.

Senator Harp indicated that only the individuals who are being served and the property owner/manager have an obligation to provide entry to the process servers.

Senator Tarver confirmed that no residents would be in violation if entry was not offered.

Senator Harp indicated no, only the management agent of the residence is obligated.

Senator Weber indicated that page 1, line 23 seemed vague.

Senator Harp asked for help with the language, and suggested that identification issued from the Administrative Office of the Courts could be beneficial.

Senator Weber offered assistance with changing the language.

Senator Cowser asked is there time before the process server is needed? Perhaps the sheriff could do it first, and if not, then call upon the process server?

Senator Harp indicated his experience has been the sheriffs are too busy anyway, and process servers work well in Muscogee County, while they try to utilize rural sheriffs, they don't always work out. Perhaps the population language will address this.

Shawn Marie Story with Legislative Counsel indicated a strong understanding that laws with population language are considered unconstitutional.

Senator Curt Thompson asked if there were ways around this interpretation.

Shawn Marie Story indicated there were not.

Senator Tarver agreed that indeed language with population classifications in it would be considered unconstitutional.

Senator Harp agreed.

Chairman Meyer von Bremen suggested members of the audience contact any of the committee members, including him, to hammer out appropriate language for this bill to move forward.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:35 P.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Tuesday, February 20, 2007 at 2:00 P.M.

The following Senators were present:

Meyer von Bremen of the 12th
Cowsert of the 46th
Ramsey of the 43rd
Reed of the 35th
Tarver of the 22

Note: Senators Curt Thompson, Judson Hill, Harp and Weber were absent.

Chairman Meyer von Bremen called the meeting to order at 2:00 P.M.

Senator Adelman arrived at the meeting at 2:26 P.M.

The following legislation was discussed:

[Senate Bill 103](#) (Adelman, 42nd) - O.C.G.A; correct errors/omissions.
[Senate Bill 104](#) (Adelman, 42nd) - O.C.G.A; correct errors/omissions; Title 47.
[Senate Bill 124](#) (Adelman, 42nd) - O.C.G.A.; correct errors/omissions; Title 21.

Senator Adelman asked Wayne Allen, Deputy Director of Legislative Counsel to present Senate Bills 103, 104 and 124 in his absence. Wayne indicated these bills were to clear up clerical errors in the code, and correct punctuation if necessary.

Senator Reed motioned to vote on these bills, and Senator Ramsey offered a second. Chairman Meyer von Bremen took a vote, and **Senate Bills 103, 104, and 124 do pass unanimously.**

[SB 128](#) (Carter, 13th) - A bill to be entitled an Act to amend Article 5 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Office of the Child Advocate for the Protection of Children, so as to provide for confidentiality of records held by the Office of the Child Advocate for the Protection of Children; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Senator Carter presented Senate Bill 128 to the committee. He stated this bill would make the procedure for maintaining records the same for the Department of Family and Children Services and the Office of the Child Advocate. Currently, OCA does not have the same tools as DFCS to protect those records.

Ms. Allison Anderson with OCA spoke on behalf of the bill, thanking Senator Carter for his work. Ms. Anderson indicated that the OCA gathers records from a gamut of sources that are “protected” by federal law, but nothing currently provides for their protection on the state level. Without this bill, OCA has to dodge the public if the state law requires the release of the information.

Senator Cowsert asked Ms. Anderson for examples of this situation.

Ms. Anderson gave one example, where DFCS records were requested when a child has been removed from parental custody. Another example was when an employee has a complaint against an agency but no access to records to support such a complaint.

Senator Carter added situations where DFCS records are abused, such as in divorce cases or cases covered under Code Sections 49-5-40 or 49-5-44.

Senator Tarver asked what impact this bill would have on records generated by OCA.

Ms. Anderson indicated such OCA records were already protected.

Senator Carter added this bill deals with information protected by other agencies but when turned over to another agency like OCA, they lose that protection.

Chairman Meyer von Bremen asked the committee if they were ready to move to vote.

Senator Reed motioned do pass, Senator Ramsey offered a second to the motion.

[Senate Bill 128](#) received a unanimous **DO PASS** vote.

[SB 30](#) (Staton, 18th) - A BILL to be entitled an Act to amend Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to invasions of privacy, so as to prohibit certain uses of the names or pictures of service members of the armed forces of the United States; to provide a penalty; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Chairman Meyer von Bremen offered an overview on SB 30 and the changes Senator Staton made to the original version. The new version of the bill contained wording that might have prosecuted untargeted individuals of this legislation. Chairman Meyer von Bremen offered a revision on lines 11 and 12, borrowed from a previous bill submitted by Senator Reed that makes sure “intentional” use was clarified. Line 18 of the bill also required direct or constructive knowledge of military status.

Ragen Marsh with Troutman Sanders Public Affairs Group indicated the revisions made this a good model bill.

Chairman Meyer von Bremen further indicated that the consent language is defined by the code for personal representative and heirs. The revision further outlines what type of notice is required (that being written).

Chairman Meyer von Bremen asked the committee if there were any questions.

Senator Ramsey motioned do pass and Senator Reed offered a second.

SB 30 received a unanimous **DO PASS** by **SUBSTITUTE**.

SB 135 (**Hamrick, 30th**) - A bill to be entitled an Act to amend Article 3 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to criminal reproduction and sale of recorded material, so as increase penalties for reproducing, transferring, selling, distributing, or circulating certain recorded material; to provide for forfeiture of certain items; to provide for additional restitution as it relates to violation of Code Section 16-8-60, relating to reproduction of recorded material, transfer, sale, distribution, and circulation; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Hamrick presented Senate Bill 135 to the committee. Senator Hamrick indicated he worked with prosecutors and Ragen Marsh with Troutman Sanders to draft this legislation. Georgia has a problem with piracy, and occasionally, it is highlighted in the media. Beginning with line 18 of this bill, it deals with Code Section 16-8-60, where the penalties are not very clear. The bill reviews the fines, and its purpose is to make punishment more severe to deter the behavior because the economic benefit currently outweighs the penalty. Senator Hamrick asked for guidance from the committee regarding language, citing line 33 of page 2 and line 2 of page 3 of this bill may be unconstitutional.

Chuck Olsen with the Prosecuting Attorney Council spoke in support of the bill. Mr. Olsen indicated that page 2 line 35 of this bill was drafted by RIAA, used in a model from Pennsylvania law that included criminal forfeiture. Georgia's Constitution Article 1 Section 1 Paragraph 20 says no criminal forfeiture proceedings will be allowed in state law, but are allowed in federal proceedings. Mr. Olsen suggested Code Section 16-12-100 subparagraph (f) be substituted with a description of the property subject to forfeiture. He also suggested line 7 and 8 of subparagraph (c) be reworded because no forensic accountants were available to review profits from a violation.

Senator Hamrick assured the committee he would get the specific subsections to them, but was happy to answer questions at this time.

Chairman Meyer von Bremen opened the floor to questions from the committee members, as well as the audience.

Senator Cowsert asked if any civil remedies were currently available.

Mr. Olsen was not sure.

Ragen Marsh indicated that there are.

Senator Cowsert asked if drug forfeiture money goes to law enforcement, what would happen to the profits from a piracy prosecution.

Mr. Olsen indicated that the innocent victims would take priority.

Senator Cowsert asked if Mr. Olsen knew the number of prosecutions a year under this law.

Mr. Olsen indicated he did not know.

Senator Cowsert said it sounds like someone is unhappy with the punishment now available.

Mr. Olsen indicated that was correct.

Senator Tarver asked if this bill would apply to downloaded information.

Mr. Olsen indicated he was not sure.

Ragen Marsh assured Senator Tarver that it would not; this bill applies only to hard copy violations.

Senator Reed indicated this bill covers “bootleggers,” citing Georgia is ranked number five in the nation for piracy violations. It is a billion dollar business in the state, and the operation is huge, to the point artists can no longer drop release dates, for fear the violators will impact their sales. It is very damaging to the state.

Chairman Meyer von Bremen affirmed that the current law does not apply to individuals downloading for personal use.

Senator Cowsert asked if other states deal with this problem.

Chairman Meyer von Bremen asked Ragen for his thoughts.

Ragen Marsh indicated that Pennsylvania has been successful in slowing this down.

Senator Adelman asked what the federal law covers.

Senator Hamrick indicated he was unsure, but would be happy to get that information.

Senator Adelman said he would be interested to know if federal law was more or less strict than this bill and other state laws.

Senator Hamrick indicated he would find out.

Chairman Meyer von Bremen asked if this would reach the buyers on eBay.

Ragen Marsh indicated that it may.

Chairman Meyer von Bremen suggested the committee revisit it on Thursday, and take up the committee substitute.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 2:47 P.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 310 of the Coverdell Legislative Office Building on Thursday, February 22, 2007 at 3:14 P.M.

The following Senators were present:

Meyer von Bremen of the 12th
Cowsert of the 46th
Tarver of the 22nd
Thompson of the 5th
Weber of the 40th
Harp of the 29th
Adelman of the 42nd

Note: Senators Judson Hill, Reed and Ramsey were absent.

Chairman Meyer von Bremen called the meeting to order at 3:14 p.m.

The following legislation was discussed:

SB 135 (Hamrick, 30th) – Criminal Reproduction; increase penalties.

Senator Hamrick presented a substitute for Senate Bill 135, addressing the unconstitutional forfeiture language with new language that addresses the restitution without violating the state constitution.

Chairman Meyer von Bremen asked if there were any questions or comments.

Senator Harp moved the committee do pass by substitute on the legislation, and Senator Adelman seconded.

Chairman Meyer von Bremen took a vote and **Senate Bill 135** received a unanimous **DO PASS BY SUBSTITUTE**.

SB 41 (Harp, 29th) – Civil Practice; provide for service upon persons residing in gated communities

Chairman Meyer von Bremen introduced Senate Bill 41, indicating that Shawn Marie Story with Legislative Counsel submitted a final draft to the committee which she completed 20 minutes ago. Copies of this draft were given to the committee members.

Senator Harp indicated that the new language of the bill is less invasive of the Sheriff's interests.

Chairman Meyer von Bremen noted the amendment still allows judicial discretion upon request to retain a private process server.

Chairman Meyer von Bremen asked if there were any questions or comments from the committee members.

Senator Cowsert's concern stemmed from the time limit of 24 hours, and asked Senator Harp if he would be willing to extend it in case a suit was filed on Friday, and not served by Monday morning if the sheriffs were unable to do it.

Senator Harp was willing to go to 72 hours, as long as a time limit was implemented.

Senator Cowsert asked for 5 days and also asked if the sheriffs would have to back up renegade process servers.

Senator Harp said all the bill does is give the first right of refusal for process to the sheriffs. Metropolitan counties would probably be fine with either 2 or 5 days. Helping the process servers in trouble or needing back up falls under the sheriff's sworn duty anyway, because it can be a dangerous trade.

Senator Weber made the suggestion to add the word "photo" or "identification issued by AOC" to line 23 of page 1.

Senator Harp was not opposed to this suggestion, as long as AOC's permission to be mentioned in the bill was obtained.

Senator Weber asked if it can be limited to driver's licenses.

Senator Harp said no problem if that pleases everyone.

Senator Weber asked for Senator Harp's opinion on that suggestion.

Senator Harp indicated he had no preference or opinion, it could be done so long as the AOC says okay to be included in the language.

Senator Weber reserved the right to offer the amendment at the appropriate time, inserting the word "of" on line 11 and capitalizing the letter "C" in Coach on line 17.

Senator Adelman had no questions, but a comment, suggesting the committee take a broad look at reforming the process serving industry. The size of communities has an impact on the best way to handle such issues so sheriffs can focus on law enforcement issues.

Chairman Meyer von Bremen introduced Mike Jolley and Terry Norris with the Sheriff's Association.

Senator Harp identified Sheriff Jolley as instrumental in arresting a child pornographer in a recent sting operation.

Sheriff Jolley spoke in opposition to this bill, citing that sheriffs cannot opt out of performing this service. Outsourcing is possible if an office becomes backlogged, but sheriffs are mandated to serve process. Perhaps some counties have problems, but why make a bill for the few. A private investigator pushed this bill in the house, they have badges and guns and a larger number of officers are hurt serving papers. Now, if civilians are subject to this danger, they will look like police and it may cause problems. Language in the bill giving sheriffs five days would help, if the sheriff cannot get to it, they could pass it to a private investigator but judges can do that now. There is already a system in place.

Chairman Meyer von Bremen noted there was danger because a private investigator's service may aggravate the person served.

Sheriff Jolley indicated that typically private investigators are used to serve process on other sheriffs and high profile circumstances.

Senator Harp asked if five days would cure the problem.

Sheriff Jolley said five days would help; excluding private investigators from serving process would cure the problem.

Senator Tarver asked what financial impact in terms of loss to the Sheriff's Department would be.

Sheriff Jolley said perhaps in the smaller counties there may be no impact because more than likely the sheriffs will still serve. In the larger counties, the impact is unknown.

Senator Tarver asked if the legislature should place a financial limitation on the fee for private investigators.

Senator Weber said he understood the key points, and asked Sheriff Jolley for suggestions on how to exclude private investigators.

Sheriff Jolley indicated if the private investigators have no badge, and no gun, they would be deemed as non-confrontational.

Senator Weber asked what a reasonable way to approach this is.

Sheriff Jolley said there is a need for identification, and private process servers should be private citizens.

Mr. Norris presented his opinion on this bill, citing it would fuel the private investigator industry, and highlighting the public safety concern when non-officers come to your door. Service of process is complex; there is a civil process association with the Sheriffs that offers training. Difficult services will still exist, like eviction because it is volatile and there is a notice required in rural counties.

Chairman Meyer von Bremen asked if there were any questions.

Senator Harp agreed to make the wait time five days and adding the photo id language if it will help the legislation pass.

Senator Cowsert suggested adding a limitation clause or a firearm prohibition, not understanding why a process server would need to be armed.

Senator Harp did not know why a firearm would be necessary.

Senator Tarver asked if the Sheriff's Association would still be opposed.

Sheriff Norris indicated they would be.

Senator Harp indicated he does use process servers extensively, two people are appointed by a judge in his circuit, and he has had no complaints from the sheriff. He believes statistics show the most threatening person in process serving in domestic relations is the officer, the second is a female officer, and private investigators are the most non-threatening.

Chairman Meyer von Bremen asked for comments from the committee, after which the committee can consider the amendments separately, and then pass the bill by substitute. The amendments included inserting five days on lines 6 and 12, inserting the word of between service and process on line 11, and capitalizing the C in the word Coach on line 17.

Senator Cowsert asked if the amendments would include "armed" language.

Senator Harp did not intend to include that.

Senator Weber moved to vote on the first amendment, and Senator Cowsert offered a second. A vote was taken and the amendment unanimously passed.

On line 23, another amendment to delete “or other id” was motioned by Senator Harp, and Senator Tarver offered a second. A vote was taken and the amendment unanimously passed.

Senator Cowsert motioned to add a subsection N, with language that would eliminate violence.

Senator Curt Thompson clarified this language would prevent any process server specifically appointed or otherwise, from carrying a firearm, revoking their ability to do so regardless of method of obtaining the process.

Chairman Meyer von Bremen indicated that was correct.

Chairman Meyer von Bremen suggested including a Peace Officer.

Senator Adelman highlighted the fact that if this new amendment passed, it would change the bill from improving convenience into a public safety debate. He admitted he did not know enough to know if the shape of the bill would fit the need.

Senator Harp said he never had a problem with safety and asked Sheriff Jolley if he knew of any recent problems.

Sheriff Jolley said not in Harris County.

Chairman Meyer von Bremen agreed by adding substantive language, the shape of the bill was changing. He asked if anyone in the audience represented the private investigator industry.

John Robinson with GAPPI spoke on the safety concern and indicated he had no known instances of this problem. Most of the private investigators are former law enforcement officers extensively trained and they do not carry weapons personally to serve process.

Chairman Meyer von Bremen asked if there were any questions.

Senator Weber asked Sheriff Jolley if the bill passed, would he want an amendment like the one Senator Cowsert suggested.

Sheriff Jolley said yes, in the interest of public safety.

Senator Cowsert withdrew his amendment.

Chairman Meyer von Bremen asked how the committee wanted to handle SB 41.

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Senator Harp motioned do pass, Senator Weber offered a second.

The committee voted and **SB 41** received a majority vote for **DO PASS BY SUBSTITUTE**, with Senator Curt Thompson voting against the bill.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 4:22 P.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Tuesday, February 27, 2007 at 2:05 P.M.

The following Senators were present:

Meyer von Bremen of the 12th

Cowsert of the 46th

Ramsey of the 43rd

Reed of the 35th

Tarver of the 22

Note: Senators Curt Thompson, Judson Hill, Harp, Adelman and Weber were absent.

Chairman Meyer von Bremen called the meeting to order at 2:05 P.M.

The following legislation was discussed:

SB 217 (Thompson, 5th) – A BILL to be entitled an Act to amend Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to property owners' associations, so as to provide that certain Property Owners' Associations (POA) and similar organizations shall have standing as a party to bring a legal action to enforce certain covenants; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Curt Thompson presented Senate Bill 217, necessary in situations where older neighborhoods have voluntary groups who can not charge dues. They work to get people to obey covenants and codes but have no real authority. The bill is intended to allow these voluntary groups to work as community associations in Georgia. Lines 13 and 16 on page 2 are designed to give existing Homeowner's Associations (HOA) authority. Lines 23 and 24 on page 1, and lines 1 and 3 on page 2 allow the groups to proceed forward with civil litigation.

Chairman Meyer von Bremen asked if there were any questions from the committee.

Senator Weber cited on page 1, the term HOA defined is not limited to POA, but then page 2, line 14 used the term POA. Should a broader term be used?

Senator Curt Thompson said POA's currently have standing, while HOA's do not.

Senator Weber asked on page 1 line 14, should it say HOA instead of POA. Page 1 is a definition section and perhaps should define the word organization. Page 1 line 15 has the word "organization" which is fairly broad. How would a judge determine who or what is considered an organization?

Senator Curt Thompson says the language is from DeKalb County v. Civic Association, and they tried to track the language from that case which found the aggrieved party did not have standing.

Senator Weber understood.

Chairman Meyer von Bremen asked about line 14 on page 2, if you have a POA, you cannot come in and supersede an existing entity, right?

Senator Curt Thompson indicated that was correct.

Chairman Meyer von Bremen asked if there were any additional questions, and acknowledged Senator Weber.

Senator Weber asked on page 2 line 1, if Senator Curt Thompson would be willing to expand the language. Senator Curt Thompson said yes.

Chairman Meyer von Bremen asked if there were any other questions or comments from the audience.

Randy Woodchew is an attorney with the Community Associations Institute of Georgia. He indicated they have concerns but are not opposed. Line 14 on page 1 is subject to POA language, and leaves out HOA's shown on plats, but is not subject to the POA Act. Mr. Woodchew is willing to work with Senator Curt Thompson to fix the language, and agrees it may need to fall under the Civil Practice Act.

Chairman Meyer von Bremen asked why.

Mr. Woodchew indicated too many unrelated items are tied to it, and they are trying to keep it clean dealing only with operational issues.

Chairman Meyer von Bremen asked how it would fit under the Civil Practice Act.

Mr. Woodchew mentioned the creation of a party for HOA's and referred to Equitable Life v. Tinsley Mill, which held that a party has no standing if not a real party in interest. Adding "real party in interest" language to the bill would be helpful.

Chairman Meyer von Bremen asked if Senator Reed had any comments.

Senator Reed was supportive of the legislation, but suggested Rusty Sewell should work with Mr. Woodchew directly to fix the language.

Senator Curt Thompson agreed, and had already suggested that to those individuals so the bill could be moved and enter the Senate Floor clean.

Mr. Woodchew suggested also viewing the res judicata issue, to determine if a voluntary association is bound by res judicata because the bill does not address it.

Chairman Meyer von Bremen called on Keith Hatcher with the Georgia Real Estate Association.

Mr. Hatcher is not an attorney, but is willing to help Senator Curt Thompson clean up the language of this bill. He then asked if the Druid case was a covenant enforcement case.

Senator Curt Thompson indicated the Druid case was a zoning case but the implications of the holding were much broader.

Mr. Hatcher had no objections with complying with the rules, but did agree with the holding in the Druid case, that the court indicated HOA's should not be able to sue, and this bill may undermine that ruling.

Senator Curt Thompson said the bill would still require adjacent property owners to have standing in order to assert a claim.

Chairman Meyer von Bremen asked what legislative day we were in.

Senator Curt Thompson said the 25th.

Chairman Meyer von Bremen suggested we not rush into this since there are a number of changes and the bill may not be the same in the end. He suggested the language be worked out first, and if necessary, a special meeting could be called to vote it out of committee.

Senator Curt Thompson committed to working on the language if the committee was committed to voting it out once the language was worked out.

Chairman Meyer von Bremen acknowledged the commitment of the committee to do so.

HB 53 (England, 108th) - A bill to be entitled an Act to amend Code Section 15-6-3 of the Official Code of Georgia Annotated, relating to terms of court, so as to change certain provisions relating to the Piedmont Circuit; to repeal conflicting laws; and for other purposes.

Representative England presented House Bill 53 to the committee, which changes the court term for the Piedmont circuit. He is trying to coordinate the terms of court for the three courts in that circuit.

Senator Weber motioned do pass, for which Senator Harp offered a second, and the [House Bill 53](#) received a unanimous **DO PASS** vote out of committee.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 2:47 P.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol, Wednesday, March 14, 2007 at 3:15 P.M.

The following Senators were present:

Meyer von Bremen of the 12th
Hill of the 32nd
Cowsert of the 46th
Harp of the 29th
Tarver of the 22nd
Weber of the 40th

Note: Senators Adelman, Ramsey, Reed, Curt Thompson and Weber were absent.

Chairman Meyer von Bremen called the meeting to order at 3:15 P.M.

The following legislation was discussed:

[SB 234](#) (Cowsert, 46th) – A bill to be entitled an Act to amend Title 14 of the Official Code of Georgia Annotated, relating to corporations, partnerships, and associations, so as to provide for the Secretary of State to collect a filing fee for certificates of conversion filed when a Georgia corporation, Georgia limited partnership, or Georgia limited liability company converts to a foreign corporation, foreign limited partnership, or foreign limited liability company, respectively; to provide that a certificate of conversion be filed with the Secretary of State to evidence a conversion; to allow a copy of a certificate of conversion be filed with the clerk of the superior court in any county in which a converting entity owns property; to provide for related matters; to repeal conflicting laws; and for other purposes.

Senator Cowsert presented Senate Bill 234, which is a housekeeping bill recommended by the State Bar of Georgia. The committee welcomed Cassady "Cass" V. Brewer, a member of the Executive Committee of the State Bar of Georgia, who spoke for the bill, indicating it fills in the gap in the current statute and corrects a "chain of title" issue.

Senator Tarver made a motion for Do Pass and Senator Cowsert seconded.

The bill passed out of committee unanimously. **[Senate Bill 234](#) DO PASS**

SB 217 (Thompson, 5th) – A bill to be entitled an Act to amend Article 6 of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to property owners' associations, so as to provide that certain property owners' associations and similar organizations shall have standing as a party to bring a legal action to enforce certain covenants; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

Senator Doug Stoner presented this bill on behalf of Senator Curt Thompson who was out of the state. Senator Stoner outlined the problem this bill sought to address, indicating older subdivisions had no standing to organize homeowner's associations to enforce the covenants that ran with their land. This bill would give residents of such communities a voice in that regard.

Senator Judson Hill asked if the bill would include Neighborhood Associations (NAs), and if there was a difference between NA's and HOA's (Homeowner's Associations).

Senator Stoner indicated that HOA's and POA's (Property Owners Associations) have rights and NA's have no rights.

Senator Cowser referred to page 2, line 24 asking if it applied to Property Associations or Homeowners Associations, if only that entity can sue to enforce a covenant, then what would a Neighborhood Association be suing for.

Senator Stoner identified that a NA would sue to enforce city or zoning ordinances.

Mr. Randy Lipshutz indicated this bill is for neighborhoods without associations that want to enforce city ordinances, and suggested defining the term "covenant".

Chairman Meyer von Bremen warned there may not be sufficient time to allow such an amendment in terms of completing the process and passing the bill out of committee in time for a vote on the floor.

Senator Stoner indicated Senator Curt Thompson was aware of this issue, but urged the committee not to stop the bill at this point.

Chairman Meyer von Bremen asked the committee if there were any questions.

Senator Tarver referred to page 1, line 18, asking if any group means that a neighborhood association would have standing for a cause of action, and if the bill is trying to eliminate the need to for a standing structure.

Special Judiciary Committee - Page 3 - March 14, 2007

Chairman Meyer von Bremen asked the committee members if anyone would offer a motion of do pass. None was offered and the Chairman tabled the bill as a result of no motion being offered. Senate

SB 238 (Meyer von Bremen, 12th) – A bill to be entitled an Act to amend Code Section 16-10-94 of the Official Code of Georgia Annotated, relating to tampering with evidence, so as to remove the requirement that such offense involve another person; to provide for related matters; to repeal conflicting laws; and for other purposes.

Chairman Meyer von Bremen presented the bill, indicating it changes language in the existing law which would no longer require that evidence tampering pertain only to evidence as to other individuals and not the accused.

Senator Judson Hill offered a motion for **Do Pass Senate Bill 238**, Senator Harp offered a second, and the bill unanimously passed out of committee.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 3:45 P.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

SENATE SPECIAL JUDICIARY COMMITTEE

The Senate Special Judiciary Committee met in Room 125 of the Capitol on Wednesday, April 11, 2007 at 9:00 A.M.

The following Senators were present:

Meyer von Bremen of the 12th

Hill of the 32nd

Cowsert of the 46th

Harp of the 29th

Weber of the 40th

Note: Senators Adelman, Ramsey, Reed, Curt Thompson and Tarver were absent.

Chairman Meyer von Bremen called the meeting to order at 9:00 A.M.

The following legislation was discussed:

[**HB 168**](#) (**Rep. Mumford, 95th**) – A bill to be entitled an Act to amend Code Section 15-11-21 of the Official Code of Georgia Annotated, relating to associate juvenile court judges, appointment and compensation, qualifications, conduct of hearings, and rehearing, so as to change the qualifications for an associate juvenile court judge; to provide for related matters; to repeal conflicting laws; and for other purposes.

Representative Mumford presented this bill equalizing the qualifications of Associate Juvenile Court Judges to that of a Juvenile Court Judge.

Senator Harp moved **House Bill 168 do pass by substitute**, for which Senator Cowsert seconded. The bill's committee substitute passed unanimously.

[**HB 233**](#) (**Rep. Ralston, 7th**) – A bill to be entitled an Act to amend Chapter 5 of Title 30 and Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to protection of disabled adults and elder persons and definitions for the "Long-term Care Facility Resident Abuse Reporting Act," respectively, so as to revise the definition of the term "exploitation"; to change provisions relating to criminal penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

Representative Ralston presented the bill regarding long-term care facility resident abuse and the punishment thereof.

Ann Williams with the Georgia Council on Aging spoke in support of this bill. Senator Harp moved **do pass House Bill 233**, which Senator Weber seconded. The bill passed unanimously out of committee.

HB 139 (Rep. Willard, 49th) – A bill to be entitled an Act to amend Code Section 53-1-20 and Article 1 of Chapter 2 of Title 53 of the Official Code of Georgia Annotated, relating, respectively, to renouncing succession and to general provisions relative to descent and distribution, so as to correct a cross-reference; to provide for forfeiture of an intestate share of an estate under certain circumstances; to provide for definitions; to provide for notice of proceedings; to provide for an appointment of a guardian ad litem under certain circumstances; to provide for judicial proceedings and standard of proof; to change certain provisions relating to the rules of inheritance when a decedent dies without a will; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Representative Willard presented the bill regarding forfeiture of the intestate share of a minor child's estate where the parents have abandoned the child. Senator Harp moved **do pass House Bill 139** and Senator Cowsert seconded. The bill passed out of committee unanimously.

SR 445 (Unterman, 45th) – A resolution creating the Joint Commercial Sexual Exploitation of Minors Study Commission; to provide for the membership, powers, duties, and mission of the commission; to provide for related matters; and for other purposes.

Chairman Meyer von Bremen presented the bill on behalf of Senator Unterman, who was not present at the meeting. Ms. Wendi Clifton with Emory University spoke for the bill. She recommended a request for an assessment center to serve as an interim place for girls adjudicated for prostitution. Senator Harp moved **do pass Senate Resolution 445** and Senator Cowsert seconded. The bill passed out of committee unanimously.

There being no further business, Chairman Meyer von Bremen adjourned the meeting at 9:30 A.M.

Respectfully submitted,

/s/ Hill of the 32nd, Secretary

/s/ Kim Crowell, Recording Secretary

July 27, 2007

The Honorable Bob Ewing
Secretary of the Senate
Georgia General Assembly
Room 353 Capitol Building
Atlanta, Georgia 30334

Re: Senate Special Judiciary Committee Legislation

Dear Mr. Ewing:

I am returning the following bills assigned to the Senate Special Judiciary Committee for the 2007 Session of the General Assembly:

[Senate Bill 217](#)
[Senate Bill 270](#)

No action was taken on the aforementioned legislation.

Sincerely,

/s/ Kimberly F. Crowell
Recording Secretary
Senate Special Judiciary Committee

Enclosures