

**SENATE JUDICIARY COMMITTEE  
2013 MEMBERS**

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## SENATE JUDICIARY COMMITTEE RULES

2013-2014

1. Quorum of the Committee shall be five (5) members. Every member, including ex-officio members, shall count as a voting member for purposes of establishing a quorum at any given meeting.
2. The Chairman shall determine which bills, resolutions, substitutes, or amendments are to be considered and the order in which said measures are considered; the Chairman shall have the authority and discretion to call a bill, resolution, substitute or amendment for debate and explanation only or to limit consideration of such measures.
3. The Chairman shall have the authority to refer bills and resolutions to subcommittee for study. Such subcommittees in turn shall have the authority to make recommendation on such measures to the full Committee at such times as shall be designated by the Chairman. All actions of the subcommittees shall be approved or disapproved by the standing committee.
4. The Chairman shall have the authority to schedule, manage, and regulate the debate on bills, resolutions, substitutes, and amendments, and may in his discretion recognize motions related to such measures and the order in which they are recognized.
5. When a bill or resolution is before the committee for consideration, the following shall be the precedence of the motions:
  1. A motion that a bill do pass;
  2. A motion that a bill do not pass;
  3. A motion to postpone to a time certain;
  4. A motion to refer a bill to a subcommittee.  
(All motions shall receive a Second before consideration)
6. The Committee shall convene, recess and adjourn upon the order of the Chairman.
7. A bill or resolution will be considered only after presentation by its principal author or other legislator whom he/she may designate unless otherwise directed by the Chairman. The principal author shall be the legislator whose name appears first on the list of authors. The Committee shall not vote on any bill until the author or his or her designee has been given the opportunity to appear and be heard.
8. The Chairman reserves the right to delay or decline action on substitutes and amendments not provided to the Chairman in writing at least 24 hours prior to the hearing in which they are presented.
9. The Chairman shall not vote unless the committee shall be equally divided or unless his or her vote if given in the minority will make the division equal. In case the vote is equally divided, the Chairman must vote.
10. 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.
11. These rules may be amended upon a motion duly made and subsequently approved by two-thirds of the members of the Committee.
12. Where these rules are silent on a specific issue, the Rules of the Senate as adopted shall govern. If the Rules of the Senate are silent on a specific issue, Mason's Manual of Legislative Procedure shall govern.

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on February 5<sup>th</sup>, 2013 in Room 450 CAP at 3:00 p.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary (late arrival)  
Carter, 42<sup>nd</sup>  
Cowsert, 46<sup>th</sup> (late arrival)  
Ligon, 3<sup>rd</sup> (left early)  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 3:07 p.m.

### The following bills were presented to the Committee:

**SB 12 (Senator McKoon, 29<sup>th</sup>):** Relating to general torts, so as to limit liability for schools entering into a recreational joint-use agreement with a public or private entity for the use of school facilities.

Chairman McKoon, 29<sup>th</sup> put this bill on HOLD until the next meeting.

**SB 66 (Senator Stone, 23<sup>rd</sup>):** Relating to courts, so as to increase penalties that can be imposed for contempt of superior and state courts from \$500 to \$1000.

Stone, 23<sup>rd</sup>, was recognized to speak to his bill, which provides an increase for penalties for contempt of superior and state courts. The current contempt fine ceiling is \$500, and this bill would increase the ceiling to \$1000, to adjust to the value of today's dollar. Carter, 42<sup>nd</sup> asked if \$1000 was enough, and Stone, 23<sup>rd</sup> said that there had once been a proposal for an increase to \$3000. Discussion followed with questions from Cowsert, 46<sup>th</sup>. A motion to **do pass** was made by Stone, 23<sup>rd</sup>, and seconded by Crosby, 13<sup>th</sup>. Vote carried (5-1). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Carter, 42<sup>nd</sup>, and Stone, 23<sup>rd</sup>. Nay vote was Cowsert, 46<sup>th</sup>.

**SB 66 DO PASS**

### Guest Speakers:

Judge Susan Edline, with Fulton Magistrate Court: Magistrate judges are in favor of this bill, as it will be another tool in the toolbox for judges to use.

Judge Osburn, with Superior Court: In support of this bill; would like to see the contempt fine be increased for all courts.

Judge Huagy, with Fulton County Court: Spoke in favor of the bill.

With no further business, Chairman McKoon adjourned the meeting at 3:50 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on February 13<sup>th</sup>, 2013 in Room 307 CLOB at 4:00 p.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman (left early)  
Bethel, 54<sup>th</sup> -- Secretary  
Fort, 39<sup>th</sup> (left early)  
Carter, 42<sup>nd</sup>  
Cowsert, 46<sup>th</sup>  
Tippins, 37<sup>th</sup> (left early)  
Ligon, 3<sup>rd</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 4:00 p.m.

### The following bills were presented to the Committee:

**SB 125 (Senator Stone, 23<sup>rd</sup>):** Liability of owners and occupiers of land, so as to codify the duty of a possessor of land to a trespasser against harm.

Stone, 23<sup>rd</sup>, was recognized to speak to his bill, which he requested a hearing only on because he did not want the current version voted on at the meeting. He made clear that this law would codify existing common law regarding the duty owed to trespassers against harm; it was not tort reform.

### Guest Speakers:

Mark Middleton: Spoke in support of the bill. He wanted to reiterate that many organizations are also in support of the bill, including the Chamber of Commerce, Realtors, Railroads, NFIB, and EMC, among others. Carter, 42<sup>nd</sup> asked where the definition for attractive nuisance came from. Mr. Middleton replied the definition came from the 1982 *Gregory* case.

Bill Clark, Georgia Trial Lawyers Association: In support of this bill, reiterated that it is codifying current premises liability, and that GTLA would support more premises liability being codified.

**SB 12 (Senator McKoon, 29<sup>th</sup>):** Relating to general torts, so as to limit liability for schools entering into a recreational joint-use agreement with a public or private entity for the use of school facilities.

Senator McKoon, 29<sup>th</sup>, introduced this bill which is intended to help the battle against childhood obesity by creating joint-use agreements for schools and other entities for after school use. This bill would limit liability for the governing authority of a school that operates under a recreational agreement with a public or private group or organization. Carter, 42<sup>nd</sup>, had a question about the language of the bill and legislative counsel answered his question. Ligon, 3<sup>rd</sup>, suggested changing "adequate" to "a minimum of \$1 million" for insurance coverage at line 27. Amendments were voted on and passed. Motion to **do pass SB 12 by substitute** made by Cowsert, 46<sup>th</sup>, and seconded by Ligon, 3<sup>rd</sup>. Vote on amended version. Vote carried (8-0). Yay votes were McKoon, 29<sup>th</sup>, Fort, 39<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 12 DO PASS BY SUBSTITUTE**

**Guest Speakers:**

Dante McKay, with Voices for Georgia's Children: Spoke in support of this bill, as Georgia has the second highest rate of childhood obesity in the U.S., and the state spends \$2.8 million a year on obesity related costs. This bill will help lower the obesity rate in Georgia's children.

Bill Clark, Georgia Trial Lawyers Association: Spoke in support of this bill and offered some re-wording for clarity.

**SB 113 (Senator Jones, 10<sup>th</sup>):** Relating to the personal services of a summons on a corporation.

Senator Jones, 10<sup>th</sup>, along with the Secretary of State counsel, Vincent Russo, introduced this bill as changing the process for service of a complaint on a corporation. The bill would require service to be completed on a registered agent of the corporation, or on the Secretary of State's office. Carter, 42<sup>nd</sup> was concerned that this would create problems when serving process on foreign corporations, or corporations who register with one name but Do Business As (DBA) another corporation. Discussion followed. The bill was then put on HOLD and no vote was recorded.

**Guest Speakers:**

Bill Clark, Georgia Trial Lawyers Association and Jay Sadd with Slappy & Sadd: Did not support this bill, as they said it may be difficult to find DBA corporations to serve them with process, and that the defendant in a case should have a physical place to serve someone with process. They did believe that removing authority from "secretaries" and "cashiers" would be fine.

Jeff Hamling with Georgia Chamber: Spoke in favor of this bill and said that it was pro-business.

With no further business, Chairman McKoon adjourned the meeting at 5:00 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### **DATE, TIME, LOCATION:**

The Senate Judiciary Committee met on February 20<sup>th</sup>, 2013 in Room 307 CLOB at 4:00 p.m.

### **SENATORS PRESENT:**

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman (absent for SB 105)  
Bethel, 54<sup>th</sup> – Secretary  
Carter, 42<sup>nd</sup>  
Tippins, 37<sup>th</sup>  
Cowsert, 46<sup>th</sup> (left early)  
Ligon, 3<sup>rd</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 4:00 p.m.

### **The following bills were presented to the Committee:**

**SB 105 (Senator Davis, 22<sup>nd</sup>):** “Uniform Fraudulent Transfer Act,” provide a charitable contribution made to a charitable organization shall not be deemed a fraudulent transfer when the charitable organization receives such contribution in good faith. Substitute LC 35 2901S was brought to the meeting that changed the word “provide” to “clarify.”

Davis, 22<sup>nd</sup>, was recognized to speak to his bill, which allows most charitable organizations to keep property received so long as the charity was not aware that the transfer was made fraudulently. Stone, 23<sup>rd</sup> moved to Do Pass by substitute and Ligon, 3<sup>rd</sup> seconded. Vote carried (8-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 105 DO PASS BY SUBSTITUTE**

### **Guest Speakers:**

Eric Bailey, American Cancer Society: Spoke in favor of the bill. Charitable contributions are the primary source of funds for organizations like the ACS, and although they work to ensure that all fundraising efforts adhere to state and federal laws, they would like to be protected when they receive contributions in good faith that ultimately turn out to be fraudulent.

**SB 125 (Senator Stone, 23<sup>rd</sup>):** Liability of owners and occupiers of land, so as to codify the duty of a possessor of land to a trespasser against harm.

Stone, 23<sup>rd</sup>, was recognized to speak to his bill, which was heard in the last committee meeting on 2/13. An updated version LC 29 5488S was presented. Bethel, 54<sup>th</sup> moved to Do Pass by substitute and Ligon, 3<sup>rd</sup> seconded. Vote carried (8-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 125 DO PASS BY SUBSTITUTE**

**HR 4 (Representative Geisinger, 48<sup>th</sup>):** Proposing a settlement of the boundary dispute between the State of Georgia and the State of Tennessee.

Geisinger, 48<sup>th</sup>, introduced his resolution along with Brad Carver, of Hall Booth Smith, P.C. This bill would offer the state of Tennessee a settlement to the long-standing border dispute between the state of Georgia and Tennessee over Georgia's northern border at the 35<sup>th</sup> parallel. This resolution would allow Georgia access to the Tennessee River, which could support projected growth in the Atlanta metro region. Carter, 42<sup>nd</sup> asked whether the Governor had been consulted on the resolution, and why we had not sued Tennessee in the Supreme Court to preserve our rights. Bethel, 54<sup>th</sup> said that this resolution was a good effort to solve a long standing dispute in good faith. Discussion followed.

Bethel, 54<sup>th</sup> moved to Do Pass and Ligon, 3<sup>rd</sup> seconded. Vote carried (6-1). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. Senator Carter, 42<sup>nd</sup> voted No.

[HR 4 DO PASS](#)

**Guest Speaker:**

Brad Carver of Hall Booth Smith, P.C. spoke in support of the bill.

With no further business, Chairman McKoon adjourned the meeting at 5:45 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on February 25<sup>th</sup>, 2013 in Room 307 CLOB at 2:00 p.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary  
Carter, 42<sup>nd</sup> (left early)  
Cowsert, 46<sup>th</sup>  
Tippins, 37<sup>th</sup> (left early)  
Ligon, 3<sup>rd</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 2:07 p.m.

### The following bills were presented to the Committee:

**SB 185 (Senator Stone, 23<sup>rd</sup>):** Relating to secured transactions, as to modernize the article; to change and provide for definitions, to amend Code Section 33-10-1 of the Official Code of Georgia Annotated, relating to assets considered in determining financial condition of insurers.

Stone, 23<sup>rd</sup>, was recognized to speak to his bill, which modernizes the code's secured transactions section. This is the first revision in 11 years, and it clarifies previous questions and modernizes provisions. The Georgia State Bar recommended the changes. Carter, 42<sup>nd</sup>, asked if the section on fixture filings was being revised to be in line with the American Law Institute (ALI) recommended rule, and Ms. Noland said that it will be in line with the ALI rule. Stone, 23<sup>rd</sup>, moved for Do Pass and Carter, 42<sup>nd</sup>, seconded. Vote carried (8-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 185 DO PASS**

### Guest Speakers:

Bobbi Acord Noland, Chair, UCC Committee, Business Law Section of Georgia State Bar: Spoke on behalf of the bill, which clarifies and corrects areas from the 2001 overhaul of the section. The changes are uniform, which will put Georgia in line with 29 other states that have adopted the Uniform Commercial Code (UCC), Article 9, on secured transactions. This bill has been vetted with lending attorneys and the UCC committee.

Anthony Cianciotti, UCC Committee, Georgia State Bar: Spoke in favor of the bill.

**SB 193 LC 41 00061 (Senator Cowsert, 46<sup>th</sup>):** This bill amends Chapter 11 of Title 19 of the O.G.C.A., relating to the enforcement of duty of support, so as to update the Uniform Interstate Family Support Act.

Cowsert, 46<sup>th</sup>, was recognized to speak to this bill, which integrates foreign child support orders into Georgia, in line with the Uniform Interstate Family Support Act (UIFSA). Bethel, 54<sup>th</sup>, asked whether this would create more work for courts in two jurisdictions. Discussion followed. Ligon, 3<sup>rd</sup>, wanted to make sure that this would not subject anyone to personal jurisdiction where they had not had minimum contacts. Rep. Quick said that having a child with someone is enough to establish minimum contacts for personal jurisdiction in Georgia, and Cowsert, 46<sup>th</sup>, stated that line 1117 answers Ligon's question. Bethel, 54<sup>th</sup>, moved to Do Pass and Cowsert, 46<sup>th</sup>, seconded. Vote carried (7-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 193 DO PASS**



**Guest Speakers:**

Becca Crumrine, Family Law Section, Georgia State Bar: Spoke in favor of the bill, as it updates the UIFSA to streamline the system.

Representative Regina Quick: Spoke in favor of the bill, which provides a procedural framework for child support order modification in Georgia.

**SB 159 LC 29 5459 (Senator Ligon, 3<sup>rd</sup>):** This bill increases the time from 90 years to 360 years for a non-vested property interest or power of appointment to vest without violating the uniform statutory rule against perpetuities.

Ligon, 3<sup>rd</sup>, was recognized to speak to his bill, which extends the time in which a non-vested property interest will vest. It will allow property to remain in trust for 360 years. This bill is sponsored by the Georgia State Bar to bring our state in to uniformity with surrounding states that have already extended the period of time for the rule against perpetuities. Bethel, 54<sup>th</sup>, asked why the extension is for 360 years, and not another amount of time, and also whether surrounding states that had extended the time had put any requirements on the property held in trust if it is allowed to be maintained in the same family for such a long period of time. Cowsert, 46<sup>th</sup>, asked if there were any tax implications to the bill. Mr. Djurie said there would not be any Georgia tax implications, but there may be some Federal estate tax and generation-skipping tax implications for trusts with certain dollar amounts.

Bethel, 54<sup>th</sup>, moved to TABLE the bill and Cowsert, 46<sup>th</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 159 TABLED IN COMMITTEE**

**Guest Speaker:**

Nick Djurie, Fiduciary Law Section, Georgia State Bar: Spoke in favor of the bill, saying that it will attract trust business from surrounding states that have already extended their period of time, including Florida, Tennessee, and Alabama. This bill will reduce the tax burden on property that is subject to the estate tax.

**SB 187 LC 28 6599 (Senator Hill, 32<sup>nd</sup>):** A bill relating to requirements, procedures, and conditions for verification of lawful presence within the United States, so as to provide exemptions for the board of commissioners of the Georgia Student Finance Commission and the board of directors of the Georgia Student Finance Authority.

Hill, 32<sup>nd</sup>, was recognized to speak to this bill. He said that exempting the Georgia Student Finance Commission and Student Finance Authority was going to reduce the paperwork necessary to comply with federal law regarding lawful presence in the United States. Because Federal financial aid paperwork is required annually, the state forms would be duplicative. Stone, 23<sup>rd</sup>, moved for Do Pass and Bethel, 54<sup>th</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**SB 187 DO PASS**

With no further business, Chairman McKoon adjourned the meeting at 5:45 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on February 27<sup>th</sup>, 2013 in Room 307 CLOB at 4:00 p.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary (left early)  
Carter, 42<sup>nd</sup>  
Cowsert, 46<sup>th</sup>  
Tippins, 37<sup>th</sup>  
Ligon, 3<sup>rd</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 4:10 p.m.

### The following bills were presented to the Committee:

**SB 204 LC 21 2179S (Senator Cowsert, 46<sup>th</sup>):** Relating to judgments and rulings deemed directly appealable, procedure for review of judgments, orders, or decisions, so as to limit the scope of judgments or orders in child custody cases which are subject to direct appeal; to repeal conflicting laws; and for other purposes.

Cowsert, 46<sup>th</sup>, was recognized to speak to his bill, which will correct an oversight from a previous 2009 overhaul. The words “not limited to,” created the unintended consequences of increasing litigation over orders in child custody cases. Judge McFadden said that the Family Law section would like to add “or modifying” to bring Georgia back in line with other states. Carter, 42<sup>nd</sup>, asked whether adding “modifying” would be beneficial, and Judge McFadden said that it would. Stone, 23<sup>rd</sup>, asked what orders would be precluded after this bill passes, and Judge McFadden answered that it would mostly preclude repeated motions to recuse judges from hearing custody cases. Bethel, 54<sup>th</sup>, asked whether there should be an amendment to have the bill be effective immediately, and whether that would have any effect on court dockets. Judge McFadden said that it would be best to be effective immediately and that it would not affect court dockets.

Bethel moved for an amendment to the substitute and Carter, 42<sup>nd</sup>, seconded. Stone, 23<sup>rd</sup> moved to Do Pass by Substitute and Carter, 42<sup>nd</sup>, seconded. Vote carried (8-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

### **SB 204 DO PASS BY SUBSTITUTE**

### Guest Speakers:

Judge Chris McFadden, Georgia Court of Appeals: Spoke favorably of this bill. This would fix the problem of cases being litigated over appeals, and would lower the rate of nitpicking issues that come up for appeal.

Jeff Swart, Appellate Practice Section of Georgia Bar Association: Spoke in favor of this bill.

**SB 127 (Senator Heath, 31<sup>st</sup>):** Relating to definitions used in limiting liability of certain property owners, so as to revise the definition of recreational purposes to include aviation activities...

Heath, 31<sup>st</sup>, was recognized to speak to this bill. This bill would allow private property owners to allow small aircraft to use their property for air strips and would protect them from liability involved in allowing non-commercial use of their land. It would expand the “recreational purposes” to include flights where no money is charged for the use of the land. Discussion followed. Cowsert, 46<sup>th</sup>, wanted to know whether there had been any legal cases where a pilot had sued a landowner for injuries arising from use of his land, and Mr. Sadd said there had not been. Carter, 42<sup>nd</sup>, asked whether someone could open their land to non-commercial flights in order to extinguish liability in certain cases. Heath, 31<sup>st</sup>, said there were more deaths from boating and swimming than aircraft, and that the pilot is not excused from personal

liability so that injured parties would still have some form of relief. Cowser, 46<sup>th</sup>, moved to Do Pass and Tippins, 37<sup>th</sup>, seconded. Vote carried (6-2). Yea votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowser, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, Ligon, 3<sup>rd</sup>. Nay votes were Carter, 42<sup>nd</sup>, and Stone, 23<sup>rd</sup>.

**SB 127 DO PASS**

**Guest Speakers:**

Jay Sadd, Georgia Trial Lawyers Association: Spoke against this bill, which he said would limit the liability of property owners for a dangerous activity. He said the recreational use statute's intent has less dangerous activities exempted from liability for landowners, and that piloting a plane is much different than hiking or water skiing. He said that limiting liability would be limiting accountability of landowners, and it would be bad public policy.

**SB 113 (Senator Jones, 10<sup>th</sup>):** Relating to the personal services of a summons on a corporation. This was a HEARING ONLY.

Senator Jones, 10<sup>th</sup>, introduced this bill as changing the process for service of a complaint on a corporation. The bill would require service to be completed on a registered agent of the corporation, or on the Secretary of State's office. Carter, 42<sup>nd</sup>, was concerned about creating a new "order" of serving process, and the potential litigation consequences of whether service was properly given on a corporation. Stone, 23<sup>rd</sup>, asked whether the State Bar had weighed in on the bill, and Jones, 10<sup>th</sup>, said that they had not. Discussion followed.

**Guest Speakers**

Jay Sadd, Georgia Trial Lawyers Association: Spoke against this bill, and said it would not necessarily be good for businesses that are trying to serve other businesses with a complaint for a lawsuit. He said this will open up a "Pandora's box" of litigation in the courts of appeals in order to figure out the proper order of service that this statute is trying to achieve.

With no further business, Chairman McKoon adjourned the meeting at 5:45 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on March 4<sup>th</sup>, 2013 in Room 307 CLOB at 10:00 a.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary  
Carter, 42<sup>nd</sup>  
Cowsert, 46<sup>th</sup>  
Tippins, 37<sup>th</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 10:13 a.m.

### The following bills were presented to the Committee:

**SB 113 (Senator Jones, 10<sup>th</sup>):** Relating to the personal services of a summons on a corporation. Senator Jones, 10<sup>th</sup>, introduced this bill as changing the process for service of a complaint on a corporation. The bill would require service to be completed on a registered agent of the corporation, or on the Secretary of State's office. The newest update to the bill removes secretaries and cashiers as those who can receive service, and adds a definition of "managing agent." Carter, 42<sup>nd</sup>, said that having a definition of "managing agent" under paragraph (1) should be included as well under paragraph (2). Discussion followed and a substitute was created, LC 29 5599S. Bethel, 54<sup>th</sup>, moved to amend and Stone, 23<sup>rd</sup>, seconded. Bethel, 54<sup>th</sup>, moved to **Do pass by substitute** and Stone, 23<sup>rd</sup>, seconded. Vote was unanimous Do pass by Substitute (7-0).

**SB 113 DO PASS BY SUBSTITUTE**

### Guest Speakers:

Jeff Hamling, Georgia Chamber of Commerce: Spoke in support of this bill substitute. He said that this was an important issue for the chamber.

Kyle Jackson, NFIB: Spoke in support of this bill and said that it improves the service of process requirements for small businesses.

Jason Rhodes, Georgia Trial Lawyers Association: Spoke in favor of the bill, but had one concern over using the term "express authority" in the definition for managing agent. He said case law allows those who have apparent authority to get served as well.

**SB 165 LC 29 5589S (Senator McKoon, 29<sup>th</sup>):** Relating to the number of superior court judges for each judicial circuit, so as to provide for an additional judge of the Chattahoochee Judicial Circuit and the Oconee Judicial Circuit. Senator McKoon, 29<sup>th</sup>, introduced this bill, which adds another judge to the Chattahoochee Circuit, and another to Oconee, which are next on the list to get new judges appointed. Crosby, 13<sup>th</sup>, said that the Oconee court has seven prisons within its jurisdiction, so petitions for habeas corpus fill up the dockets and they are in need of another judge to help lower the burden on the two current judges. Bethel, 54<sup>th</sup>, moved to **Do pass by substitute** and Stone, 23<sup>rd</sup>, seconded. Vote was unanimous Do pass by Substitute (7-0).

**SB 165 DO PASS BY SUBSTITUTE**

### Guest Speaker:

Judge Pridgen, Council of Superior Court Judges: Spoke in favor of the bill and said that the Oconee Judicial Circuit was in dire need of another judge to lighten the load.

**SB 239 LC 37 1594S (Senator Mullis, 53<sup>rd</sup>):**

Per Chairman McKoon, 29<sup>th</sup>, this bill is going to a study subcommittee.

With no further business, Chairman McKoon adjourned the meeting at 10:41 a.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on March 11<sup>th</sup>, 2013 in Room 307 CLOB at 2:00 p.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman

Bethel, 54<sup>th</sup> – Secretary

Carter, 42<sup>nd</sup>

Cowsert, 46<sup>th</sup>

Fort, 39<sup>th</sup> (Late arrival)

Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 2:10 p.m.

### The following bills were presented to the Committee:

**HB 3 LC 29 5496S (Representative Willard, 51<sup>st</sup>):** Relating to the practice of professional forestry and evidence, conforming provisions of the Code from the passage of HB 24 and HB 214, to change provisions relating to using a writing to refresh memory, and to rename the former Division of Public Health of the Department of Community Health to the new Department of Public Health.

Rep. Willard, 51<sup>st</sup>, introduced his bill which will (1) make corrections to the evidence code regarding forestry records, (2) changes Community Health to Public Health, and (3) fixes evidence code. The incorrect copy of the substitute was presented and the committee stood at ease to straighten things out. There were no questions on the bill. Bethel, 54<sup>th</sup>, moved to pass by substitute and Carter, 42<sup>nd</sup>, seconded. Bethel, 54<sup>th</sup>, moved to amend to have the bill reflect the House Committee changes. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Fort, 39<sup>th</sup>, and Stone, 23<sup>rd</sup>. Cowsert, 46<sup>th</sup>, will carry the bill in the Senate.

**HB 3 DO PASS BY SUBSTITUTE**

**HB 79 LC 25 6153S (Representative Willard, 51<sup>st</sup>):** A bill to amend the O.G.C.A. to revise, modernize, and correct errors or omissions in the code in furtherance of the work of the Code Revision Commission.

Representative Willard, 51<sup>st</sup>, introduced this bill, which cleans up the code. There was no discussion or questions. Carter, 42<sup>nd</sup>, moved to pass and Bethel, 54<sup>th</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry the bill in the Senate.

**HB 79 DO PASS**

**HB 451 (Representative Smyre, 13<sup>th</sup>):** A bill to provide for an additional judge on the Chattahoochee Judicial Circuit and the Oconee Judicial Circuit.

Rep. Smyre, 135<sup>th</sup>, introduced this bill, which adds a new judge to the Chattahoochee circuit and the Oconee circuit. It is the same language as SB 165, which was passed out of committee. There was no discussion on this bill. Carter, 42<sup>nd</sup>, moved to pass and Bethel, 54<sup>th</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, and Stone, 23<sup>rd</sup>.

**HB 451 DO PASS**

With no further business, Chairman McKoon adjourned the meeting at 2:45 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### **DATE, TIME, LOCATION:**

The Senate Judiciary Committee met on March 13<sup>th</sup>, 2013 in Room 307 CLOB at 4:00 p.m.

### **SENATORS PRESENT:**

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary  
Carter, 42<sup>nd</sup> (left after HB 242)  
Cowsert, 46<sup>th</sup> (left after HB 242)  
Ligon, 3<sup>rd</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 4:25 p.m.

### **The following bills were presented to the Committee:**

**HB 94 LC 29 5521S (Representative Welch, 110<sup>th</sup>):** Relating to general provisions for damages, so as to change provisions relating to the reduction of earnings to present value, to provide for determining the present value of certain future damages, and related matters.

Rep. Welch, 110<sup>th</sup>, introduced his bill, which will free up the trier of facts to determine damages reduced to present value. This bill will reduce speculation on how much investment products would be worth in the future by excluding them from the calculations. Bethel, 54<sup>th</sup>, asked whether evidence of annuities will be taken into account with this bill, and Welch, 110<sup>th</sup>, said that they would be excluded. Bethel, 54<sup>th</sup>, moved to pass and Crosby, 13<sup>th</sup>, seconded. Vote carried (7-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry this bill in the Senate.

**HB 94 DO PASS**

### **Guest Speakers:**

Bill Clark, Georgia Trial Lawyers Association: Spoke in favor of this bill. The trial lawyers worked with the defense bar and both sides agree that this is a good compromise to lower the expense at trial.

Joe Criegan, Mag Mutual: Spoke in favor of the bill and said that it was a good compromise.

Michael Shellnut, Doctor's Association: Spoke in favor of this bill.

**HB 194 LC 29 5443S (Representative Powell, 171<sup>st</sup>):** Relating to general provisions regarding public utilities so as to provide venue for actions against gas companies.

Rep. Willard, 51<sup>st</sup>, introduced this bill for Rep. Powell, 171<sup>st</sup>. This bill changes the venue for gas companies to be in line with other utilities such as electric companies and railroads. The bill passed unanimously through the House. Bethel, 54<sup>th</sup>, moved to pass and Stone, 23<sup>rd</sup>, seconded. Vote carried (7-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. Crosby, 13<sup>th</sup>, will carry this bill in the senate.

**HB 194 DO PASS**

### **Guest Speakers:**

Skin Edge, Atlanta Gas and Light: Spoke in favor of this bill.

**HB 242 LC 29 5500ERS (Representative Willard, 51<sup>st</sup>):** A bill to amend Title 15 O.C.G.A. to substantially revise and modernize provisions relating to juvenile proceedings and enact comprehensive juvenile justice reforms recommended by the Governor's Special Council on Justice Reform in Georgia.



Rep. Willard, 51<sup>st</sup>, introduced this bill by giving a brief history of the many years it took for this bill to become reality. The Young Lawyers Division of the State Bar began the process, and worked with many interest groups. The Governor's office got involved and the Commission on Justice Reform reviewed the code and gave input, along with other non-partisan groups such as the Pew Institute and Annie E. Casey Foundation. Groups that were directly affected such as the Department of Family and Child Services, Department of Community Health, and Juvenile Judges were all involved in the process as well. The amendments that were presented with the bill were mainly to change timelines that were too short for Juvenile Judges and to include language from HB 219 and HB 361. Stone, 23<sup>rd</sup>, moved to pass by substitute and Bethel, 54<sup>th</sup>, seconded. Bethel, 54<sup>th</sup>, moved to amend with AM 29 2165. Vote carried (7-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Carter, 42<sup>nd</sup>, Cowser, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

#### **HB 242 DO PASS BY SUBSTITUTE**

##### **Guest Speakers:**

Chuck Spehas, Prosecuting Attorneys Bar: Spoke in support of this bill.

Robin Clark, State Bar of Georgia: Supports the bill and said that it is fully vetted by all attorneys who work with the juvenile code, and it includes all of the best perspectives.

Sharon Hill, Melissa Carter, Pat Willis; Just Georgia Coalition: Spoke as representatives of a juvenile justice coalition. Spoke in favor of the bill.

Jim Outman, Adoption Attorney: Spoke mainly in favor of the bill but presented some improvements that he thought would improve due process for birth parents.

**HB 21 LC 29 5554S (Representative Oliver, 82<sup>nd</sup>):** A bill amending general provisions relative to adoption, so as to provide for post-adoption contact agreements, providing procedure and jurisdiction, and related matters.

Rep. Oliver, 82<sup>nd</sup>, introduced this bill which will benefit all parties in an adoption by creating open communication between the birth parents and the child. It offers a non-mandatory option to create a framework for post-adoption contact agreements between children and their birth parents, which includes a mediation provision. The largest portions of adoptions in Georgia are out of foster care, and this bill will help those kids maintain contact with their birth parents. Bethel, 54<sup>th</sup>, asked how a child who was a party to the agreement before they turn 14 will be able to modify the agreement after their 14<sup>th</sup> birthday. Oliver, 82<sup>nd</sup>, said that the bill limits modification to the adoptive parents, however, realistically, they would work with the child to modify the agreement. Stone, 23<sup>rd</sup>, moved to do pass by substitute and Bethel, 54<sup>th</sup>, seconded. Ligon, 3<sup>rd</sup>, moved to amend with outlined amendments. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

#### **HB 21 DO PASS BY SUBSTITUTE**

##### **Guest Speakers:**

Jim Outman, Adoption Attorney: Spoke in favor of this bill.

Karlise Greer, Adoption Attorney: Does not support the bill because she does not believe that children should be made a party to an agreement because it is inconsistent with contract law.

Ruth Claiborne, Georgia Council for Adoption Lawyers: Spoke in favor of the bill and said that Georgia is not being selected as a place for adoption because there is not a framework for post-adoption contact, like there is in many other states.

Kirsten Widner, Barton Center: Spoke in favor of this bill.

With no further business, Chairman McKoon adjourned the meeting at 5:45 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### DATE, TIME, LOCATION:

The Senate Judiciary Committee met on March 14<sup>th</sup>, 2013 in Room 310 CLOB at 2:30 p.m.

### SENATORS PRESENT:

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary  
Fort, 39<sup>th</sup> (came after HB 296)  
Tippins, 37<sup>th</sup>  
Stone, 23<sup>rd</sup>

Chairman McKoon called the meeting to order at 2:35 p.m.

### The following bills were presented to the Committee:

**HB 446 LC 33 5026 (Representative Peake, 141<sup>st</sup>):** Relating to guardian and ward, so as to provide for certain additional requirements for a proposed ward who resided in another state prior to the submission of a guardianship or conservatorship petition for such proposed ward.

Rep. Peake, 141<sup>st</sup> introduced this bill, which will prevent "granny snatching," by one family member in another state who seeks to become the guardian in order to control the finances of their elderly parent. Bethel, 54<sup>th</sup>, moved to pass and Stone, 23<sup>rd</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup> and Stone, 23<sup>rd</sup>. Bethel, 54<sup>th</sup> will carry this bill in the Senate.

**HB 446 DO PASS**

### Guest Speakers:

Kathy Simpson, Alzheimer's Association Georgia Chapter: Spoke in support of the bill that will prevent people from taking guardianship over their parents when they are elderly and unaware of the situation, which will help the elderly from being exploited.

**HB 296 LC 28 6607S (Representative Powell, 32<sup>nd</sup>):** Relating to motor vehicles so as to add certain persons to those authorized to receive motor vehicle registration records; to add certain persons to the list of persons authorized to receive motor vehicle certificate of title records.

Rep. Powell, 32<sup>nd</sup> introduced this bill, which will allow private investigators to get driver tag information and title information from the Department of Driver Services. This bill will not allow for the information on driver's licenses to be given out. This will help law enforcement because private investigators help find missing persons, and with other cases like child custody cases, etc. Currently this information is hard to get from law enforcement. This will give regulatory power over the requests. Discussion followed. Bethel, 54<sup>th</sup>, moved to pass and Tippins, 37<sup>th</sup>, seconded. Bethel, 54<sup>th</sup>, moved to pass by substitute by amending to change the effective date as suggested by legislative counsel, amending line 68 to change "or" to "and"; Crosby, 13<sup>th</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup> and Stone, 23<sup>rd</sup>. Mullis, 53<sup>rd</sup>, will be the Senate sponsor.

**HB 296 DO PASS BY SUBSTITUTE**

Fort, 39<sup>th</sup>, arrived.

**HB 336 LC 29 5530ERS (Representative Powell, 171<sup>st</sup>):** Relating to provisional and final remedies and special proceedings in civil practice, so as to provide for certain pre-suit settlement offers and agreements as to tort claims arising out of use of motor vehicles.

Rep. Willard, 51<sup>st</sup>, presented this bill for Rep. Powell. This bill will reduce “bad faith” claims when insurance is involved in motor vehicle tort claims. The bill was proposed last year and became too convoluted with input from factions. This year the factions worked out and came to an agreement on this bill. Stone, 23<sup>rd</sup>, moved to pass and Fort, 39<sup>th</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Fort, 39<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>. Bethel, 54<sup>th</sup>, will carry this bill in the Senate.

**[HB 336 DO PASS](#)**

**Guest Speakers:**

Bobby Porter & Bill Clarke - State Farm, Georgia Trial Lawyers Association: Spoke in favor of this bill, which is a fair compromise and the right thing to do for both sides. They both want the bill passed as is because it is a fragile agreement.

**[HB 161 LC 29 5383 \(Representative Atwood, 179<sup>th</sup>\)](#)**: Relating to trial juries in general, so as to change provisions relating to the oath of bailiffs and to provide for related matters.

Rep. Atwood, 179<sup>th</sup>, presented this bill, which is a clean-up bill, dealing with oath of bailiffs. This bill modernizes the language, which limits electronic devices in the jury room and clarifies language. Bethel, 54<sup>th</sup>, moved to pass and Stone, 23<sup>rd</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Fort, 39<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>. Bethel, 54<sup>th</sup>, will carry this bill in the Senate.

**[HB 161 DO PASS](#)**

**[HB 175 LC 29 5463S \(Representative Hightower, 68<sup>th</sup>\)](#)**: Relating to covenants and warranties, so as to provide that certain covenants run with the land as a matter of public policy of this state and to provide for related matters.

Rep. Hightower, 68<sup>th</sup>, presented this bill, which codifies covenant common law in Georgia. The House Judiciary committee made amendments to accommodate expert covenant attorneys' recommendations. This bill provides that covenants that are properly recorded do run with the land, which mirrors language from case law. Discussion followed. Stone, 23<sup>rd</sup>, moved to pass and Tippins, 37<sup>th</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Fort, 39<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry this bill in the Senate.

**[HB 175 DO PASS](#)**

With no further business, Chairman McKoon adjourned the meeting at 3:15 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### **DATE, TIME, LOCATION:**

The Senate Judiciary Committee met on March 20<sup>th</sup>, 2013 in Room 307 CLOB at 3:30 p.m.

### **SENATORS PRESENT:**

McKoon, 29<sup>th</sup> – Chairman (late after HB 135)  
Crosby, 13<sup>th</sup> – Vice-Chairman (arrived after mtg. called to order)  
Bethel, 54<sup>th</sup> – Secretary  
Cowsert, 46<sup>th</sup>  
Ligon, 3<sup>rd</sup>  
Stone, 23<sup>rd</sup>

Secretary Bethel, 54<sup>th</sup>, called the meeting to order at 3:41 p.m.

### **The following bills were presented to the Committee:**

**HB 135 LC 29 5432S (Representative Welch, 110<sup>th</sup>):** Relating to ante litem notice for municipalities, so as to provide that such notices shall specify the amount of damages sought.

Rep. Welch, 110<sup>th</sup>, introduced this bill which will fix the law to mirror case law, which will help local governments settle claims against them early and avoid attorney's fees in order to save tax payer money. It also clarifies who is to be served with notice. There were no questions. Stone, 23<sup>rd</sup>, moved to pass and Cowsert, 46<sup>th</sup>, seconded. Vote carried (5-0). Yay votes were Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. Ligon, 3<sup>rd</sup>, will carry in the Senate.

**HB 135 DO PASS**

**HB 434 LC 29 5585ERS (Representative Weldon, 3<sup>rd</sup>):** Relating to liens of mechanics and materialmen, so as to provide that special liens include the amount due and interest on such amount...

Rep. Weldon, 3<sup>rd</sup>, introduced this bill which will provide that when there is a contract for improvements to real property, when the contract is not paid for, a lien may be made for the amount of the contract. Cowsert, 46<sup>th</sup>, asked whether this was for the benefit of the contractor. Weldon, 3<sup>rd</sup>, said that this was for the benefit of the bargain, not for the benefit of the contractor. They will get whatever was left unpaid. Ligon, 3<sup>rd</sup>, moved to pass by substitute and Stone, 23<sup>rd</sup>, seconded. Bethel, 54<sup>th</sup>, proposed an amendment to line 40, inserting "express or implied" before "contract" and inserting a comma on line 42 after "order" and adding "as provided by Code Section 44-14-361.1(e)," and striking lines 43-45. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. Senator Murphy, 27<sup>th</sup>, is sponsoring the bill in the Senate.

**HB 434 DO PASS BY SUBSTITUTE**

### **Guest speakers:**

Mark Woodall, Associated General Contractors had brought this issue to Rep. Weldon after a bad court case. This bill will take the law back to where it was before the *Manhattan* decision. He is in support of this bill.

Suzanne Williams, Home Builders' Association spoke in support of this great piece of legislation.

**HB 437 LC 21 2120 (Representative Willard, 51<sup>st</sup>):** Act to provide for the selection of the chief judge of the Atlanta Judicial Circuit, to provide for terms, to provide for powers and duties, and to repeal conflicting laws.

Rep. Willard, 51<sup>st</sup>, introduced this bill, which will help the Fulton county court which has 20 judges. Last year the two chief judges formed a task force committee to figure how the courts could function better, and they recommended this bill. It will outline the duties and responsibilities of the chief judge in superior court, which will clear up confusion. This bill has support from the court. There was no discussion. Crosby, 13<sup>th</sup>, moved to pass and Stone, 23<sup>rd</sup>, seconded.

Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. Crosby, 13<sup>th</sup>, will be the Senate sponsor.

**HB 437 DO PASS**

**HB 441 LC 21 2078 (Representative Willard, 51<sup>st</sup>):** Act to provide for the administration of the budget of the Superior Court of Fulton County.

Rep. Willard, 51<sup>st</sup>, presented this bill, which was one of the recommendations from the previously mentioned task force committee. This will let the court have meetings about their own budget, then talk to the county, and then the court will have the flexibility in the budget if there is savings in one area that is appropriated funding but it is not spent. This will cut the red tape between the court and the county in order to be more efficient. The court doesn't accumulate money; any leftover is given back to the general fund. Bethel, 54<sup>th</sup>, moved to pass and Stone, 23<sup>rd</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry in the Senate.

**HB 441 DO PASS**

**HB 506 LC 21 2152 (Representative Smyre, 135<sup>th</sup>):** A bill to provide for the selection of the chief judge of the Chattahoochee Judicial Circuit, to provide for terms of office, and to provide for filling vacancies in such office.

Rep. Smyre, 135<sup>th</sup>, introduced this bill, which will allow the members of the Chattahoochee Judicial Circuit to change the process in which they choose the chief judge. This codifies statutorily that the chief judge will be elected by a majority of the judges in the circuit. This is necessary now because with the changes in the budget there needs to be more certainty for the court. Bethel, 54<sup>th</sup>, moved to pass and Stone, 23<sup>rd</sup>, seconded. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry the bill in the Senate.

**HB 506 DO PASS**

**HB 160 LC 29 5668S (Representative Jacobs, 80<sup>th</sup>):** Mortgages; vacant and foreclosed real property registries; revise provisions

Rep. Jacobs, 80<sup>th</sup>, presented this bill, which has 3 parts: Part 1), Section 3 of the bill, has been around for 3 years and prohibits the practice of recording a covenant or other instrument that requires a fee that runs with the land, to be paid to the party that recorded the covenant after the property that is subject to the covenant is sold. Forty states have adopted a prohibition on collecting fees like this, and we are a distinct minority, but these are starting to pop up. This bill promotes the free transfer of property. Part (2), Section 2 of the bill, is a cleanup to a House bill from last year. On line 27 there were problems for attorneys where "transfer of the property" was not defined; the intent was for the deed to be recorded 60 days within the sale on the courthouse steps, and this fixes that problem. It also takes out "land disturbance permit" from the definition of foreclosed real property on line 22. Part (3), Section 1 of the bill fixes a result from a Court of Appeals and Supreme Court case that allowed legal malpractice claims to be assigned to others. Sections 2 and 3 of the bill should remain becoming effective July 2013, but Section 1 should be amended to be effective upon Governor's signature. Stone, 23<sup>rd</sup>, moved to pass by substitute and Ligon, 3<sup>rd</sup>, seconded.

Stone, 23<sup>rd</sup>, moved to amend, starting on line 67 - strike "This act" - and insert, "Sections 1, 4, and 5 of this Act shall become effective upon its approval by the Governor, or upon becoming law without such approval. Sections 2 and 3 of this Act " and Bethel, 54<sup>th</sup>, seconded. The amendment was adopted. Vote carried (6-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Cowsert, 46<sup>th</sup>, Crosby, 13<sup>th</sup>, Ligon, 3<sup>rd</sup>, and Stone, 23<sup>rd</sup>.

**HB 160 DO PASS BY SUBSTITUTE**

**Guest Speakers:**

John Taylor, State Bar of Georgia: Supports this bill, which puts us in line with more than 40 states that have adopted restrictions and prohibitions; some companies won't buy properties with these covenant restrictions and title companies won't insure properties with the restrictions. This is slowing the property transfer market, and with the market picking up this is the time to pass this bill.

Rusty Sewell, State Bar, supports this bill

With no further business, Chairman McKoon adjourned the meeting at 4:21 p.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

## JUDICIARY COMMITTEE MEETING

### **DATE, TIME, LOCATION:**

The Senate Judiciary Committee met on March 25th, 2013 in Room 307 CLOB at 8:00 a.m.

### **SENATORS PRESENT:**

McKoon, 29<sup>th</sup> – Chairman  
Crosby, 13<sup>th</sup> – Vice-Chairman  
Bethel, 54<sup>th</sup> – Secretary  
Stone, 23<sup>rd</sup>  
Tippins, 37<sup>th</sup>

Chairman McKoon, 29<sup>th</sup> called the meeting to order at 8:11 a.m.

### **The following bills were presented to the Committee:**

**HB 182 LC 29 5691S (Representative Weldon, 3<sup>rd</sup>):** Relating to juvenile court administration, so as to delete provisions relative to a rehearing on the order of an associate juvenile court judge; to provide for the appointment of a judge pro tempore...

Rep. Weldon, 3<sup>rd</sup>, introduced this bill which relates to Juvenile court. It makes a few modifications; first it takes out (c) when a juvenile has a hearing that is done by another judge outside of juvenile court, it can be reheard in juvenile court. This reflects changes from the juvenile code rewrite. Lines 34-36 are now unnecessary, and it will stop juveniles from getting a second bite at the apple in juvenile court as well as improving judicial economy. Finally, it provides for a juvenile court judge to be appointed in a case when there is a conflict. McKoon, 29<sup>th</sup>, asked whether Part III clears up the concerns from HB 242. Weldon, 3<sup>rd</sup>, said it does. Bethel, 54<sup>th</sup>, moved to pass by substitute and Stone, 23<sup>rd</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>.

### **HB 182 DO PASS BY SUBSTITUTE**

**HB 215 LC 29 5581S (Representative Benton, 31<sup>st</sup>):** Act to amend Chapter 6 of Title 15 of the O.C.G.A, relating to superior courts, so as to change provisions relating to filings in the clerk's office; to increase fees for certain filings; to change provisions relating to office hours...

Sen. McKoon, 29<sup>th</sup>, presented this bill, which was requested by the clerks of the court. Section (1) requires the clerk to note the date and time of receipt of a document submitted for filing, and Section (2) provides some flexibility for clerks' offices that have only 3 employees to have lunch hours. This bill had unanimous votes on the house floor. There were questions. Stone, 23<sup>rd</sup>, moved to pass and Crosby, 13<sup>th</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry in the Senate.

### **HB 215 DO PASS**

**HB 382 LC 29 5685S (Representative Powell, 171<sup>st</sup>):** Relating to general provisions for torts, so as to limit liability for a governing authority of a school that enters into a recreational joint-use agreement with a public or private entity; to provide for definitions; to provide for specifications for a recreational joint-use agreement; to provide for applicability; to provide an effective date.



Sen. McKoon presented this bill, which is substantially similar to SB 12 which was earlier passed out of the Judiciary Committee. It provides for a recreational joint-use agreement between a school and a non-governmental entity to address childhood obesity by increasing access to school facilities for after school programs. Various stakeholders gave input: non-profits, insurance, and trial lawyers. This substitute represents a compromise between all parties. The only significant changes from SB 12 had to do with language having to do with sovereign immunity and "governmental entity." Bethel, 54<sup>th</sup>, moved to do pass by substitute and Stone, 23<sup>rd</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry in the Senate.

**HB 382 DO PASS BY SUBSTITUTE**

**HB 499 LC 29 5606S (Representative Sheldon, 104<sup>th</sup>)**: Act to amend Chapter 1 of Title 51 of O.C.G.A., relating to general provisions for torts, so as to provide that payor guidelines and criteria under federal law shall not establish a legal basis for negligence or a standard of care for medical malpractice...

Rep. Sheldon, 104<sup>th</sup>, presented this bill, which was brought from growing concern about the Federal government in healthcare using cost cutting provisions. Payment policies that were intended to curb costs, not to set the standard of care for doctors in medical malpractice cases. Doctors are required under Federal law to comply with the payment policy, otherwise their payment is reduced. This bill makes it so the payment policy is only for insurance, it can't be used by insurance for a defense against a lawsuit or by patients as a cause of action in a court case. This will not define the standard of care in medical malpractice claims. Stone, 23<sup>rd</sup>, moved to pass and Bethel, 54<sup>th</sup>, seconded. Vote carried (5-0). Yay votes were McKoon, 29<sup>th</sup>, Bethel, 54<sup>th</sup>, Crosby, 13<sup>th</sup>, Tippins, 37<sup>th</sup>, and Stone, 23<sup>rd</sup>. McKoon, 29<sup>th</sup>, will carry in the Senate.

**HB 499 DO PASS**

**Guest Speakers:**

Trey Reese, Council for Mag Mutual, Hall Booth Smith: Supports this bill, but has some concerns about the language of the bill, which is fair to all parties. This ensures that payment can't be used as a defense or a cause of action in a malpractice action. It doesn't limit the patient's right to sue for malpractice. If the doctor doesn't comply with payment policies set out by Federal law, they don't get paid; it shouldn't be the standard of care.

Bill Clarke, Georgia Trial Lawyers Association: GTLA has worked on the bill since well before it being introduced, which first was a physician's shield act, but no one has ever used the payment to establish a standard of care, so the new bill has a defense and a plaintiff provision that makes it a balanced bill. Supports this version of the bill.

Michael Shellnut, Doctor's Company: Spoke in support of this bill.

Andy Owen, Mag Mutual: Supports this bill and appreciates Rep. Sheldon for her hard work.

With no further business, Chairman McKoon adjourned the meeting at 8:30 a.m.

RESPECTFULLY SUBMITTED:

/s/ Senator Charlie Bethel, 54<sup>th</sup>, Secretary

/s/ Donna Nealey, Recording Secretary

May 6, 2013

Mr. Bob Ewing  
Secretary of the Senate  
State Capitol  
Atlanta, GA 30334

**RE:** Senate Judiciary Committee  
Bills Left In Senate Judiciary Committee after the 2013 Session  
Listing Of Committee Meeting Dates

Dear Secretary Ewing:

The Senate Judiciary Committee respectfully submits the following Senate bills, House bills and/or Resolutions left in our committee out of the 41 we were assigned during the 2013 General Assembly session:

**SENATE BILLS/RESOLUTIONS**

[SB 123](#)  
[SB 239](#)

[SB 126](#)  
[SB 269](#)

[SB 159](#)  
[SR 420](#)

[SB 221](#)

**HOUSE BILLS/RESOLUTIONS**

None left in Judiciary Committee for 2013 Session

Please find attached the following documents:

- Minutes for the dates listed below
- Senate Judiciary Committee members and their addresses
- Rules for Senate Judiciary Committee 2013 session
- Bill status report for all that went through Senate Judiciary Committee

Listed below are the dates for the Senate Judiciary Committee meetings.

- February 5, 2013
- February 13, 2013
- February 20, 2013
- February 25, 2013
- February 27, 2013
- March 4, 2013
- March 11, 2013
- March 13, 2013
- March 14, 2013
- March 20, 2013
- March 25, 2013

Thank you.

Sincerely,

/s/ Senator Josh McKoon  
Chairman Senate Judiciary Committee

/s/ Donna Nealey  
Legislative Assistant Senate Judiciary Committee