

House Bill 295

By: Representatives Stuckey of the 67<sup>th</sup> and Jenkins of the 110<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated,  
2 relating to general provisions relative to probate courts, so as to change provisions for filling  
3 a vacancy in the office of probate judge; to provide that the chief clerk of the probate judge  
4 shall succeed to the office of probate judge in certain circumstances; to clarify when such a  
5 vacancy shall be filled temporarily; to provide for the length of time a chief clerk who  
6 succeeds to such office shall hold the office; to provide for a special or general election to  
7 elect a successor for the remainder of the unexpired term; to provide for related matters; to  
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to  
12 general provisions relative to probate courts, is amended in Code Section 15-9-10, relating  
13 to the temporary filling of a vacancy in the office of probate judge, by striking subsection (b)  
14 in its entirety and inserting in lieu thereof the following:

15 "(b) ~~Reserved~~ This Code section shall apply only if there is not a chief clerk of the probate  
16 judge serving at the time of the vacancy or if the chief clerk serving at the time of the  
17 vacancy does not meet all qualifications for the office of probate judge."

18 **SECTION 2.**

19 Said article is further amended in Code Section 15-9-11, relating to a special election to fill  
20 a vacancy in the office of probate judge, by striking subsection (a) in its entirety and inserting  
21 in lieu thereof the following:

22 "(a) When a vacancy occurs in the office of judge of the probate court in any county, it  
23 shall be the duty of the ~~and a~~ and a person who assumes the duties of the judge, as provided in  
24 in accordance with Code Section 15-9-10, it shall be the duty of the person who has  
25 assumed such duties, within ten days after the vacancy occurs, to order a special election

1 for the purpose of filling the vacancy. He Such person shall give notice of the special  
 2 election by publication in the newspaper in which the citations of the judge of the probate  
 3 court are published. The special election shall be held in accordance with Chapter 2 of  
 4 Title 21."

### 5 SECTION 3.

6 Said article is further amended by striking in its entirety Code Section 15-9-11.1, relating to  
 7 assumption of the duties by the chief clerk upon a vacancy in the office of probate judge and  
 8 filling of the vacancy, and inserting in lieu thereof the following:

9 "15-9-11.1.

10 (a) ~~In Notwithstanding the provisions of Code Sections 15-9-10 and 15-9-11, in any~~  
 11 county in which a chief clerk of the probate judge has been appointed and said chief clerk  
 12 meets all qualifications for the office of probate judge, the person serving as chief clerk at  
 13 the time of occurrence of a vacancy in the office of probate judge shall ~~discharge the duties~~  
 14 ~~of~~ succeed to the office of the judge of the probate court.

15 (b) Vacancies in the office of judge of the probate court having a chief clerk as provided  
 16 for in subsection (a) of this Code section shall be filled as follows:

17 (1) The chief clerk shall ~~discharge such duties of the~~ hold the office of judge of the  
 18 probate court until the first day of January following the next succeeding general election  
 19 which occurs more than 60 days after the vacancy or the expiration of the remaining term  
 20 of office, whichever occurs first; and

21 (2) If the next succeeding general election is not one at which county officers are elected  
 22 and is more than 60 days after the occurrence of the vacancy, a duly qualified person  
 23 shall be elected judge of the probate court at a special election held at the same time as  
 24 the general election. The person so elected shall take office on the first day of January  
 25 following such election and shall serve for the remainder of the unexpired term of office.

26 ~~(c) The chief clerk performing the duties as judge of the probate court shall receive the~~  
 27 ~~same compensation, less any longevity raises received by the prior judge, and shall be paid~~  
 28 ~~in the same manner, as such judge of the probate court would have received."~~

### 29 SECTION 4.

30 All laws and parts of laws in conflict with this Act are repealed.