

House Bill 1279 (COMMITTEE SUBSTITUTE)

By: Representatives Jenkins of the 110th, Reichert of the 126th, Holland of the 157th, Ray of the 128th and Channell of the 111th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-9-60 of the Official Code of Georgia Annotated, relating to costs
2 for judges of the probate courts, Code Section 16-11-129 of the Official Code of Georgia
3 Annotated, relating to firearms licenses, and Chapter 8 of Title 29 of the Official Code of
4 Georgia Annotated, relating to custody of certain funds by judges of the probate courts, so
5 as to change certain fees for judges of the probate courts; to clarify provisions relating to
6 remitting funds to other agencies, advance cost, notices of claims and claims by creditors
7 against estates of decedents or persons believed to be dead, and fees charged by other
8 agencies for examination of records with regard to applications for firearms licenses; to
9 conform provisions relating to the fee for issuing a replacement firearms license and the fee
10 for handling a custodial account; to provide for related matters; to repeal conflicting laws;
11 and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Code Section 15-9-60 of the Official Code of Georgia Annotated, relating to costs for judges
15 of the probate courts, is amended by striking subsections (c), (d), (e), and (k) and inserting
16 in lieu thereof the following:

17 "~~(c) In all counties in this state where the judge of the probate court is paid or compensated~~
18 ~~on a salary basis, the~~ The fees provided for in this Code section shall be paid into the
19 county treasury less and except only such sums as are otherwise directed to be paid by law,
20 which sums shall be remitted as provided by law by either the probate court or the county.

21 (d) ~~Except~~ Subject to the provisions of Code Section 15-9-61, and except for the filing of
22 a proceeding in which the filing party also files with the court a sworn affidavit that the
23 party is unable because of indigence to pay the cost of court, all sums specified in this Code
24 section shall be paid to the court at the time of filing or as thereafter incurred for services
25 rendered. In accordance with Code Section 15-9-61, the judges of the probate courts are
26 entitled to an advance cost of \$30.00 for deposit to be made before filing any proceeding.

1 (e) Cost in decedent's estates:

2 (1) Except as otherwise provided, the cost in an initial proceeding regarding the estate
3 of a decedent or of a missing individual believed to be dead shall be \$90.00 for all
4 services rendered by the judge or clerk of the probate court through the entry of the final
5 order on such initial proceedings, exclusive of recording charges;

6 (2) As used in this subsection, the term 'initial proceeding' shall mean the first
7 proceeding filed in the probate court in connection with or regarding the estate of a
8 decedent or of a missing individual believed to be dead, including, but not necessarily
9 limited to, the following proceedings: petition for temporary letters of administration;
10 petition for letters of administration; petition to probate will in common form; petition
11 to probate will in solemn form; petition to probate will in solemn form and for letters of
12 administration with will annexed; petition for order declaring no administration
13 necessary; petition for year's support; petition for presumption of death of missing
14 individual believed to be dead; any proceeding for ancillary administration by a foreign
15 personal representative; or any other proceeding by which the jurisdiction of the probate
16 court is first invoked with regard to the estate of a decedent or of a missing individual
17 believed to be dead;

18 (3) As used in this subsection, the term 'initial proceeding' shall not include a petition to
19 establish custodial account for missing heir, a petition to enter a safe-deposit box, or any
20 other petition or proceeding for which a specific cost is otherwise set forth in this Code
21 section;

22 (4) Except as otherwise provided, the cost shall be \$75.00 for all services rendered by
23 the judge or clerk of the probate court through the entry of the final order, exclusive of
24 recording charges, in any of the proceedings listed in paragraph (2) of this subsection
25 filed subsequent to the filing of an initial proceeding regarding the estate of the same
26 decedent or missing individual believed to be dead;

27 (5) Except as otherwise provided, the cost shall be \$50.00 for all services rendered by
28 the judge or clerk of the probate court through the entry of the final order, exclusive of
29 recording charges, for the filing of the following proceedings or pleadings regarding the
30 estate of a decedent or of a missing individual believed to be dead: petition for letters of
31 administration with will annexed (will previously probated); petition of personal
32 representative for leave to sell property; petition for leave to sell perishable property;
33 petition for leave to sell or encumber property previously set aside as year's support;
34 petition by administrator for waiver of bond, grant of certain powers, or both; petition for
35 discharge; petition by personal representative for approval of a division in kind; petition
36 to determine heirs; petition by personal representative for direction under will; petition
37 by personal representative to compromise a disputed claim or debt; petition by or against

personal representative for an accounting or final settlement; petition to resign as personal representative and for the appointment of a successor; petition to remove a personal representative and for the appointment of a successor; citation against a personal representative for failure to make returns or for alleged mismanagement of estate; a caveat, objection, or other responsive pleading by which the proceeding becomes contested filed by any person to whom notice or citation has been issued; petition or motion to intervene as an interested party; and any other petition application, motion, or other pleading for which no specific cost is set forth in this Code section filed regarding the estate of a decedent or of a missing individual believed to be dead;

(6) Except as otherwise provided, the cost shall be \$25.00 for all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, for the filing of the following proceedings, pleadings, or documents regarding the estate of a decedent or of a missing individual believed to be dead: petition to change accounting period; petition to enter a safe-deposit box; petition or motion for attorneys' fees; petition or motion of personal representative for extra compensation; or inventory, appraisement, or annual, intermediate, or final returns of personal representatives; and

(7) Except as otherwise provided, the cost shall be \$10.00 for all services rendered by the judge or clerk of the probate court, exclusive of recording charges, for the filing of the following proceedings, pleadings, or documents regarding the estate of a decedent or of a missing person believed to be dead: notice of claim or claim of a creditor, if such notice or claim is filed with and accepted by the court; declination to serve of nominated personal representative; or renunciation of right of succession."

"(k) Miscellaneous costs. Except as otherwise provided, the judge or clerk of the probate court shall be entitled to the following costs for the proceedings, pleading, documents, or services itemized:

(1) Application for writ of habeas corpus	\$ 75.00
(2) Petition to establish lost papers, exclusive of recording charges	50.00
(3) Petition for or declaration of exemptions	25.00
(4) Petition to change birth certificate	60.00
(5) For all services rendered by the judge or clerk of the probate court through the entry of the final order, exclusive of recording charges, for any application or petition by which the jurisdiction of the probate court is first invoked for which no cost is set forth in this Code section or other applicable law	50.00

1	(6) Issuance of any order, including a rule nisi, in any matter for which the costs	
2	set forth in this Code section do not include all services to be rendered by the	
3	judge or clerk of the probate court, exclusive of recording charges	25.00
4	(7) Motions, amendments, or other pleadings filed in any matter for which the	
5	cost set forth in this Code section does not include all services to be rendered by	
6	the judge or clerk of the probate court, exclusive of recording charges, and no	
7	other cost is set forth in this Code section	10.00
8	(8) For processing appeals to superior court, exclusive of recording charges	25.00
9	(9) For issuance of writ of fieri facias (fi.fa.)	10.00
10	(10) For issuance of permit to discharge explosives	25.00
11	(11) For issuance of permit to discharge fireworks	25.00
12	(12) Application for firearms license (exclusive of fees charged by other	
13	agencies for the examination of criminal records <u>and mental health records</u>) . .	15.00
14	(13) For issuance of a replacement firearms license	5.00
15	(14) Application for marriage license	10.00
16	(15) For the safekeeping of a will	10.00
17	(16) For issuance of a veteran's license	No fee
18	(17) For issuance of a peddler's license	10.00
19	(18) For issuance of a certificate of residency	10.00
20	(19) Registration of junk dealer	10.00
21	(20) Certification of publication of application for insurance company charter	10.00
22	(21) Recording of marks and brands, each	10.00
23	(22) Exemplification	10.00
24	(23) Certification under seal of copies (plus copy cost)	5.00
25	(24) Certified copies of letters of personal representative, temporary	
26	administrator, or guardian, each, including copy cost	5.00
27	(25) For issuance of a subpoena, each	5.00
28	(26) For filing and recording of oath or bond of any official, officer, or employee	
29	of any municipality or authority within the county, each	5.00
30	(27) For filing and recording of oath or bond of county official or officer . . .	No fee
31	(28) For examination of records or files by employee of the probate court to	
32	provide abstract of information contained therein or to provide copies therefrom,	
33	per estate or name	5.00
34	(29) Recording, per page	2.00
35	(30) Copies, per page	0.25"

SECTION 2.

Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to firearms licenses, is amended by striking subsections (b) and (e) and inserting in lieu thereof the following:

"(b) Licensing exceptions. No license shall be granted to:

(1) Any person under 21 years of age;

(2) Any person who is a fugitive from justice or against whom proceedings are pending for any felony, forcible misdemeanor, or violation of Code Section 16-11-126, 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated;

(3) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation or any person who has been convicted of a forcible misdemeanor and has not been free of all restraint or supervision in connection therewith for at least five years or any person who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or 16-11-128 and has not been free of all restraint or supervision in connection therewith for at least three years, immediately preceding the date of the application;

(4) Any individual who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within five years of the date of his or her application. The probate judge may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether a license to carry a pistol or revolver should be issued. When such a waiver is required by the probate judge, the applicant shall pay to the probate judge a fee of \$3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Human Resources, which the probate judge shall remit to the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the probate judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the license; or

(5)(A) Any person, the provisions of paragraph (3) of this subsection notwithstanding, who has been convicted of an offense arising out of the unlawful manufacture, distribution, possession, or use of a controlled substance or other dangerous drug.

(B) As used in this paragraph, the term:

(i) 'Controlled substance' means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

(ii) 'Convicted' means a plea of guilty, a finding of guilt by a court of competent jurisdiction, the acceptance of a plea of nolo contendere, or the affording of first offender treatment by a court of competent jurisdiction irrespective of the pendency or availability of an appeal or an application for collateral relief.

(iii) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71."

"(e) *Revocation, loss, or damage to license.* If, at any time during the period for which the license was issued, the judge of the probate court of the county in which the license was issued shall learn or have brought to his or her attention in any manner any reasonable ground to believe the licensee is not eligible to retain the license, the judge may, after notice and hearing, revoke the license of the person upon adjudication of falsification of application, mental incompetency, chronic alcohol or narcotic usage, conviction of any felony or forcible misdemeanor, or for violation of Code Section 16-11-126, 16-11-127, or 16-11-128. It shall be unlawful for any person to possess a license which has been revoked, and any person found in possession of any such revoked license, except in the performance of his or her official duties, shall be guilty of a misdemeanor. It shall be required that any license holder under this Code section have in his or her possession his or her valid license whenever he or she is carrying a pistol or revolver under the authority granted by this Code section, and his or her failure to do so shall be prima-facie evidence of a violation of Code Section 16-11-128. Loss of any license issued in accordance with this Code section or damage to the license in any manner which shall render it illegible shall be reported to the judge of the probate court of the county in which it was issued within 48 hours of the time the loss or damage becomes known to the license holder. The judge of the probate court shall thereupon issue a replacement for and shall take custody of and destroy a damaged license; and in any case in which a license has been lost, he or she shall issue a cancellation order and notify by telephone and in writing each of the law enforcement agencies whose records were checked before issuance of the original license. ~~A fee of \$3.00 shall be charged by the~~ The judge shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such services."

SECTION 3.

Chapter 8 of Title 29 of the Official Code of Georgia Annotated, relating to custody of certain funds by judges of the probate courts, is amended by striking Code Section 29-8-6,

1 relating to compensation for services relating to custody of such funds, and inserting in lieu
2 thereof the following:

3 "29-8-6.

4 The judges of the probate courts shall receive, as compensation for their services under
5 Code Section 29-8-1, ~~5 percent on the amount handled~~ the fee specified in subsection (j)
6 of Code Section 15-9-60."

7 **SECTION 4.**

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