

The House Committee on Judiciary offers the following substitute to HB 561:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 21A of Title 15 of the Official Code of Georgia Annotated, relating to
2 judicial accounting, so as to change provisions relating to distribution of certain additional
3 fines for purposes of victim assistance programs and reports concerning collection and
4 distribution of such fines; to change provisions relating to remitting and reporting court fines,
5 fees, and surcharges on and deductions from court fines and fees; to change provisions
6 relating to an additional filing fee on civil actions in the probate courts; to provide for an
7 additional filing fee for notary public applications; to authorize certain inquiries and audits;
8 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 21A of Title 15 of the Official Code of Georgia Annotated, relating to judicial
13 accounting, is amended by striking Code Section 15-21A-4, relating to the procedure for
14 reporting and remittance of certain funds collected by any clerk of court or other officer or
15 agent of any court, and inserting in lieu thereof the following:

16 "15-21A-4.

17 (a)(1) Each clerk of any court or any other officer or agent of any court receiving any
18 funds ~~subject to~~ required to be remitted to the authority under this chapter on or after July
19 1, 2004, shall remit all such funds to the authority by the end of the month following the
20 month in which such funds are received. Each clerk of any court or other officer or agent
21 of any court receiving any funds required to be reported to the authority by this chapter
22 or the rules and regulations of the authority promulgated in accordance with Code Section
23 15-21A-7 shall report such funds to the authority no later than 60 days after the last day
24 of the month in which such funds are received.

25 (2) The chief judge of superior court for each county shall have the authority to require
26 compliance with ~~paragraph (1) of this subsection by~~ this chapter and with the rules and

1 regulations of the authority promulgated by the authority in accordance with Code
 2 Section 15-21A-7 by any clerk, officer, or agent of any court within the county. If any
 3 court is more than 60 days delinquent or is habitually delinquent in remitting any funds
 4 or reports required under this ~~Code section or Code Section 15-21A-6,~~ chapter or by the
 5 rules and regulations of the authority promulgated in accordance with Code Section
 6 15-21A-7, the authority shall notify the chief judge of superior court of the county in
 7 which the court is located.

8 (b) The authority shall prescribe uniform procedures and forms for the reporting and
 9 remittance of all funds subject to ~~Code Section 15-21A-3~~ this chapter or the rules and
 10 regulations of the authority promulgated in accordance with Code Section 15-21A-7; and
 11 all clerks or other officers or agents remitting or reporting such funds shall use the
 12 prescribed procedures and forms in reporting and remitting funds to the authority.

13 (c) The authority shall prescribe uniform rules, procedures, and forms relative to the partial
 14 or installment collection and remittance of funds subject to ~~Code Section 15-21A-3~~
 15 reporting or remittance to the authority under this chapter or rules and regulations
 16 promulgated by the authority in accordance with Code Section 15-21A-7. Any funds held
 17 by any court or unit of local government on July 1, 2004, consisting of previously collected
 18 partial or installment payments shall be subject to the rules, procedures, and forms so
 19 prescribed and shall be remitted to the authority to the extent provided for in such rules and
 20 procedures. Funds collected that are partial or installment payments of costs, fees, and
 21 surcharges that are required by this chapter to be remitted to the authority shall be remitted
 22 to the authority by the end of the month following the month in which they were collected;
 23 provided, however, that the authority is authorized to provide by rules and regulations for
 24 a longer period of time for remitting such funds not to exceed six months.

25 (d) The authority shall remit all funds collected to the designated receiving entities or
 26 general fund of the state treasury within 60 days of receiving such funds."

27 SECTION 2.

28 Said chapter is further amended by striking Code Section 15-21A-6, relating to additional
 29 filing fees, application fee for legal assistance, and remittance of funds, and inserting in lieu
 30 thereof the following:

31 "15-21A-6.

32 (a) In addition to all other legal costs there shall be charged to the filing party and
 33 collected by the clerk an additional filing fee of \$15.00 in each civil action or case filed in
 34 the superior, state, ~~probate,~~ recorder's, mayor's, and magistrate courts except that
 35 municipalities, counties, and political subdivisions shall be exempt from such fee. Without
 36 limiting the generality of the foregoing, such fee shall apply to all adoptions, certiorari,

1 ~~applications by personal representatives for leave to sell or reinvest~~, trade name
 2 registrations, notary public applications, applications for change of name, and all other
 3 proceedings of a civil nature. Any matter which is docketed upon the official dockets of the
 4 enumerated courts and to which a number is assigned shall be subject to such fee, whether
 5 such matter is contested or not.

6 (b)(1) In the probate courts, in addition to all other legal costs there shall be charged to
 7 the filing party and collected by the clerks of the probate courts an additional filing fee
 8 of \$15.00 in each of the following:

9 (A) A proceeding in the probate court described as an 'initial proceeding' for matters
 10 connected to a decedent's estate as set forth in paragraph (1) of subsection (e) of Code
 11 Section 15-9-60;

12 (B) A proceeding in the probate court related to minor guardianship matters as set forth
 13 in paragraph (1) of subsection (f) of Code Section 15-9-60;

14 (C) A proceeding in the probate court related to adult guardianship matters as set forth
 15 in paragraph (1) of subsection (g) of Code Section 15-9-60; and

16 (D) An application for habeas corpus.

17 (2) For the purpose of the imposition of the civil filing fee required by subsection (a) of
 18 Code Section 15-21A-6, the probate court shall only collect the civil filing fee on a civil
 19 action as defined in subsection (a) of this Code section. The civil filing fee shall not be
 20 collected on a subsequent action or proceeding related to the civil action, notwithstanding
 21 the subsequent action or proceeding may be docketed on the official docket of the probate
 22 court and may be assigned a number.

23 (c) Any person who applies for or receives legal defense services under Chapter 12 of Title
 24 17 shall pay the entity providing the services a single fee of \$50.00 for the application for,
 25 receipt of, or application for and receipt of such services. The application fee may not be
 26 imposed if the payment of the fee is waived by the court. The court shall waive the fee if
 27 it finds that the applicant is unable to pay the fee or that hardship will result if the fee is
 28 charged.

29 ~~(c)~~(d) Each clerk of court, each indigent defense program, or any other officer or agent of
 30 any court receiving any funds subject to this Code section shall collect the additional fees
 31 provided in this Code section and shall pay such moneys over to the authority by the last
 32 day of the month after the month of collection, to be deposited by the authority into the
 33 general fund of the state treasury.

34 ~~(d)~~(e) It is the intent of the General Assembly that all funds derived under this Code
 35 section shall be made available through the general appropriations process and may be
 36 appropriated for purposes of funding indigent defense.

1 ~~(e)~~(f) A public entity other than an entity providing legal defense services under Chapter
 2 12 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a
 3 \$50.00 application fee unless waived by the court for inability to pay or hardship. Any such
 4 fee shall be retained by the entity providing the services or used as otherwise provided by
 5 law and shall not be subject to payment to the authority or deposit into the state treasury."

6 SECTION 3.

7 Said chapter is further amended in Code Section 15-21A-7, relating to the definition of court
 8 and the system for reporting and accounting, by striking subsection (b) and inserting in lieu
 9 thereof the following:

10 "(b) The authority shall ~~develop~~ promulgate rules and regulations for the administration
 11 of this chapter. Such rules and regulations shall include but not be limited to a reporting
 12 and accounting system for all court fines and fees and all surcharges on and deductions
 13 from any court fines and fees that are authorized to be collected or disbursed in any court.
 14 The authority shall develop a system that employs controls necessary to determine the
 15 accuracy of the fine and fee collections and disbursement by each clerk of court or other
 16 officer or agent of any court receiving any fines and fees. No later than 60 days after the
 17 end of the last day of each month, each such clerk of court and, if there is no clerk of court,
 18 any court officer, judge, or other agent of the court shall report to the authority on a
 19 reporting system prescribed by the authority. Any entity doing business with ~~such clerk or~~
 20 ~~agents~~ any court and all agencies and instrumentalities of the state shall ~~cooperate in~~
 21 ~~providing on a timely basis~~ provide any information or data requested by the authority in
 22 a format prescribed by the authority by rule or regulation. The authority is authorized to
 23 make inquiries to clerks of court, court officers, judges, or agents of any court and agencies
 24 or instrumentalities of the state as well as any other parties for the purpose of determining
 25 the accuracy of any fines and fees collected or disbursed by a court and is authorized where
 26 it determines appropriate to conduct audits of any parties to assist in ensuring the accuracy
 27 of the system developed by the authority."

28 SECTION 4.

29 This Act shall become effective on July 1, 2005.

30 SECTION 5.

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