

House Bill 254 (AS PASSED HOUSE AND SENATE)

By: Representatives Knox of the 24th, Keen of the 179th, Ralston of the 7th, and Ehrhart of the 36th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to general provisions
2 relative to courts, so as to establish certain court divisions and create an alternative system
3 for storing copies of records for courts; to authorize the clerk of each superior court, state
4 court, probate court, magistrate court, juvenile court, or municipal court to create and
5 maintain digital copies of records, pleadings, orders, writs, process, or other documents
6 submitted to or issued by the court in any criminal, quasi-criminal, juvenile, or civil
7 proceeding or in any proceeding involving the enforcement of ordinances of local
8 governments; to provide for requirements, practices, and procedures related to the digital
9 storage and retrieval of such records; to provide for the destruction of the original copies of
10 such documents; to provide for the payment of costs and expenses; to provide for exceptions;
11 to provide for the alternative nature of the authority granted by this method of records
12 management; to authorize the establishment of drug courts divisions within certain courts;
13 to provide for assignment of certain felony and misdemeanor cases to a drug court division;
14 to provide for jurisdiction; to provide for judges and their appointment, designation, and
15 terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other
16 employees; to authorize agreements with other courts and agencies for the assignment of
17 personnel to such court; to authorize judges to complete a planned program of instruction;
18 to provide for powers and duties of the drug court division; to provide for expenses; to
19 provide for admissibility of certain matters in certain proceedings; to provide for access to
20 certain information and confidentiality; to provide for costs; to authorize the Family Court
21 Division of the Superior Court of Fulton County in the Atlanta Judicial Circuit as a pilot
22 project of limited duration; to provide for judges and their appointment, designation, and
23 terms; to provide for district attorneys, public defenders, a clerk, probation officers, and other
24 employees; to authorize agreements with other courts and agencies for the assignment of
25 personnel to such court; to authorize the Attorney General to appoint attorneys to represent
26 the Department of Human Resources in such court; to authorize the chief judge of the
27 Superior Court to require family court judges to complete a planned program of instruction;
28 to provide for jurisdiction, authority, powers, and duties of the family court division; to

1 provide for expenses; to provide for reports; to provide for automatic repeal; to provide for
2 related matters; to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking
6 Code Section 15-1-10, relating to removal of court records and storage thereof, and inserting
7 in its place the following:

8 "15-1-10.

9 (a) No records or papers of any court shall be removed out of the county, except in cases
10 of invasion whereby the same may be endangered, ~~or by order of the court, or as otherwise~~
11 provided in this Code section.

12 (b) Notwithstanding any other provision of this Code section, such records may be stored
13 in accordance with the provisions of subsection (b) of Code Section 15-6-86 or
14 subsection (c) of this Code section.

15 (c) With the prior written consent of the governing authority of the county or municipality
16 and the prior written consent of the chief judge, judge of the probate court, or chief
17 magistrate of the affected court, the clerk of each superior court, state court, probate court,
18 magistrate court, juvenile court, or municipal court in this state is authorized, but not
19 required, to create and maintain digital copies of records, pleadings, orders, writs, process,
20 and other documents submitted to or issued by the court in criminal, quasi-criminal,
21 juvenile, or civil proceedings or in any proceedings involving the enforcement of
22 ordinances of local governments. All digital copies created pursuant to this subsection shall
23 be accurate copies of the original documents and shall be stored and indexed in such
24 manner as to be readily retrievable in the office of the clerk during normal business hours.
25 It shall be the duty of the clerk to provide and maintain software and computers, readers,
26 printers, and other necessary equipment in sufficient numbers to permit the retrieval,
27 duplication, and printing of such digitally stored documents in a timely fashion when
28 copies are requested. A copy of such digitally stored document retrieved by the clerk shall
29 be admissible in all courts in the same manner as the original document. If a backup copy
30 is created pursuant to the process prescribed by subsections (b), (c), and (d) of Code
31 Section 15-6-62, the clerk is authorized to destroy the original document. This subsection
32 shall not apply to documents or records which have been ordered sealed by the court nor
33 to documents which are placed in evidence in a proceeding. The costs of creating and
34 storing digital copies of documents and providing the necessary software and equipment
35 to retrieve and reproduce such documents shall be paid from funds available for the

1 operation of the court. The provisions of this subsection shall constitute an additional and
 2 alternative method of records management and shall not supersede or repeal Code Section
 3 15-6-62, 15-6-62.1, 15-6-86, or 15-6-87."

4 SECTION 2.

5 Said title is further amended by adding a new Code section to the end of the chapter to read
 6 as follows:

7 "15-1-15.

8 (a)(1) Any court that has jurisdiction over any criminal case which arises from the use,
 9 sale, possession, delivery, distribution, purchase, or manufacture of a controlled
 10 substance, noncontrolled substance, dangerous drug, or other drug may establish a drug
 11 court division to provide an alternative to the traditional judicial system for disposition
 12 of such cases.

13 (2) In any case which arises from the use, addiction, dependency, sale, possession,
 14 delivery, distribution, purchase, or manufacture of a controlled substance, noncontrolled
 15 substance, dangerous drug, other drug, or is ancillary to such conduct and the defendant
 16 meets the eligibility criteria for the drug court division, the court may assign the case to
 17 the drug court division:

18 (A) Prior to the entry of the sentence, if the prosecuting attorney consents;

19 (B) As part of a sentence in a case; or

20 (C) Upon consideration of a petition to revoke probation.

21 (3) Each drug court division shall establish a planning group to develop a work plan. The
 22 planning group shall include the judges, prosecuting attorneys, public defenders,
 23 probation officers, and persons having expertise in the field of substance abuse. The work
 24 plan shall address the operational, coordination, resource, information management, and
 25 evaluation needs of the drug court division. The work plan shall include eligibility criteria
 26 for the drug court division. The drug court division shall combine judicial supervision,
 27 treatment of drug court division participants, and drug testing.

28 (4) The Judicial Council of Georgia shall adopt standards for the drug court divisions.
 29 Each drug court division shall adopt standards that are consistent with the standards of
 30 the Judicial Council of Georgia. The standards are to serve as a flexible framework for
 31 developing effective drug court divisions and to provide a structure for conducting
 32 research and evaluation for program accountability. The standards are not intended to be
 33 a certification or regulatory checklist.

34 (5) The court instituting the drug court division may request the prosecuting attorney for
 35 the jurisdiction to designate one or more prosecuting attorneys to serve in the drug court

1 division and may request the public defender, if any, to designate one or more assistant
2 public defenders to serve in the drug court division.

3 (6) The clerk of the court instituting the drug court division or such clerk's designee shall
4 serve as the clerk of the drug court division.

5 (7) The court instituting the drug court division may request probation officers and other
6 employees of the court to perform duties for the drug court division. Such employees
7 shall perform duties as directed by the judges of the drug court division.

8 (8) The court instituting the drug court division may enter into agreements with other
9 courts and agencies for the assignment of personnel from other courts and agencies to the
10 drug court division.

11 (9) Expenses for salaries, equipment, services, and supplies incurred in implementing
12 this Code section may be paid from state funds, funds of the county or political
13 subdivision implementing such drug court division, federal grant funds, and funds from
14 private donations.

15 (b)(1) Each drug court division shall establish criteria which define the successful
16 completion of the drug court division program.

17 (2) If the drug court division participant successfully completes the drug court division
18 program prior to the entry of judgment, the case against the drug court division
19 participant may be dismissed by the prosecuting attorney.

20 (3) If the drug court division participant successfully completes the drug court division
21 program as part of a sentence imposed by the court, the sentence of the drug court
22 division participant may be reduced or modified.

23 (4) Any plea of guilty or nolo contendere entered pursuant to this Code section may not
24 be withdrawn without the consent of the court.

25 (c) Any statement made by a drug court division participant as part of participation in such
26 court, or any report made by the staff of the court or program connected to the court,
27 regarding a participant's substance usage shall not be admissible as evidence against the
28 participant in any legal proceeding or prosecution; provided, however, if the participant
29 violates the conditions of his or her participation in the program or is terminated from the
30 drug court division, the reasons for the violation or termination may be considered in
31 sanctioning, sentencing, or otherwise disposing of the participant's case.

32 (d) Nothing contained in this Code section shall be construed to permit a judge to impose,
33 modify, or reduce a sentence below the minimum sentence required by law.

34 (e) Notwithstanding any provision of law to the contrary, drug court division staff shall be
35 provided, upon request, with access to all records relevant to the treatment of the drug court
36 division participant from any state or local government agency. All such records and the
37 contents thereof shall be treated as confidential, shall not be disclosed to any person outside

1 of the drug court division, and shall not be subject to Article 4 of Chapter 18 of Title 50,
 2 relating to open records, or subject to subpoena, discovery, or introduction into evidence
 3 in any civil or criminal proceeding. Such records and the contents thereof shall be
 4 maintained by the drug court division and originating court in a confidential file not
 5 available to the public.

6 (f) Any fees received by a drug court division from a drug court division participant as
 7 payment for substance abuse treatment and services shall not be considered as court costs
 8 or a fine.

9 (g) The court may have the authority to accept grants and donations and other proceeds
 10 from outside sources for the purpose of supporting the drug court division. Any such
 11 grants, donations, or proceeds shall be retained by the drug court division for expenses."

12 SECTION 3.

13 Said title is further amended by inserting a new chapter, to be designated as Chapter 11A, to
 14 read as follows:

15 "CHAPTER 11A

16 15-11A-1.

17 There is hereby authorized a Family Court Division of the Superior Court of Fulton County
 18 in the Atlanta Judicial Circuit as a pilot project pursuant to authority granted by Article VI,
 19 Section I, Paragraph X of the Georgia Constitution.

20 15-11A-2.

21 The Family Court Division of the Superior Court of Fulton County, sometimes referred to
 22 in this chapter as the family court division and the superior court, respectively, shall exist
 23 as a pilot project of limited duration until July 1, 2010, and shall have the powers, rules of
 24 practice and procedure, and selection, qualifications, and terms of judges of the superior
 25 court and as duly adopted by the superior court for the family court division.

26 15-11A-3.

27 (a) The chief judge of the superior court shall designate one or more judges of the superior
 28 court to sit as judges of the family court division for terms of up to three years and shall
 29 designate successors for terms of up to three years. In addition, the chief judge of the
 30 superior court may designate one or more judges of the superior court to sit as judges of
 31 the family court division on a standby basis for terms of up to three years.

1 (b) The chief judge of the superior court may require the family court division judges to
2 complete a planned program of instruction in family law, psychology, family dynamics,
3 child development, nonadversarial techniques, and working with diverse populations.

4 15-11A-4.

5 (a) The district attorney of the Atlanta Judicial Circuit is authorized to designate one or
6 more assistant district attorneys to serve in the family court division.

7 (b) The public defender of the Atlanta Judicial Circuit is authorized to designate one or
8 more assistant public defenders to serve in the family court division.

9 (c) The clerk of the superior court or such clerk's designee shall serve as the clerk of the
10 family court division.

11 (d) The chief judge of the Atlanta Judicial Circuit shall designate probation officers and
12 other employees of the Atlanta Judicial Circuit to perform duties for the family court
13 division. Such employees shall perform duties as directed by the judges of the family court
14 division.

15 (e) The chief judge of the Atlanta Judicial Circuit may enter into agreements with other
16 courts and agencies for the assignment of personnel from other courts or agencies to the
17 Family Court Division of the Superior Court of Fulton County.

18 (f) The Attorney General of Georgia may appoint attorneys to represent the Department
19 of Human Resources in the Family Court Division of the Superior Court of Fulton County.

20 15-11A-5.

21 (a) The family court division shall have the jurisdiction of the superior court and as
22 provided in this Code Section.

23 (b) When a petition or case is filed in the superior court relating to divorce or where issues
24 affecting children are involved, including, but not limited to, child support, child custody,
25 visitation, child abuse, child molestation, domestic violence, legitimacy, paternity,
26 adoption, abandonment, or contempt or modification relative to such cases, the chief judge
27 of the superior court or an intake case manager designated by such chief judge may assign
28 the case to the family court division. The Superior Court of Fulton County, State Court of
29 Fulton County, Juvenile Court of Fulton County, Probate Court of Fulton County,
30 Magistrate Court of Fulton County, and City of Atlanta Municipal Court are authorized to
31 transfer ancillary cases related to the same family to the family court division. Such
32 ancillary cases shall include but not be limited to any cases involving deprivation,
33 delinquency involving behavioral issues, truancy, unruliness, abandonment, neglect, or
34 termination of parental rights cases pending in the Juvenile Court of Fulton County; cases
35 involving domestic violence, abandonment, or child support enforcement cases pending in

1 the State Court of Fulton County; adult or minor guardianship cases pending in the Probate
2 Court of Fulton County; or domestic violence cases pending in the Magistrate Court of
3 Fulton County or City of Atlanta Municipal Court. In addition, any child support
4 enforcement case from the jurisdiction of the State of Georgia shall be considered an
5 ancillary case subject to transfer to the family court division. Whenever a dispute arises
6 between the family court division and another court in Fulton County as to whether a case
7 is an ancillary case which should be transferred to the family court division, such case may
8 be transferred to the family court division pursuant to an order for transfer issued by the
9 chief judge of the Atlanta Judicial Circuit.

10 (c) The judges of the family court division shall have the same authority, powers, and
11 duties in the consideration and disposition of cases in the family court division as any judge
12 of the Superior Court of Fulton County, State Court of Fulton County, Juvenile Court of
13 Fulton County, Probate Court of Fulton County, Magistrate Court of Fulton County, or
14 City of Atlanta Municipal Court.

15 15-11A-6.

16 Expenses for salaries, equipment, and supplies incurred in implementing this chapter shall
17 be paid from state funds appropriated for such purpose and from the funds of Fulton
18 County.

19 15-11A-7.

20 The Administrative Office of the Courts shall report annually regarding the activities of the
21 Family Court Division of the Superior Court of Fulton County to the chief judge of the
22 Atlanta Judicial Circuit, the Chief Justice of the Georgia Supreme Court, the Governor, the
23 Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons
24 of the Judiciary Committees of the House of Representatives and the Senate. The
25 Administrative Office of the Courts shall prepare for the same judicial officers and elected
26 officials a comprehensive report within 180 days following July 1, 2005, and within 180
27 days following July 1, 2009.

28 15-11A-8.

29 This chapter shall become effective upon signature of the Governor or upon becoming law
30 without his signature.

31 15-11A-9.

32 This chapter shall be repealed in its entirety on July 1, 2010."

1

SECTION 4.

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