

Senate Bill 383

By: Senators Smith of the 52nd, Williams of the 19th, Hamrick of the 30th, Schaefer of the 50th, Pearson of the 51st and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 provide that the clerk of superior court shall also serve as clerk of the state court, magistrate  
3 court, and juvenile court of the county; to provide for exceptions; to change the provisions  
4 relating to bonds; to change the provisions relating to personnel; to change the provisions  
5 relating to compensation; to provide for related matters; to provide an effective date; to  
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding  
10 a new Code Section 15-6-37 to read as follows:

11 "15-6-37.

12 When any new court having jurisdiction throughout a county within this state is created by  
13 or pursuant to an Act of the General Assembly enacted on or after January 1, 2005, the  
14 clerk of the superior court of the county shall serve as the clerk of such court unless the  
15 chief judge of said court is authorized by a local Act of the General Assembly to appoint  
16 and employ a person other than the clerk of superior court as clerk of said court."

17 **SECTION 2.**

18 Said title is further amended by striking Code Section 15-6-89, relating to additional  
19 remuneration for clerks of superior court, and inserting in lieu thereof the following:

20 "15-6-89.

21 In addition to the minimum salary provided in Code Section 15-6-88 or any other salary  
22 provided by any applicable general or local law, each clerk of the superior court of any  
23 county who also serves as clerk of a state court, city court, juvenile court, ~~or~~ civil court, or  
24 any other court under any applicable general or local law of this state or who performs  
25 duties pursuant to paragraph (1) of subsection (a) of Code Section 15-12-1 shall receive for

1 his or her services in such other court a salary of not less than \$286.73 per month, to be  
 2 paid from the funds of the county. ~~In the event any such court for which a clerk of the~~  
 3 ~~superior court is serving as clerk is abolished, the clerk of the superior court shall not be~~  
 4 ~~entitled to any salary heretofore received for service in such court."~~

### 5 SECTION 3.

6 Said title is further amended by striking Code Section 15-7-48, relating to bonds of state  
 7 court clerks, and inserting in lieu thereof the following:

8 "15-7-48.

9 (a) Except as otherwise provided in this subsection, in every state court created by the  
 10 General Assembly for the respective counties of this state, except where the state court  
 11 clerk is elected, the clerk of superior court shall serve as clerk. In a state court in which a  
 12 person other than the clerk of superior court has been employed by the chief judge of the  
 13 state court to serve as clerk, such person shall continue to serve as clerk upon approval of  
 14 the chief judge of the state court; provided, however, that, upon such person vacating his  
 15 or her office as clerk, the clerk of the superior court shall become the clerk of the state  
 16 court unless the chief judge of said court is authorized by a local Act of the General  
 17 Assembly to appoint and employ a person other than the clerk of superior court as clerk of  
 18 said court.

19 (b) Any person who serves as a clerk of any state court, as a qualification of holding his  
 20 or her office, shall execute bond in the sum of \$25,000.00 \$100,000.00 for the faithful  
 21 performance of his or her duties as clerk, which amount may be increased by local Act.  
 22 However, any clerk of a superior court who is also serving as clerk of a state court shall not  
 23 be required to post a bond under this Code section; the bond given by the clerk of the  
 24 superior court for the faithful performance of his or her duties shall also be conditioned on  
 25 his or her faithful performance of his or her duties as clerk of the state court.

26 (c) The compensation of employees of the clerk of the state court shall be fixed by the  
 27 clerk and shall be paid out of county funds."

### 28 SECTION 4.

29 Said title is further amended by striking Code Section 15-10-105, relating to the selection of  
 30 magistrate court clerks, their compensation, and eligibility, and inserting in lieu thereof the  
 31 following:

32 "15-10-105.

33 ~~(a) The General Assembly may provide by local law for the superior court clerk or state~~  
 34 ~~court clerk to serve as clerk of magistrate court or for the selection of some other person~~  
 35 ~~as the clerk of magistrate court and for the compensation of the clerk of magistrate court.~~

1 ~~In the absence of local law, the selection and compensation of the clerk of magistrate court~~  
 2 ~~shall be as provided by subsections (b), (c), and (d) of this Code section.~~

3 ~~(b) With the consent of the clerk of superior court the county governing authority may~~  
 4 ~~provide that the clerk of superior court shall serve as clerk of magistrate court and shall be~~  
 5 ~~compensated for his or her services as clerk of magistrate court in an amount not less than~~  
 6 ~~\$286.73 per month. With the consent of the clerk of the superior court and clerk of the state~~  
 7 ~~court, the county governing authority may provide that the state court clerk shall serve as~~  
 8 ~~clerk of magistrate court and shall be compensated for his or her service as clerk of~~  
 9 ~~magistrate court in an amount not less than \$286.73 per month. Such compensation shall~~  
 10 ~~be retained by the clerk of superior court as his or her personal funds without regard to~~  
 11 ~~whether he or she is otherwise compensated on a fee basis or salary basis or both.~~

12 ~~(c) If the clerk of superior court or the clerk of state court does not serve as clerk of~~  
 13 ~~magistrate court, then the county governing authority may provide for the appointment by~~  
 14 ~~the chief magistrate of a clerk to serve at the pleasure of the chief magistrate. A clerk of~~  
 15 ~~magistrate court so appointed shall be compensated in an amount fixed by the county~~  
 16 ~~governing authority at not less than \$286.73 per month.~~

17 ~~(d) If there is no clerk of magistrate court, the chief magistrate or some other magistrate~~  
 18 ~~appointed by the chief magistrate shall perform the duties of clerk. A chief magistrate~~  
 19 ~~performing the duties of clerk, or another magistrate appointed by the chief magistrate to~~  
 20 ~~perform the duties of clerk, shall receive, in addition to any other compensation to which~~  
 21 ~~he or she is entitled, compensation for performing the duties of clerk, the amount of which~~  
 22 ~~compensation shall be fixed by the county governing authority at not less than \$286.73 per~~  
 23 ~~month.~~

24 ~~(e) The compensation of the clerk or magistrate performing the duties of clerk shall be~~  
 25 ~~paid in equal monthly installments from county funds.~~

26 ~~(f) The clerk shall be required to be at least 18 years of age and shall possess a high school~~  
 27 ~~diploma or its equivalent. The clerk shall not be subject to a residency requirement.~~

28 ~~(g) In any case any magistrate may perform any duty to be performed by the clerk.~~

29 (a) Except as otherwise provided in this subsection, in every magistrate court of this state  
 30 the clerk of superior court shall serve as clerk. In a magistrate court in which a person other  
 31 than the clerk of superior court has been employed by the chief magistrate of the magistrate  
 32 court to serve as clerk pursuant to general or local law, such person shall continue to serve  
 33 as clerk upon approval of the chief magistrate; provided, however, that, upon such person  
 34 vacating his or her office as clerk, the clerk of the superior court shall become clerk of the  
 35 magistrate court unless the chief magistrate of said court is authorized by a local Act of the  
 36 General Assembly to appoint and employ a person other than the clerk of superior court  
 37 as clerk of said court.

1 (b) Any person who serves as a clerk of any magistrate court of this state, as a qualification  
 2 of holding his or her office, shall execute bond in the sum of \$100,000.00 for the faithful  
 3 performance of his or her duties as clerk, which amount may be increased by local Act.  
 4 However, any clerk of a superior court who is also serving as clerk of a magistrate court  
 5 shall not be required to post a bond under this Code section; the bond given by the clerk  
 6 of the superior court for the faithful performance of his or her duties shall also be  
 7 conditioned on his or her faithful performance of his or her duties as clerk of the magistrate  
 8 court.  
 9 (c) The compensation of employees of the clerk of the magistrate court shall be fixed by  
 10 the clerk and shall be paid out of county funds."

### 11 SECTION 5.

12 Said title is further amended by striking Code Section 15-11-24, relating to juvenile court  
 13 personnel, compensation, and removal, and inserting in lieu thereof the following:

14 "15-11-24.

15 ~~The judge of the juvenile court shall have the authority to appoint clerks and any other~~  
 16 ~~personnel necessary for the execution of the purposes of this chapter. The compensation~~  
 17 ~~of the employees shall be fixed by the judge, with the approval of the governing authority~~  
 18 ~~of the county. The salaries of the employees shall be paid out of county funds. All~~  
 19 ~~appointments shall be made from eligible lists secured from the local merit boards in those~~  
 20 ~~counties where such boards exist or from lists established by competitive examinations~~  
 21 ~~conducted by the court. The appointment, salary, tenure, and all other conditions of~~  
 22 ~~employment of the employees shall be in accordance with the laws and regulations~~  
 23 ~~governing the merit system in operation or such rules and regulations as are established by~~  
 24 ~~the court. Any employee of the court may be removed for cause by the judge of the court,~~  
 25 ~~the reasons therefor to be assigned in writing.~~

26 (a)(1) Except as otherwise provided in this subsection, in every juvenile court the clerk  
 27 of superior court shall serve as clerk. In a juvenile court in which a person other than the  
 28 clerk of the superior court has been employed by the chief judge of the juvenile court to  
 29 serve clerk pursuant to general or local law, such person shall continue to serve as clerk  
 30 upon approval of the chief judge of the juvenile court; provided, however, that, upon such  
 31 person vacating his or her office as clerk, the clerk of the superior court shall become  
 32 clerk of the juvenile court unless the chief judge of said court is authorized by a local Act  
 33 of the General Assembly to appoint and employ a person other than the clerk of superior  
 34 court as clerk of said court. The judge of the juvenile court shall have the authority to  
 35 appoint any other personnel necessary for the execution of the purposes of this article.

1 (2) When the clerk of the superior court does not serve as clerk of the juvenile court, the  
2 following provisions shall apply:

3 (A) The judge of the juvenile court shall have the authority to appoint clerks and any  
4 other personnel necessary for the execution of the purposes of this article; and

5 (B) The compensation of the employees shall be fixed by the judge, with the approval  
6 of the governing authority of the county. The salaries of the employees shall be paid out  
7 of county funds. Any employee of the court may be removed for cause by the judge of  
8 the court, the reasons therefor to be assigned in writing.

9 (b) Any person who serves as a clerk of any juvenile court of this state, as a qualification  
10 of holding his or her office, shall execute bond in the sum of \$100,000.00 for the faithful  
11 performance of his or her duties as clerk, which amount may be increased by local Act.  
12 However, any clerk of a superior court who is also serving as clerk of a juvenile court shall  
13 not be required to post a bond under this Code section; the bond given by the clerk of the  
14 superior court for the faithful performance of his or her duties shall also be conditioned on  
15 his or her faithful performance of his or her duties as clerk of the juvenile court.

16 (c) The compensation of employees of the clerk of the juvenile court shall be fixed by the  
17 clerk and shall be paid out of county funds."

18 **SECTION 6.**

19 This Act shall become effective upon its approval by the Governor or upon its becoming law  
20 without such approval.

21 **SECTION 7.**

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