

House Bill 495 (COMMITTEE SUBSTITUTE)

By: Representatives Lane of the 167th, Maxwell of the 17th, and Weldon of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to
2 probate courts, so as to provide for the filling of vacancies in the office of judge of the
3 probate court; to provide for the qualifications of certain judges of the probate court; to
4 provide for the jurisdiction of judges of the probate court; to update language regarding
5 conservators and guardians; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to probate courts,
10 is amended by revising subsection (c) of Code Section 15-9-4, relating to additional
11 eligibility requirements in certain counties, as follows:

12 "(c) A judge of the probate court holding such office on or after June 30, 2000, shall
13 continue to hold such office and shall be allowed to seek reelection for such office.
14 Notwithstanding the requirement that in certain counties the judge of the probate court be
15 admitted to practice law for seven years preceding election, no decision, judgment, ruling
16 or other official action of any judge of the probate court shall be overturned, denied, or
17 overruled based solely on this requirement for qualification, election, and holding the office
18 of judge of the probate court."

19 **SECTION 2.**

20 Said chapter is further amended by revising subsection (a) of Code Section 15-9-11, relating
21 to calling of special election to fill vacancy, as follows:

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 person who assumes the duties of the judge, as provided in Code
24 Section 15-9-10, within ten days after the vacancy occurs, to order a special election for
25 the purpose of filling the vacancy. He or she shall give notice of the special election by

26 publication in the newspaper in which the citations of the judge of the probate court are
 27 published. The special election shall be held in accordance with Chapter 2 of Title 21.
 28 Notwithstanding the provisions of this subsection, if the vacancy occurs after January 1 in
 29 the last year of the term of office of the judge of probate court, the person assuming the
 30 duties of the judge of the probate court shall be commissioned for and shall serve the
 31 remainder of the unexpired term of office."

32 **SECTION 3.**

33 Said chapter is further amended by revising subsection (a) of Code Section 15-9-30, relating
 34 to subject matter jurisdiction, as follows:

35 "(a) Probate courts have authority, unless otherwise provided by law, to exercise original,
 36 exclusive, and general jurisdiction of the following subject matters:

- 37 (1) The probate of wills;
- 38 (2) The granting of letters testamentary and of administration and the repeal or
 39 revocation of the same;
- 40 (3) All controversies in relation to the right of executorship or administration;
- 41 (4) The sale and disposition of the property belonging to, and the distribution of,
 42 deceased persons' estates;
- 43 (5) The appointment and removal of guardians of minors, conservators of minors,
 44 guardians of incapacitated adults, and conservators of incapacitated adults and persons
 45 who are incompetent because of mental illness or mental retardation;
- 46 (6) All controversies as to the right of guardianship and conservatorship, except that the
 47 probate court shall not be an appropriate court to take action under Code Section 19-7-4;
- 48 (7) The auditing and passing of returns of all executors, administrators, guardians of
 49 property, conservators, and guardians;
- 50 (8) The discharge of former sureties and the requiring of new sureties from
 51 administrators, guardians of property, conservators, and guardians;
- 52 (9) All matters as may be conferred on them by Chapter 3 of Title 37;
- 53 (10) All other matters and things as appertain or relate to estates of deceased persons and
 54 to persons who are incompetent because of mental illness or mental retardation; and
- 55 (11) All matters as may be conferred on them by the Constitution and laws."

56 **SECTION 4.**

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