

The Senate Committee on Judiciary offered the following substitute to SB 38:

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 exclude certain types of filings from the electronic filing requirements of superior and state
3 courts; to allow individuals who are not attorneys to file such pleadings and documents in
4 paper form; to provide that fees for electronic filings shall not be charged for pleadings or
5 documents filed by the state, its agents, or political subdivisions, the Attorney General,
6 district attorneys, solicitors-general, or public defenders or for the filing of leaves of absence
7 and conflict notices; to provide that certain postjudgment proceedings shall be given a new
8 case number for improved record keeping; to revise a definition; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
12 subparagraph (b)(3)(A), revising subsections (c) through (e), and adding a new subsection
13 to Code Section 15-6-11, relating to electronic filings of pleadings and documents in superior
14 court, electronic payments and remittances, access, and public disclosure, to read as follows:
15

16 "(3)(A) This subsection shall not apply to filings:

17 (i) In connection with a pauper's affidavit, any validation of bonds as otherwise
18 provided for by law, pleadings or documents filed under seal or presented to a court
19 in camera or ex parte, or pleadings or documents to which access is otherwise
20 restricted by law or court order;

21 (ii) Made physically at the courthouse by an attorney or his or her designee or an
22 individual who is not an attorney; provided, however, that the clerk shall require such
23 pleadings or documents made physically at the courthouse by an attorney or his or her
24 designee be submitted via a public access terminal in the clerk's office. The clerk
25 shall not charge the fee as set forth in division (2)(A)(i) of this subsection for such
26 filing but when payment is submitted by credit card or bank draft, the clerk may

27 charge the convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this
 28 subsection;

29 (iii) Made in a court located in an area that has been declared to be in a state of
 30 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 31 Georgia shall provide rules for filings in such circumstances; or

32 (iv) Made prior to the commencement of mandatory electronic filing for such court,
 33 wherein the filer shall continue to pay fees applicable to the case on the date of the
 34 first filing; provided, however, that a party may elect to make future filings through
 35 the court's electronic filing service provider and pay the applicable fees."

36 "(c)(1) Except as provided for in paragraph (2) of this subsection, no clerk or electronic
 37 filing service provider shall charge a fee pursuant to subsection (a) or (b) of this Code
 38 section for the filing of:

39 (A) Pleadings or documents by the state, its agents, or political subdivisions to include,
 40 but not be limited to, the Attorney General, Secretary of State, district attorneys, public
 41 defenders, municipal corporations, or county governments; or

42 (B) Leave of absence and conflict notices filed pursuant to the Uniform Rules of the
 43 Superior Courts.

44 (2) A clerk or electronic filing service provider may recover the cost of any fee provided
 45 for under subparagraph (A) of paragraph (1) of this subsection that would have otherwise
 46 been charged from any available source of grant funding or other appropriations.

47 ~~(c)~~(d) Nothing in this Code section shall be construed to prevent a clerk's acceptance of
 48 payments and remittances by electronic means under the clerk's own authority.

49 ~~(d)~~(e) A superior court judge to whom the case is assigned and his or her staff shall, at all
 50 times, have access to all pleadings and documents electronically filed and such access shall
 51 be provided upon the physical acceptance of such pleadings and documents by the clerk.

52 ~~(e)~~(f) Any pleading or document filed electronically shall be deemed filed as of the time
 53 of its receipt by the electronic filing service provider. A pleading or document filed
 54 electronically shall not be subject to disclosure until it has been physically accepted by the
 55 clerk. Upon such acceptance as provided for in this subsection, such pleading or document
 56 shall be publicly accessible for viewing at no cost to the viewer on a public access terminal
 57 available at the courthouse during regular business hours."

58 **SECTION 2.**

59 Said title is further amended by revising subparagraph (a)(4)(A) of Code Section 15-6-61,
 60 relating to duties of superior court clerks generally and computerized record-keeping system,
 61 as follows:

62 "(A) An automated civil case management system which shall contain separate case
 63 number entries for all civil actions filed in the office of the clerk, including complaints,
 64 proceedings, Uniform Interstate Family Support Act actions, domestic relations,
 65 contempt actions, motions and modifications on closed civil actions, any postjudgment
 66 proceeding filed more than 30 days after judgment or dismissal in an action, and all
 67 other actions civil in nature except adoptions;"

68 **SECTION 3.**

69 Said title is further amended by revising paragraph (1) of subsection (e) of Code Section
 70 15-6-77, relating to fees and construction of other fee provisions, as follows:

71 "(1) As used in this subsection, the term 'civil cases' shall include all actions, cases,
 72 proceedings, motions, or filings civil in nature, including but not limited to actions for
 73 divorce, domestic relations actions, modifications on closed civil cases, adoptions,
 74 condemnation actions, and actions for the validation and confirmation of revenue bonds.
 75 Any postjudgment proceeding filed more than 30 days after judgment or dismissal in an
 76 action shall be considered as a new case for the purposes of this Code section and shall
 77 be given a new case number by the clerk of the superior court; provided, however, that
 78 such new case number shall not subject a party to any fee other than provided for in this
 79 Code section."

80 **SECTION 4.**

81 Said title is further amended by revising subparagraph (b)(3)(A), revising subsections (c)
 82 through (e), and adding a new subsection to Code Section 15-7-5, relating to electronic
 83 filings of pleadings and documents in state court, electronic payments and remittances,
 84 access, and public disclosure, to read as follows:

85 "(3)(A) This subsection shall not apply to filings:

- 86 (i) In connection with a pauper's affidavit, pleadings or documents filed under seal
 87 or presented to a court in camera or ex parte, or pleadings or documents to which
 88 access is otherwise restricted by law or court order;
- 89 (ii) Made physically at the courthouse by an attorney or his or her designee or an
 90 individual who is not an attorney; provided, however, that the clerk shall require such
 91 pleadings or documents made physically at the courthouse by an attorney or his or her
 92 designee be submitted via a public access terminal in the clerk's office. The clerk
 93 shall not charge the fee as set forth in division (2)(A)(i) of this subsection for such
 94 filing but when payment is submitted by credit card or bank draft, the clerk may
 95 charge the convenience fee as set forth in division ~~(2)(A)(ii)~~ (2)(A)(iii) of this
 96 subsection;

97 (iii) Made in a court located in an area that has been declared to be in a state of
 98 emergency pursuant to Article 3 of Chapter 3 of Title 38. The Judicial Council of
 99 Georgia shall provide rules for filings in such circumstances; or

100 (iv) Made prior to the commencement of mandatory electronic filing for such court,
 101 wherein the filer shall continue to pay fees applicable to the case on the date of the
 102 first filing; provided, however, that a party may elect to make future filings through
 103 the court's electronic filing service provider and pay the applicable fees."

104 "(c)(1) Except as provided for in paragraph (2) of this subsection, no clerk or electronic
 105 filing service provider shall charge a fee pursuant to subsection (a) or (b) of this Code
 106 section for the filing of:

107 (A) Pleadings or documents by the state, its agents, or political subdivisions to include,
 108 but not to be limited to, the Attorney General, Secretary of State, district attorneys,
 109 public defenders municipal corporations, or county governments; or

110 (B) Leave of absence and conflict notices filed pursuant to the Uniform State Court
 111 Rules.

112 (2) A clerk or electronic filing service provider may recover the cost of any fee provided
 113 for under subparagraph (A) of paragraph (1) of this subsection that would have otherwise
 114 been charged from any available source of grant funding or other appropriations.

115 ~~(e)~~(d) Nothing in this Code section shall be construed to prevent a clerk's acceptance of
 116 payments and remittances by electronic means under the clerk's own authority.

117 ~~(d)~~(e) A state court judge to whom the case is assigned and his or her staff shall, at all
 118 times, have access to all pleadings and documents electronically filed and such access shall
 119 be provided upon the physical acceptance of such pleadings and documents by the clerk.

120 ~~(e)~~(f) Any pleading or document filed electronically shall be deemed filed as of the time
 121 of its receipt by the electronic filing service provider. A pleading or document filed
 122 electronically shall not be subject to disclosure until it has been physically accepted by the
 123 clerk. Upon such acceptance as provided for in this subsection, such pleading or document
 124 shall be publicly accessible for viewing at no cost to the viewer on a public access terminal
 125 available at the courthouse during regular business hours."

126 SECTION 5.

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