OFFICIAL CODE OF GEORGIA ANNOTATED

With Provision for Subsequent Pocket Parts

Prepared by

The Code Revision Commission
The Office of Legislative Counsel
and
The Editorial Staff of LexisNexis®

Published Under Authority of the State of Georgia

Volume 22

2026 Edition

Title 27. Game and Fish

Title 28. General Assembly

Title 29. Guardian and Ward

Title 30. Handicapped Persons

Including Acts of the 2026 Regular Session of the General Assembly of Georgia and Annotations taken from the Georgia Reports and the Georgia Appeals Reports

LexisNexis®

Miamisburg, Ohio
2026

ISBN 979-8-3417-3931-4
526422

(Pub.41805)



OFFICE OF SECRETARY OF STATE

I, Brad Raffensperger, Secretary of State of the State of Georgia, do hereby certify that

the statutory portion of the Official Code of Georgia Annotated contained in this volume is a true and correct copy of such material as enacted by the General Assembly of Georgia; all as the same appear on file and record in this office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of my office, at the Capitol, in the City of Atlanta, this 11th day of June, in the year of our Lord Two Thousand and Twenty-Six and of the Independence of the United States of America the Two Hundred and Fiftieth.

Brad Raffensperger

Brad Raffensperger, Secretary of State

(Pub.41805)

(Pub.41805)

Preface

This volume cumulates and replaces the 2018 edition of Volume 22 of the Official Code of Georgia Annotated, as supplemented by the 2025 Cumulative Supplement. The 2018 Volume 22 and its 2025 Cumulative Supplement may be discarded or, if so desired, may be retained for historical purposes.

This volume contains all laws specifically codified in Titles 27, 28, 29, and 30 by the General Assembly through the 2026 Regular Session. This volume also contains case annotations reflecting decisions posted to LexisNexis® through May 15, 2026. These annotations will appear in the following traditional reporter sources: Georgia Supreme Court Opinions; Georgia Appeals Court Opinions; Southeastern Reporter, Second Series; Supreme Court Reporter; Federal Reporter, Third Series; Federal Supplement, Second Series; Federal Rules Decisions; and Bankruptcy Reporter.

Additionally, LexisNexis® has prepared annotations and references to Attorney General Opinions, law reviews, and other research sources that we hope will be beneficial as you utilize this product. A complete listing of those sources is as follows: Official and Unofficial Attorney General Opinions; Opinions of the Judicial Qualifications Commission; Advisory Opinions of the State Disciplinary Board of the State Bar; Formal Advisory Opinions of the State Disciplinary Board of the State Bar, issued by the Supreme Court of Georgia; Emory Law Journal; Georgia Law Review; Georgia State University Law Review; John Marshall Law Review; Mercer Law Review; Georgia State Bar Journal; American Law Reports; American Jurisprudence 2d; American Jurisprudence Pleading and Practice; American Jurisprudence Proof of Facts; American Jurisprudence Trials; Corpus Juris Secundum; and Uniform Laws Annotated. Also included, where appropriate, are cross references to the Official Code of Georgia Annotated and the Official Compilation of the Rules and Regulations of the State of Georgia.

This volume retains amendment notes and effective date notes for Acts passed during the 2024, 2025, and 2026 Sessions of the General Assembly. In order to determine the changes which were made or the effective date applied to a Code section by an Act passed prior to the 2024 Session of the General Assembly, the user should consult the Georgia Laws.

Visit our internet home page at www.lexisnexis.com for an online bookstore, technical support, and other company information.

If you have questions or suggestions concerning the Official Code of Georgia Annotated, you may contact Customer Support at their self-service portal available 24/7 at supportcenter.lexisnexis.com/app/print or call 800-833-9844. Direct written inquiries to:

LexisNexis®

Attn: Official Code of Georgia Annotated

9443 Springboro Pike

Miamisburg, OH 45342

User's Guide

In order to assist both the legal profession and the layperson in obtaining the maximum benefit from the Official Code of Georgia Annotated, a User's Guide containing comments and information on the many features found within the Code has been included in Volume 1 of the Official Code of Georgia Annotated.

Table of Titles

Title 1. General Provisions.
2. Agriculture.
3. Alcoholic Beverages.
4. Animals.
5. Appeal and Error.
6. Aviation.
7. Banking and Finance.
8. Buildings and Housing.
9. Civil Practice.
10. Commerce and Trade.
11. Commercial Code.
12. Conservation and Natural Resources.
13. Contracts.
14. Corporations, Partnerships, and Associations.
15. Courts.
16. Crimes and Offenses.
17. Criminal Procedure.
18. Debtor and Creditor.
19. Domestic Relations.
20. Education.
21. Elections.
22. Eminent Domain.
23. Equity.
24. Evidence.
25. Fire Protection and Safety.
26. Food, Drugs, and Cosmetics.
27. Game and Fish.
28. General Assembly.
29. Guardian and Ward.

30. Handicapped Persons.
31. Health.
32. Highways, Bridges, and Ferries.
33. Insurance.
34. Labor and Industrial Relations.
35. Law Enforcement Officers and Agencies.
36. Local Government.
37. Mental Health.
38. Military, Emergency Management, and Veterans Affairs.
39. Minors.
40. Motor Vehicles and Traffic.
41. Nuisances.
42. Penal Institutions.
43. Professions and Businesses.
44. Property.
45. Public Officers and Employees.
46. Public Utilities and Public Transportation.
47. Retirement and Pensions.
48. Revenue and Taxation.
49. Social Services.
50. State Government.
51. Torts.
52. Waters of the State, Ports, and Watercraft.
53. Wills, Trusts, and Administration of Estates.

In Addition, This Publication Includes

Constitution of the United States
Constitution of the State of Georgia
Tables of Comparative Sections
Table of Acts
Index to Local and Special Laws

Index to General Laws of Local Application
General Index

Table of Contents

VOLUME 22

Title 27

Game and Fish

CHAPTER		PAGE
1.	General Provisions, 27-1-1 through 27-1-39	2
2.	Licenses, Permits, and Stamps, 27-2-1 through 27-2-42	50
3.	Wildlife Generally, 27-3-1 through 27-3-185	119
4.	Fish, 27-4-1 through 27-4-283	188
5.	Wild Animals, 27-5-1 through 27-5-12	285

Title 28

General Assembly

CHAPTER		PAGE
1.	General Provisions, 28-1-1 through 28-1-18	313
2.	Apportionment and Member Qualifications, 28-2-1 through 28-2-2	342
3.	Administrative Personnel, 28-3-1 through 28-3-25	349
4.	Legislative Services, 28-4-1 through 28-4-9	355
5.	Financial Affairs, 28-5-1 through 28-5-127	366
6.	Interstate Cooperation, 28-6-1 through 28-6-8	413
7.	Prohibited Lobbying Practices, 28-7-1 through 28-7-5	421
8.	Georgia Criminal Justice Improvement Council, 28-8-1 through 28-8-3. [Reserved]	423
9.	Code Revision Commission, 28-9-1 through 28-9-5	424
10.	Georgia Rail Passenger Authority Overview Committee, 28-10-1 through 28-10-7	433
11.	Ethics and Efficiency in Government Act, 28-11-1 through 28-11-8	434
12.	Legislative Review of Taxation, 28-12-1	438

CHAPTER PAGE

Title 29

Guardian and Ward

CHAPTER PAGE
1. General Provisions, 29-1-1 440
2. Guardians of Minors, 29-2-1 through 29-2-77 443
3. Conservators of Minors, 29-3-1 through 29-3-120 516
4. Guardians of Adults, 29-4-1 through 29-4-98 610
5. Conservators of Adults, 29-5-1 through 29-5-140 684
6. Probate Court Judges as Custodians, 29-6-1 through 29-6-9 792
7. Veterans Affairs Guardians, 29-7-1 through 29-7-18 796
8. County Guardians, 29-8-1 through 29-8-6 805
9. Court Proceedings, 29-9-1 through 29-9-19 808
10. Public Guardians, 29-10-1 through 29-10-11 825
11. Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction, 29-11-1 through 29-11-42 831

Title 30

Handicapped Persons

CHAPTER PAGE
1. General Provisions, 30-1-1 through 30-1-6 851
2. Georgia Industries for the Blind, 30-2-1 through 30-2-9 ... 862
3. Access to and Use of Public Facilities by Persons with Disabilities, 30-3-1 through 30-3-9 866
4. Rights of Persons with Disabilities, 30-4-1 through 30-4-5 880
5. Protection of Disabled Adults and Elder Persons, 30-5-1 through 30-5-11 888
6. Personal Assistance Program for Persons with Disabilities, 30-6-1 through 30-6-5 909
7. Blind Persons' Literacy Rights and Education, 30-7-1 through 30-7-4 911
8. Georgia Council on Developmental Disabilities, 30-8-1 914
9. Georgia Achieving a Better Life Experience (ABLE), 30-9-1 through 30-9-16 916

TABLE OF CONTENTS

CHAPTER PAGE
10. Community Trusts, 30-10-1 through 30-10-9 929

Index to Titles 27 to 30 939

TITLE 27

GAME AND FISH

Chap.

1. General Provisions, 27-1-1 through 27-1-39.
2. Licenses, Permits, and Stamps, 27-2-1 through 27-2-42.
3. Wildlife Generally, 27-3-1 through 27-3-185.
4. Fish, 27-4-1 through 27-4-283.
5. Wild Animals, 27-5-1 through 27-5-12.

Cross references.

Authority of General Assembly to restrict land use to protect and preserve natural resources, environment, and vital areas of state, Ga. Const. 1983, Art. III, Sec. VI, Para. II.

Classification of certain dogs as hunting dogs, § 4-8-1.2.

Department of Conservation and Natural Resources § 12-1-1 et seq.

Prohibited activities at, and requirements for leaving when directed, parks, historic sties, and recreational areas § 12-3-10.

Jurisdiction over Game and Fish Code misdemeanor violations, § 15-9-30.3.

Cruelty to animals, § 16-12-4.

Georgia Boat Safety Act, § 52-7-1 et seq.

Administrative rules and regulations.

Saltwater fishing regulations, Official Compilation of Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Coastal Resources, Chapter 391-2-4.

Law reviews.

For article discussing important cases applying natural resource and game and fish laws in 1976 to 1977, see 29 Mercer L. Rev. 131 (1977).

RESEARCH REFERENCES

ALR.

Power of state to prohibit or restrict exportation of natural resources, 32 A.L.R. 331.

CHAPTER 1

GENERAL PROVISIONS

Sec.		Sec.	
27-1-1.	Short title.	27-1-14.	Disposition of fines and bond forfeitures.
27-1-2.	Definitions.	27-1-15.	[Reserved] Wildlife technicians.
27-1-3.	Ownership and preservation of wildlife; right to hunt, trap, or fish; local regulation; offenses; penalties.	27-1-16.	Establishment of unit of game wardens; qualifications, appointment, and supervisory personnel; retention of badge and weapon upon disability retirement.
27-1-4.	Powers and duties of board generally.	27-1-17.	Deputy game wardens.
27-1-5.	Promulgation of rules and regulations; board final decisions; appellate review.	27-1-18.	Powers of game wardens generally.
27-1-6.	Powers and duties of department.	27-1-19.	Power of game wardens and deputy game wardens to arrest persons; procedure upon failure of person arrested to appear to answer charges.
27-1-7.	Technical assistance for control or elimination of wild or abandoned dogs.	27-1-20.	Additional powers of game wardens; functions of other agencies assigned to department.
27-1-8.	Fish ladder construction requirement; assessment of costs; issuance of execution.	27-1-21.	Seizure and disposition of wildlife illegally taken or possessed; civil actions by owners or possessors.
27-1-9.	Consent to federal rules and regulations pursuant to federal law authorizing purchase of land by United States government for river navigability purposes.	27-1-22.	Taking, possessing, and releasing of wildlife by department.
27-1-10.	Assent to federal law respecting wildlife conservation and restoration projects, fish restoration projects, wildlife conservation education, and wildlife associated recreation projects.	27-1-23.	Inspection of business premises and records of commercial license holders.
27-1-11.	Consent to acquisition of land by United States government for conservation purposes; notice of intended use.	27-1-24.	Inspection of vessels and boats.
27-1-12.	Federal-state cooperation in protection and management of wildlife in national forests; powers of board.	27-1-25.	Interference with arrest or performance of game warden or deputy game warden's duties.
27-1-13.	Disposition of funds received by department; appropriations; grants and donations for natural resources conservation camps.	27-1-25.1.	Failure or refusal to bring motor vehicle or boat to a stop when ordered.
		27-1-26.	[Reserved] Impersonation of conservation officer.
		27-1-27.	Damaging or destroying department property.
		27-1-28.	Taking of nongame species.
		27-1-29.	Sale or purchase of game species.

Sec.		Sec.	
27-1-30.	Disturbing or destroying wildlife habitats.	27-1-35.	Jurisdiction of probate courts; summons.
27-1-31.	Unlawful possession or use of wildlife; unlawful concealment.	27-1-36.	Civil penalties.
27-1-32.	Hiring others to illegally take or possess wildlife.	27-1-37.	Administrative orders; emergency administrative orders; administrative review.
27-1-33.	Conduct while on public fishing area, fish hatchery, natural area, or wildlife management area; acts constituting criminal trespass.	27-1-38.	Criminal penalty.
27-1-34.	Defenses not available in prosecutions for violations.	27-1-39.	Rules and regulations used to establish criminal violations.

OPINIONS OF THE ATTORNEY GENERAL

Peace Officer and Prosecutor Training Fund Act of 1983 applies to cases prosecuted under the Georgia Game and Fish Code. 1985 Op. Att'y Gen. No. U85-19.

27-1-1. Short title.

This title shall be known and may be cited as the "Game and Fish Code."

History.
Code 1933, § 45-101, enacted by Ga. L. 1977, p. 396, § 1.

27-1-2. Definitions.

As used in this title, the term:

(1) "Adult supervision" means under the command and control of a person 18 years of age or older, with the minor being within sight or hearing distance of such person.

(1.1) "Alligator" means Alligator mississippiensis, commonly known as the American alligator.

(2) "Alligator farming" means the possession, propagation, and any other act involved in the production of live alligators.

(3) "Alligator product" means any product or article made, either wholly or in part, from any part of the hide of an alligator or alligator meat or any other part of an alligator carcass.

(4) "Artificial lure" means any lure which is made completely of natural or colored plastic, wood, cork, rubber, metal, feathers, hair, tinsel, styrofoam, sponge, or string, or any combinations of such

materials, in imitation of or as a substitute for natural bait. Such term does not include any item which is sprayed with or containing scented or chemical attractions.

(5) "Bag limit" or "creel limit" means the quantity of wildlife which may be taken, caught, or killed during a specified period.

(5.1) "Bait shrimp cast net" means a cast net constructed of a minimum of three-eighths inch bar mesh.

(6) "Big game" means turkey, deer, and bear.

(7) "Board" means the Board of Natural Resources.

(8) "Bushel" means the present United States standard bushel, as determined by the United States Department of Agriculture, which standard bushel measures 2150.4 cubic inches.

(9) "Business premises" means any place of business operation including, but not limited to, offices, sheds, warehouses, vessels, boats, houses, ponds, and other such locations where commercial activity takes place and specifically includes the equipment used in conducting such activity.

(10) "Carrier" means a person engaged in the business of transporting goods and specifically includes a common carrier, a contract carrier, a private carrier, and a transportation company.

(10.1) "Cast net" means a cone shaped net thrown and retrieved by hand without mechanical assistance and designed to spread out and capture fish and shrimp as the weighted circumference sinks to the bottom and comes together when pulled by a line.

(11) "Catch-out pond" means a fresh-water pond or lake where the owner or operator charges persons a fee for the right to fish therein.

(12) "Clam rake" means a hand-held rake, or a tool consisting of a long handle with a bar that is set transversely with projecting prongs and with a wire basket or enclosure modification, which rake or tool is suitable for scratching and removing mollusks of the class Pelecypoda from estuarine and marine substrates.

(13) "Commercial" means of or relating to buying, selling, or exchanging or offering for purchase, sale, or exchange.

(14) "Commercial crab trap" means an oblong cage or other cubical structure which is constructed of wooden slats, hardware cloth, chicken wire, or other similar material, which has one or more tunnel-shaped entrances which allow ingress but limit egress, which is to be used as a trap, which is designed to be left unattended for long periods of time, and which is used for catching decapod crustaceans, mainly of the species Callinectes sapidus.

(15) "Commercial fish hatchery" means a facility consisting of two or more ponds or a raceway system which is capable of growing fish from eggs, fry, or fingerlings to a commercially salable size and which produces fish from such eggs, fry, or fingerlings for sale more than once annually.

(16) "Commercial fishing" means fishing for the purpose of sale, the sale or offering for sale of fish by the person taking such fish, or fishing with commercial fishing gear.

(17) "Commercial quantities" means an amount equal to one bushel or more.

(18) "Commercial shooting preserve" means any shooting preserve open to the general public for a fee.

(19) "Commercial trapper" means a person who traps on any land other than that belonging to himself or to his immediate family.

(20) "Commissioner" means the commissioner of natural resources.

(21) "Crab" means any crab of the species Callinectes sapidus.

(22) "Department" means the Department of Natural Resources.

(23) "Domestic species" means those taxa of animals which have traditionally lived in a state of dependence on and under the dominion and control of man and have been kept as tame pets, raised as livestock, or used for commercial breeding purposes, including, but not limited to, dogs, cats, horses, cattle, ratites, and chickens. Animals which live in a captive or tame state and which lack a genetic distinction from members of the same taxon living in the wild are presumptively wild animals, except that lawfully obtained farmed fish which are held in confinement in private ponds shall be known as and considered to be "domestic fish," but only if they are fish species which are either indigenous to Georgia or are fish species which have been recognized prior to 1992 as having an established population in Georgia waters other than private ponds; provided, however, that Morone americana, white perch, shall not be a domestic fish.

(24) "Educational" means of or relating to an attempt to learn or convey information about the characteristics and behavior of wild animals or wildlife, where such an attempt is made:

(A) In a public or private college, university, secondary school, or primary school, which college, university, or school is accredited by either the Georgia Accrediting Commission, Inc., or the Southern Association of Colleges and Schools;

(B) By an independent study conducted in affiliation with any of the institutions mentioned in subparagraph (A) of this paragraph;

(C) By any chartered association or society organized for the purpose of conveying knowledge about such species to its members;

(D) By a research facility; or

(E) By a governmental agency.

(25) "Established bait dealership" means a facility which is used in whole or in part to sell shrimp for bait and which has been inspected by employees of the department and which has been issued a bait dealer license.

(26) "Falconer" means a person licensed according to the laws and rules and regulations pertaining to falconry.

(27) "Falconry" means the sport of taking quarry by means of a trained raptor.

(27.1) "Farmed deer" means fallow deer (Dama dama), axis deer (Axis axis), sika deer (Cervus nippon), red deer and elk (Cervus elaphus), and reindeer and caribou (Rangifer tarandus), and hybrids between these farmed deer species raised for the commercial sale of meat and other parts or for the sale of live animals.

(28) "Feral hog" means any hog which has lived any part of its life in a wild, free-ranging state and is currently in such state or has been taken.

(29) "Fishing" means catching, capturing, taking, or killing fish, mussels, and all seafood and includes all lesser acts such as attempting to catch, capture, or kill by any device or method and every act of direct assistance to any person in catching or attempting to catch fish, mussels, or seafood.

(29.1) "Food shrimp cast net" means:

(A) Until March 1, 2009, a cast net constructed of a minimum of one-half inch bar mesh; and

(B) On and after March 1, 2009, a cast net constructed of a minimum of five-eighths inch bar mesh.

(29.2) "Fresh-water turtle" means any turtle or its eggs within the families Chelydridae, Emydidae (excluding Malaclemys terrapin and Terrapene carolina), Kinosternidae, and Trionychidae.

(30) "Full-time employee" means a person who works at least 30 hours per week for one employer. Expressly excluded from such term is an independent contractor or casual vendor who does not receive regular periodic compensation from one employer.

(31) "Fur-bearing animals" means the following animals: mink, otter, raccoon, fox, opossum, muskrat, skunk, bobcat, and weasel.

(32) "Fur dealer" means a person who purchases or sells raw undressed hides, furs, pelts, or skins of fur-bearing animals and alligator hides or alligator products, excluding alligator meat; provided, however, those persons engaged in wholesale or retail furrier operations, that is, those who engage in the manufacture or production of finished fur or alligator products, shall not be fur dealers for purposes of this title.

(33) "Fur dealer's agent" means any person who represents the owner of or a dealer in furs, alligator hides, or alligator products for the purpose of selling such furs, alligator hides, or alligator products.

(34) "Game animals" means the following animals: bear, bobcat, deer, fox, opossum, rabbit, raccoon, sea turtles and their eggs, squirrel, cougar (Felis concolor), and all members of the families Alligatoridae and Crocodylidae.

(35) "Game birds" means the following birds: turkey, quail, grouse, and all migratory game birds.

(36) "Game fish" means the following fish, except domestic fish as provided in paragraph (23) of this Code section:

(A) Bass:

(i) Members of the genus micropterus, or the black bass, and their hybrids;

(ii) Striped-white bass hybrids;

(iii) White bass; and

(iv) Striped bass;

(B) Trout:

(i) Rainbow trout;

(ii) Brown trout;

(iii) Brook trout; and

(iv) Any hybrids of the species named in divisions (i), (ii), and (iii) of this subparagraph;

(C) Crappie:

(i) White crappie; and

(ii) Black crappie;

(D) Shad:

(i) American shad; and

(ii) Hickory shad;

(E) Sunfish or bream:

(i) Flier;

(ii) Spotted sunfish (stumpknockers);

(iii) Rockbass (goggleye);

(iv) Shadow bass;

(v) Redbreast sunfish;

(vi) Redear sunfish;

(vii) Bluegill (bream); and

(viii) Warmouth;

(F) Perch:

(i) Walleye; and

(ii) Sauger;

(G) Pickerel:

(i) Chain pickerel;

(ii) Grass pickerel; and

(iii) Redfin pickerel;

(H) Catfish:

(i) Channel catfish; and

(ii) Flathead catfish; and

(I) Red drum.

(37) "Game species" means all game animals, game birds, and game fish.

(38) "Held as pets" means the possession of any wild animal for purposes other than scientific, educational, or public exhibition purposes or other than for sale to the general public or other than for resale to a retail dealer, an exhibition, or a research facility.

(39) "Hunting" means pursuing, shooting, killing, taking, or capturing wildlife or feral hogs. Such term also includes acts such as placing, setting, drawing, or using any device used to take wildlife or feral hogs, whether any such act results in taking or not, and includes every act of assistance to any person in taking or attempting to take such wildlife or feral hogs.

(40)(A) "Immediate family," except insofar as that term relates to trapping, trappers, and fur dealers, means all persons living in one household under one head of household and bearing a blood or dependent relationship to such head of household.

(B) "Immediate family," insofar as that term relates to trapping, trappers, and fur dealers, means son, daughter, father, mother, brother, sister, granddaughter, grandson, or spouse.

(40.1) "License" means any document, decal, stamp, permit, or temporary license identification number which authorizes the holder to participate in any activity regulated by the department and which is issued by the department; provided, however, that a temporary license number shall be a valid license for ten days from the date of issuance.

(41) "Licensed bait dealer" means the owner of an established bait dealership within this state who has been properly licensed and bonded pursuant to the applicable laws and regulations.

(42) "May" means is authorized, but not required, and denotes discretion and permission rather than command. When "may" is used in authorizing a certain action to be taken, it shall also include the authorization to change that action.

(43) "Migratory game birds" means all the following birds: brant, coots, cranes, doves, ducks, gallinules, geese, rails, snipe, swans, and woodcock. Birds which are mutations of such birds and birds which are the result of hybridization between such birds or between such birds and other birds are included as migratory game birds.

(44) "Mountain trout" means brook trout, brown trout, rainbow trout, and any hybrids of these species.

(45) "Night" means between the hours of 30 minutes after sunset and 30 minutes before sunrise.

(46) "Nongame fish" means any fish not included within the definition of the term "game fish" in this Code section and is synonymous with the term "rough fish."

(47) "Peeler" means a crab which has a soft shell fully developed under the hard shell and which has a pink or red line on the outer edge of the swimming paddles.

(48) "Pen raised game bird" means any bobwhite quail, chukar or red-legged partridge, coturnix or Japanese quail, ring-necked pheasant, mallard duck, or black duck which is raised in captivity and is more than two generations removed from the wild.

(49) "Perishable" means likely to deteriorate quickly in quality or

value unless given special treatment such as dressing, freezing, or cold storage.

(50) "Person" means any individual, partnership, firm, corporation, association, or other entity.

(51) "Pole and line" means any hand line or any type of pole with a line attached and specifically includes a casting rod, a spinning rod, a fly rod, and all similar hand-held equipment for use with bait or artificial lure; provided, however, that such pole and line may only be used to entice fish to strike or bite such bait or lure.

(52) "Private oyster or clam beds" means oyster or clam beds in which the right to plant, cultivate, and harvest oysters and clams is not vested in the state pursuant to Code Sections 44-8-6, 44-8-7, and 44-8-8.

(53) "Private pond" means a body of water wholly on or within the lands of one title from which fish cannot go upstream or downstream or to the lands of another.

(54) "Private shooting preserve" means any shooting preserve owned or leased by a person and used only by the owners, members, and guests.

(55) "Public exhibition" means any commercial or noncommercial display of wild animals or wildlife to the general public, including displays held in nontraveling facilities in fixed locations or displays held in transient facilities which travel to different parts of the state.

(56) "Public road" means any road open to and intended for use by the public and maintained at public expense.

(57) "Purchase" means to acquire, obtain, or receive or to attempt to acquire, obtain, or receive by exchange of valuable consideration. Such term specifically includes barter and exchange.

(58) "Raptor" means a live migratory bird of the order Falconiformes or the order Strigiformes, other than the bald eagle (Haliaeetus leucocephalus) or the golden eagle (Aquila chrysaetos).

(59) "Rats and mice" means any gnawing mammal of the class Mammalia, the subclass Theria, the order Rodentia, and either the family Muridae or the family Cricetidae and the genera Peromyscus, Sigmodon, Oryzomys, or Reithrodontomys.

(60) "Resident" means any citizen of the United States who has been domiciled within the State of Georgia for a period of at least three months. For purposes of issuing or procuring the noncommercial hunting and fishing licenses required by this title, the term "resident" shall include full-time military personnel on active duty

and the dependents of such military personnel; provided, however, that requirements for residency as defined in subparagraph (c)(4)(A) of Code Section 27-2-3.1 shall apply to such military personnel and their dependents for all lifetime license types listed in Code Section 27-2-3.1 that are only available to residents. Requirements for residency as defined in subparagraph (c)(4)(A) of Code Section 27-2-3.1 shall also apply to such military personnel and their dependents for all honorary or discounted license types listed in Code Section 27-2-4 and to the landowner exemption in subsection (b) of Code Section 27-2-1, provided that the domicile requirement shall be a period of at least three months.

(61) "Retail fish dealer" means any person engaged in the purchasing, raising, propagating, breeding, or other acquiring or possessing of live fish or fish eggs to be sold or furnished to others for use thereby, other than for resale or for aquaria.

(61.1) "Salt water fishing guide" means a person engaged in the occupation of taking fee-paying anglers fishing in the salt waters of this state.

(61.2) "Salt water fishing pier" means a permanent structure built and maintained for the purpose of providing fishing access in the salt waters of this state and associated with a hotel or motel.

(62) "Scientific" means of or relating to a systematic attempt, made at a public or private college, university, secondary school, or primary school, which college, university, or school is accredited by either the Georgia Accrediting Commission, Inc., or the Southern Association of Colleges and Schools; or made in the course of an independent study conducted in affiliation with any of the aforementioned institutions; or made by any chartered association or society organized for the purpose of conveying knowledge to its members; or made by a research facility or a governmental agency, for the purpose of discovering new knowledge through the possession of wild animals or wildlife for the testing of a theory or hypothesis, such theory or hypothesis to be tested according to the accepted procedures of observation, comparison, objective data collection, and analysis.

(63) "Seafood" means marine and estuarine fauna or flora used as food or of a kind suitable for food and specifically includes, but is not limited to, shrimp taken for bait and horseshoe crabs taken for bait.

(63.1) "Seafood dealer" means any person other than the consumer who purchases, ships, consigns, transfers, barters, accepts, maintains, or packs any marine fishery products received from commercial seafood harvesters or marine aquaculturists for the first time.

(64) "Sell" means to dispose of, transfer, or convey or to attempt to

dispose of, transfer, or convey by exchange of money or other valuable consideration. Such term specifically includes barter and exchange.

(65) "Shedding facility" means a soft-shell crab facility containing a tank or other enclosure in which peelers are or may be kept alive until they shed their shells and become soft-shell crabs and containing such other equipment as may be prescribed by the department.

(65.1) "Shellfish" means common bivalve mollusks which includes all edible species of oysters, clams, mussels, or other bivalves.

(65.2) "Shellfish management area" means a wildlife management area where shellfish are managed by the state or lessees for the propagation of shellfish.

(66) "Shooting preserve" means any area utilized for the purpose of shooting or taking, or shooting and taking, game birds or pen raised game birds.

(67) "Small game" means all game animals and game birds other than big game.

(68) "Soft-shell crab" means a crab which has just emerged from its old shell and has a new soft, pliable shell.

(69) "Soft-shell crab dealer" means any person operating a shedding facility approved by the department.

(70) "State owned oyster or clam beds" means oyster or clam beds in which the right to plant, cultivate, and harvest oysters and clams is vested in the state pursuant to Code Sections 44-8-6, 44-8-7, and 44-8-8.

(71) "Taking" means killing, capturing, destroying, catching, or seizing.

(71.1) "Ten-foot net" means a trawl with a cork line not to exceed ten feet from tie-to-tie between the first and last mesh across the mouth of the net, a lead line not to exceed 13 feet from tie-to-tie between the first and last mesh across the mouth of the net, and leg lines of equal length. No webbing shall extend toward the door beyond the original brail lines which run vertically between the first tie at each end of the cork line and the first tie at each end of the lead line.

(72) "Trapping" means taking, killing, or capturing wildlife with traps. Such term also includes all lesser acts such as placing, setting, or staking such traps, whether such acts result in taking or not, and attempting to take and assisting any person in taking or attempting to take wildlife with traps.

(72.1) "Twenty-foot net" means a trawl with a cork line not to exceed 20 feet from tie-to-tie between the first and last mesh across

the mouth of the net, a lead line not to exceed 25 feet from tie-to-tie between the first and last mesh across the mouth of the net, and leg lines of equal length. No webbing shall extend toward the doors beyond the original brail lines which run vertically between the first tie at each end of the cork line and the first tie at each end of the lead line.

(73) "Waters of this state" means any waters within the territorial limits of this state and the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to or from the shore of this state except ponds or lakes not open to the public, whether such ponds or lakes are within the lands of one title or not.

(74) "Wholesale fish dealer" means any person engaged in purchasing, raising, propagating, breeding, or acquiring or possessing live fish or fish eggs to be sold or furnished to others for the purpose of resale, including any person engaged in transporting live fish or fish eggs into this state; provided, however, that any person who holds or sells only "domestic fish" and is registered pursuant to Code Section 27-4-255 or any person who holds or sells fish solely for use in aquaria shall not be considered a wholesale fish dealer.

(75) "Wild animal" means any animal which is not wildlife and is not normally a domestic species in this state. Such term specifically includes any hybrid or cross between any combination of a wild animal, wildlife, and a domestic animal. Offspring from all subsequent generations of such crosses or hybrids are wild animals.

(76) "Wild animal business" means the importation, transportation, or possession of any wild animal for the purpose of sale or transfer.

(77) "Wildlife" means any vertebrate or invertebrate animal life indigenous to this state or any species introduced or specified by the board and includes fish, except domestic fish produced by aquaculturists registered under Code Section 27-4-255, mammals, birds, fish, amphibians, reptiles, crustaceans, and mollusks or any part thereof.

History.

Ga. L. 1911, p. 142, § 11; Ga. L. 1912, p. 113, § 4; Ga. L. 1925, p. 304, § 7; Code 1933, §§ 45-301, 45-328; Ga. L. 1937, p. 675, § 7; Ga. L. 1937-38, Ex. Sess., p. 332, § 4; Ga. L. 1955, p. 483, § 2; Ga. L. 1960, p. 974, § 1; Ga. L. 1961, p. 515, § 1; Ga. L. 1968, p. 497, § 2; Ga. L. 1969, p. 812, § 1; Ga. L. 1971, p. 236, § 1; Ga. L. 1973, p. 274, § 2; Ga. L. 1973, p. 897, § 1; Ga. L. 1976, p. 771, § 1; Code 1933, § 45-102, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1977, p. 1270, § 1; Ga. L. 1978, p. 816, §§ 1-6; Ga. L. 1979, p. 420, §§ 1, 2; Ga. L. 1979, p. 678, §§ 1-12; Ga. L. 1979, p. 800, § 1; Ga. L. 1979, p. 893, §§ 1-3; Ga. L. 1979, p. 1094, §§ 1, 2; Ga. L. 1981, p. 798, § 1; Ga. L. 1985, p. 913, § 1; Ga. L. 1985, p. 1047, §§ 1, 2; Ga. L. 1986, p. 1460, § 3; Ga. L. 1988, p. 848, §§ 1, 2; Ga. L. 1989, p. 1207, § 1; Ga. L. 1989, p. 1579, §§ 1, 2; Ga. L. 1991, p. 693, § 1; Ga. L. 1992, p. 6, § 27; Ga. L. 1992, p. 1507, § 2; Ga. L. 1992, p. 1636, § 1; Ga. L. 1992, p. 2863, § 1; Ga. L. 1993, p. 779, § 1; Ga. L. 1994, p. 600, § 1; Ga. L. 1994, p. 1742, § 1; Ga.

L. 1995, p. 244, § 30; Ga. L. 1995, p. 543, § 1; Ga. L. 1995, p. 946, § 1; Ga. L. 1996, p. 980, § 1; Ga. L. 1997, p. 1395, § 3; Ga. L. 1998, p. 783, § 1; Ga. L. 1998, p. 1133, §§ 1, 2, 3; Ga. L. 1999, p. 81, § 27; Ga. L. 2001, p. 323, § 1; Ga. L. 2001, p. 1013, § 1; Ga. L. 2003, p. 140, § 27; Ga. L. 2003, p. 654, § 1; Ga. L. 2004, p. 948, § 2-2; Ga. L. 2007, p. 91, § 1/HB 81; Ga. L. 2007, p. 93, §§ 1, 2/HB 100; Ga. L. 2010, p. 952, § 1/SB 474; Ga. L. 2013, p. 611, § 1/HB 36; Ga. L. 2013, p. 771, § 3/HB 155; Ga. L. 2014, p. 85, § 1/HB 740; Ga. L. 2016, p. 432, § 2/HB 840; Ga. L. 2017, p. 27, § 1/HB 208; Ga. L. 2021, p. 105, § 2-1/HB 362; Ga. L. 2026, p. 1069, § 27(1)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "such term" for "this term" in the second sentence in paragraph (30); substituted "Such term" for "This term" in the second sentences in paragraphs (39), (57), (64), (72), and (75); inserted "that" following "however," in paragraph (51); and substituted "a person" for "an individual, partnership, firm, corporation, association, or other entity" in paragraph (54).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1995, the "S" at the beginning of "sunfish" was lower cased in divisions (36)(E)(v) and (vi).

Pursuant to Code Section 28-9-5, in 1997, "farmed deer" was substituted for "farmed-deer" in paragraph (27.1).

Editor's notes.

Ga. L. 2016, p. 432, § 6/HB 840, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2016, and shall apply to all offenses occurring on or after such date."

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

Ga. L. 2019, p. 919, § 1-1/HB 553, repealed the provisions of the Georgia Pacific White Shrimp Development Aquaculture Act, effective July 1, 2019. As a result, the amendment by Ga. L. 2004, p. 948, § 2-2, which was never funded and therefore remained dormant, is now moot.

Administrative rules and regulations.

Recreational Fishing for Shrimp, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Coastal Resources, Saltwater Fishing Regulations, Rule 391-2-4-.06.

Law reviews.

For article on principles of water law in the southeast, see 13 Mercer L. Rev. 344 (1962).

For note, "Regulation of Artificial Lakes and Recreational Subdivisions in Georgia," recommending methods for future regulation, see 8 Ga. St. B.J. 580 (1972).

For note on the 2001 amendment to this Code section, see 18 Ga. St. U.L. Rev. 129 (2001).

For annual survey on workers' compensation, see 59 Mercer L. Rev. 463 (2007).

JUDICIAL DECISIONS

Former definition of "hunting" as written was vague and overbroad. — The word "pursuing" is intended by the legislature to mean seeking or searching for wildlife for the purpose of shooting or capturing such wildlife. The words "disturbing, harrying, or worrying" are intended to be limited to situations where the activities are for the purpose of shooting or capturing such wildlife. Shirley v. State, 254 Ga. 723, 334 S.E.2d 154, 1985 Ga. LEXIS 892 (1985) (decided prior to 1986 amendment).

Activities constituting "hunting." — In a prosecution for hunting over a baited field, evidence was sufficient to show defendant was "hunting" where defendant's activities constituted placing, setting, drawing, or using a device to take wildlife, whether or not defendant was actually in the act of pursuing, shooting, killing, or taking deer at the time of

apprehension. Redding v. State, 217 Ga. App. 529, 458 S.E.2d 168, 1995 Ga. App. LEXIS 504 (1995).

Alligator farm. — Definition in Employment Security Law, O.C.G.A. § 34-8-1 et seq., of "farm laborer" was applied to that same term under the Workers' Compensation Act to determine that when an alligator farm employee cleaned out the pens, the employee was caring for wildlife and thus performing "agricultural labor" under O.C.G.A. § 34-8-35(m)(2)(A), but because alligators were "wildlife" and "game animals" under O.C.G.A. § 27-1-2(34) and not "livestock or fur-bearing animals" under O.C.G.A. § 34-8-35(m)(3)(A), the employer was not a "farm" and did not fall within the exemption provided by O.C.G.A. § 34-9-2(a) with respect to the employee's claim for workers' compensation benefits. Thus, trial court erred in holding that the employer was exempted from the Workers' Compensation Act's coverage. Gill v. Prehistoric Ponds, Inc., 280 Ga. App. 629, 634 S.E.2d 769, 2006 Ga. App. LEXIS 671 (2006), cert. denied, No. S06C2094, 2006 Ga. LEXIS 869 (Ga. Oct. 16, 2006), superseded by statute.

Because an employer who was in the business of breeding, rearing, and slaughtering alligators to sell the meat, hides, and head was not a "farm," as alligators were "wildlife," not livestock or fur-bearing animals, the employer did not fall within the exemption from coverage under the Worker's Compensation Act, O.C.G.A. § 34-9-1 et seq., provided by O.C.G.A. § 34-9-2(a). Cook v. Prehistoric Ponds, Inc., 282 Ga. App. 904, 640 S.E.2d 383, 2006 Ga. App. LEXIS 1542 (2006), superseded by statute.

OPINIONS OF THE ATTORNEY GENERAL

Private pond. — Any opening that provides ingress and egress removes such body of water from the statutory definition of a private pond. 1963-65 Ga. Op. Att'y Gen. 197.

The term "wildlife" includes feral hogs. 1983 Op. Att'y Gen. No. U83-11.

27-1-3. Ownership and preservation of wildlife; right to hunt, trap, or fish; local regulation; offenses; penalties.

(a) The General Assembly recognizes that hunting and fishing and the taking of wildlife are a valued part of the cultural heritage of the State of Georgia. The General Assembly further recognizes that such activities play an essential role in the state's economy and in funding the state's management programs for game and nongame species alike, and that such activities have also come to play an important and sometimes critical role in the biological management of certain natural communities within this state. In recognition of this cultural heritage and the tradition of stewardship it embodies, and of the important role that hunting and fishing and the taking of wildlife play in the state's economy and in the preservation and management of the state's natural communities, the General Assembly declares that Georgia citizens have the right to take fish and wildlife, subject to the laws and regulations adopted by the board for the public good and general welfare, which laws and regulations should be vigorously enforced. The General Assembly further declares that the state's wildlife resources should be managed in accordance with sound principles of wildlife management,

using all appropriate tools, including hunting, fishing, and the taking of wildlife.

(b) The ownership of, jurisdiction over, and control of all wildlife, as defined in this title, are declared to be in the State of Georgia, in its sovereign capacity, to be controlled, regulated, and disposed of in accordance with this title. Wildlife is held in trust by the state for the benefit of its citizens and shall not be reduced to private ownership except as specifically provided for in this title. All wildlife of the State of Georgia is declared to be within the custody of the department for purposes of management and regulation in accordance with this title. However, the State of Georgia, the department, and the board shall be immune from suit and shall not be liable for any damage to life, person, or property caused directly or indirectly by any wildlife.

(c)(1) To the greatest practical extent, department land management decisions and actions shall not result in any net loss of land acreage available for hunting opportunities on department managed state owned lands that exists on July 1, 2022.

(2) The department has the authority and the responsibility to work with cooperating sportsmen, conservation groups, and others to encourage participation in hunting and fishing at a level to ensure continuation of such activities in perpetuity and no net loss of hunting and fishing opportunity on state owned lands. Further, the department is authorized to promote and encourage hunting, fishing, and other wildlife associated recreation on state managed wildlife areas, public fishing areas, federally owned or managed forests, and other suitable public and private lands of this state.

(d) To hunt, trap, or fish, as defined in this title, or to possess or transport wildlife is declared to be a right to be exercised only in accordance with the laws governing such right. Every person exercising this right does so subject to the authority of the state to regulate hunting, trapping, and fishing for the public good and general welfare; and it shall be unlawful for any person exercising the right of hunting, trapping, fishing, possessing, or transporting wildlife to refuse to permit authorized employees of the department to inspect and count such wildlife to ascertain whether the requirements of the wildlife laws and regulations are being faithfully complied with. Any person who hunts, traps, fishes, possesses, or transports wildlife in violation of the wildlife laws and regulations violates the conditions under which this right is extended; and any wildlife then on his person or within his immediate possession is deemed to be wildlife possessed in violation of the law and is subject to seizure by the department pursuant to Code Section 27-1-21. Nothing in this subsection shall be construed to reduce, infringe upon, or diminish the rights of private property owners as otherwise provided by general law.

(e) It shall be unlawful to hunt, trap, or fish except during an open season for the taking of wildlife, as such open seasons may be established by law or by rules and regulations promulgated by the board or as otherwise provided by law.

(f) It shall be unlawful to hunt, trap, or fish except in compliance with the bag, creel, size, and possession limits and except in accordance with such legal methods and weapons and except at such times and places as may be established by law or by rules and regulations promulgated by the board.

(g) It shall be unlawful to hunt, trap, or fish for any game species after having obtained the daily or season bag or creel limit for that species.

(h) Except as otherwise provided by general law, the power and duty to promulgate rules and regulations relating to hunting, trapping, and fishing rests solely with the board. No political subdivision of the state may regulate hunting, trapping, or fishing by local ordinance; provided, however, that a local government shall not be prohibited from exercising its management rights over real property owned or leased by it for purposes of prohibiting hunting, fishing, or trapping upon the property or for purposes of setting times when access to the property for purposes of hunting, fishing, or trapping in accordance with this title may be permitted. Nothing contained in this Code section shall prohibit municipalities or counties, by ordinance, resolution, or other enactment, from reasonably limiting or prohibiting the discharge of firearms within the boundaries of the political subdivision for purposes of public safety.

(i) A person who takes any wildlife in violation of this title commits the offense of theft by taking. A person who hunts, traps, or fishes in violation of this title commits the offense of criminal attempt. Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

(j) If any court finds that any criminal violation of the provisions of this title is so egregious as to display a willful and reckless disregard for the wildlife of this state, the court may, in its discretion, suspend the violator's right to hunt, fish, trap, possess, or transport wildlife in this state for a period not to exceed five years. Any person who hunts, fishes, traps, possesses, or transports wildlife in this state in violation of such suspension of rights shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction thereof shall be punished by a fine of not less than $1,500.00 nor more than $5,000.00 or imprisonment for a period not exceeding 12 months or both.

History. Ga. L. 1968, p. 497, § 1; Code 1933, § 45-201, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 13, 14; Ga. L.

1992, p. 2391, § 1; Ga. L. 2001, p. 302, § 1; Ga. L. 2005, p. 655, § 1/SB 206; Ga. L. 2022, p. 738, § 1/HB 1349.

Cross references.

Hunting, trapping, or fishing, § 27-2-1 et seq.

Creation of property rights in animals, birds, and fish generally, § 44-1-8.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2003, "this" was substituted for "thi" in the last sentence of subsection (i).

Law reviews.

For note, "Regulation of Artificial Lakes and Recreational Subdivisions in Georgia," recommending methods for future regulation, see 8 Ga. St. B.J. 580 (1972).

For note on the 2001 amendment of this Code section, see 18 Ga. St. U.L. Rev. 134 (2001).

For article, "Local Government Law," see 53 Mercer L. Rev. 389 (2001).

For article on proposed constitutional amendment regarding hunting and fishing, see 22 Ga. St. U.L. Rev. 11 (2005).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1911, p. 137, §§ 11, 12, 14, are included in the annotations for this Code section.

The state may exercise its police power to enforce and exercise its sovereign capacity over wildlife in order to preserve and protect it for the public good. Allen v. State, 11 Ga. App. 75, 74 S.E. 706, 1912 Ga. App. LEXIS 263 (1912) (decided under Ga. L. 1911, p. 137, §§ 11, 12, 14); Maddox v. State, 252 Ga. 198, 312 S.E.2d 325, 1984 Ga. LEXIS 641, cert. denied, 469 U.S. 820, 105 S. Ct. 93, 83 L. Ed. 2d 39, 1984 U.S. LEXIS 3105 (1984).

The Georgia Department of Natural Resources properly prevented an alligator farmer from selling alligators, because the farmer's legal stock had mixed with wild alligators, the farmer refused to recapture and separate the legal alligators from the wild alligators, and the state owned the wild alligators pursuant to O.C.G.A. § 27-1-3(b). Wright v. Dep't of Natural Res., 254 Ga. App. 450, 562 S.E.2d 515, 2002 Ga. App. LEXIS 396 (2002), cert. denied, No. S02C1140, 2002 Ga. LEXIS 608 (Ga. July 15, 2002).

Criminality. — The legislature may make it criminal to sell or offer for sale wild game or to possess wild game during the closed season, regardless of whether the game was killed or taken within or without the state. Allen v. State, 11 Ga. App. 75, 74 S.E. 706, 1912 Ga. App. LEXIS 263 (1912) (decided under Ga. L. 1911, p. 137, §§ 11, 12, 14).

Authority to stop and question hunters. — A Department of Natural Resources officer may approach a hunter in a state-run wildlife management area to determine whether the hunter has the necessary license and permits and to ask the hunter questions about the hunt, regardless of whether the officer has reason to suspect that the hunter has broken any laws. Elzey v. State, 239 Ga. App. 47, 519 S.E.2d 751, 1999 Ga. App. LEXIS 897 (1999), cert. dismissed, No. S99C1653, 1999 Ga. LEXIS 945 (Ga. Oct. 29, 1999), cert. dismissed, No. S99C1652, 1999 Ga. LEXIS 946 (Ga. Oct. 29, 1999).

Convictions upheld for transporting deer carcasses. — Defendant's convictions for several wildlife offenses was upheld because O.C.G.A. § 27-1-3 imposes reporting requirements on those who transport deer carcasses, even if they did not personally kill the deer and defendant abandoned any challenge to the accuracy of cell phone tower mapping data by failing to cite legal authority or record evidence in support. Sullens v. State, 375 Ga. App. 74, 914 S.E.2d 651, 2025 Ga. App. LEXIS 146 (2025).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 1 et seq., 23, 44 et seq., 51 et seq.

C.J.S.

36A C.J.S., Fish, §§ 2, 3, 31 et seq. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 2 et seq., 24 et seq., 58, 82.

ALR.

Title to fish and game taken by trespasser, 23 A.L.R. 1402.

Rights, title, and remedies of hunter in respect of game which he is pursuing or has killed or wounded, 49 A.L.R. 1498.

Applicability of state fishing license laws or other public regulations to fishing in private lake or pond, 15 A.L.R.2d 754.

Right created by private grant or reservation to hunt or fish on another's land, 49 A.L.R.2d 1395.

Right to kill game in defense of person or property, 93 A.L.R.2d 1366.

27-1-4. Powers and duties of board generally.

The board shall have the following powers and duties relative to this title:

(1) Establishment of the general policies to be followed by the department under this title;

(2) Promulgation of all rules and regulations necessary for the administration of this title including, but not limited to, rules and regulations to regulate the times, places, numbers, species, sizes, manner, methods, ways, means, and devices of killing, taking, capturing, transporting, storing, selling, using, and consuming wildlife and to carry out this title, and rules and regulations requiring daily, season, or annual use permits for the privilege of hunting and fishing in designated streams, lakes, or game management areas; and

(3) Promulgation of rules and regulations to protect wildlife, the public, and the natural resources of this state in the event of fire, flood, disease, pollution, or other emergency situation without complying with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Such rules and regulations shall have the force and effect of law upon promulgation by the board.

History.

Ga. L. 1911, p. 137, § 1; Ga. L. 1924, p. 101, §§ 1, 3, 4; Ga. L. 1931, p. 7, § 25; Ga. L. 1937, p. 264, §§ 1, 4, 9; Ga. L. 1943, p. 128, §§ 1, 2, 14; Ga. L. 1955, p. 483, § 3; Ga. L. 1972, p. 1015, § 1527; Ga. L. 1973, p. 344, § 1; Code 1933, § 45-103, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 7; Ga. L. 1979, p. 420, § 3; Ga. L. 1987, p. 179, § 1.

Cross references.

Board of Natural Resources, § 12-2-20 et seq.

Editor's notes.

Ga. L. 1987, p. 179, § 6/SB 107, not codified by the General Assembly, provides: "The General Assembly declares its intent to fund the acquisition of public wildlife management and fishing areas by and through the Department of Natural Resources with the increases and changes in hunting and fishing license fees provided in this Act. The General Assembly further recognizes the importance of wildlife related recreation and the need to provide greater

opportunities for such recreation and public lands in the face of rapid woodland development and appropriation of existing wildlife habitat. The General Assembly further declares its intent to ensure that the funding provided by hunters and fishermen through the yearly payment of these license fee increases and changes will fund the acquisition of fish and wildlife habitat and public wildlife management and fishing areas. The General Assembly further declares its intent that a portion of the funds provided by hunters and fishermen through the yearly payment of the increases and changes in hunting and fishing licenses provided for in this Act may be used to fund personnel, equipment, and supplies to manage and improve fish and wildlife habitat and public wildlife management and fishing areas. Funds from the sale of timber may also be used for this purpose."

OPINIONS OF THE ATTORNEY GENERAL

The Board of Natural Resources can delineate by regulation the fresh and salt waters of this state for the purposes of law enforcement and licensing. 1972 Op. Att'y Gen. No. 72-166.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 33.
C.J.S.
36A C.J.S., Fish, § 24 et seq.
ALR.
Power of state to prohibit or restrict exportation of natural resources, 32 A.L.R. 331.

27-1-5. Promulgation of rules and regulations; board final decisions; appellate review.

(a) Except as otherwise specifically provided, all rules and regulations promulgated by the board under this title shall be promulgated pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." For the purposes of this title, rule making under subsection (b) of Code Section 50-13-4 in response to an imminent peril to the public health, safety, or welfare shall include rule making to protect wildlife, the public, and the natural resources of this state in the event of fire, flood, disease, pollution, or other emergency situations.

(b) Notwithstanding any other law to the contrary, when a petition for judicial review of a final decision of the board in any matter arising under this title is filed pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," if the superior court in which the petition for review is filed does not hear the case within 90 days from the date the petition for review is filed with the court, the final decision of the board shall be considered affirmed by operation of law unless a hearing originally scheduled to be heard within the 90 days has been continued to a date certain by order of the court. In the event a hearing is held later than 90 days after the date the petition for review is filed with the court because a hearing originally scheduled to be heard within the 90 days has been continued to a date certain by order of the court, the final decision of the board shall be considered affirmed by

operation of law if no order of the court disposing of the issues presented for review has been entered within 30 days after the date of the continued hearing. If a case is heard within 90 days from the date the petition for review is filed, the final decision of the board shall be considered affirmed by operation of law if no order of the court dispositive of the issues presented for review has been entered within 30 days of the date of the hearing.

(c) A decision of the board affirmed by operation of law under subsection (b) of this Code section shall be subject to appellate review in the same manner as a decision of the superior court. The date of entry of judgment for purposes of appeal pursuant to Code Section 5-6-35 of a decision affirmed by operation of law without action of the superior court shall be the last date on which the superior court could have taken action under subsection (b) of this Code section. Upon the setting aside of any such decision of the board, the court may recommit the controversy to the board for further hearing or proceedings in conformity with the judgment and opinion of the court; or such court may enter the proper judgment upon the findings, as the nature of the case may demand. Such decree of the court shall have the same effect and all proceedings in relation thereto shall, subject to the other provisions of this chapter, thereafter be the same as though rendered in an action heard and determined by the court.

(d) Notwithstanding any other law to the contrary, any reference to an administrative law judge or hearing officer in this title shall be to an administrative law judge appointed by the chief state administrative law judge. The decision of the administrative law judge shall constitute the final administrative decision in any matter and any party to the matter, including the commissioner, shall have the right of judicial review in accordance with Chapter 13 of Title 50. Any request for administrative review by an administrative law judge appointed by the chief state administrative law judge shall be filed with the commissioner.

(e) Notwithstanding any other law to the contrary, any reference to a final decision of the board in this title shall be to a final administrative decision by an administrative law judge appointed by the chief state administrative law judge.

History.

Code 1933, § 45-104, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 800, § 6; Ga. L. 1982, p. 3, § 27; Ga. L. 1990, p. 223, § 1; Ga. L. 1995, p. 543, § 2; Ga. L. 2026, p. 1069, § 27(20)(A)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in subsection (e).

27-1-6. Powers and duties of department.

The department shall have the following powers and duties:

(1) Subject to all applicable state laws, to acquire by purchase, condemnation, lease, agreement, gift, or devise lands or waters suitable for the purposes enumerated in this paragraph and to develop, operate, and maintain the same for the following purposes:

(A) For fish hatcheries, nursery ponds, game farms, sanctuaries, reservations, and refuges;

(B) For wildlife restoration, propagation, protection, preservation, research, or management; and

(C) For public hunting, fishing, or trapping areas, where the public may hunt, fish, or trap in accordance with the provisions of law and the rules and regulations of the board;

(2) To capture, propagate, transport, purchase, sell, band, or release any species of wildlife for propagation, research, or stocking purposes; to safeguard and enhance the habitat on which the wildlife depends; and to exercise control measures of nuisance or destructive species;

(3) To enter into cooperative agreements with educational institutions and state, federal, and other agencies to promote wildlife management, conservation, and research;

(4) To purchase all uniforms, equipment, and supplies necessary for the administration of this title;

(5) To carry out the operational, field, and administrative functions contained in this title;

(6) To publish in print or electronically and distribute magazines, pamphlets, books, or literature of any nature as may be necessary to inform and educate the public concerning the wildlife resources of the state and the functions, duties, activities, laws, rules, and regulations of the department pursuant to this title and pursuant to any other title;

(7) To keep a public record which correctly discloses all moneys received and expended by the department and all such information as may be necessary or proper in the conduct of the affairs and business of the department. The books and accounts of the department shall be audited in the same way as other books and accounts of the other departments of the state are audited;

(8) To pay to each game warden the expenses incurred by such warden in the performance of his duties;

(9) To contract with private landowners for the purposes of managing and operating public hunting and fishing areas on the property of such private landowners; and

(10) To develop an official waterfowl stamp for the State of Georgia and to issue such stamp to any interested person and to contract with any person granting such person the right to reproduce and market the official waterfowl stamp in stamp, print, poster, or such other form as the department shall determine and to contract with any person for the purpose of promoting, supporting, or otherwise assisting any waterfowl program of the department, including, but not limited to, public education; research; acquisition of wetlands; and management, development, and protection of waterfowl programs; provided, however, that not more than 15 percent of the funds retained by the department, if any, shall be used for law enforcement activities. The department is authorized to establish a special fund to be known as the "Waterfowl Stamp Fund." This fund shall consist of all moneys paid to the department as royalties, all moneys derived from the sale of any official waterfowl stamp, and all moneys contributed to the fund for the purposes provided in this paragraph and all interest thereon. All balances in the fund shall be deposited in an interest-bearing account identifying the fund and shall be carried forward each year so that no part thereof may be deposited in the general treasury. The department shall administer the fund and may expend moneys held in the fund in furtherance of the purposes provided in this paragraph. Moneys paid into this fund shall be deemed supplemental to and shall in no way supplant funding that would otherwise be appropriate for these purposes. As used in this paragraph, the term "waterfowl" means any species of ducks, swans, or geese.

History.

Ga. L. 1911, p. 137, §§ 1, 4; Ga. L. 1924, p. 101, §§ 1, 3, 4, 7, 26; Ga. L. 1925, p. 302, § 22; Ga. L. 1925, p. 339, § 31; Ga. L. 1931, p. 7, § 25; Code 1933, §§ 45-106, 45-109; Ga. L. 1937, p. 264, §§ 1, 4, 9; Ga. L. 1943, p. 128, §§ 1, 2, 12, 14; Ga. L. 1945, p. 404, §§ 4, 8; Ga. L. 1952, p. 206, § 1; Ga. L. 1955, p. 483, § 3; Ga. L. 1960, p. 228, § 1; Ga. L. 1966, p. 149, § 1; Ga. L. 1968, p. 497, § 5; Ga. L. 1972, p. 1015, § 1527; Ga. L. 1973, p. 344, § 1; Code 1933, § 45-105, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1985, p. 691, § 1; Ga. L. 1987, p. 357, § 1; Ga. L. 1989, p. 506, § 1; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2019, p. 808, § 7/SB 72.

Cross references.

Department of Natural Resources, § 12-2-1 et seq.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1987, "Moneys" was substituted for "Monies" in the next-to-last sentence in paragraph (10).

Pursuant to Code Section 28-9-5, in 2019, "such warden" was substituted for "such ranger" in paragraph (8).

Law reviews.

For note, "Regulation of Artificial Lakes and Recreational Subdivisions in Georgia," recommending methods for future regulation, see 8 Ga. St. B.J. 580 (1972).

For article discussing regulation of se-

lected activities to effect environmental planning, see 10 Ga. L. Rev. 53 (1975).

OPINIONS OF THE ATTORNEY GENERAL

Proposed acquisition of game and fish areas by the state for custody in the Department of Natural Resources, in which sellers reserve timber rights for a limited time, will not violate the constitutional prohibition against the state becoming a joint owner. 1989 Op. Att'y Gen. No. 89-16.

Authority of department to contract for use of waters on state park property. — An agreement between the Department of State Parks and the Game and Fish Commission (now consolidated in the Department of Natural Resources) pursuant to which the latter would utilize waters located on State Park property for the stocking and breeding of fish, with the right to fertilize such waters and perform other functions incidental thereto, was authorized. 1963-65 Ga. Op. Att'y Gen. 554 (rendered under Ga. L. 1955, p. 483, prior to amendment by Ga. L. 1977, p. 396, § 1).

Authority of department to restrict use of alcohol and firearms on state property. — The Department of Natural Resources is authorized to adopt and enforce rules and regulations restricting the use of alcohol and firearms on state property, and in particular, property acquired as a public hunting area. 1963-65 Ga. Op. Att'y Gen. 237 (rendered under Ga. L. 1955, p. 483, prior to amendment by Ga. L. 1977, p. 396, § 1).

RESEARCH REFERENCES

Am. Jur. 2d.

26 Am. Jur. 2d, Eminent Domain, § 72. 35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 23, 33, 42, 48.

C.J.S.

29A C.J.S., Eminent Domain, § 52. 36A C.J.S., Fish, §§ 6, 24 et seq. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 4.

27-1-7. Technical assistance for control or elimination of wild or abandoned dogs.

Upon the request of the governing authority of a city, county, or combination thereof, the department is authorized to provide technical assistance to the city, county, or combination thereof relative to the control or elimination of wild or abandoned dogs running at large, provided that, with the exception of the technical assistance provided in accordance with this Code section, all costs relative to the control or elimination shall be borne by the city, county, or combination thereof.

History.

Code 1933, § 45-105.1, enacted by Ga. L. 1979, p. 849, § 1.

Law reviews.

For article surveying legislative and judicial developments in Georgia local government law for 1978-79, see 31 Mercer L. Rev. 155 (1979).

27-1-8. Fish ladder construction requirement; assessment of costs; issuance of execution.

(a) The department is authorized to provide for the free passage of fish in the fresh-water streams of Georgia for the purpose of spawning and propagating and to erect or cause to be erected fish ladders or other passageways whereby fish may pass over any dam or other obstruction placed in the fresh-water streams of Georgia by any person.

(b) It shall be the duty of the department to give written notice to any person owning, leasing, or constructing any dam or other obstruction which restricts the free passage of fish in the fresh-water streams of this state, which notice shall require the person to provide a suitable fish ladder or passageway over the dam or obstruction. The person shall, within 60 days after the receipt of the notice, provide at his own expense a fish ladder or other suitable passageway for the purpose of allowing fish in such fresh water to pass freely over the dam or obstruction.

(c) Should any person owning, leasing, or constructing any dam or other obstruction in the fresh-water streams of this state fail and refuse to provide a fish ladder or other passageway after receiving the notice, as required in subsection (b) of this Code section, the department is authorized to build or erect a fish ladder or other passageway over the dam or obstruction; and the cost of the same shall be assessed by the department against the person owning, leasing, or constructing the dam or obstruction.

(d) The department is authorized to issue an execution in the nature of a fi. fa. against any person against whom an assessment has been made pursuant to subsection (c) of this Code section. The assessment shall be collected by any sheriff or other authorized officer of the state by means of levy and sale in the same manner as the collection of any other fi. fas.

History.
Ga. L. 1935, p. 380, §§ 1, 2; Ga. L. 1955, p. 483, § 19; Code 1933, § 45-106, enacted by Ga. L. 1977, p. 396, § 1.

Cross references.
Dam safety, § 12-5-370 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 43.

C.J.S.
36A C.J.S., Fish, § 37.

27-1-9. Consent to federal rules and regulations pursuant to federal law authorizing purchase of land by United States government for river navigability purposes.

The consent of the General Assembly is given to the making by the Congress of the United States or under its authority of all such rules and regulations as the federal government shall determine to be needed in respect to game animals, game and nongame birds, and fish on such lands in the northern part of Georgia as shall have been or may hereafter be purchased by the United States under the terms of the act of Congress of March 1, 1911, entitled "An Act to Enable any state to Cooperate with any other state or states, or with the United States, for the Protection of the Watersheds of Navigable Streams, and to Appoint a Commission for the Acquisition of Lands for the Purpose of Conserving the Navigability of Navigable Rivers" (36 United States Statutes at Large, page 961), and acts of Congress supplementary thereto and amendatory thereof, and in or on the waters thereof.

History.
Ga. L. 1922, p. 106, § 1; Code 1933, § 45-336; Ga. L. 1955, p. 483, § 24; Code 1933, § 45-110, enacted by Ga. L. 1977, p. 396, § 1.

U.S. Code.
The federal Act of March 1, 1911, 36 Stat. 961, referred to in this Code section, is codified principally at 16 U.S.C. §§ 480, 500, 515 through 519, 521, 552, and 563.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44 et seq.

27-1-10. Assent to federal law respecting wildlife conservation and restoration projects, fish restoration projects, wildlife conservation education, and wildlife associated recreation projects.

The State of Georgia assents to the provisions of P.L. 75-415 and P.L. 81-681. The department is authorized, empowered, and directed to perform such acts as may be necessary to establish and conduct cooperative wildlife restoration projects as defined in P.L. 75-415, cooperative fish restoration projects as defined in P.L. 81-681, and wildlife conservation and restoration programs, wildlife conservation education, and wildlife associated recreation projects as defined in P.L. 106-553, as well as the regulations promulgated under those federal acts. No funds accruing to the state from license fees paid by hunters or fishermen or interest thereon shall be diverted for any purpose other than the administration of the department and for the study, protection, preservation, restoration, or propagation of fish and wildlife in this state.

History.
Ga. L. 1943, p. 128, § 11; Ga. L. 1951, p. 673, § 1; Ga. L. 1955, p. 483, §§ 25, 26; Code 1933, §§ 45-111, 45-112, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2001, p. 1013, § 2.

U.S. Code.
P.L. 75-415, referred to in this Code section, is codified at 16 U.S.C. § 669 et seq. P.L. 81-681, also referred to in this Code section, is codified at 16 U.S.C. § 777 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 27, 44.

27-1-11. Consent to acquisition of land by United States government for conservation purposes; notice of intended use.

(a) The consent of the State of Georgia is given to the acquisition by the United States government by purchase, gift, devise, lease, condemnation, or otherwise of such areas of land or water or of land and water in the State of Georgia as the United States government may deem necessary for the conservation, protection, propagation, and development of all species of fish and wildlife and for other conservation purposes. However, the State of Georgia reserves full and complete jurisdiction and authority over all such areas not incompatible with the administration, maintenance, protection, and control thereof by the United States government under the first terms of any act of Congress authorizing such acquisitions.

(b) The consent given by subsection (a) of this Code section is conditioned on the requirement that, prior to the acquisition, notice shall be given by the federal government to the department of plans stating the specific use to be made of and the specific location and description of the lands desired by the federal government for any such conservation use and, further, that the plan for acquisition of the lands shall be approved by the department.

History.
Ga. L. 1961, p. 123, § 1; Code 1933, § 45-113, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
26 Am. Jur. 2d, Eminent Domain, § 72.

C.J.S.
29A C.J.S., Eminent Domain, § 52.

27-1-12. Federal-state cooperation in protection and management of wildlife in national forests; powers of board.

(a) The department shall have the authority to enter into cooperative agreements with the United States government or with the proper authorities thereof for the protection and management of the wildlife

resources of the national forest lands within the State of Georgia and for the restocking of the same with desirable species of wildlife.

(b) After entering into an agreement under subsection (a) of this Code section, the board shall have the authority to close all hunting and fishing in the national forest lands within this state for such period of time as the board may deem necessary. The board shall have authority from time to time to prescribe the season for hunting or fishing in such lands, to prescribe the number of animals, fish, and birds that may be taken from such lands and the size thereof, and to prescribe the conditions under which the same may be taken.

History. Ga. L. 1935, p. 375, §§ 1, 2; Ga. L. 1955, p. 483, § 27; Code 1933, § 45-109, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 27, 45 et seq.

27-1-13. Disposition of funds received by department; appropriations; grants and donations for natural resources conservation camps.

(a) All funds resulting from the operation of the department and from the administration of the laws and regulations pertaining to wildlife, excluding fines, but including all license fees and other income (except that income provided for in subsection (b) of this Code section), shall be paid into the general funds of the state treasury; and each year at least such amount shall be appropriated to the department. The board shall be authorized to establish, by rule or regulation, a procedure to refund fees collected in error or overpayment or to which the department or state is otherwise not entitled.

(b) The department is authorized to accept grants and donations (either monetary or of real or personal property) for the purpose of creating and maintaining natural resources conservation camps in the state. Any donation or grant so received and any income therefrom or any income derived from the operation of any of the camps shall be held and maintained by the department for the exclusive use and the benefit of each of said camps. The board is authorized and directed to promulgate reasonable rules and regulations respecting the operation of said camps.

(c) Notwithstanding any other law to the contrary, the department is authorized to retain all miscellaneous funds generated by the operation of its wildlife management areas and refuges, its public fishing areas, and its wildlife, hunter, and boating education programs for use in the

operation and maintenance of those areas, refuges, and programs. Any such funds not expended for this purpose in the fiscal year in which they are generated shall be deposited in the state treasury. Nothing in this Code section shall be construed so as to allow the department to retain any funds required by the Constitution of Georgia to be paid into the state treasury. The department shall comply with all provisions of Code Section 45-5-7, Parts 1 and 2 of Article 4 of Chapter 12 of Title 45, the "Budget Act," except Code Section 45-12-92, prior to expending any such miscellaneous funds.

History.
Ga. L. 1931, p. 173, § 8; Code 1933, § 45-220; Ga. L. 1943, p. 128, § 10; Ga. L. 1955, p. 483, § 8; Code 1933, § 45-114, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1980, p. 95, § 1; Ga. L. 1980, p. 323, § 3; Ga. L. 1984, p. 22, § 27; Ga. L. 1995, p. 10, § 27; Ga. L. 2001, p. 1013, § 3; Ga. L. 2011, p. 558, § 4/SB 121.
Cross references.
Payment of revenue into general fund of state treasury, Ga. Const. 1983, Art. VII, Sec. III, Para. II.

RESEARCH REFERENCES

C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Protection of Wildlife, §§ 59 et seq., 88 et seq.

27-1-14. Disposition of fines and bond forfeitures.

The proceeds from all fines and bond forfeitures arising from criminal prosecution for violation of the wildlife laws, rules, and regulations shall, except as otherwise specifically provided in this title, be applied initially to payment of the fees of the officers of the trial court and court costs as prescribed by law. Any money remaining after such disposition shall be remitted promptly by the clerk of the court in which the case is disposed of to the county treasurer of the county in which the fine is assessed, who shall deposit the funds in the general funds of the county.

History.
Ga. L. 1931, p. 173, § 4; Code 1933, § 45-127; Ga. L. 1935, p. 386, § 11; Ga. L. 1955, p. 483, § 17; Code 1933, § 45-115, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 1729, § 1; Ga. L. 1983, p. 3, § 20; Ga. L. 2015, p. 693, § 3-32/HB 233.
Editor's notes.
Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."
Law reviews.
For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 88, 89.

27-1-15. [Reserved] Wildlife technicians.

History.
Repealed by Ga. L. 1981, p. 798, § 3, effective July 1, 1981.
Editor's notes.
Ga. L. 2013, p. 141, § 27/HB 79, reserved the designation of this Code section, effective April 24, 2013.

27-1-16. Establishment of unit of game wardens; qualifications, appointment, and supervisory personnel; retention of badge and weapon upon disability retirement.

(a) Within the department is established a unit of peace officers to be known as game wardens. All such game wardens shall be at least 21 years of age. Such unit of peace officers shall include, but not be limited to, the commissioner and other supervisory personnel; provided, however, that the commissioner and the director of the division to which peace officer functions are assigned shall be excluded from the classified service as defined by Code Section 45-20-2 unless otherwise provided by law. The commissioner shall have the power to appoint such a number of game wardens of the state at large, as may be necessary to carry out the duties assigned to them, who shall be charged with the law enforcement responsibilities pertaining to the department.

(b) After a game warden has accumulated 25 years of service with the department as a peace officer and upon leaving such department under honorable conditions, such game warden shall be entitled as part of such officer's compensation to retain his or her weapon and badge pursuant to regulations promulgated by the commissioner.

(c) As used in this subsection, the term "disability" means a disability that prevents an individual from working as a law enforcement officer. When a game warden leaves the department as a result of a disability arising in the line of duty, such game warden shall be entitled as part of such officer's compensation to retain his or her weapon and badge in accordance with regulations promulgated by the commissioner.

History.
Ga. L. 1931, p. 173, §§ 1-3; Code 1933, § 45-124; Ga. L. 1943, p. 128, § 19; Ga. L. 1945, p. 404, § 3; Ga. L. 1955, p. 483, § 13; Ga. L. 1968, p. 497, § 5; Ga. L. 1973, p. 1483, § 1; Ga. L. 1974, p. 1453, § 1; Code 1933, § 45-116, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 8; Ga. L. 1981, p. 798, § 2; Ga. L. 1993, p. 392, § 1; Ga. L. 2004, p. 1058, § 2; Ga. L. 2005, p. 60, § 27/HB 95; Ga. L. 2009, p. 745, § 2/SB 97; Ga. L. 2012, p. 446, § 2-32/HB 642; Ga. L. 2019, p. 808, § 7/SB 72.
Cross references.
Employment and training of peace officers, § 35-8-1 et seq.
Enforcement of boat safety laws, § 52-7-25.
Editor's notes.
Ga. L. 2012, p. 446, § 3-1/HB 642, not codified by the General Assembly, provides: "Personnel, equipment, and

facilities that were assigned to the State Personnel Administration as of June 30, 2012, shall be transferred to the Department of Administrative Services on the effective date of this Act." This Act became effective July 1, 2012.

Ga. L. 2012, p. 446, § 3-2/HB 642, not codified by the General Assembly, provides: "Appropriations for functions which are transferred by this Act may be transferred as provided in Code Section 45-12-90."

Administrative rules and regulations.

Powers, Duties, Titles, Qualifications, Appointments and Other Matters Pertaining to the Department's Unit of Peace Officers, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Administration, Organization and Public Participation, Rule 391-1-1-.03.

JUDICIAL DECISIONS

Conservation officer/ranger engaged in official duties in enforcing traffic. — Sufficient evidence supported the defendant's convictions of felony and misdemeanor obstruction of an officer and driving without carrying a license because the on-duty and uniformed conservation ranger had authority to arrest and was authorized to enforce traffic offenses and the state showed that the ranger was acting within the lawful discharge of official duties when the defendant was asked to turn down the music from the vehicle. Thornton v. State, 353 Ga. App. 252, 836 S.E.2d 541, 2019 Ga. App. LEXIS 596 (2019), aff'd, 310 Ga. 460, 851 S.E.2d 564, 2020 Ga. LEXIS 774 (2020).

OPINIONS OF THE ATTORNEY GENERAL

Purchase of uniforms for conservation rangers. — The Department of Natural Resources can purchase uniforms only for its conservation rangers, which, by statute, are made a uniformed division; purchase of uniforms for any other employees would not be authorized. 1963-65 Ga. Op. Att'y Gen. 686 (rendered under Ga. L. 1955, p. 483 prior to the 1977 amendment).

RESEARCH REFERENCES

C.J.S.
36A C.J.S., Fish, §§ 29, 30.

27-1-17. Deputy game wardens.

(a) The board shall have the power to appoint deputy game wardens. No deputy game wardens may be appointed without actual duties relating to the protection of natural resources.

(b) Deputy game wardens shall have all or part of the powers and duties of game wardens, as assigned by the board. Deputy game wardens who are not employees of the department shall receive no compensation for their services. The board is authorized to appoint such number of deputy game wardens as may be necessary to carry out the duties assigned to them.

(c) Each deputy game warden who is not an employee of the department shall personally secure a bond of not less than $5,000.00

from a bonding or surety company licensed to transact business in the State of Georgia conditioned upon the faithful performance of his duties, payable to the department.

(d) The board shall have the power to adopt rules and regulations concerning qualifications, appointments, badge, oath of office, and other matters pertaining to deputy game wardens.

History.
Ga. L. 1966, p. 151, §§ 1, 2; Ga. L. 1973, p. 1483, § 2; Code 1933, § 45-117, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 9, 10; Ga. L. 2019, p. 808, § 7/SB 72.

Cross references.
Enforcement of boat safety laws, § 52-7-25.

RESEARCH REFERENCES

C.J.S.
36A C.J.S., Fish, §§ 29, 30.

27-1-18. Powers of game wardens generally.

(a) Game wardens shall have the power and authority:

(1) To enforce all state laws on all property owned or controlled by the department;

(2) To enforce all state laws pertaining to functions assigned to the department;

(3) To enforce any state law when the violation of that law is committed in conjunction with a violation of a state law pertaining to functions assigned to the department;

(4) To enforce any state law when ordered to do so by the Governor or to protect any life or property when the circumstances demand action; and

(5) At the expense of the department, to assist the Department of Public Safety and the Georgia Bureau of Investigation in carrying out their duties and responsibilities when requested to do so by the Department of Public Safety or the Georgia Bureau of Investigation.

(b) The commissioner may, and in the case of a request by the Governor shall, authorize and direct the department's game wardens to cooperate with and render assistance to any law enforcement agency of this state or any municipality, county, or other political subdivision thereof in any criminal case, in the prevention or detection of violations of any law, or in the apprehension or arrest of persons who violate the criminal laws of this state, any other state, or the United States, upon a request by the governing authority or chief law enforcement officer of

any municipality, the sheriff of any county, a judge of the superior court of any county, or the Governor.

History.
Ga. L. 1973, p. 1483, § 3; Code 1933, § 45-118, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 11; Ga. L. 1982, p. 3, § 27; Ga. L. 1990, p. 376, § 1; Ga. L. 2019, p. 808, § 7/SB 72.

Cross references.
Coastal Marshlands Protection Committee, § 12-5-283.

JUDICIAL DECISIONS

Conservation officer/ranger engaged in official duties in enforcing traffic. — Sufficient evidence supported the defendant's convictions of felony and misdemeanor obstruction of an officer and driving without carrying a license because the on-duty and uniformed conservation ranger had authority to arrest and was authorized to enforce traffic offenses and the state showed that the ranger was acting within the lawful discharge of official duties when the defendant was asked to turn down the music from the vehicle. Thornton v. State, 353 Ga. App. 252, 836 S.E.2d 541, 2019 Ga. App. LEXIS 596 (2019), aff'd, 310 Ga. 460, 851 S.E.2d 564, 2020 Ga. LEXIS 774 (2020).

RESEARCH REFERENCES

C.J.S.
36A C.J.S., Fish, §§ 29, 30.

27-1-19. Power of game wardens and deputy game wardens to arrest persons; procedure upon failure of person arrested to appear to answer charges.

(a) Notwithstanding any other provision of law to the contrary, game wardens and deputy game wardens, when authorized to do so by the board, may arrest persons accused of violating any law or regulation which such officers are empowered to enforce by the issuance of a citation, provided that the offense is committed in the presence of the officer or information concerning the offense constituting a basis for arrest was received by the arresting officer from a law enforcement officer observing the offense being committed. The arresting officer may issue to the person a citation which shall enumerate the specific charges against the person and the date upon which the person is to appear and answer the charges. Whenever an arrest is made by the arresting officer on the basis of information received from another law enforcement officer observing the offense being committed, the citation shall list the name of each officer, and each must be present when the charges against the offender are heard.

(b) If the person charged shall fail to appear as specified in the citation, the judge having jurisdiction of the offense may issue a warrant ordering the apprehension of the person and commanding that

he be brought before the court to answer the charge contained within the citation and the charge of his failure to appear as required. The person shall then be allowed to make a reasonable bond to appear on a given date before the court.

History.
Ga. L. 1976, p. 522, § 2; Code 1933, § 45-119, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2019, p. 808, § 7/SB 72.

Cross references.
Acceptance of cash bonds for violation of game and fish laws, § 17-6-5.

JUDICIAL DECISIONS

Conservation officer/ranger engaged in official duties. — Sufficient evidence supported the defendant's convictions of felony and misdemeanor obstruction of an officer and driving without carrying a license because the on-duty and uniformed conservation ranger had authority to arrest and was authorized to enforce traffic offenses and the state showed that the ranger was acting within the lawful discharge of official duties when the defendant was asked to turn down the music from the vehicle. Thornton v. State, 353 Ga. App. 252, 836 S.E.2d 541, 2019 Ga. App. LEXIS 596 (2019), aff'd, 310 Ga. 460, 851 S.E.2d 564, 2020 Ga. LEXIS 774 (2020).

RESEARCH REFERENCES

C.J.S.
36A C.J.S., Fish, §§ 29, 30.

27-1-20. Additional powers of game wardens; functions of other agencies assigned to department.

(a) In addition to the powers enumerated in Code Sections 27-1-18 and 27-1-19, game wardens shall have all the powers previously vested in any other law enforcement officers within the department including, but not limited to, the following:

(1) To enforce all laws, rules, and regulations pertaining to wildlife and to boating safety and as otherwise provided;

(2) To execute all warrants and search warrants for the violation of the laws, rules, and regulations pertaining to wildlife or to boating safety;

(3) To serve subpoenas issued for the examination, investigation, and trial of all offenses against the laws, rules, and regulations pertaining to wildlife or to boating safety;

(4) To arrest without warrant any person found violating any of the laws, rules, and regulations pertaining to wildlife or to hunting, fishing, or boating;

(5) To seize and take possession of all wildlife or parts thereof taken, caught, killed, captured, possessed, or controlled or which

have been shipped or are about to be shipped at any time and in any manner or for any purpose contrary to the laws, rules, and regulations pertaining to wildlife;

(6) To go upon property outside of buildings, posted or otherwise, in the performance of their duties;

(7) To carry firearms while performing duties pertaining to wildlife;

(8) To seize as evidence, without warrant, any device other than a boat, vehicle, or aircraft when they have cause to believe that its possession or use is in violation of any of the provisions of the laws or regulations dealing with wildlife. As used in this Code section, the term "device" includes any light, hunting apparatus, or fishing or netting gear or tackle;

(9) To enter and inspect any commercial cold storage warehouse, ice house, locker plant, butcher shop, or other plant or building for the purpose of determining whether wildlife is being kept or stored therein in violation of the wildlife laws or regulations; and

(10) To exercise the full authority of peace officers while in the performance of their duties.

(b) Unless inconsistent with this title, whenever any statute pertaining to an agency whose functions are assigned to the department refers to law enforcement personnel of that agency, that reference applies to game wardens.

History.

Ga. L. 1911, p. 137, § 4; Ga. L. 1912, p. 113, § 1; Ga. L. 1931, p. 173, §§ 1-3; Code 1933, §§ 45-108, 45-126; Ga. L. 1955, p. 483, § 18; Ga. L. 1968, p. 497, § 6; Ga. L. 1970, p. 466, § 1; Ga. L. 1973, p. 1483, § 4; Code 1933, § 45-120, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2019, p. 808, § 7/SB 72; Ga. L. 2026, p. 1069, § 27(2)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this Code section, the term" for "For the purposes of this Code section," in paragraph (a)(8).

Cross references.

Searches without warrants, § 17-5-1 et seq.

Employment and training of peace officers, § 35-8-1 et seq.

Enforcement of boat safety laws, § 52-7-25.

JUDICIAL DECISIONS

Conservation officer/ranger engaged in official duties in enforcing traffic. — Sufficient evidence supported the defendant's convictions of felony and misdemeanor obstruction of an officer and driving without carrying a license because the on-duty and uniformed conservation ranger had authority to arrest and was authorized to enforce traffic offenses and the state showed that the ranger was acting within the lawful discharge of official duties when the defendant was asked to turn down the music from the vehicle. Thornton v. State, 353 Ga. App.

252, 836 S.E.2d 541, 2019 Ga. App. LEXIS 596 (2019), aff'd, 310 Ga. 460, 851 S.E.2d 564, 2020 Ga. LEXIS 774 (2020).

Ranger may observe evidence of crime before search. — The fruits of a search of the defendant's premises, by a conservation ranger looking for deer carcasses, conducted with the defendant's consent, were admissible. The legality of such a search was not vitiated because, prior to obtaining consent, the ranger had observed the evidence of the crime by walking around the side of the house. State v. Sutton, 258 Ga. 382, 369 S.E.2d 249, 1988 Ga. LEXIS 334 (1988).

Intoximeter test administered by ranger. — The probate court properly denied defendant's motion to suppress the intoximeter result since a conservation ranger was empowered and authorized, in addition to the ranger's regularly enumerated duties, to exercise the full authority of peace officers. Smith v. State, 204 Ga. App. 576, 420 S.E.2d 29, 1992 Ga. App. LEXIS 922 (1992), cert. denied, No. S92C1213, 1992 Ga. LEXIS 698 (Ga. Sept. 8, 1992).

Seizure of evidence. — Conservation rangers had authority to seize unlicensed hunter's crossbow and rifle without a warrant. Dowis v. State, 232 Ga. App. 111, 501 S.E.2d 275, 1998 Ga. App. LEXIS 587 (1998).

RESEARCH REFERENCES

C.J.S.

36A C.J.S., Fish, §§ 29, 30.

ALR.

Validity of roadblocks by state or local officials for purpose of enforcing fish or game laws, 87 A.L.R.4th 981.

Authority of public official, whose duties or functions generally do not entail traffic stops, to effectuate traffic stop of vehicle, 18 A.L.R.6th 519.

27-1-21. Seizure and disposition of wildlife illegally taken or possessed; civil actions by owners or possessors.

(a) Game wardens, sheriffs, and other peace officers of this state or any political subdivision thereof shall seize any wildlife taken or possessed in violation of the wildlife laws and regulations of this state. Such wildlife shall be sold or disposed of in such manner as the commissioner may direct, in conformance with any rules and regulations promulgated by the board, at any time after the expiration of 30 days following the seizure, unless the owner thereof or the person in possession at the time of the seizure files a civil action against the State of Georgia, Department of Natural Resources, within 30 days following the seizure, in the state or superior court having jurisdiction in the county where the seizure was made. The person filing the action shall have the burden of proof, and the action shall be tried as other civil cases in such court. Items for which such an action has been filed shall be held pending the resolution of the action, provided that reasonable charges for storage shall be paid by the person filing the action in the event that such person does not prevail in the action.

(b) If the wildlife seized is perishable or if by its nature, size, or quantity it cannot be humanely, conveniently, or economically stored, held, or contained, or if the wildlife seized poses a threat to public safety or public health, the commissioner may at any time order that it be

disposed of and the proceeds, if any, held in escrow for 30 days following such seizure. If the owner thereof or the person in possession at the time of seizure files an action pursuant to this Code section, the action will be for the return of the proceeds, if any, and the proceeds will be held in escrow until final disposition of the action. If no such action is filed, the proceeds shall be paid into the state treasury.

(c) Items for which there is no conveniently ascertainable commercial market may be donated to a charitable institution or otherwise disposed of as the commissioner may direct.

History.
Ga. L. 1970, p. 466, § 2; Ga. L. 1975, p. 1288, § 1; Code 1933, § 45-208, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1992, p. 2863, § 2; Ga. L. 2019, p. 808, § 7/SB 72.

Law reviews.
For annual survey of administrative law, see 38 Mercer L. Rev. 17 (1986).

JUDICIAL DECISIONS

O.C.G.A. § 27-1-21 is not unconstitutionally vague or ambiguous. Blackston v. State, Dep't of Natural Resources, 255 Ga. 15, 334 S.E.2d 679, 1985 Ga. LEXIS 862 (1985).

O.C.G.A. § 27-1-21 comports with due process by granting the complaining party 30 days within which to file a civil action for return of the wildlife or the proceeds from the sale thereof. Blackston v. State, Dep't of Natural Resources, 255 Ga. 15, 334 S.E.2d 679, 1985 Ga. LEXIS 862 (1985).

For both perishable and nonperishable items, the civil action to recover the items themselves or the proceeds of the sale must be filed within 30 days of the seizure. Blackston v. State, Dep't of Natural Resources, 255 Ga. 15, 334 S.E.2d 679, 1985 Ga. LEXIS 862 (1985).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 24 et seq., 55.

ALR.
Validity of roadblocks by state or local officials for purpose of enforcing fish or game laws, 87 A.L.R.4th 981.

27-1-22. Taking, possessing, and releasing of wildlife by department.

For purposes of wildlife management and in accordance with sound principles of wildlife research and management, authorized personnel of the department and persons authorized by contract with the department are authorized to take, transport, possess, purchase, sell, band, and release wildlife at such times, by such methods, and in such quantities as are otherwise made unlawful by this title.

History.
Code 1933, § 45-214, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, § 16.

JUDICIAL DECISIONS

Hunt to thin deer population authorized. — A safely conducted controlled hunt to thin an excessive deer population would be authorized by O.C.G.A. Title 27. Robinson v. Landings Ass'n, 264 Ga. 24, 440 S.E.2d 198, 1994 Ga. LEXIS 120 (1994).

27-1-23. Inspection of business premises and records of commercial license holders.

Any commercial license holder shall be deemed, by application for such license, to have agreed to make his business premises and records available for inspection by authorized agents of the department during normal business hours and at any other time when the licensed commercial activity is being conducted on such premises.

History.
Code 1933, § 45-211, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-1-24. Inspection of vessels and boats.

The provisions of this title or any rule or regulation adopted pursuant to this title pertaining to the operation of vessels or boats upon the waters of this state shall be enforceable by, in addition to game wardens, agents of the Georgia Bureau of Investigation and other persons having responsibility to preserve the peace and enforce the laws of this state. Such persons shall have the authority to order any vessel or boat within the boundaries of this state to stop and lay to and shall have the authority to board, inspect, and examine the vessel or boat, its equipment, the wildlife on board, if any, and such documents, licenses, or other records which the vessel or boat is required to possess under this title and Code Sections 52-7-1 through 52-7-25 for the purpose of determining compliance with the provisions of such laws.

History.
Code 1933, § 45-123, enacted by Ga. L. 1979, p. 1283, § 1; Ga. L. 2019, p. 808, § 7/SB 72.

Cross references.
Enforcement of boat safety laws, § 52-7-25.

27-1-25. Interference with arrest or performance of game warden or deputy game warden's duties.

It shall be unlawful for any person to resist or interfere by force, menace, threat, or in any other manner with any arrest for violation of any wildlife law. It shall also be unlawful for any person to refuse to go with a game warden or deputy game warden after such an arrest has been made or to interfere with such warden in the performance of his duty.

History.
Ga. L. 1968, p. 497, § 20; Code 1933, § 45-209, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2019, p. 808, § 7/SB 72.

Cross references.
Obstructing or hindering law enforcement officers, § 16-10-24.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2019, "such warden" was substituted for "such ranger" near the end of the second sentence.

RESEARCH REFERENCES

Am. Jur. 2d.
5 Am. Jur. 2d, Arrest, §§ 81 et seq., 120, 128.

27-1-25.1. Failure or refusal to bring motor vehicle or boat to a stop when ordered.

It shall be unlawful for any person operating any motor vehicle or power boat to fail or refuse to bring such vehicle or boat to a stop, or otherwise to flee or attempt to elude a pursuing peace officer who is in uniform, who prominently displays his badge of office, and who is authorized to enforce this title, when given a visible or audible signal to bring such vehicle or boat to a stop. An officer may give such visible or audible signal by use of his hand or voice or by use of an emergency light or siren.

History.
Code 1981, § 27-1-25.1, enacted by Ga. L. 1982, p. 1729, § 2.

27-1-26. [Reserved] Impersonation of conservation officer.

History.
Repealed by Ga. L. 1986, p. 1059, § 2, effective April 7, 1986.

Editor's notes.
Ga. L. 2013, p. 141, § 27/HB 79, reserved the designation of this Code section, effective April 24, 2013.

27-1-27. Damaging or destroying department property.

It shall be unlawful for any person to take, damage, or destroy any wildlife, equipment, gate, building, or other property belonging to or

under the custody and control of the department or any of its employees or agents.

History.
Ga. L. 1968, p. 497, § 20; Code 1933, § 45-212, enacted by Ga. L. 1977, p. 396, § 1.

27-1-28. Taking of nongame species.

(a) Except as otherwise provided by law, rule, or regulation, it shall be unlawful to hunt, trap, fish, take, possess, or transport any nongame species of wildlife, except that the following species may be taken by any method except those specifically prohibited by law or regulation:

(1) Rats;

(2) Mice;

(3) Coyotes;

(4) Armadillos;

(5) Groundhogs;

(6) Beaver;

(7) Fresh-water turtles;

(8) Poisonous snakes;

(9) Frogs;

(10) Spring lizards;

(11) Fiddler crabs;

(12) Fresh-water crayfish;

(13) Fresh-water mussels; and

(14) Nutria.

(b) The nongame species enumerated in subsection (a) of this Code section may be taken by any method except those specifically prohibited by law or regulation.

(c) Nothing in this Code section shall be construed to authorize the taking of any species which is protected under the federal Endangered Species Act of 1973, P.L. 93-205, as amended, or under any state law which has as its purpose the protection of endangered or threatened species.

History.
Code 1933, § 45-202, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 15; Ga. L. 1981, p. 798, § 4; Ga. L. 1982, p. 1729, § 3; Ga. L. 1984, p. 537, § 1.

U.S. Code.
The federal Endangered Species Act of 1973, referred to in this Code section, is codified at 16 U.S.C. § 1531 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 38, 39.
C.J.S.
36A C.J.S., Fish, § 31 et seq. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 6 et seq.
ALR.
Construction and application of the consultation requirement under Section 7 of the Endangered Species Act, 16 U.S.C.A. § 1536(a) to (d), 1 A.L.R. Fed. 3d 4.

Construction and application of exceptions under § 10 of the Endangered Species Act of 1973, 16 U.S.C.A. § 1539, 2 A.L.R. Fed. 3d 2.

Construction and application of threatened species requirements under Sec. 4(a) and (b) of the Endangered Species Act of 1973, 16 U.S.C.A. § 1533(a) and (b), 6 A.L.R. Fed. 3d 2.

Construction and application of the cooperation with states requirement under Sec. 6 of the Endangered Species Act of 1973, 16 U.S.C.A. § 1535, 8 A.L.R. Fed. 3d 3.

Construction and application of prohibited acts under Sec. 9(a) of the Endangered Species Act of 1973, 16 U.S.C.A. § 1538(a), 9 A.L.R. Fed. 3d 3.

27-1-29. Sale or purchase of game species.

Except as otherwise specifically provided, it shall be unlawful for any person in this state to sell or to purchase any game species or parts thereof, provided that authorized personnel of the department and of any federal agency may buy or sell such game species or parts thereof for the sole purpose of obtaining evidence of violations of the wildlife laws and regulations.

History.
Ga. L. 1911, p. 137, § 12; Ga. L. 1916, p. 114, § 2; Code 1933, § 45-302; Ga. L. 1955, p. 483, § 53; Ga. L. 1968, p. 497, § 16; Code 1933, § 45-205, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, § 15.

OPINIONS OF THE ATTORNEY GENERAL

Sale of carcasses or parts prohibited. — O.C.G.A. § 27-1-29 prohibits the sale of carcasses or parts of carcasses of game animals including raccoon, bobcat, fox, and opossum regardless of the means by which the animals are taken, except that the undressed fur, hide, skin, or pelt of a fur-bearing animal may be sold pursuant to a valid commercial trapping license or fur dealer license. 1992 Op. Att'y Gen. No. U92-6.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 3, 49.
C.J.S.
36A C.J.S., Fish, § 35. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 61.

27-1-30. Disturbing or destroying wildlife habitats.

Except as otherwise provided by law or regulation, it shall be unlawful to disturb, mutilate, or destroy the dens, holes, or homes of any wildlife; to blind wildlife with lights; or to use explosives, chemicals, electrical or mechanical devices, or smokers of any kind in order to drive such wildlife out of such habitats.

History.
Ga. L. 1911, p. 137, § 17; Code 1933, § 45-322; Ga. L. 1949, p. 1005, § 1; Ga. L. 1952, p. 362, § 1; Ga. L. 1955, p. 483, § 62; Code 1933, § 45-207, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 1629, § 1; Ga. L. 1983, p. 3, § 20; Ga. L. 2014, p. 381, § 1/SB 322.

27-1-31. Unlawful possession or use of wildlife; unlawful concealment.

(a) It shall be unlawful for any person to make use of or possess any wildlife or parts thereof which he knows or reasonably should have known have been taken or possessed contrary to any of the wildlife laws, rules, and regulations.

(b) It shall also be unlawful for any person to conceal the taking or possessing of wildlife by himself or any other person, whether by accident or otherwise, if the person concealing the taking or possessing knows or reasonably should have known that the wildlife has been taken or possessed illegally.

History.
Ga. L. 1972, p. 925, § 1; Code 1933, § 45-203, enacted by Ga. L. 1977, p. 396, § 1.

JUDICIAL DECISIONS

Conviction reversed. — Defendant's conviction for unlawful possession of wildlife was reversed where, although defendant's joint constructive possession of a wild turkey could be inferred from the circumstances, the state failed to show beyond a reasonable doubt that defendant knew or reasonably should have known that the turkey was taken illegally by the nonresident codefendant, who had unlawfully obtained an honorary hunting license. Ford v. State, 178 Ga. App. 706, 344 S.E.2d 514, 1986 Ga. App. LEXIS 2556 (1986).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

ALR.
Construction and application of statute or ordinance making possession of carcass of game, fish, or bird, or parts thereof, a criminal offense, 125 A.L.R. 1200.

Validity, construction, and application of state wildlife possession laws, 50 A.L.R.5th 703.

27-1-32. Hiring others to illegally take or possess wildlife.

It shall be unlawful for any person to hire another to take or possess wildlife in violation of the wildlife laws, rules, and regulations.

History.
Ga. L. 1955, p. 483, § 54; Code 1933, § 45-206, enacted by Ga. L. 1977, p. 396, § 1.

27-1-33. Conduct while on public fishing area, fish hatchery, natural area, or wildlife management area; acts constituting criminal trespass.

(a) It shall be unlawful to enter upon or to hunt, trap, or fish on any public fishing area, fish hatchery, or natural area, or wildlife management area owned or operated by the department except in compliance with all applicable laws and all rules and regulations promulgated by the board, including, but not limited to, any law, rule, or regulation relating to seasons or bag limits or requiring a special permit.

(b) Any person who enters upon or who hunts, traps, or fishes on any public hunting or fishing area, fish hatchery, or natural area or any game management area owned or operated by the department in violation of this Code section commits the offense of criminal trespass.

History.
Code 1933, § 45-213, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 16; Ga. L. 1982, p. 1729, § 4; Ga. L. 1987, p. 179, § 2; Ga. L. 1989, p. 1552, § 1; Ga. L. 1996, p. 980, § 2; Ga. L. 2001, p. 1013, § 4; Ga. L. 2015, p. 1352, § 4/HB 475; Ga. L. 2019, p. 808, § 1/SB 72.

Cross references.
Prohibited activities at, and requirements for leaving when directed, parks, historic sties, and recreational areas, § 12-3-10.

Prohibition against hunting while under the influence of alcohol or drugs, § 27-3-7.

Editor's notes.
Ga. L. 1987, p. 179, § 6/SB 107, not codified by the General Assembly, provides: "The General Assembly declares its intent to fund the acquisition of public wildlife management and fishing areas by and through the Department of Natural Resources with the increases and changes in hunting and fishing license fees provided in this Act. The General Assembly further recognizes the importance of wildlife related recreation and the need to provide greater opportunities for such recreation and public lands in the face of rapid woodland development and appropriation of existing wildlife habitat. The General Assembly further declares its intent to ensure that the funding provided by hunters and fishermen through the yearly payment of these license fee increases and changes will fund the acquisition of fish and wildlife habitat and public wildlife management and fishing areas. The General Assembly further declares its intent that a portion of the funds provided by hunters and fishermen through the yearly payment of the increases and changes in hunting and fishing licenses provided for in this Act may be used to fund personnel, equipment, and supplies to manage and improve fish and wildlife habitat and public wildlife management and fishing areas. Funds from the sale of timber may also be used for this purpose."

Ga. L. 2015, p. 1352, § 1/HB 475, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Feral Hog Control Act.'"

Ga. L. 2015, p. 1352, § 2/HB 475, not codified by the General Assembly,

provides: "The General Assembly finds that feral hogs are an invasive species in Georgia and are detrimental to the natural resources and agricultural production of the state. Feral hogs cause significant damage to crops and wildlife habitat. In addition, as carriers of communicable diseases, feral hogs pose a health risk to humans, livestock, companion animals, pets, and native wildlife."

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Since O.C.G.A. § 27-1-33 could be violated in such a manner that it involved firearms or other dangerous weapons where fingerprinting would be mandatory in order to promote consistency in the treatment of offenders, this offense shall be designated as an offense for which those charged with a violation are to be fingerprinted. 1989 Op. Att'y Gen. 89-52.

27-1-34. Defenses not available in prosecutions for violations.

In any prosecution for the violation of any of the provisions of the wildlife laws, it shall not be a defense that the person taking, possessing, selling, transporting, or storing wildlife was mistaken as to the species, sex, age, size, or any other fact regarding such wildlife or that the person lacked criminal intent, it being one of the purposes of the wildlife laws to penalize recklessness resulting in the violation of the wildlife laws.

History.
Ga. L. 1955, p. 483, § 52; Code 1933, § 45-204, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.
C.J.S.
36A C.J.S., Fish, § 44. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 88 et seq.

27-1-35. Jurisdiction of probate courts; summons.

(a) The jurisdiction of the probate courts of the several counties of this state is enlarged and extended so that probate courts, acting by and through the judge or presiding officer, shall have the right and power to receive pleas of guilty and impose sentence upon defendants violating the provisions of this title.

(b) When a person is arrested for any violation of the wildlife laws, the arresting officer may, at his discretion, choose to issue to the offender a summons to appear before a court of jurisdiction. Every such summons shall show:

(1) That it is issued by authority of the department;

(2) The name of the person summoned or, if the person to be

summoned refuses to give his name or the officer serving the summons believes the name given is false or if the officer is for other cause unable to ascertain the correct name of the person to be summoned, a fictitious name plainly identified as such;

(3) The offense with which the person being summoned is charged and the date and location of the alleged offense;

(4) The location of the court and the day and hour at which he is summoned to appear;

(5) That failure to so appear is a violation of Georgia laws and subject to prosecution;

(6) The date the summons is served; and

(7) The name and official designation of the officer serving it.

(c) Every person so summoned shall appear at the place and on the date ordered except in cases where a bond has been posted in lieu of the summons or where the court has granted a continuance.

(d) The officer serving a summons pursuant to this Code section shall, on or before the return date of the summons, deliver a copy thereof to the court before which it is returnable, or to the clerk of such court, and shall file any information and such affidavits as may be required with respect to the alleged offense.

(e) Personal delivery of a summons to the persons charged shall constitute due and proper service of the summons; provided, however, that if the violation is for a vehicle parking violation involving an unattended vehicle, service may be made by placing the summons on the driver's side of the windshield of the vehicle.

History.
Ga. L. 1968, p. 497, § 20; Code 1933, § 45-215, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1996, p. 980, § 3.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.
C.J.S.
36A C.J.S., Fish, §§ 48, 49. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 77 et seq.

27-1-36. Civil penalties.

(a) As an alternative to criminal enforcement pursuant to Code Section 27-1-38, the department, in order to enforce this title or any rules and regulations promulgated pursuant thereto, may employ any one or any combination of the following methods:

(1) Any person who violates any provisions of this title or any

regulations or orders promulgated and administered thereunder shall be liable civilly for a penalty in an amount of up to $1,000.00 for each and every violation thereof, the penalty to be recoverable by a civil action brought in the name of the commissioner by the district attorney of the county in which the alleged violator resides. The commissioner on his motion may or upon complaint of any interested party charging a violation shall refer the matter directly to the district attorney of the county in which the alleged violator resides. The proceeds from all civil penalties arising from enforcement of the wildlife laws, regulations, and orders pursuant to this Code section shall be used in the manner prescribed in Code Section 27-1-14;

(2) Whenever the commissioner determines that any person has violated any provision of this title or any regulations or orders promulgated under this title, the commissioner may issue an administrative order imposing a civil penalty not to exceed $1,000.00 for the violation. Any person who is aggrieved or adversely affected by any such order shall, upon petition within 30 days after the issuance of such order, have a right to a hearing before an administrative law judge appointed by the board. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the commissioner, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50; or

(3) All civil penalties recovered by the department as provided in this Code section shall be paid into the state treasury. The commissioner may file in the superior court in the county in which the person under order resides or, if the person is a corporation, in the county in which the corporation maintains its principal place of business, or in the county in which the violation occurred, a certified copy of a final order of the commissioner or the administrative law judge unappealed from or of a final order of the administrative law judge affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. The judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the judgment had been rendered in an action duly heard and determined by the court.

(b) The civil penalty prescribed in this Code section shall be concurrent with, alternative to, and cumulative of any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the commissioner with respect to any violation of this title and any regulations or orders promulgated

pursuant thereto; provided, however, that in no instance shall the department be authorized to proceed against any person under both Code Section 27-1-38 and this Code section for any single violation of the wildlife laws, rules, and regulations.

History.

Code 1933, § 45-217, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1984, p. 404, § 7; Ga. L. 1985, p. 149, § 27; Ga. L. 1993, p. 91, § 27; Ga. L. 2026, p. 1069, § 27(20)(B)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in the second sentence in paragraph (a)(2).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

C.J.S.

36A C.J.S., Fish, §§ 43, 44. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 88 et seq.

27-1-37. Administrative orders; emergency administrative orders; administrative review.

(a) Whenever the department has reason to believe that a violation of any provision of this title, any rule or regulation adopted pursuant thereto, or a condition of any permit issued thereunder has occurred or is occurring, the department may, in its discretion, issue an administrative order requiring the violator to take whatever corrective action the department deems necessary in order to obtain compliance within a period of time set forth in such order. Such order may also authorize the seizure of any wildlife or wild animal which the department determines is being or has been taken, imported, sold, transferred, or possessed in violation of this title, any regulation promulgated pursuant thereto, or a condition of any permit or license issued thereunder. Any such order issued by the department shall become final unless the person named therein files with the department a written request for a hearing within 30 days after the order is served personally or by certified mail or statutory overnight delivery on such person.

(b) In addition to taking the actions authorized in subsection (a) of this Code section, the department may issue an emergency administrative order for the purpose of authorizing any appropriate enforcement action including, but not limited to, the seizure of wildlife or wild animals; provided, however, that such emergency order must be supported by and have attached thereto an affidavit stating that the affiant has personal knowledge that immediate irreparable injury is likely to occur to wildlife or other natural resources, to wild animals, or to

human beings. Any such emergency order issued by the department shall be effective immediately upon the issuance of the order. The person named in the order shall, upon written request within 30 days of the issuance of the order, be entitled to a hearing, the hearing to be held within ten days of receipt of the request.

(c) Nothing in this Code section shall be construed to require the issuance of an administrative order or emergency administrative order to seize contraband or wildlife in accordance with this title.

(d) The hearing reviewing an administrative order or an emergency administrative order shall be conducted by an administrative law judge appointed by the board. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the department, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.

History.
Code 1933, § 45-122, enacted by Ga. L. 1979, p. 678, § 14; Ga. L. 1984, p. 404, § 8; Ga. L. 1985, p. 149, § 27; Ga. L. 2000, p. 1589, § 3; Ga. L. 2026, p. 1069, § 27(20)(C)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in the first sentence in subsection (d).

27-1-38. Criminal penalty.

Unless otherwise specifically provided, any person who violates any of the provisions of this title shall be guilty of a misdemeanor; provided, however, that, unless otherwise specifically provided, any person who violates any of the provisions of this title or any rule or regulation promulgated pursuant thereto relating to the possession or use of fishing gear on trawlers shall be a misdemeanor of a high and aggravated nature and shall be fined $1,000.00 for the first offense, $3,000.00 for the second offense, and $5,000.00 for the third and each subsequent offense.

History.
Code 1933, § 45-216, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2002, p. 1232, § 1; Ga. L. 2026, p. 1069, § 54(1)(I)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in this Code section.

JUDICIAL DECISIONS

Sufficiency of evidence. — For cases finding sufficient evidence to support a conviction of hunting with an unplugged pump shotgun, see Beard v. State, 151 Ga. App. 724, 261 S.E.2d 404, 1979 Ga. App. LEXIS 2769 (1979).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Violation of O.C.G.A. § 27-1-38 is an offense requiring fingerprinting. 2002 Op. Att'y Gen. No. 2002-7.

27-1-39. Rules and regulations used to establish criminal violations.

Notwithstanding any other law to the contrary, for purposes of establishing criminal violations of the rules and regulations promulgated by the board as provided in this title, the term "rules and regulations" means those rules and regulations of the board in force and effect on January 1, 2026.

History.

Code 1981, § 27-1-39, enacted by Ga. L. 1998, p. 1550, § 1; Ga. L. 2001, p. 1013, § 5; Ga. L. 2002, p. 1232, § 2; Ga. L. 2003, p. 654, § 2; Ga. L. 2006, p. 226, § 1/HB 338; Ga. L. 2008, p. 702, § 1/HB 239; Ga. L. 2010, p. 952, § 2/SB 474; Ga. L. 2012, p. 739, § 1/HB 869; Ga. L. 2013, p. 92, § 2/SB 136; Ga. L. 2014, p. 344, § 1/HB 783; Ga. L. 2015, p. 1056, § 2/SB 112; Ga. L. 2016, p. 432, § 3/HB 840; Ga. L. 2019, p. 808, § 2/SB 72; Ga. L. 2020, p. 827, § 2-1/HB 998; Ga. L. 2021, p. 105, § 2-2/HB 362; Ga. L. 2021, p. 922, § 27/HB 497; Ga. L. 2022, p. 308, § 2/HB 1233; Ga. L. 2024, p. 429, § 2/HB 244, effective July 1, 2024; Ga. L. 2025, p. 524, § 2/HB 287, effective July 1, 2025; Ga. L. 2026, p. 795, § 2-2/SB 420, effective July 1, 2026; Ga. L. 2026, p. 1069, § 27(20)(D)/HB 1268, effective July 1, 2026.

Amendments.

The 2024 amendment, effective July 1, 2024, substituted "January 1, 2024" for "January 1, 2022" at the end of the section. See Editor's notes for applicability.

The 2025 amendment, effective July 1, 2025, substituted "2025" for "2024."

The first 2026 amendment, effective July 1, 2026, substituted "January 1, 2026" for "January 1, 2025" at the end of this Code section.

The second 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in two places.

Editor's notes.

Ga. L. 2013, p. 92, § 14/SB 136, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act "shall apply to all offenses occurring on and after May 15, 2013; provided, however, that for purposes of determining the number of prior convictions or pleas of nolo contendere pursuant to the felony provisions of paragraph (4) of subsection (m) of Code Section 52-7-12, only those offenses for which a conviction or a plea of nolo contendere is obtained on or after May 15, 2013, shall be considered."

Ga. L. 2014, p. 344, § 5/HB 783, not codified by the General Assembly, provides: "This Act shall become effective on May 1, 2014, and shall apply to offenses occurring on or after such date."

Ga. L. 2016, p. 432, § 6/HB 840, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2016, and shall apply to all offenses occurring on or after such date."

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendment at the end of the Code section became effective April 25, 2024.

CHAPTER 2

LICENSES, PERMITS, AND STAMPS

Article 1

Hunting, Trapping, or Fishing

Sec.
27-2-1. License requirements for hunting, trapping, and fishing.
27-2-2. Issuance and sale of hunting, fishing, and trapping licenses; license agents; participation in anatomical gift program.
27-2-3. Effective periods of hunting, fishing, and trapping licenses generally; multiyear licenses.
27-2-3.1. Substitutes for noncommercial hunting and fishing license requirements; lifetime sportsman's licenses and fees.
27-2-4. Honorary and discounted hunting and fishing licenses.
27-2-4.1. Fishing license reciprocity for Florida residents over 65 years of age.
27-2-4.2. Courtesy resident or nonresident hunting or fishing licenses to certain paralyzed or disabled persons.
27-2-4.3. Special hunting privileges for young people with a terminal illness.
27-2-4.4. Extended turkey hunting season for young hunters and mobility impaired persons.
27-2-4.5. Outdoor mentoring program.
27-2-5. Required hunter education courses.
27-2-6. Trout license; Georgia waterfowl and migratory bird stamp; big game license; alligator harvest permit.
27-2-7. Agreements relating to hunting license reciprocity.
27-2-8. Commercial fishing boat licenses.
Sec.
27-2-9. Taxidermist licenses; unlawful acts and omissions.
27-2-10. Commercial alligator farming licenses.
27-2-11. Game-holding permits.
27-2-12. Scientific collecting permits.
27-2-13. Wildlife exhibition permits; release of wildlife.
27-2-13.1. Film production wildlife permits; release of wildlife.
27-2-14. Release of wildlife or domestic fish generally.
27-2-15. Wildlife storage permits.
27-2-16. Commercial quail breeder permits; records; unlawful acts or omissions.
27-2-17. Falconry permits; permitted acts by permit holders; inspection of premises.
27-2-18. Permits to kill deer causing damage to crops.
27-2-19. Wildlife importation permits.
27-2-20. Federal migratory bird hunting and conservation stamp; participation in federal Migratory Bird Harvest Information Program.
27-2-20.1. Required participation in Saltwater Information Program.
27-2-21. Field and retriever trial permits; participant registration and license requirements.
27-2-22. Wildlife rehabilitation permits.
27-2-22.1. Fox trapping and selling.
27-2-23. License, permit, tag, and stamp fees.
27-2-23.1. Raccoon fur seller's license; penalty.
27-2-23.2. Salt water fishing guide licenses; fees; reporting requirements.
27-2-24. Service of process for licensees and permittees; filing as admission of doing business in state.

Sec.
27-2-25. Revocation, suspension, denial, or nonrenewal of license or permits; administrative and judicial review.
27-2-25.1. Procedures following hunting related death or injury; suspension of hunting privileges for negligence; administrative and judicial review; penalties.
27-2-25.2. Suspensions, denials, or nonrenewals of licenses for noncompliance with court order for child support.
27-2-26. Rules and regulations regarding suspensions, denials, or nonrenewals under Code Section 27-2-25; surrender of license.
27-2-27. Civil penalty in lieu of revocation, suspension, denial, or nonrenewal.
27-2-28. Refusing inspection of identification or license; making false statements in obtaining license; counterfeiting or altering license; unauthorized collection of funds.
27-2-29. Free fishing days.
27-2-30. Establishment of the Wildlife Endowment Trust Fund; investment, accounting, and expenditures.
27-2-31. Wildlife control permits.

Article 2

Wildlife Violator Compact

27-2-40. Enactment and text of compact.
27-2-41. Rules and regulations authorized.
27-2-42. Exercise of hunting or fishing privileges following suspension or revocation; penalty.

Cross references.
Unlawful acts relating to taking, sale, purchase of wildlife, § 27-1-28 et seq.

RESEARCH REFERENCES

ALR.
Constitutionality of statutes licensing or otherwise regulating business of breeding and dealing in game or undomesticated animals, 62 A.L.R. 473.

ARTICLE 1

HUNTING, TRAPPING, OR FISHING

27-2-1. License requirements for hunting, trapping, and fishing.

(a) It shall be unlawful for any person to hunt, fish, trap, or possess any wildlife or feral hog without first procuring all of the licenses, stamps, or permits required or authorized under this title; provided, however, that persons may trap feral hogs without a hunting or trapping license, provided that such hogs shall be killed upon capture.

(b) It shall be unlawful for any resident of this state who has attained the age of 16 years to hunt, fish in the waters of this state, or trap without a valid hunting license, fishing license, or trapping license, respectively, as provided in Code Section 27-2-23, except on premises owned by him or her or his or her immediate family; provided, however,

that the resident owner of any vessel with a valid registration in accordance with Code Section 52-7-5 shall have, as part of the registration fee for such vessel, a paid one-day resident hunting and fishing license valid only on the anniversary of such owner's date of birth in accordance with the requirements of this title and as otherwise specified by the department. It shall be unlawful for any resident of this state to hunt, fish, or trap in this state without carrying such license upon his or her person, except on premises owned by him or her or his or her immediate family and except when otherwise specifically directed by authorized personnel of the department.

(c) It shall be unlawful for any person not a resident of Georgia who has attained the age of 16 years to hunt, fish in the waters of this state, or trap in this state without a valid nonresident hunting, fishing, or trapping license, respectively, as provided in Code Section 27-2-23, except as otherwise specifically provided by law and interstate agreements. It shall be unlawful for any nonresident to hunt, fish in the waters of this state, or trap without carrying such license on his or her person, unless otherwise specifically directed by authorized personnel of the department.

(d) Notwithstanding the provisions of subsections (b) and (c) of this Code section, no license shall be required to fish with permission of the owner from noncommercial premises not open to the public, including docks and foreshores of such premises, or at a facility or on a charter boat licensed pursuant to the provisions of Code Section 27-2-23.2.

History.

Ga. L. 1911, p. 137, § 13; Ga. L. 1916, p. 114, § 3; Ga. L. 1925, p. 302, § 27; Ga. L. 1931, p. 7, § 25; Ga. L. 1931, p. 178, § 6; Code 1933, §§ 45-201, 45-204, 45-205; Ga. L. 1935, p. 379, § 1; Ga. L. 1935, p. 480, § 1; Ga. L. 1941, p. 463, § 6; Ga. L. 1952, p. 258, § 2; Ga. L. 1953, Nov.-Dec. Sess., p. 166, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 173, § 1; Ga. L. 1955, p. 483, §§ 30, 31; Ga. L. 1966, p. 6, § 1; Ga. L. 1968, p. 497, §§ 7, 10; Ga. L. 1973, p. 1265, § 1; Code 1933, § 45-302, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 20; Ga. L. 1978, p. 2290, § 6; Ga. L. 1979, p. 1255, § 6; Ga. L. 1979, p. 1320, § 1; Ga. L. 1981, p. 144, § 3; Ga. L. 1998, p. 783, § 2; Ga. L. 2013, p. 771, § 6/HB 155; Ga. L. 2017, p. 27, § 2/HB 208; Ga. L. 2026, p. 572, § 1/HB 946, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, added the proviso at the end of subsection (a).

Cross references.

Right to hunt, trap, and fish, subject to certain laws and regulations, § 27-1-3.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1937, p. 675, § 1, are included in the annotations for this Code section.

Incorrect date on summons. — Because the date of the alleged offense is not generally material, except for statute of limitations purposes, and failure to rely on a specific date is not harmful unless the defendant is surprised and prejudiced in the preparation of defendant's defense, defendant was not harmed by the appearance of an incorrect date on the summons. Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

Evidence sufficient to sustain conviction. — Evidence that defendant obtained resident hunting licenses by giving a Georgia address as defendant's legal residence, while a resident of the State of Virginia, evidence of the act of hunting and testimony that defendant had been hunting and had taken a turkey was sufficient to sustain defendant's conviction under this statute. Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

Because the defendant acknowledged hunting doves in an open field without a hunting license and "fading" into the woods when the rangers approached, the rangers had a reasonable and articulable suspicion that illegal activity had occurred; consequently, defendant's Fourth Amendment rights against unreasonable search and seizure were not violated and the trial court properly denied the defendant's motion for a new trial on the charges of illegal hunting and obstruction. Sharp v. State, 275 Ga. App. 487, 621 S.E.2d 508, 2005 Ga. App. LEXIS 1002 (2005).

License required for invitees of owner of private pond. — While owner of private pond may fish therein without procuring a license and may take fish therefrom in any manner whatever, other residents of the state over 16 years of age, even though fishing in such private pond as invitees of the owner, would be required to obtain a license. Vickers v. Jones, 200 Ga. 338, 37 S.E.2d 205, 1946 Ga. LEXIS 395 (1946) (decided under Ga. L. 1937, p. 675, § 1).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 12, 20, 36, 44, 51 et seq.

C.J.S.

36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

ALR.

Applicability of state fishing license laws or other public regulations to fishing in private lake or pond, 15 A.L.R.2d 754.

Validity, construction, and application of state statutes prohibiting, limiting, or regulating fishing or hunting in state by nonresidents, 31 A.L.R.6th 523.

27-2-2. Issuance and sale of hunting, fishing, and trapping licenses; license agents; participation in anatomical gift program.

(a) Hunting, fishing, and trapping licenses shall be issued and sold by the department on forms containing such information as may be prescribed by the department. As used in this Code section, the term "license" shall include all permits, licenses, or stamps issued by the department under Code Section 27-2-23. Licenses for hunting and

fishing may be sold in each county by persons approved by the department to be license agents.

(b) Each license agent may be required to:

(1) Remit to the department a premium which shall entitle him or her to coverage under a blanket performance bond provided by the department. The premium, which may include the reasonable cost of administering a self-insurance program, shall be in an amount determined by the commissioner, and shall be due and payable annually upon billing by the department;

(2) Account for all license sales and the monetary receipts from such sales in reports to the department, which reports shall be on a schedule and in a form specified by the written agreement between the license agent and the department. Failure to remit license sales receipts as specified in such agreement may result in suspension of the license agent's ability to sell licenses; and

(3) Receive for himself or herself no more than 60¢ for each license issued, except for nonresident hunting licenses and resident sportsman's licenses, for which the license agent may receive $1.25 for each license issued, and except for licenses sold by telephone by an approved telephone license agent or over the internet by an approved internet license agent, for which the agent may charge and receive up to $5.00 per transaction in addition to the actual cost of the license or licenses sold during the transaction; provided, however, that neither the telephone license agent nor the internet license agent shall receive any additional fee per license sold during a telephone or internet transaction; provided, further, that the sale of one or more licenses to one applicant during one telephone call or one internet session shall constitute a single transaction.

(b.1) Any person who applies to be a license agent after June 30, 1998, shall be assessed a fee not to exceed the fair market cost of automated licensing equipment the department shall install in such agent's place of business. Such fees shall be due and payable upon installation of the automated equipment.

(c) The commissioner may either purchase a blanket performance bond for the department's license agents from or through the Department of Administrative Services or any other source or establish a self-insurance bond by retaining all moneys paid to the department for the premium established pursuant to subsection (b) of this Code section, all moneys received as interest, and nonappropriated funds received from other sources to establish and maintain a reserve fund for the purpose of making payments to the department upon the defalcations of license agents and defraying the expenses necessary to administer the program; provided, however, that no revenue collected from

taxes, fees, and assessments for state purposes shall be deposited in such fund. The commissioner shall invest any such moneys in the same manner as other moneys in his or her possession. The commissioner is authorized, in his or her discretion, to contract for any or all of the services necessary to carry out the functions enumerated in this Code section.

(d) Prior to selling any license, except for a license sold over the telephone by an approved telephone license agent or over the internet by an approved internet license agent, each license agent shall require each person desiring to purchase a license to display a driver's license in a physical format or equally reliable identification of the individual and the current residence and age of such individual. In the event the department determines that a license agent has intentionally or negligently sold a resident license to a person who is a nonresident or who is underage, the department may immediately withdraw the authority of such license agent to issue and sell licenses on behalf of the department, provided that the department shall not withdraw the license agent's authority until the license agent has been given ten days' written notice of intention to withdraw authority setting forth the reason or reasons for the withdrawal and giving the license agent a hearing in the county of said agent's residence on the reasons for withdrawal.

(e)(1) The General Assembly finds that it is in the best interest of this state to encourage improved public education and awareness regarding anatomical gifts of human organs and tissues and to address the ever-increasing need for donations of anatomical gifts for the benefit of the citizens of Georgia.

(2) Whenever any person applies for or requests the issuance or renewal of any hunting, fishing, or trapping license through the department's online licensing system, excluding those requested through license agents, the department shall allow the applicant to make an anatomical gift pursuant to Article 6 of Chapter 5 of Title 44, the "Georgia Revised Uniform Anatomical Gift Act." The department shall not be required to keep the physical record of the donor's application once it has entered the information into the online system and issued the license in order for the anatomical gift to be valid.

(3) The department website shall provide links to organ procurement websites and provide information describing anatomical gifts, along with the need for and benefits of anatomical gifts.

(4) The department, with the consent of the applicant, shall make available to organ procurement organizations or secure data centers maintained and managed at the direction of such organizations information as provided for in Article 6 of Chapter 5 of Title 44, the "Georgia Revised Uniform Anatomical Gift Act," including the name,

license number, date of birth, gender, and most recent address of any person eligible pursuant to such Act who obtains a fishing, hunting, or trapping license and who indicates such person's desire to be an organ donor; provided, however, that the information shall be made available only to an organ procurement organization or secure data center if such organization or center has sufficient funds to reimburse the department for reasonable costs associated with the application process and providing such information. Information so obtained by such organizations and centers shall be used for a state-wide organ donor registry accessible to organ tissue and eye banks authorized to function as such in this state and shall not be further disseminated.

History.

Ga. L. 1931, p. 173, § 5; Code 1933, §§ 45-206, 45-218; Ga. L. 1935, p. 379, § 2; Ga. L. 1935, p. 386, § 7; Ga. L. 1941, p. 463, §§ 1-4; Ga. L. 1943, p. 537, § 1; Ga. L. 1949, p. 1156, § 1; Ga. L. 1949, p. 1577, §§ 1, 2; Ga. L. 1952, p. 258, § 1; Ga. L. 1955, p. 483, § 28; Ga. L. 1968, p. 497, § 7; Ga. L. 1976, p. 1159, §§ 1, 2; Code 1933, § 45-301, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 17-19; Ga. L. 1978, p. 2290, §§ 1-3; Ga. L. 1979, p. 924, § 1; Ga. L. 1979, p. 1255, §§ 1-3; Ga. L. 1981, p. 144, §§ 1, 2; Ga. L. 1987, p. 179, § 3; Ga. L. 1992, p. 915, § 1; Ga. L. 1995, p. 946, §§ 2, 3; Ga. L. 1998, p. 783, § 3; Ga. L. 2001, p. 1013, § 6; Ga. L. 2019, p. 816, § 1/SB 99; Ga. L. 2020, p. 493, § 27/SB 429; Ga. L. 2025, p. 627, § 2/HB 296, effective July 1, 2025; Ga. L. 2026, p. 1069, § 27(3)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "internet" for "Internet" twice and inserted "in a physical format" in the first sentence of subsection (d).

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "such agreement" for "the agreement" in the second sentence in paragraph (b)(2) and revised capitalization in paragraph (b)(3).

Cross references.

Voter registration incorporated into resident hunting, fishing or trapping licenses, § 21-2-221.1.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1998, paragraph (b)(4) was redesignated as subsection (b.1) and, in subsection (b), "and" was added at the end of paragraph (2) and a period was substituted for "; and" at the end of paragraph (3).

Editor's notes.

Ga. L. 1987, p. 179, § 6/SB 107, not codified by the General Assembly, provides: "The General Assembly declares its intent to fund the acquisition of public wildlife management and fishing areas by and through the Department of Natural Resources with the increases and changes in hunting and fishing license fees provided in this Act. The General Assembly further recognizes the importance of wildlife related recreation and the need to provide greater opportunities for such recreation and public lands in the face of rapid woodland development and appropriation of existing wildlife habitat. The General Assembly further declares its intent to ensure that the funding provided by hunters and fishermen through the yearly payment of these license fee increases and changes will fund the acquisition of fish and wildlife habitat and public wildlife management and fishing areas. The General Assembly further declares its intent that a portion of the funds provided by hunters and fishermen through the yearly payment of the increases and changes in hunting and fishing licenses provided for in this Act may be used to fund personnel, equipment, and supplies to manage and improve fish and wildlife habitat and public wildlife management and fishing areas. Funds from the sale of timber may also be used for this purpose."

Ga. L. 2019, p. 816, § 2/SB 99, not codified by the General Assembly,

provides: "This Act shall be applicable to all licenses issued on or after July 1, 2019."

OPINIONS OF THE ATTORNEY GENERAL

Liability of license agent. — A license agent is liable for loss of funds collected from sale of state hunting and fishing licenses. 1958-59 Ga. Op. Att'y Gen. 168 (decided under Ga. L. 1955, p. 483).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.
Am. Jur. Pleading and Practice Forms.
12 Am. Jur. Pleading and Practice Forms, Fish and Game, § 4.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-3. Effective periods of hunting, fishing, and trapping licenses generally; multiyear licenses.

(a) Except as otherwise specifically provided, all hunting, fishing, and trapping licenses, including without limitation commercial fishing and commercial fishing boat licenses issued pursuant to Code Section 27-2-8, shall be effective from April 1 to March 31 of the following year; except that all annual, two-year, or other multiyear hunting, fishing, and hunting and fishing combination licenses issued pursuant to paragraphs (1) through (4) of Code Section 27-2-23 shall be effective through the applicable one-year, two-year, or multiyear anniversary of the date of issuance. If a person possesses a valid annual, two-year, or other multiyear hunting, fishing, or hunting and fishing combination license at the time of sale of one or more annual, two-year, or other multiyear licenses with identical privileges to the valid license, the new license or licenses shall become effective when the original license expires and shall remain valid through the full applicable period. The department may specify the effective dates and term of the following licenses or permits:

(1) The Georgia waterfowl and migratory bird stamp to meet requirements of Code Section 27-2-20;

(2) The free Georgia salt water fishing endorsement to meet requirements of Code Section 27-2-20.1; and

(3) Any permit or requirement authorized by Code Section 27-3-29 regarding harvest recording and reporting.

(b) Multiyear licenses valid for any desired number of years may be purchased through a single transaction for licenses listed in paragraphs

(1) through (4) of Code Section 27-2-23. The fee for any such multiyear license shall be equivalent to the lowest cost combination of annual or two-year licenses necessary to form the desired multiyear license period. No resident license shall be valid at the time of hunting or fishing unless the licensee is a resident of this state at such time, except for lifetime licenses.

History.

Ga. L. 1955, p. 483, § 30; Code 1933, § 45-302, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 22; Ga. L. 1978, p. 1552, § 2; Ga. L. 2003, p. 654, § 3; Ga. L. 2007, p. 47, § 27/SB 103; Ga. L. 2009, p. 787, § 1/HB 326; Ga. L. 2012, p. 775, § 27/HB 942; Ga. L. 2017, p. 27, § 3/HB 208.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

27-2-3.1. Substitutes for noncommercial hunting and fishing license requirements; lifetime sportsman's licenses and fees.

(a) The requirements in this title for procuring any paid license or permit for noncommercial hunting and fishing privileges, except for harvesting alligators, shall be satisfied by a resident or nonresident who procures a sportsman's license; provided, however, that the department may specify other nonpaid licenses and permits required by law or by rule or regulation of the board. An applicant for such license shall furnish all information required by the department prior to the issuance of such license. An applicant for any paid or nonpaid license who is a resident shall certify and provide satisfactory evidence of his or her residency as set forth in paragraph (4) of subsection (c) of this Code section.

(b) All licenses, stamps, or permits for noncommercial hunting and fishing privileges shall be attached to or printed on a form provided by the department which shall include the applicant's name, address, date of birth, and hunter safety certification number; provided, however, that each such item of information may be, but is not required to be, printed on lifetime licenses.

(c)(1) The requirements in this title for procuring any paid license, stamp, or permit for noncommercial hunting and fishing privileges shall be satisfied by a resident or nonresident who procures a lifetime sportsman's license; provided, however, that the department may specify other required nonpaid licenses and permits required by law or by rule or regulation of the board for such resident or nonresident and that an applicant for such license shall furnish all information required by the department prior to the issuance of such license; and provided, further, that the requirements in this title for procuring

any paid license, stamp, or permit for noncommercial hunting or for noncommercial fishing privileges, separately, shall be satisfied by a resident or nonresident who procures a lifetime sportsman's license for hunting only or for fishing only, respectively, as described in subparagraph (d)(1)(E) of this Code section.

(2) An applicant for a veteran's lifetime sportsman's license shall, in addition to satisfactory evidence of residency, be required to provide satisfactory evidence that he or she served more than 90 days of federal active duty military service and was honorably discharged.

(3) An applicant for a lifetime sportsman's license who is a nonresident shall not be eligible for issuance of such license unless:

(A) He or she is from two through 15 years of age and is the grandchild of a resident who holds a valid paid lifetime sportsman's license (excluding a no-cost Type S lifetime license). The resident grandparent who holds such a lifetime sportsman's license and who is the sponsor of an eligible nonresident applicant for a lifetime sportsman's license shall certify the nonresident applicant's relationship to him or her in writing to the department; or

(B) He or she is less than two years of age.

(4)(A) For purposes of procuring a lifetime sportsman's license, the term "residency" means a domicile within Georgia for a minimum of three consecutive months immediately prior to procuring such license. Satisfactory evidence of residency shall consist of a current Georgia driver's license in a physical format or official Georgia identification card issued by the Department of Driver Services; provided, however, that no license or identification card issued pursuant to Code Section 40-5-21.1 shall satisfy the requirements of this paragraph.

(B) Minors under 18 years of age shall be presumed to be residents upon proof of parent's resident status as provided for in this Code section. For purposes of procuring the Type I (Infant) and Type Y (Youth) lifetime license, a copy of a certified copy of the birth certificate of the licensee shall be required to show age (Types I and Y) and parentage (Type Y). A court order or other legal document establishing parental rights or legal custody may be provided to show parentage.

(d)(1) Lifetime sportsman's licenses and fees for residents shall be as follows:

(A) Type I (Infant), available only to those individuals under two years of age: $500.00;

(B) Type Y (Youth), available only to those individuals from two through 15 years of age: $600.00;

(C) Type A (Adult), available to those individuals 16 years to 49 years of age: $750.00;

(C.1) Type OA (Older Adult), available to those individuals 50 years to 59 years of age: $375.00;

(D) Type SD (Senior Discount), available to those individuals 60 years to 64 years of age: $315.00;

(E) Type S (Senior), available to those individuals 65 years of age or older born on or before June 30, 1952: no charge. The lifetime sportsman's licenses and fees available to those individuals 65 years of age and older born after June 30, 1952, shall be as follows:

(i) Type SP (Senior Paid): $70.00;

(ii) Type SH (Senior Hunt), for hunting only: $35.00; and

(iii) Type SF (Senior Fish), for fishing only: $35.00;

(F) Type V (Veterans), available only to those individuals who served more than 90 days of federal active duty military service and were honorably discharged: 80 percent of the amount of the fee specified for Type A lifetime sportsman's licenses in subparagraph (C) of this paragraph;

(G) Type M (Military), available only to those residents currently in active military service and who are in possession of a valid United States Department of Defense Common Access Card with a Uniformed Services affiliation. As used in this subsection, the term "active military service" means service on active duty with the armed forces of the United States or service with a reserve component of the armed forces of the United States, including service in the Georgia National Guard or National Guard of another state: 80 percent of the amount of the fee specified for Type A lifetime sportsman's licenses in subparagraph (C) of this paragraph; and

(H) Type SP (Shooting Preserve), available to any individual, resident or nonresident, and which entitles the holder to hunt pen raised game birds and fish in any private or state waters within the boundaries of a properly licensed shooting preserve: $75.00.

(2) The fee for any lifetime sportsman's license for a nonresident, Type NR, shall be twice the amount of the fee for a Type A (Adult) lifetime sportsman's license for a resident, except that the fee for a nonresident Type I (Infant) license shall be the same fee as for a resident Type I (Infant) license.

(3) After July 1, 2017, the General Assembly shall not increase the cost of any license provided for in this subsection by more than 20 percent.

(e) Lifetime sportsman's licenses shall be valid for the lifetime of the purchaser, whether resident or nonresident. Change of residency to another state shall not affect the validity of the lifetime license when hunting or fishing in Georgia.

(f) The commissioner shall revoke the lifetime sportsman's license of any person who knowingly attempts to or does purchase, obtain, or assist another person to obtain a lifetime sportsman's license by fraudulent means, without refund of any fees paid.

(g) Upon payment of a replacement fee of up to $15.00, any durable plastic card showing a lifetime sportsman's license or other valid license may be replaced if lost, stolen, or destroyed, provided that the applicant's name and lifetime license number or other required license information are in the records of the department.

(h) Once a lifetime license is issued, no refunds of fees will be made except in the case of the death before age 16 years of a Type I (Infant) lifetime license holder or a Type Y (Youth) license holder, in which case a full refund of fees collected may be made upon submission of the lifetime license and any other documentation required by the department.

(i) The requirements in this title for procuring any paid license, stamp, or permit for noncommercial hunting and fishing privileges shall be satisfied by a resident youth younger than 16 years of age who procures an optional annual or an optional multiyear resident youth sportsman's license. The requirements in this title for procuring any paid license, stamp, or permit for noncommercial fishing privileges shall be satisfied by a youth younger than 16 years of age who procures an optional annual or an optional multiyear resident youth license for fishing only. A resident youth multiyear fishing license or resident youth multiyear sportsman's license will be valid from the time of purchase until such person reaches 17 years of age. The department may require satisfactory evidence to show age and residency before issuing an annual or youth multiyear license.

History.

Code 1981, § 27-2-3.1, enacted by Ga. L. 1995, p. 946, § 4; Ga. L. 1998, p. 783, § 4; Ga. L. 1998, p. 826, § 1; Ga. L. 2001, p. 1013, § 7; Ga. L. 2002, p. 415, § 27; Ga. L. 2003, p. 654, §§ 4, 5; Ga. L. 2004, p. 338, § 1; Ga. L. 2005, p. 334, § 11-1/HB 501; Ga. L. 2007, p. 91, § 1A/HB 81; Ga. L. 2009, p. 787, § 2/HB 326; Ga. L. 2010, p. 878, § 27/HB 1387; Ga. L. 2013, p. 771, § 4/HB 155; Ga. L. 2014, p. 859, § 1/HB 786; Ga. L. 2015, p. 5, § 27/HB 90; Ga. L. 2017, p. 27, § 4/HB 208; Ga. L. 2025, p. 627, § 3/HB 296, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "in a physical format" in the second sentence of subparagraph (c)(4)(A).

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be

applicable to all offenses occurring on or after July 1, 2017.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — An offense under O.C.G.A. § 27-2-3.1 would not be designated as one which requires fingerprinting. 1998 Op. Att'y Gen. No. 98-20.

RESEARCH REFERENCES

ALR.

Validity, construction, and application of state statutes prohibiting, limiting, or regulating fishing or hunting in state by nonresidents, 31 A.L.R.6th 523.

27-2-4. Honorary and discounted hunting and fishing licenses.

(a) The department shall issue a discounted hunting and fishing license, which shall entitle a resident to hunt and fish in this state without the payment of fees described in Code Section 27-2-23, to each resident who is permanently and totally disabled. For purposes of this Code section, a permanent, total disability shall be a physical or mental impairment of a total and permanent nature which is certified as such by the United States Department of Veteran Affairs, the Social Security Administration, Medicaid, medicare, the Railroad Retirement System, or a unit of federal, state, or local government recognized by the board by rule or regulation; provided, however, that persons disabled because of a mental impairment shall be issued a discounted fishing license only. Persons issued a discounted license under disability provisions shall renew such licenses and recertify their eligibility for such licenses every three years; provided, however, that licenses in effect as of July 1, 1998, shall not require renewal. The fee for a discounted three-year license issued pursuant to this subsection shall be $9.00 for hunting or fishing only and $15.00 for hunting and fishing combined. The fee for a discounted annual license issued pursuant to this subsection shall be $3.00 for hunting or fishing only and $5.00 for hunting and fishing combined.

(b) Any resident who is totally blind and who applies to the department shall receive a lifetime honorary fishing license which shall entitle the holder thereof to fish in this state without the payment of any fee whatsoever.

(c) Any person holding a valid honorary or discounted license pursuant to this Code section shall not be required to obtain the trout license and big game license otherwise required by Code Section 27-2-6.

(d) All honorary and discounted hunting and fishing licenses are subject to all wildlife laws, rules, and regulations with the exception of the provisions requiring the payment of fees described in Code Section

27-2-23 for such licenses. Such honorary and discounted licenses may be revoked in accordance with this title. It shall be unlawful for any person who has an honorary or discounted hunting and fishing license to permit the use of same by any other person. It shall also be unlawful for any person who is not entitled to a discounted hunting and fishing license to use such a license or for any totally and permanently disabled person issued such a license to possess or use such license when the disability is no longer total or permanent. Licenses for the totally and permanently disabled may, upon a determination that the disability is no longer total or permanent, be revoked until such time as the disability is again total and permanent.

(e) The commissioner is authorized to make and enter into agreements from time to time with the proper authorities of various states of the United States regarding nonresident hunting and fishing license fees for persons 65 years of age or older so as to provide discounted hunting and fishing licenses to be issued to nonresidents 65 years of age or older where such practice is reciprocated for Georgia residents in that person's state of residence.

(f) Persons holding lifetime honorary licenses issued to persons 65 years of age or older prior to April 1, 1999, shall not be required to obtain a lifetime license pursuant to Code Section 27-2-3.1, and such lifetime honorary license shall carry the same rights and privileges as a lifetime license issued pursuant to that Code section.

(g)(1) As used in this subsection, the term "returning veteran" means a person who is discharged from active duty as a member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard and who was on ordered federal duty for a period of 90 days or longer.

(2) The department shall issue an honorary hunting and fishing license to any returning veteran which shall entitle him or her to hunt and fish in this state without the payment of fees described in Code Section 27-2-23 for a period of one year following issuance. A returning veteran requesting such an honorary license shall provide proof of his or her discharge.

History.

Ga. L. 1949, p. 1194, §§ 1-4; Ga. L. 1956, p. 590, § 1; Ga. L. 1964, p. 461, § 1; Ga. L. 1965, p. 228, § 1; Ga. L. 1966, p. 6, § 2; Ga. L. 1971, p. 38, § 1; Ga. L. 1973, p. 1265, § 1; Code 1933, § 45-302, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 935, § 1; Ga. L. 1979, p. 678, §§ 17, 18; Ga. L. 1984, p. 22, § 27; Ga. L. 1988, p. 842, § 1; Ga. L. 1990, p. 45, § 1; Ga. L. 1991, p. 94, § 27; Ga. L. 1994, p. 496, § 1; Ga. L. 1998, p. 783, § 5; Ga. L. 1998, p. 826, § 2; Ga. L. 2005, p. 213, § 3/SB 258; Ga. L. 2017, p. 27, § 5/HB 208.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1985, a comma was inserted following "license" in the first sentence of subsection (a).

Pursuant to Code Section 28-9-5, in

1998, a comma was deleted following "time" in subsection (e).

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

JUDICIAL DECISIONS

Presumption concerning nonresidents. — One is presumed to know that a nonresident cannot obtain an honorary hunting license. Ford v. State, 178 Ga. App. 706, 344 S.E.2d 514, 1986 Ga. App. LEXIS 2556 (1986).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under Ga. L. 1955, p. 483, as it read prior to revision by Ga. L. 1977, p. 396, § 1, are included in the annotations for this Code section.

Widow of deceased veteran is not entitled to free hunting or fishing license unless she herself is 65 years of age or older and a legal resident of Georgia. 1971 Op. Att'y Gen. No. 71-127 (decided under Ga. L. 1955, p. 483).

Meaning of phrase "without the payment of any fee whatsoever." — Phrase "without the payment of any fee whatsoever" is designed to modify infinitive phrase "to hunt and fish"; legislative intent of former subsection (a) then would seem to be that holder of honorary license is not to be charged any state-imposed license or use fee for hunting and fishing. 1971 Op. Att'y Gen. No. 71-67 (decided under Ga. L. 1955, p. 483).

27-2-4.1. Fishing license reciprocity for Florida residents over 65 years of age.

No fishing license shall be required for any Florida resident who is more than 65 years of age, to the extent that a reciprocal provision exists under Florida law for any Georgia resident who is more than 65 years of age. Florida residents exempted from the requirement of obtaining a fishing license under this Code section shall be entitled to fish in this state without the payment of any fee whatsoever, except that in order to engage in the activities regulated by subsection (a) of Code Section 27-2-6 such a Florida resident must have paid the fee otherwise required for a trout license and must have in his or her possession such proof of such payment as may be prescribed by the department. Florida residents exempted from the requirement of obtaining a fishing license under this Code section are subject to all wildlife laws, rules, and regulations with the exception of provisions requiring fishing licenses. The privileges granted to a Florida resident under this Code section may be suspended or revoked on the same grounds and in the same manner as fishing licenses are suspended and revoked. A Florida resident fishing as authorized by this Code section shall carry upon his or her person proof of his or her age and residence.

History.
Code 1981, § 27-2-4.1, enacted by Ga. L. 1987, p. 365, § 1; Ga. L. 1998, p. 783, § 6.

27-2-4.2. Courtesy resident or nonresident hunting or fishing licenses to certain paralyzed or disabled persons.

(a) The department is authorized to issue a courtesy resident or nonresident fishing license, without fee, to any person who is paralyzed or disabled and who is participating in an organized fishing event in this state which is sponsored and conducted by a nonprofit charitable association or the department, provided that such event is approved by the department. Such courtesy fishing license shall be valid for use only during the specified dates of such event and for a maximum of seven days and shall include all requirements and privileges of a fishing license, including the trout license, for use only in association with such approved event.

(b) The department is authorized to issue a courtesy resident or nonresident hunting license, without fee, to any person who is paralyzed or disabled and who is participating in an organized hunting event in this state which is sponsored and conducted by a nonprofit charitable association or the department, provided that such event is approved by the department; provided, however, that persons disabled because of a mental impairment shall be issued a courtesy fishing license only, pursuant to subsection (a) of this Code section. Such courtesy hunting license shall be valid for use only during the specified dates of such hunting event and for a maximum of seven days and shall include all requirements and privileges of a hunting license, including the big game and any other requisite state hunting licenses, for use only in association with such approved event.

(c) All courtesy hunting and fishing licenses are subject to all wildlife laws, rules, and regulations with the exception of the provisions requiring the payment of fees as described in Code Section 27-2-23 for such licenses. Such courtesy licenses may be revoked in accordance with this title. It shall be unlawful for any person who has a courtesy hunting license or a courtesy fishing license to permit the use of such license by any other person. It shall also be unlawful for any person who is issued a courtesy hunting license or a courtesy fishing license to use the license except at the department approved event for which such courtesy license was issued.

History.
Code 1981, § 27-2-4.2, enacted by Ga. L. 1998, p. 1659, § 2; Ga. L. 2017, p. 27, § 6/HB 208; Ga. L. 2025, p. 524, § 3/HB 287, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, added the (a) designation; in subsection (a), rewrote the first sentence, which formerly read: "The department is

authorized to issue a courtesy nonresident fishing license, without fee, to any person who is not a resident of this state who is a paralyzed or disabled veteran and who is participating in an organized fishing tournament in this state which is sponsored and conducted by a nonprofit charitable association of paralyzed or disabled veterans, provided that such tournament is approved by the department", substituted "event" for "tournament", deleted "nonresident" preceding "fishing" and preceding "trout", substituted "fishing" for "nonresident" and "approved event" for "tournament" in the second sentence; and added subsections (b) and (c).

Cross references.

Discount for certified disabled veterans, § 12-3-9.1.

RESEARCH REFERENCES

ALR.

Validity, construction, and application of state statutes prohibiting, limiting, or regulating fishing or hunting in state by nonresidents, 31 A.L.R.6th 523.

27-2-4.3. Special hunting privileges for young people with a terminal illness.

(a) As used in this Code section, the term "terminal illness" means an incurable or irreversible condition with a corresponding life expectancy that does not exceed 12 months.

(b) The commissioner is authorized to issue special authorization to hunt big game or alligators to any person not older than 21 years of age who has been diagnosed with a terminal illness by a doctor of medicine currently licensed to practice either by the Georgia Composite Medical Board or the State Board of Examiners in Osteopathy. Such special authorization may include waiving legal weapons requirements, antler restrictions, quota limitations, or hunter education requirements as necessary to facilitate special situations for persons with a terminal illness. The commissioner may impose any terms and conditions deemed necessary to implement the special authorization. Such authorization shall be for only one hunting season.

(c) The commissioner may prepare an application to be used by persons requesting special authorization and may require signed documentation from a doctor of medicine currently licensed to practice either by the Georgia Composite Medical Board or the State Board of Examiners in Osteopathy verifying that an applicant has a terminal illness.

(d) A person who receives special authorization to hunt under this Code section shall conduct all hunting under the direct supervision of a licensed adult hunter and abide by the terms and conditions of the special authorization issued by the commissioner.

History.
Code 1981, § 27-2-4.3, enacted by Ga. L. 2012, p. 889, § 2/SB 309.
Editor's notes.
Ga. L. 2012, p. 889, § 1/SB 309, not codified by the General Assembly, provides: "This Act shall be known and may be cited as 'Taylor's Law.'"

27-2-4.4. Extended turkey hunting season for young hunters and mobility impaired persons.

(a) As used in this Code section, the term "mobility impaired person" means any person who has been verified by a doctor of medicine currently licensed to practice by the Georgia Composite Medical Board, the State Board of Examiners in Osteopathy, or an equivalent body of another state to have any one of the following permanent conditions:

(1) Dependence upon a wheelchair or similar device for ambulation;

(2) Hemiplegia;

(3) Monoplegia;

(4) Paraplegia; or

(5) Single-leg amputation above the knee.

(b) The board shall promulgate rules and regulations authorizing the hunting of turkeys during an extended open season to:

(1) Youth under 16 years of age; or

(2) Any mobility impaired person.

(c) Notwithstanding any provisions of Code Section 27-3-15 to the contrary, such extended season shall be for the weekend prior to the first weekend of the open turkey season, as established by the board.

(d) Such special authorization shall be subject to all other provisions of this title.

History.
Code 1981, § 27-2-4.4, enacted by Ga. L. 2013, p. 538, § 1/HB 207; Ga. L. 2025, p. 524, § 4/HB 287, effective July 1, 2025.
Amendments.
The 2025 amendment, effective July 1, 2025, in paragraph (b)(1), substituted "Youth under 16 years of age" for "Any person who is 16 years of age or younger".
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2013, "Dependence" was substituted for "Dependance" in paragraph (a)(1).

27-2-4.5. Outdoor mentoring program.

(a) As used in this Code section, the term:

(1) "Outdoor mentee" means any resident to whom the department

has never issued both a hunting and fishing license, or an outdoor passport, under this chapter.

(2) "Outdoor mentor" means any individual who is 18 years of age or older and who has a current license that allows hunting and fishing pursuant to this chapter.

(3) "Outdoor passport" means a reduced cost license issued by the department which licenses or permits noncommercial hunting and fishing privileges across all categories of hunting and fishing.

(b) The General Assembly finds that an outdoor mentor program can spark interest in hunting and fishing as lifelong activities; provide safe, memorable, and positive introductions for first-time hunting and fishing experiences; and promote safe and ethical hunting and fishing practices.

(c) The department shall establish and maintain an outdoor mentor program that enables experienced hunters and fishers to mentor new hunters and fishers in safe, ethical, and responsible hunting and fishing practices. In furtherance of such outdoor mentor program, the department:

(1) Shall establish a mentor education course that provides instruction to outdoor mentors, the completion of which shall be required before he or she may mentor an outdoor mentee under the program;

(2) Shall work with partners to develop incentives for outdoor mentors and may include reduced license fees for an outdoor mentor participating in the program;

(3) Shall issue outdoor mentees participating in the program an outdoor passport which shall expire one year after issuance; and

(4) Shall prepare necessary applications and impose any further criteria and terms and conditions not inconsistent with this Code section for implementation of the program.

History.
Code 1981, § 27-2-4.5, enacted by Ga. L. 2018, p. 948, § 1/SB 332.

27-2-5. Required hunter education courses.

(a) It shall be unlawful for any person born on or after January 1, 1961, to procure a hunting license or to hunt by means of weapons in this state unless that person has been issued a certificate or other evidence the department deems acceptable which indicates satisfactory completion of a hunter education course as prescribed by the board. Persons ages 12 through 25 shall provide such certificate or other

evidence to the issuing agent at the time of purchase of a hunting license. All persons required by this subsection to complete a hunter education course, by buying such license, by receiving a temporary license identification number, or by receiving a license from a telephone license agent, internet license agent, or other vendor, shall certify by such action their compliance with this subsection.

(b) It shall be unlawful for any person authorized to issue hunting licenses in this state to issue a hunting license to any person age 16 through 25 unless that license agent shall have been provided with a certificate showing the license applicant has satisfactorily completed a hunter education course as prescribed by the board, or to any other person born on or after January 1, 1961, unless such person provides such other evidence of completion of a hunter education course as the department deems acceptable. Internet and telephone license agents may accept a valid hunter education certificate number as fulfillment of this requirement.

(c) It shall be unlawful for any person age 16 through 25 who is not required by law to obtain a hunting license to hunt in this state unless that person carries on his or her person while hunting a certificate attesting to that person's satisfactory completion of a hunter education course as prescribed by the board. Such person shall present his or her certificate to a game warden or deputy game warden for inspection upon demand.

(d) Any person who is age 12 through 15 shall satisfactorily complete a hunter education course as a prerequisite to hunting with a weapon in this state. It shall be unlawful for any adult to permit his or her child or ward age 12 through 15 to hunt with a weapon unless the child has a certificate attesting to his or her satisfactory completion of such course on his or her person; provided, however, that a hunter education course is not required for a child less than 16 years of age who is hunting under adult supervision by a licensed adult hunter.

(e) Any person applying for an annual or multiyear nonresident hunting/fishing license may provide a certificate of completion or such other evidence of completion the department deems acceptable of the official hunter education or hunter safety course of such person's state of residence if that course shall have been approved by the department. No one applying for an outdoor passport, a hunting license of less than one year in duration, or a lifetime license shall be required to exhibit such a certificate or to complete a hunter education course in order to obtain the license. Persons holding a lifetime license shall complete an official hunter education or hunter safety course and display proof of completion as specified by the department in order to hunt unless otherwise exempted by this title.

(f) By rule or regulation, the board shall prescribe a course of

instruction in competency and safety in hunting and in the handling of weapons. The board shall also prescribe procedures whereby competent residents of this state shall be certified as hunter education instructors. The board may provide, by rule or regulation, for charging reasonable fees for the issuance by the department of duplicate certificates of completion of a hunter education course and for hunter education courses in order to defray the expenses of conducting such courses. Any such fees shall be deemed as "other income" of the department for purposes of subsection (c) of Code Section 27-1-13.

(g) Any person violating any provision of this Code section shall be guilty of a misdemeanor; provided, however, that this subsection shall not apply to any person under the age of 16.

(h) The requirements of subsections (c) and (d) of this Code section shall not apply to any person hunting on his or her own land or that of his or her parents or legal guardian or to persons permitting a child or ward aged 12 through 15 years to hunt on the parent's or guardian's own land.

History.

Code 1933, § 45-302.1, enacted by Ga. L. 1978, p. 2264, § 1; Ga. L. 1979, p. 1177, § 1; Ga. L. 1988, p. 842, § 2; Ga. L. 1993, p. 779, § 2; Ga. L. 1995, p. 946, § 5; Ga. L. 1996, p. 6, § 27; Ga. L. 2001, p. 1013, § 8; Ga. L. 2009, p. 787, § 3/HB 326; Ga. L. 2017, p. 27, § 7/HB 208; Ga. L. 2018, p. 948, § 2/SB 332; Ga. L. 2019, p. 808, § 7/SB 72; Ga. L. 2026, p. 1069, § 27(4)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised capitalization in the last sentence in subsection (a).

Cross references.

Misuse of firearm or archery tackle while hunting, § 16-11-108.

Liability of volunteers, employees, or officers of nonprofit association conducting or sponsoring sports or safety program; liability of association, § 51-1-20.1.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

OPINIONS OF THE ATTORNEY GENERAL

Nonresident hunter education certification. — Nonresidents born prior to January 1, 1961, may hunt in this state or obtain season nonresident hunting licenses without proof of hunter training; nonresidents born on or after January 1, 1961, may not obtain nonresident season hunting licenses in this state without certification of hunter training. 1979 Op. Att'y Gen. No. 79-68.

Statute does not expressly subject nonresident hunters to special requirements. 1979 Op. Att'y Gen. No. 79-68.

This language is permissive, not mandatory. 1979 Op. Att'y Gen. No. 79-68.

27-2-6. Trout license; Georgia waterfowl and migratory bird stamp; big game license; alligator harvest permit.

(a) It shall be unlawful for any person who has attained the age of 16 years to fish for or possess mountain trout or to fish in any waters designated as trout waters or trout streams pursuant to Code Section 27-4-51 unless such person has in his or her possession a trout license in addition to his or her fishing license.

(b) It shall be unlawful for any person who has attained the age of 16 years to hunt or possess big game unless such person has in his or her possession a big game license in addition to the required hunting license; provided, however, that all nonresidents, regardless of age, must possess a nonresident hunting/fishing license along with any harvest records required by law or regulation to hunt big game in this state.

(c) It shall be unlawful for any person who has attained the age of 16 years to hunt migratory game birds unless such person has in his or her possession a Georgia waterfowl and migratory bird stamp in addition to the required hunting license; provided, however, that a Georgia waterfowl and migratory bird stamp or a landowner Georgia waterfowl and migratory bird stamp shall be required for any resident of this state to hunt migratory birds on premises owned by him or her or his or her immediate family.

(d) It shall be unlawful for any person who has attained the age of 16 years to hunt alligators unless such person has in his or her possession a valid hunting license. A resident or nonresident alligator harvest permit shall be required to harvest an alligator. Such permit shall be free to lifetime license holders if selected as part of any department quota or lottery.

(e) No resident of this state shall be required to obtain a trout license or big game license to hunt, fish, or trap on premises owned by him or her or his or her immediate family.

(f) Any visitor to a state park, whether a resident or nonresident of Georgia, shall not be required to purchase a trout license when fishing in impounded waters on lands owned or leased by the department.

History.

Ga. L. 1971, p. 38, § 1; Ga. L. 1973, p. 274, § 2; Code 1933, § 45-302, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 21; Ga. L. 1978, p. 2290, § 5; Ga. L. 1979, p. 1255, § 5; Ga. L. 1979, p. 1320, § 2; Ga. L. 1989, p. 506, § 2; Ga. L. 1998, p. 783, § 7; Ga. L. 1998, p. 1550, § 2; Ga. L. 2000, p. 136, § 27; Ga. L. 2001, p. 1013, § 9; Ga. L. 2003, p. 654, § 6; Ga. L. 2009, p. 787, § 4/HB 326; Ga. L. 2017, p. 27, § 8/HB 208; Ga. L. 2022, p. 308, § 3/HB 1233.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be

applicable to all offenses occurring on or after July 1, 2017.

JUDICIAL DECISIONS

Incorrect date on summons. — Because the date of the alleged offense is not generally material, except for statute of limitations purposes, and failure to rely on a specific date is not harmful unless the defendant is surprised and prejudiced in the preparation of a defense, defendant was not harmed by the appearance of an incorrect date on the summons. Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

Evidence sufficient to sustain conviction. — Evidence that defendant obtained resident hunting licenses by giving a Georgia address as defendant's legal residence, while a resident of the State of Virginia, evidence of the act of hunting and testimony that defendant had been hunting and had taken a turkey was sufficient to sustain defendant's conviction under this statute. Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under Ga. L. 1955, p. 483, as it read prior to revision by Ga. L. 1977, p. 396, § 1, are included in the annotations for this Code section.

Nonresidents fishing for mountain trout. — Nonresidents under 16 years of age could fish for other than mountain trout with no license but, when fishing for mountain trout, would have to have both a sport fishing license and a trout stamp. 1971 Op. Att'y Gen. No. 71-130 (decided under Ga. L. 1977, p. 396, § 1).

Big game license required of nonresident. — A nonresident under the age of 16 would not have to have a license to hunt small game; however, when hunting big game, a nonresident must have a hunting license and a big game license. 1971 Op. Att'y Gen. No. 71-130 (decided under Ga. L. 1977, p. 396, § 1).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 20, 35 et seq., 49 et seq.

C.J.S.

36A C.J.S., Fish, §§ 28, 35. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

ALR.

Validity, construction, and application of state statutes prohibiting, limiting, or regulating fishing or hunting in state by nonresidents, 31 A.L.R.6th 523.

27-2-7. Agreements relating to hunting license reciprocity.

(a) The department is authorized to make and enter into agreements, from time to time, with the proper authorities of the States of Alabama, Florida, South Carolina, North Carolina, and Tennessee whereby a citizen of the State of Georgia who owns farm lands in such adjoining states may purchase a resident hunting license in the state in which his land is situated which will permit said Georgia citizen to hunt on his own land in the adjoining state without purchasing a nonresident

hunting license in that state. The department is authorized to reciprocate this courtesy and issue a resident hunting license in Georgia to citizens of such adjoining states who own farm lands in Georgia, permitting such citizens to hunt on their own land in Georgia without purchasing a nonresident hunting/fishing license.

(b) The department is also authorized to enter into agreements, from time to time, with the proper authorities of the States of Alabama, Florida, South Carolina, North Carolina, and Tennessee whereby a valid hunting license issued by the State of Georgia will be accepted and honored, as and in lieu of a hunting license for the respective state so agreeing, for hunting waterfowl only, on the banks and in the waters of the lakes, rivers, and streams lying between the State of Georgia and such adjoining state or partly within the boundaries of both the State of Georgia and the adjoining state. In turn, valid licenses issued by the respective state shall be accepted and honored, as and in lieu of a Georgia hunting license, for hunting waterfowl only, on the banks and in the waters of such lakes, rivers, and streams.

(c) The department is authorized to make and enter into agreements, from time to time, with the proper authorities of the States of Alabama, Florida, North Carolina, South Carolina, and Tennessee regarding nonresident hunting/fishing license fees, seasons, and bag limits; provided, however, that such seasons and bag limits for nonresident hunters shall not be less restrictive than those which control Georgia residents; and provided, further, that nonresident license fees in Georgia shall not be less than the amount established in Code Section 27-2-23 for a small game hunting license and for a big game hunting license.

(d) If the commissioner determines that any of the States of Alabama, Florida, North Carolina, South Carolina, and Tennessee does not have an existing reciprocal agreement governing nonresident fishing or small game hunting licenses with the State of Georgia and has a fee for a nonresident fishing or small game hunting license or its equivalent, which substantially differs from the comparable fee which Georgia charges a citizen of that contiguous state, then the commissioner, notwithstanding the fees specified in Code Section 27-2-23, and in order to encourage the reduction of the excessive fee or the entering into of a reciprocal agreement, shall be authorized to adjust the nonresident fishing or small game hunting license fee as applied to citizens of that contiguous state, to an amount equal to the fee a Georgia citizen is required to pay to fish or hunt in that contiguous state.

History.

Ga. L. 1952, p. 389, § 2; Ga. L. 1955, p. 483, § 21; Code 1933, § 45-108, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, § 13; Ga. L. 1983, p. 837, § 1; Ga. L. 1984, p. 22, § 27; Ga. L. 1988, p. 842, § 3; Ga. L. 2009, p. 787, § 5/HB 326; Ga. L. 2010, p. 878, § 27/HB 1387.

Cross references.
Agreements with adjoining states regarding fishing license reciprocity, § 27-4-234.

RESEARCH REFERENCES

ALR.
Validity, construction, and application of state statutes prohibiting, limiting, or regulating fishing or hunting in state by nonresidents, 31 A.L.R.6th 523.

27-2-8. Commercial fishing boat licenses.

(a) It shall be unlawful for any person to engage in commercial fishing with a boat or vessel in the salt waters of this state without first obtaining a valid commercial fishing boat license for the boat or vessel. The owner or operator of the boat or vessel shall present in writing an application for the license, setting forth such data and information as the department shall require. The application shall be made upon a form prescribed by the department and shall be under oath and duly witnessed by an officer authorized by law to administer oaths.

(b) Fees for licenses required under this Code section shall be as follows:

(1) A trawler (which shall be any boat or vessel which utilizes one or more trawls or power-drawn nets in the taking of shrimp, crabs, or fish), up to and including 18 feet in overall length: $85.00;

(2) A trawler more than 18 feet in overall length: $85.00 plus $3.00 per foot or fraction thereof of overall length in excess of 18 feet; and

(3) All boats other than trawlers, regardless of length: $5.00.

(c) To defray the additional cost of regulating and policing, aliens and nonresidents shall be charged a license fee in addition to that provided by subsection (b) of this Code section in the amount of $150.00 for each trawl boat or vessel used and $50.00 for each boat or vessel other than a trawler used in commercial fishing or in the taking of seafood, which boat or vessel is owned, in whole or part, by such nonresident or alien, provided that, in the event such nonresident or alien applying for the license is a resident of another state which charges nonresidents a license fee greater than the total license fee charged for nonresidents in this state, then the additional license fee provided for nonresidents in this subsection shall be increased to the amount necessary to cause the Georgia nonresident license fee to be the same amount as the nonresident license fee of such other state.

(d) The owner or operator of a trawler licensed according to subsection (b) of this Code section may purchase a trawler crew license as provided for in subparagraphs (Y) and (Z) of paragraph (8) of Code Section 27-2-23. Such license shall cover all crew members aboard the

trawler while fishing, and all such crew members while so covered shall be exempt from the personal commercial fishing license requirements otherwise applicable under this title. Such trawler crew license shall be separate and distinct from any other license, shall be valid only for the trawler for which it is purchased, and shall not be transferable to any other trawler or vessel. Such trawler crew license shall be valid for a fishing year as provided for in Code Section 27-2-3 and shall be carried onboard the trawler while the trawler is in operation for purposes of the trawler crew license.

History.

Ga. L. 1919, p. 237, § 3; Ga. L. 1924, p. 116, § 35; Ga. L. 1931, p. 7, § 25; Code 1933, §§ 45-209, 45-210, 45-211; Ga. L. 1937-38, Ex. Sess., p. 255, § 1; Ga. L. 1939, p. 185, § 1; Ga. L. 1953, Jan.-Feb. Sess., p. 527, §§ 1-12; Ga. L. 1955, p. 483, § 34; Ga. L. 1956, p. 590, § 4; Ga. L. 1967, p. 634, § 4; Ga. L. 1968, p. 202, § 1; Ga. L. 1974, p. 420, §§ 1, 2; Code 1933, § 45-305, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 25; Ga. L. 1981, p. 823, § 3; Ga. L. 2017, p. 27, § 9/HB 208; Ga. L. 2024, p. 429, § 3/HB 244, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, substituted "(Y) and (Z)" for "(W) and (X)" in the first sentence in subsection (d). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendment to subsection (d) became effective April 25, 2024.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 36, 43.

C.J.S.

36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

ALR.

Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-2-9. Taxidermist licenses; unlawful acts and omissions.

(a) It shall be unlawful for any person to engage in the business of taxidermy or provide taxidermy services to anyone other than himself unless he has first been issued a taxidermist license by the department as provided in Code Section 27-2-23. Such license shall authorize the holder thereof to have, at his business premises, wildlife which has been legally taken for the sole purpose of preserving or mounting or preserving and mounting. Such license shall be issued only after submission of an application in such form and containing such information and conditions as may be prescribed by the department.

(b) Any wildlife at the business premises of a taxidermist must have a tag attached displaying a number that can be cross-referenced with the same number in the written records that are required in subsection (f) of this Code section. Any wildlife transferred to another taxidermist must have an additional tag attached showing the name, address, and telephone number of the taxidermist which has the original written record needed for cross-referencing to the numbered tag. Such tags may be removed as necessary during mounting but must otherwise remain on the wildlife until final disposition.

(c) It shall be unlawful for any taxidermist to fail to notify the department of any wildlife in his possession which he knows or reasonably should know was not legally taken.

(d) It shall be unlawful for a taxidermist to sell any wildlife or part thereof without the prior written permission of the commissioner or his designee; provided, however, that it shall not be unlawful for a taxidermist to mount and sell legally taken furbearers, deer, and squirrel, or parts thereof.

(e) It shall be unlawful for a taxidermist to possess or mount any game species for which there is no open season or any endangered, rare, threatened, or unusual species without obtaining a special permit from the department. There shall be no charge for such permit.

(f) It shall be unlawful for any taxidermist to fail to keep at his business premises a written record of all wildlife received by him, which record shall show the name and address of the owner, the date such wildlife was killed, the number and species of such wildlife, and the date received. Each taxidermist shall keep such records at his business premises until he has disposed of the specimen to which the records refer.

(g) Notwithstanding any other provision of this title to the contrary, it shall not be unlawful for a licensed taxidermist to mount and sell legally taken furbearers or alligators and alligator products without procuring a fur dealer's license.

History.
Ga. L. 1976, p. 1674, § 1; Code 1933, § 45-308, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 29, 30; Ga. L. 1981, p. 798, § 5; Ga. L. 1986, p. 485, §§ 1, 2; Ga. L. 1988, p. 848, § 3; Ga. L. 1990, p. 386, § 1; Ga. L. 1991, p. 94, § 27; Ga. L. 1993, p. 91, § 27.

RESEARCH REFERENCES

ALR.
Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-2-10. Commercial alligator farming licenses.

(a) It shall be unlawful for any person to engage in alligator farming unless such person has a valid commercial alligator farming license as provided in Code Section 27-2-23. Any person desiring to establish, maintain, and operate a commercial alligator farm shall apply to the department for such a license.

(b) It shall be lawful for any person with a valid commercial alligator farming license to possess and propagate live alligators and to process and sell or export the hides of the alligators harvested on such alligator farm, provided that it shall be unlawful for any person, including a person with a commercial alligator farming license, to acquire any live alligator, except by propagation of live alligators lawfully in his possession, without first obtaining a permit from the department to acquire the live alligator. It shall also be unlawful for any person, including a person with a valid commercial alligator farming license, to sell, barter, exchange, give, or loan any live alligator to any other person without first obtaining a permit from the department to so sell, barter, exchange, give, or loan the live alligator.

(c) It shall be unlawful for any person with a valid commercial alligator farming license to acquire or possess any alligator hide or carcass except from the harvest of live alligators lawfully in his possession and on his alligator farm.

(d) At such time as is deemed necessary by the department to discharge its responsibilities under this Code section, every person with a valid commercial alligator farming license shall file reports with the department in such form and containing such information as deemed necessary by the department. In addition, every such licensee shall maintain on his business premises records in such form and containing such information as is required by the department to discharge its responsibilities under this Code section.

(e) The board shall have the authority to adopt and promulgate rules and regulations relative to commercial alligator farming including, but not limited to, the power:

(1) To establish standards relating to enclosures, housing facilities, handling, care, and treatment of live alligators on the alligator farm of the licensee;

(2) To establish standards relating to the processing, marking, sale, and exportation of hides of alligators harvested on the alligator farm of the licensee;

(3) To require, at such times as it deems necessary for the department to discharge its responsibilities under this Code section,

from each licensee an application for a commercial alligator farming license in such form and containing such information as the department deems necessary; and

(4) To require each licensee to maintain on his business premises records in such form and containing such information as is required by the department to discharge its responsibilities under this Code section.

History.
Ga. L. 1968, p. 480, §§ 2-7; Code 1933, § 45-310, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 3, § 27.
Administrative rules and regulations.
Commercial Alligator Farming, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-11-.01 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 44, 49.
C.J.S.
16D C.J.S., Constitutional Law, § 2343 et seq. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 1, 59.
ALR.
Right of one who acquires title to, or other interest in, real property to benefit of a license previously issued by the public, permitting use of property for a specified purpose, 131 A.L.R. 1339.
Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-2-11. Game-holding permits.

It shall be unlawful for any person to hold or possess any game animal or game bird for the purpose of propagation or to hold such animal or bird as a pet without first obtaining a valid game-holding permit as provided in Code Section 27-2-23. The department may grant such a permit when, in its discretion, it determines that the issuance of the permit is in the best interest of the game animal or game bird and in the best interest of the wildlife and the citizens of this state. If such a permit is issued, the department shall prescribe the term for each permit and may impose conditions as it determines necessary. Any game animal or game bird held under such permit may not be sold by the holder but must be retained, consumed, or disposed of without charge, in accordance with this title, provided that holders of valid commercial shooting preserve licenses may charge a fee to users of such preserves who take or attempt to take such species. Nothing in this Code section shall be construed to authorize the holding or possession of the progeny of any game bird or game animal under the permit under which a parent is held or possessed, unless specifically so stated on the game-holding permit.

History.
Ga. L. 1968, p. 497, § 13; Code 1933, § 45-312, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 31; Ga. L. 1979, p. 678, § 20.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 44, 49.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-12. Scientific collecting permits.

(a) It shall be unlawful for any person to take, possess, or transport any of the wildlife of this state, or the plumage, skin, or body thereof, or the nests or eggs of the same for scientific purposes without obtaining a scientific collecting permit and complying with this Code section.

(b) Application for a scientific collecting permit must be made on forms obtained from the department and must be accompanied by the permit fee as provided in Code Section 27-2-23 and a project proposal containing the justification for and an outline of the proposed collecting activities.

(c) The department shall issue such a permit only if it has determined that the proposed collecting activities are in the best interest of the wildlife resources. In making such a determination, the department shall consider the following:

(1) Whether there is a need for the information or data;

(2) Whether the proposed collecting activities would duplicate sound research previously accomplished;

(3) Whether there would be benefit to the species or population being studied;

(4) Whether the project would be detrimental to the particular wildlife population or associated populations or to the habitat of the wildlife; and

(5) Whether the project is of reasonably sound design.

(d) Based on the conditions outlined in subsection (c) of this Code section, such permit may contain conditions on the number and type of wildlife to be collected, the dates and locations of collecting, and the type of gear which may be used. Notwithstanding any other provision of this title to the contrary, the department may authorize the use of baskets, nets, seines, traps, chemicals, and electrical devices for purposes of collecting pursuant to this Code section.

(e) Persons issued a scientific collecting permit shall treat all wildlife humanely and shall notify the department at least three days in

advance of the date of collecting. Such persons shall also submit to the department reports detailing the information or data obtained from such collecting activities. The reports shall be submitted by the following March 31 or within 60 days after collecting, whichever is later.

(f) Permits may be denied, revoked, or not renewed in accordance with the procedures outlined in Code Section 27-2-25 for the reasons outlined in said Code section or for any of the following reasons:

(1) Violation of specific conditions listed on the permit;

(2) Excessive collection of wildlife;

(3) Submitting false information;

(4) Failure to maintain records;

(5) Failure to notify the department within three days of collecting activities;

(6) Inhumane treatment of wildlife; or

(7) Any other violation of this Code section or the regulations promulgated pursuant thereto.

History.
Ga. L. 1916, p. 114, § 2; Code 1933, § 45-304; Ga. L. 1955, p. 483, § 32; Ga. L. 1968, p. 497, § 12; Code 1933, § 45-313, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 35, 44, 49.
C.J.S.
36A C.J.S., Fish, §§ 28, 36. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 59, 62, 63.

27-2-13. Wildlife exhibition permits; release of wildlife.

(a) It shall be unlawful for any person to keep, hold, or possess any wildlife in captivity for the purpose of display or exhibition to the public without first procuring a valid wildlife exhibition permit as provided in Code Section 27-2-23. No such permit shall be issued by the department except where the exhibition or display is solely for educational purposes. The department may impose conditions on such permit requiring adequate sanitation facilities, housing, and feed for the animals and insuring the safety of the public in accordance with regulations promulgated by the board. Exhibitions of wildlife by educational institutions; state, city, county, or municipal zoos; or transient circuses shall not be required to procure a wildlife exhibition permit, provided that such exhibitors must comply with all regulations of the board relating to sanitation, housing, feed, and public safety.

Nothing in this Code section shall be construed to require a permit to exhibit or display fish.

(b) It shall be unlawful for any person holding any wildlife in captivity pursuant to a wildlife exhibition permit to release the wildlife from captivity or to house or maintain the wildlife in such a manner as to pose a reasonable possibility that the wildlife may be released accidentally or escape from captivity.

History. Ga. L. 1968, p. 497, § 20; Code 1933, § 45-314, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 32.

RESEARCH REFERENCES

Am. Jur. 2d. 35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 44, 49.
C.J.S. 36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-13.1. Film production wildlife permits; release of wildlife.

(a)(1) As used in this subsection, the term "film production" means the creation of film, video, or digital projects in this state, including, but not limited to, the creation of feature films, documentaries, series, pilots, movies for television, advertisements, music videos, and interactive entertainment.

(2) It shall be unlawful for any person to keep, hold, or possess any wildlife in captivity for film production purposes or to otherwise provide wildlife for use in film production without first procuring a film production wildlife permit as provided in Code Section 27-2-23. No wildlife may be possessed by the applicant prior to a film production wildlife permit being granted by the department, unless such wildlife was legally possessed by the applicant prior to the grant of the permit. The department may impose conditions on such permit requiring adequate sanitation facilities, housing, and feed for the animals and insuring the safety of the public in accordance with regulations promulgated by the board.

(3) A permit issued pursuant to this subsection shall authorize the permit holder to transport, possess, or transfer wildlife for any permitted purpose related to film production; provided, however, that possession of a permit shall not exempt the holder from any other local, state, or federal requirements.

(b) It shall be unlawful for any person holding any wildlife in captivity pursuant to a permit issued in accordance with this Code section to release the wildlife from captivity or to house or maintain the

wildlife in such a manner as to pose a reasonable possibility that the wildlife may be released accidentally or escape from captivity.

History.
Code 1981, § 27-2-13.1, enacted by Ga. L. 2016, p. 432, § 4/HB 840; Ga. L. 2026, p. 1069, § 54(2)(H)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in paragraph (a)(1).
Editor's notes.
Ga. L. 2016, p. 432, § 6/HB 840, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2016, and shall apply to all offenses occurring on or after such date."

27-2-14. Release of wildlife or domestic fish generally.

It shall be unlawful for any person to liberate any wildlife within this state or to liberate domestic fish except into private ponds except under permit from the department; provided, however, that pen raised quail may be released for purposes of training pointing, flushing, and retrieving dogs.

History.
Ga. L. 1968, p. 497, § 20; Code 1933, § 45-315, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1994, p. 600, § 2; Ga. L. 2002, p. 807, § 1; Ga. L. 2004, p. 948, § 2-3.
Editor's notes.
Ga. L. 2019, p. 919, § 1-1/HB 553, repealed the provisions of the Georgia Pacific White Shrimp Development Aquaculture Act, effective July 1, 2019. As a result, the amendment by Ga. L. 2004, p. 948, § 2-3, which was never funded and therefore remained dormant, is now moot.

27-2-15. Wildlife storage permits.

It shall be unlawful for any person operating a grocery store, hotel, market, cold storage house, restaurant, or other commercial facility to receive for storage or to store any wildlife or parts thereof without first obtaining a wildlife storage permit from the department and without requiring the person delivering the wildlife for storage to exhibit a valid license authorizing the person to take or possess the wildlife, provided that nothing in this Code section shall be construed to require a permit to store fish.

History.
Ga. L. 1937, p. 678, § 1; Ga. L. 1955, p. 483, § 70; Code 1933, § 45-316, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 33.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-16. Commercial quail breeder permits; records; unlawful acts or omissions.

(a) It shall be unlawful for any person to engage in the business of propagating quail for food, restocking, propagation, or other commercial purposes unless the quail are pen raised quail and unless the person has obtained a commercial quail breeder permit as provided in Code Section 27-2-23. As used in this Code section, the term "pen raised quail" means a quail that has been hatched from an egg laid by a quail confined in a pen or coop.

(b) Each person holding a commercial quail breeder permit shall keep records, in a suitably bound book, of all bird carcasses sold, to whom sold, and the number sold.

(c) It shall be unlawful to sell the carcass of any pen raised quail unless the carcass has been stamped with the following information:

Ga. Department of Natural Resources

Comm. Quail Permit No._____ (Name of Breeder) Permit expires _____(date)_____,_____

(d) It shall be unlawful to sell pen raised quail which have been killed with a firearm.

(e) It shall be unlawful to transport any pen raised quail without meeting the requirements of this title relating to the transportation of wildlife, provided that nothing in this subsection shall be construed to limit the number of pen raised quail which may be transported in this state.

History.

Ga. L. 1968, p. 497, § 28; Code 1933, § 45-317, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1999, p. 81, § 27; Ga. L. 2026, p. 1069, § 54(2)(I)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" at the beginning of the second sentence of subsection (a).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under Ga. L. 1956, p. 48, as it read prior to revision by Ga. L. 1977, p. 396, § 1, is included in the annotations for this Code section.

Validity of regulations providing for alternate methods of identification. — Intent and purpose of subsection (c) is to provide a means of identifying carcass of pen-raised quail; therefore, the Game and Fish Commission (now Department of Natural Resources) can adopt regulations permitting use of wing clips or other devices to be attached to carcass of bird, so long as method utilized contains basic information required. 1958-59 Ga. Op. Att'y Gen. 172 (decided under Ga. L. 1956, p. 48).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 44 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 35. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-2-17. Falconry permits; permitted acts by permit holders; inspection of premises.

(a) It shall be unlawful for any person to trap, take, transport, or possess raptors for falconry purposes unless such person possesses, in addition to any licenses and permits otherwise required by this title, a valid falconry permit as provided in Code Section 27-2-23.

(b) It shall be unlawful for any nonresident to trap, take, or attempt to trap or take a raptor from the wild in this state or to transport or possess any raptor in this state unless such nonresident possesses:

(1) A valid falconry license or permit issued by his or her state, tribe, or territory, provided that such state, tribe, or territory has been certified by the United States Fish and Wildlife Service as compliant with applicable federal falconry law; and

(2) All licenses and permits otherwise required by this title.

(c) Application for a falconry permit shall be made on forms obtained from the department.

(d) No falconry permit shall be issued until the applicant's raptor housing facilities and equipment have been inspected and certified by the department.

(e) The department shall have the right, during reasonable times, to enter upon the premises of persons subject to this Code section to inspect and certify compliance with federal and state standards.

(f) It shall be lawful for a falconer who is in full compliance with this Code section to take small game with raptors, so long as such falconer observes all other laws regulating the taking of small game.

(g) The board shall promulgate rules and regulations necessary to carry out the purposes of this Code section and to ensure compliance with federal law. If the commissioner certifies that any rule is necessary for compliance with federal law, the board may adopt such rule without complying with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.
Code 1981, § 27-2-17, enacted by Ga. L. 2013, p. 801, § 1/HB 274.

Editor's notes.
The former Code section, relating to falconry permits, was based on Ga. L.

1968, p. 497, § 20; Code 1933, § 45-318, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 34, 35; Ga. L. 1984, p. 568, §§ 1, 2; Ga. L. 1992, p. 2863, § 3; Ga. L. 1993, p. 91, § 27; Ga. L. 2009, p. 787, § 6/HB 326, and was repealed by Ga. L. 2013, p. 801, § 1/HB 274, effective July 1, 2013.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 44 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 10, 52 et seq.

27-2-18. Permits to kill deer causing damage to crops.

The department shall be authorized to issue to a person who cultivates crops, who is immediately responsible for their cultivation, or who is the principal owner of the crops a permit to kill deer which have caused or are reasonably certain to cause damage to crops which were planted for the purpose of harvesting and marketing such crops or their by-products. The person shall apply to the department for such a permit on a form containing such information as may be necessary for the proper evaluation and consideration of the application. Permits shall be issued only in cases where the department has determined that the killing of deer is justified. Representatives of the department are authorized to investigate claims of damage and the necessity of killing deer prior to the issuance of such a permit. Permits issued by the department shall include restrictions and conditions relative to the property on which deer may be killed, persons authorized to kill deer on the property, crops which may be protected, number and sex of deer which may be killed, expiration of permit, and such other restrictions and conditions as may be necessary. It shall be unlawful for any person to kill any deer under the authority of any such permit except in accordance with the restrictions and conditions of the permit.

History.
Ga. L. 1976, p. 645, § 1; Code 1933, § 45-321, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1983, p. 3, § 20.

Cross references.
Deer hunting, § 27-3-40 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 38, 44.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-2-19. Wildlife importation permits.

It shall be unlawful to import any wildlife other than fish, pen raised duck, pen raised turkey, and pen raised quail without obtaining, at no cost, a wildlife importation permit from the department. The department shall only issue such a permit when it has determined that the

issuance of the permit is in the best interest of the wildlife of this state. If such a permit is issued, the department shall prescribe the term for each such permit and may impose any conditions it determines necessary to ensure adequate public safety and the best interests of the wildlife of this state.

History.
Code 1933, § 45-325, enacted by Ga. L. 1978, p. 816, § 37; Ga. L. 1979, p. 678, § 23; Ga. L. 1987, p. 663, § 1.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1989, "duck" was substituted for "ducks" near the beginning of the Code section.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 42, 44.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-2-20. Federal migratory bird hunting and conservation stamp; participation in federal Migratory Bird Harvest Information Program.

(a) It shall be unlawful for any person 16 years of age or older to hunt brant, ducks, geese, and swans in this state without a federal migratory bird hunting and conservation stamp.

(b) It shall be unlawful for any person required to obtain a hunting license as provided in Code Section 27-2-1 to hunt any migratory game bird, including brant, ducks, geese, swans, doves, rails, woodcock, snipe, gallinules, and coots, without participating in the federal Migratory Bird Harvest Information Program. Participation in such program shall require the completion of an annual screening questionnaire prior to obtaining a Georgia waterfowl and migratory bird stamp or a landowner Georgia waterfowl and migratory bird stamp. Persons holding any other license conveying migratory bird hunting privileges, including a lifetime sportsman's license, shall complete the annual screening questionnaire before hunting migratory birds. Persons shall be in possession of the license and evidence of participation in the annual screening questionnaire as provided by the department while hunting migratory birds.

History.
Code 1933, § 45-326, enacted by Ga. L. 1978, p. 816, § 37; Ga. L. 1995, p. 946, § 6; Ga. L. 1998, p. 783, § 8; Ga. L. 2001, p. 1013, § 10; Ga. L. 2017, p. 27, § 10/HB 208.

Editor's notes.
Regulations governing the federal Migratory Bird program can be found at 50 C.F.R. Section 20.20.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 48.
C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 24 et seq., 58 et seq.

27-2-20.1. Required participation in Saltwater Information Program.

It shall be unlawful for any person required to obtain a fishing license as provided in Code Section 27-2-1 to fish in the salt waters of this state without participating in the Saltwater Information Program. Participation in such program shall require the completion of a screening questionnaire prior to obtaining a free Georgia salt water fishing endorsement and the possession of such endorsement or other evidence of participation while salt water fishing.

History.
Code 1981, § 27-2-20.1, enacted by Ga. L. 2012, p. 739, § 2/HB 869.

27-2-21. Field and retriever trial permits; participant registration and license requirements.

(a) It shall be unlawful for any person to conduct a field or retriever trial without first obtaining a permit, at no cost, from the department. In trials conducted with such a permit, the species of wildlife specified on the permit may be set or pursued by dogs, but such wildlife may not be taken except during the open season for such species of wildlife. The person conducting such a field trial shall require all participants therein to register.

(b) It shall be unlawful for any person to participate in a field or retriever trial unless a permit for such trial has been issued by the department and unless the person is registered as a participant in the trial.

(c) All persons participating in a field or retriever trial will be required to have an appropriate resident hunting license or nonresident hunting/fishing license unless the field or retriever trial is recognized by a nationally registered field trialing organization or unless the field or retriever trial is conducted by a local field trialing organization based in the State of Georgia which is recognized by the department as being qualified to conduct such trial.

(d) Notwithstanding any other provision of this Code section, properly marked pen raised mallard ducks and properly marked pen raised

quail may be killed by any person registered as a participant in a permitted field trial.

History.
Code 1933, § 45-327, enacted by Ga. L. 1978, p. 816, § 37; Ga. L. 1984, p. 537, § 2; Ga. L. 1988, p. 842, § 4; Ga. L. 1989, p. 231, § 1; Ga. L. 2009, p. 787, § 7/HB 326.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-2-22. Wildlife rehabilitation permits.

It shall be unlawful for any person to keep, hold, or possess in captivity any sick or injured wildlife, except fish, without first obtaining, at no charge, a wildlife rehabilitation permit from the department; provided, however, that such permit shall only be issued to persons determined by the department, based on criteria established by regulation of the board, to be competent and capable of rehabilitating the wildlife for which a permit has been requested; provided, further, that the department shall only issue such a permit when it has determined that the issuance of the permit is in the best interest of the wildlife of this state. If such a permit is issued, the department shall prescribe the term for each such permit and may impose any conditions it determines necessary to ensure adequate public safety and to be in the best interests of the wildlife of this state.

History.
Code 1933, § 45-328, enacted by Ga. L. 1979, p. 678, § 24; Ga. L. 1993, p. 91, § 27.

27-2-22.1. Fox trapping and selling.

(a) It shall be unlawful for any person to trap and sell live fox without first procuring a commercial trapping license provided for in Code Section 27-2-23. Notwithstanding any other provision of this title to the contrary, live fox may be taken from the wild only during trapping season and may be sold only to licensed commercial fox hunting preserves or licensed commercial fox breeders. Foxes may be held during open trapping season for up to five days until sold but must be sold or dispatched within five days after the close of trapping season. Any person in possession of a live fox must comply with the provisions of Code Section 27-5-6.

(b) It shall be unlawful for any person to purchase a live fox unless the person selling such game animal has a valid commercial trapping license and unless the person purchasing such animal has a valid license provided for in this Code section.

(c) It shall be unlawful for any person to own or operate an area utilized for the purpose of running, taking, or hunting penned fox for a fee or other manner of compensation to such owner or operator unless such person has a valid commercial fox hunting preserve license provided for in this subsection and in Code Section 27-2-23. As used in this Code section, the term "penned fox" means a fox that has been trapped, purchased, or raised in captivity. The license required by this subsection shall be effective from April 1 through March 31 of the following year. An application for a commercial fox hunting preserve license shall be submitted on a form prescribed by the department. No license shall be issued pursuant to this subsection unless the following conditions are met and each permit shall be conditioned upon the following:

(1) Fox may be held in holding pens not less than four acres in size or in smaller facilities for the treatment of fox which are injured, diseased, or very young;

(2) There shall be no restriction on the number of dogs which may be used concurrently in areas of at least 100 acres in size which are enclosed and used for the purpose of running, taking, or hunting penned fox. For enclosed areas of less than 100 acres only one dog may be used for each five acres of area to be utilized for running, taking, or hunting penned fox;

(3) The density of fox in a running pen may not exceed one animal per ten acres;

(4) The boundary lines of areas to be utilized for the purpose of running, taking, or hunting penned fox must be posted against trespassing and must be marked by signs indicating such boundary lines, and letters not less than two inches in height shall be used to indicate such boundary lines and that the area is posted against trespassing;

(5) All facilities to be utilized by the fox hunting preserve shall be maintained in a sanitary condition with adequate food, water, and shelter available at all times for such animals. Fox shall also be vaccinated against canine disease prior to release into an area used for running, taking, or hunting; and

(6) Records of fox located within the fox hunting preserve and of any known losses of fox shall be maintained and kept current by the owner or operator of such facility. Records shall also be maintained of all fox purchased, including the number of fox purchased, the date of purchase, and the name and address of the seller, for the purpose of inspection by the department.

(d) It shall be unlawful for any person to engage in the business of propagating or breeding fox for sale, restocking, propagation, or other

commercial purposes unless that person has obtained a commercial fox breeder license provided for in this subsection and in Code Section 27-2-23. Such license shall be effective from April 1 through March 31 of the following year. An application for a commercial fox breeder license shall be submitted on a form as prescribed by the department. No license shall be issued pursuant to this subsection unless the following conditions are met and each permit shall be conditioned upon the following:

(1) All facilities associated with the business of propagating or breeding fox shall be maintained in a sanitary condition with adequate food, water, and shelter available at all times for such animals;

(2) Records shall be kept of fox purchased by the commercial fox breeder, including the number of animals, the date of purchase, and the name and address of the seller, for the purpose of inspection by the department; and

(3) Persons engaged in the business of propagating or breeding fox shall be knowledgeable and competent in such business.

(e) It shall be unlawful for any person to hunt, take, or possess fox at a commercial fox hunting preserve without first procuring the licenses required under this title; provided, however, nonresidents of this state may procure a nonresident hunting preserve license which shall meet the requirements of this subsection and this title.

(f) It shall be unlawful to receive or possess any fox shipped, transported, or removed from outside of this state unless the jurisdiction from which such fox was transported is pursuant to a permit from the department.

History.

Code 1981, § 27-2-22.1, enacted by Ga. L. 1987, p. 469, § 1; Ga. L. 1992, p. 2863, § 4; Ga. L. 1993, p. 91, § 27; Ga. L. 2026, p. 1069, § 54(2)(J)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" at the beginning of the second sentence of subsection (c).

27-2-23. License, permit, tag, and stamp fees.

Fees for licenses, permits, tags, and stamps required by this title shall be as follows:

(1)	Hunting licenses:		
	(A) Resident hunting license	Annual	$ 15.00
	(B) Nonresident hunting license	Annual	100.00

	(C)	Nonresident hunting license	One-day	20.00
	(D)	Resident big game license	Annual	25.00
	(E)	Nonresident big game license	Annual	225.00
	(F)	Resident big game license	One-day	10.00
	(G)	Nonresident big game license	One-day	130.00
	(H)	Resident senior hunting license for 65 years of age or older	Annual	4.00
	(I)	Shooting preserve hunting license valid for residents and nonresidents	Two-year	12.00
	(J)	Commercial fox hunting preserve license	Seasonal	75.00
	(K)	Commercial fox breeder license	Seasonal	75.00
	(L)	Georgia waterfowl and migratory bird stamp valid for residents and nonresidents	Annual	5.00
	(M)	Landowner Georgia waterfowl and migratory bird stamp	Annual	0.00
(2)		Hunting and fishing licenses:		
	(A)	Resident hunting/fishing license	Annual	30.00
	(B)	Nonresident hunting/fishing license	One-day	30.00
	(C)	Resident hunting/fishing license	One-day	5.00
	(D)	Nonresident hunting/fishing license	Annual	150.00
(3)		Sportsman's licenses:		
	(A)	Resident sportsman's license	Annual	65.00
	(B)	Nonresident sportsman's license	Annual	400.00
	(C)	Resident sportsman's license	One-day	25.00
	(D)	Nonresident sportsman's license	One-day	170.00
	(E)	Resident optional youth sportsman's license for 12 to 15 years of age	Annual	5.00
	(F)	Resident optional youth sportsman's license for 12 to 15 years of age	Multiyear	15.00
	(G)	Resident senior sportsman's license for 65 years of age or older	Annual	7.00
	(H)	Nonresident youth sportsman's license for 15 years of age and under	Annual	$50.00
(4)		Recreational fishing licenses:		
	(A)	Resident fishing license	Annual	15.00
	(B)	Nonresident fishing license	Annual	50.00
	(C)	Nonresident fishing license	One-day	10.00
	(D)	Resident trout license	Annual	10.00

(E)	Resident trout license	One-day	5.00
(F)	Nonresident trout license	Annual	25.00
(G)	Nonresident trout license	One-day	10.00
(H)	Resident optional youth fishing license	Annual	3.00
(I)	Resident optional youth fishing license	Multiyear	10.00
(J)	Resident senior fishing license for 65 years of age or older	Annual	4.00
(K)	Resident reef/migratory fish endorsement	Annual	10.00
(L)	Nonresident reef/migratory fish endorsement	Annual	20.00
(5)	Trapping licenses:		
(A)	Resident commercial trapping license	Annual	40.00
(B)	Nonresident commercial trapping license	Annual	325.00
(6)	Commercial fishing licenses:		
(A)	Resident commercial fishing license	Seasonal	20.00
(B)	Nonresident commercial fishing license	Seasonal	200.00
(C)	Resident commercial fishing species endorsement	Seasonal	5.00
(D)	Nonresident commercial fishing species endorsement	Seasonal	10.00
(E)	Resident commercial crabbing license	Seasonal	20.00
(F)	Nonresident commercial crabbing license	Seasonal	200.00
(7)	Fur, hide, and pelt licenses:		
(A)	Resident fur dealer license	Annual	300.00
(B)	Nonresident fur dealer license	Annual	450.00
(C)	Fur dealer's agent license	Annual	200.00
(8)	Miscellaneous licenses and permits:		
(A)	Retail fish dealer license	Annual	40.00
(B)	Wholesale fish dealer license	Annual	75.00
(C)	Resident game-holding permit	Annual	5.00
(D)	Commercial quail breeder permit	Annual	30.00
(E)	Scientific collecting permit	Annual	75.00
(F)	Wildlife exhibition permit	Annual	150.00
(G)	Commercial shooting preserve license	Annual	150.00
(H)	Private shooting preserve license	Annual	50.00
(I)	Reserved.		

(J)	Commercial fish hatchery license	Annual	75.00
(K)	Catch-out pond license	Annual	250.00
(L)	Soft-shell crab dealer license	Annual	40.00
(M)	Resident taxidermist license	Three-year	150.00
(N)	Nonresident taxidermist license	Three-year	500.00
(O)	Falconry permit	Three-year	40.00
(P)	Commercial alligator farming license	Annual	75.00
(Q)	Resident alligator harvest permit	Annual	75.00
(R)	Nonresident alligator harvest permit	Annual	250.00
(S)	Wild animal license	Annual	250.00
(T)	Wild animal auction license	Seven-day	5,500.00
(U)	Resident bait dealer license	Seasonal	40.00
(V)	Nonresident bait dealer license	Seasonal	250.00
(W)	Resident film production wildlife permit	Annual	300.00
(X)	Nonresident film production wildlife permit	Annual	600.00
(Y)	Resident trawler crew license	Annual	200.00
(Z)	Nonresident trawler crew license	Annual	600.00
(Z)	Nonresident trawler crew license	Annual	600.00
(AA)	Seafood dealer license	Annual	40.00
(BB)	Resident shellfish crew, up to ten harvesters	Annual	200.00
(CC)	Resident shellfish crew, unlimited harvesters	Annual	400.00

(9) Any one-day license purchased that has not expired may be extended for up to ten additional consecutive days by payment of additional reduced rate daily fees:

(A) Nonresident hunting license: $6.00 per day;
(B) Resident big game license: $2.00 per day;
(C) Nonresident big game license: $8.00 per day;
(D) Nonresident hunting/fishing license: $10.00 per day;
(E) Resident hunting/fishing license: $1.00 per day;
(F) Nonresident fishing license: $3.50 per day;
(G) Resident trout license: $1.00 per day;
(H) Nonresident trout license: $2.00 per day;
(I) Resident sportsman's license: $3.00 per day; and
(J) Nonresident sportsman's license: $20.00 per day.

(10) The board is authorized to provide by rule for a fee not to exceed $19.00 for resident daily, seasonal, or annual use permits, or licenses; a fee of $38.00 for resident two-year use permits; or a fee not to exceed $73.00 for nonresident annual use permits or licenses to

hunt and fish on or otherwise use specially designated streams, lakes, public fishing areas, or wildlife management areas.

(11) For wildlife that may be legally taken by recreational or commercial fishing gear as authorized in this title or by board rule, the board may designate which species of wildlife or species grouping of wildlife require a recreational or commercial fishing species endorsement for a fee shown in subparagraphs (K) and (L) of paragraph (4) or subparagraphs (C) and (D) of paragraph (6) of this Code section in addition to the required recreational or commercial fishing license. Each species or group of species so designated shall require a separate recreational or commercial fishing species endorsement. Each person who holds an endorsement pursuant to the provisions of this Code section shall report such information as required by the department at the times and in the manner the board provides by rule or regulation.

(12) The fees for any annual license established in subparagraphs (A) through (E) of paragraph (1) and in paragraph (2), (3), or (4) of this Code section shall be reduced by the amount of the lowest available renewal transaction fee for each renewal transaction made before the expiration date of the then current license or tag. As used in this paragraph, the term "renewal transaction" means the renewal of one or more licenses by a licensee during a single telephone call, internet session, or on-site visit to a store.

(12.1) Any fees collected pursuant to subparagraphs (K) and (L) of paragraph (4) of this Code section shall be retained by the department pursuant to Code Section 45-12-92.1.

(13) After July 1, 2017, the General Assembly shall not increase the cost of any license, permit, tag, or stamp provided for in this Code section by more than 20 percent.

History.

Ga. L. 1916, p. 114, § 2; Ga. L. 1924, p. 101, § 36; Ga. L. 1925, p. 302, § 13; Ga. L. 1931, p. 7, § 25; Ga. L. 1931, p. 173, § 6; Code 1933, §§ 45-206, 45-207, 45-213, 45-304; Ga. L. 1935, p. 379, § 2; Ga. L. 1935, p. 386, § 5; Ga. L. 1937, p. 675, § 2; Ga. L. 1937-38, Ex. Sess., p. 332, § 5; Ga. L. 1939, p. 316, § 1; Ga. L. 1945, p. 315, § 1; Ga. L. 1949, p. 1005, § 1; Ga. L. 1949, p. 1116, § 1; Ga. L. 1949, p. 1188, § 1; Ga. L. 1949, p. 1189, § 1; Ga. L. 1949, p. 1577, §§ 1, 2; Ga. L. 1951, p. 157, §§ 8-9a; Ga. L. 1952, p. 258, §§ 2, 3; Ga. L. 1953, Jan.-Feb. Sess., p. 521, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 173, § 1; Ga. L. 1955, p. 158, §§ 1, 3, 4; Ga. L. 1955, p. 483, §§ 30, 31; Ga. L. 1959, p. 184, § 1; Ga. L. 1960, p. 974, §§ 2-4; Ga. L. 1966, p. 6, § 1; Ga. L. 1967, p. 634, § 3; Ga. L. 1968, p. 480, § 3; Ga. L. 1968, p. 497, § 9; Ga. L. 1971, p. 38, § 1; Ga. L. 1972, p. 915, § 1; Ga. L. 1973, p. 274, § 1; Ga. L. 1975, p. 1254, § 3; Ga. L. 1976, p. 771, § 2; Ga. L. 1976, p. 1159, § 3; Ga. L. 1976, p. 1674, § 2; Code 1933, § 45-303, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1977, p. 1270, § 6; Ga. L. 1978, p. 816, §§ 23, 24; Ga. L. 1978, p. 1552, § 1; Ga. L. 1979, p. 420, §§ 4-7; Ga. L. 1979, p. 678, § 19; Ga. L. 1979, p. 800, § 5; Ga. L. 1979, p. 1094, § 3; Ga. L. 1981, p. 144, §§ 4-6; Ga. L. 1981, p. 823, §§ 1, 2; Ga. L. 1982, p. 1729, §§ 5-7; Ga. L. 1983, p. 467, § 1; Ga. L. 1983, p. 837, § 2; Ga. L.

1985, p. 913, § 2; Ga. L. 1985, p. 1047, § 3; Ga. L. 1987, p. 179, §§ 4, 5; Ga. L. 1987, p. 469, § 2; Ga. L. 1987, p. 663, § 2; Ga. L. 1988, p. 13, § 27; Ga. L. 1989, p. 506, § 3; Ga. L. 1990, p. 386, § 2; Ga. L. 1990, p. 2422, § 1; Ga. L. 1991, p. 1157, § 1; Ga. L. 1992, p. 470, §§ 1, 5; Ga. L. 1995, p. 156, § 1; Ga. L. 1995, p. 946, § 7; Ga. L. 1998, p. 783, § 9; Ga. L. 2003, p. 654, § 7A; Ga. L. 2005, p. 517, § 1/HB 662; Ga. L. 2009, p. 787, § 8/HB 326; Ga. L. 2012, p. 958, § 1A/SB 464; Ga. L. 2013, p. 771, § 5/HB 155; Ga. L. 2016, p. 432, § 5/HB 840; Ga. L. 2017, p. 27, § 11/HB 208; Ga. L. 2018, p. 948, § 3/SB 332; Ga. L. 2019, p. 1056, § 27/SB 52; Ga. L. 2020, p. 493, § 27/SB 429; Ga. L. 2025, p. 524, § 5/HB 287, effective July 1, 2025; Ga. L. 2026, p. 795, § 1-1/SB 420, effective July 1, 2026; Ga. L. 2026, p. 1069, § 27(5)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, added subparagraphs (8)(BB) and (8)(CC).

The first 2026 amendment, effective July 1, 2026, added subparagraphs (4)(K) and (4)(L), and paragraph (12.1); and, in paragraph (11), inserted "recreational or" in four places and "subparagraphs (K) and (L) of paragraph (4) or" in the first sentence, and added the third sentence.

The second 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in paragraph (12), substituted "As used in" for "For purposes of" and revised capitalization.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1995, a second, repetitive "preserve" was deleted from subparagraph (7)(H) (now subparagraph (8)(H)).

Editor's notes.

Ga. L. 1987, p. 179, § 6/SB 107, not codified by the General Assembly, provides: "The General Assembly declares its intent to fund the acquisition of public wildlife management and fishing areas by and through the Department of Natural Resources with the increases and changes in hunting and fishing license fees provided in this Act. The General Assembly further recognizes the importance of wildlife related recreation and the need to provide greater opportunities for such recreation and public lands in the face of rapid woodland development and appropriation of existing wildlife habitat. The General Assembly further declares its intent to ensure that the funding provided by hunters and fishermen through the yearly payment of these license fee increases and changes will fund the acquisition of fish and wildlife habitat and public wildlife management and fishing areas. The General Assembly further declares its intent that a portion of the funds provided by hunters and fishermen through the yearly payment of the increases and changes in hunting and fishing licenses provided for in this Act may be used to fund personnel, equipment, and supplies to manage and improve fish and wildlife habitat and public wildlife management and fishing areas. Funds from the sale of timber may also be used for this purpose."

Ga. L. 1992, p. 470, §§ 4 and 5, not codified by the General Assembly, provides: "SECTION 4. The General Assembly declares its intent to use the increases and changes in fees provided in this Act to fund the acquisition and management of lands and waters, by and through the Department of Natural Resources, for fish hatcheries; for wildlife restoration, propagation, protection, preservation, research, or management; for public hunting, fishing, or trapping; and for related recreational areas. The General Assembly further recognizes the importance of wildlife related recreation and the need to provide greater opportunities for such recreation and public lands in the face of rapid woodland development and appropriation of existing wildlife habitat. The General Assembly further declares its intent to ensure that the funding provided by hunters and fishermen through the payment of these license fee increases and changes will fund the acquisition of fish and wildlife habitat and public recreational areas.

"SECTION 5. This Act shall become effective on April 1, 1992, or as soon thereafter as it is approved by the Governor or becomes law without such approval; provided, however, that the fees which are increased in Sections 1 and 3 of this Act shall on March 31, 2012, be reduced to the

level of such fees prior to the effective date of this Act."

Ga. L. 2009, p. 787, §§ 10, 11, and 12/HB 326 eliminated the automatic reduction of rates provided by Ga. L. 1992, p. 470, § 5.

Ga. L. 2016, p. 432, § 6/HB 840, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2016, and shall apply to all offenses occurring on or after such date."

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 30, 40.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-23.1. Raccoon fur seller's license; penalty.

(a) In addition to the fur dealers' licenses provided for in Code Section 27-2-23, the department shall issue a raccoon fur seller's license for an annual fee of $5.00. A person to whom a raccoon fur seller's license has been issued shall be authorized to sell the raw, undressed furs, hides, skins, or pelts of raccoons lawfully taken by any means other than by trapping.

(b) It shall be unlawful for any person to sell the raw, undressed fur, hide, skin, or pelt of a raccoon lawfully taken by means other than trapping unless such person has a current valid raccoon fur seller's license issued by the department. Any person violating this subsection shall be guilty of a misdemeanor.

(c) A person who purchases or sells raw, undressed furs, hides, skins, or pelts of raccoons taken by trapping and by means other than trapping shall be considered a fur dealer within the meaning of this Code section and must be licensed therefor as provided in Code Section 27-2-23. The license authorized by this Code section shall be issued only to persons who take raccoons exclusively by lawful means other than trapping.

History.
Ga. L. 1981, p. 1006, § 2; Ga. L. 1986, p. 194, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.
C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-2-23.2. Salt water fishing guide licenses; fees; reporting requirements.

(a) It shall be unlawful for any person to engage in the occupation of salt water fishing guide without holding a valid annual salt water fishing guide license pursuant to the provisions of this Code section.

(b)(1) A salt water fishing guide who possesses a valid United States Coast Guard operator of passenger vessel license may purchase an annual customer fishing license pursuant to the provisions of this Code section, which license shall cover all fee-paying anglers while fishing with such guide during the license year; and all such anglers while so covered shall be exempt from fishing license requirements otherwise applicable under this title.

(2) Any person operating a single hotel or motel facility having a salt water fishing pier or piers may purchase an annual salt water fishing pier license pursuant to the provisions of this Code section, which license shall cover all anglers while fishing from such salt water fishing pier during the license year; and all such anglers while so covered shall be exempt from fishing license requirements otherwise applicable under this title.

(c) Fees for licenses required under this Code section shall be as follows:

(1)(A) Resident salt water fishing guide license, $25.00;

(B) Nonresident salt water fishing guide license, $50.00;

(2)(A)(i) Customer fishing license for a resident salt water fishing guide carrying six or fewer fee-paying anglers, $150.00;

(ii) Customer fishing license for a resident salt water fishing guide carrying an unlimited number of fee-paying anglers, $400.00;

(B) Customer fishing license for a nonresident salt water fishing guide, $400.00; and

(3) Salt water fishing pier license, $400.00.

(d) Each person who holds a salt water fishing guide license or salt water fishing pier license pursuant to the provisions of this Code section shall report such information as required by the department at such times and in such manner as the board provides by rule or regulation.

History.
Code 1981, § 27-2-23.2, enacted by Ga. L. 1998, p. 783, § 10; Ga. L. 2007, p. 91, § 2/HB 81.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2007, subsections (b) and (c), as enacted by Ga. L. 1998, p. 783, § 10, were

redesignated as subsections (c) and (d), respectively.

27-2-24. Service of process for licensees and permittees; filing as admission of doing business in state.

All applications to the department for any license or permit, or license and permit, provided by this title shall designate an address in Georgia where the applicant can be personally served with legal process, or shall contain an appointment of an agent in Georgia for acceptance of service of legal process together with the agent's Georgia address, or shall contain a designation of the Secretary of State of Georgia for acceptance of service of legal process. A copy of any application so designating the Secretary of State shall be forwarded by the department to the Secretary of State. The filing of an application with the department for a license or permit, or both, shall constitute an admission by the applicant that the applicant is doing business in Georgia.

History.
Code 1933, § 45-322, enacted by Ga. L. 1977, p. 396, § 1.

27-2-25. Revocation, suspension, denial, or nonrenewal of license or permits; administrative and judicial review.

(a) Upon a determination by the commissioner that a person has violated this title or any rule or regulation promulgated pursuant thereto, the commissioner may revoke, suspend, deny, or refuse to renew any license or permit, or both, required by this title which is held by or has been applied for by the person, for a period of up to two years following the determination of such violation, provided that the license or permit, or both, to be revoked, suspended, denied, or not renewed must not be unrelated to the violation determined by the commissioner. The licensee, permit holder, or applicant for a license or permit, or both, shall be notified of the proposed revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the license or permit, or both, or to the Secretary of State as provided in Code Section 27-2-24. The proposed revocation, suspension, denial, or nonrenewal shall become final 30 days after issuance if not appealed as provided in this Code section.

(b) In the event any person who is an employee, agent, or representative of a licensee, permittee, or applicant for a license or permit, or both, engages in the licensed or permitted activity pursuant to the authority of the license or permit of such licensee, permittee, or applicant for a license or permit, or both, and violates this title or any rule or regulation promulgated pursuant thereto, the commissioner

may revoke, suspend, deny, or refuse to renew a license or permit in accordance with this Code section.

(c) Any person whose license, permit, or application for a license or permit, or both, is proposed for revocation, suspension, denial, or nonrenewal shall, upon petition within 30 days of issuance of notice given as stated in subsection (a) of this Code section, have a right to a hearing before an administrative law judge appointed by the board. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the commissioner, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.

History.

Code 1933, § 45-323, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 36; Ga. L. 1984, p. 404, § 9; Ga. L. 1985, p. 149, § 27; Ga. L. 2000, p. 1589, § 3; Ga. L. 2026, p. 1069, § 27(20)(E)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in the first sentence in subsection (c).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.

C.J.S.

36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-25.1. Procedures following hunting related death or injury; suspension of hunting privileges for negligence; administrative and judicial review; penalties.

(a) The General Assembly has heretofore found and declared that hunting is a privilege to be exercised only in accordance with the law granting such privilege. The General Assembly now specifically finds and declares that while the act of hunting is an enjoyable and beneficial form of recreation, it can be dangerous not only to the hunter himself but also to other persons if due care is not exercised. Therefore, the General Assembly declares that all persons who refuse or fail to exercise such due care may have their hunting privileges suspended as provided in this Code section.

(b) Any person engaged in the act of hunting who by the use of a weapon kills or injures another person or persons, whether or not such other person or persons are likewise engaged in the act of hunting, shall notify the department or any appropriate law enforcement officer who

shall then notify the department immediately after such occurrence. Any person who fails so to notify the department or such law enforcement officer shall be guilty of a misdemeanor.

(c) Upon notification of such a death or injury, whether by the hunter or by some other person, the department shall immediately initiate an investigation of such incident and submit a report to the commissioner. If the commissioner determines culpable negligence on the part of the person causing the death or injury and that such negligence was the proximate cause of such death or injury, the commissioner may suspend that person's hunting privileges for a specified period of time not to exceed ten years. Any such determination to suspend shall be subject to review as provided for in this Code section. When the commissioner shall decide to suspend said person's hunting privileges, the commissioner must notify such person of said suspension and of his right to a hearing to contest the commissioner's determination. The notification from the commissioner to the person whose license is being suspended shall be by certified mail or statutory overnight delivery with return receipt requested; or, in lieu thereof, notice may be given by personal service upon such person. Upon such notice, any such hunting privileges shall be revoked by such notice and such person shall surrender his or her hunting license, if any, to the department within ten days of such notification. For the purposes of this article, notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice.

(d) The person so notified may request an administrative hearing before an administrative law judge appointed by the board within 30 days of receipt of the notice. If no hearing is requested within the 30 day period, the right to a hearing shall have been waived and the hunting privileges of the person shall stand suspended as prescribed by the commissioner's notice. If, following the administrative hearing, there is a determination that such person was negligent and that such negligence was the proximate cause of the death or injury, the hunting privileges of such person may be suspended for a period of up to ten years. The period of time that such privileges are suspended shall be commensurate with the degree of negligence and the severity of the injury. If there is a determination of no negligence or that the negligence was not the proximate cause of the death or injury, the person's hunting privileges shall be restored. The provisions of Code Section 27-2-27 shall not be applicable to a suspension under this Code section.

(e) Any person whose hunting privileges have been suspended under this Code section and who engages in the act of hunting during such period of suspension shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by a fine of not more than

$5,000.00 or by imprisonment for not more than 12 months, or both. Any person whose hunting privileges have been suspended under this Code section shall complete a course of instruction in competency and safety in hunting and in the handling of weapons provided for in Code Section 27-2-5 prior to any subsequent exercise of his hunting privileges.

(f) As used in this Code section, the term:

(1) "License" means any and all licenses, permits, or stamps as required by law for hunting in this state.

(2) "Hunting privileges" means the exercise of the privilege of hunting whether such privilege is bestowed by license or otherwise.

(3) "Suspend" means the suspension or revocation of any existing license or hunting privileges and the suspension or revocation of the privilege of obtaining any new license or hunting privileges.

(g) The hearing before an administrative law judge and any judicial review shall be conducted in accordance with Chapter 13 of Title 50 and applicable rules and regulations of the board.

(h) The proceedings provided for by this Code section shall be in addition to and not in lieu of any civil or criminal action or actions provided for by law and the final decision of this proceeding shall not constitute res judicata as to any such civil or criminal action or actions and shall not be admissible as evidence in any such civil or criminal action or actions.

History.
Code 1981, § 27-2-25.1, enacted by Ga. L. 1984, p. 549, § 1; Ga. L. 1985, p. 149, § 27; Ga. L. 1985, p. 894, § 1; Ga. L. 1987, p. 3, § 27; Ga. L. 2000, p. 1589, § 3; Ga. L. 2002, p. 1179, § 2.

Cross references.
Homicide, § 16-5-1 et seq.
Wrongful death, § 51-4-1 et seq.

27-2-25.2. Suspensions, denials, or nonrenewals of licenses for noncompliance with court order for child support.

The commissioner shall have the power to suspend any license required by this title when such license holder is not in compliance with a court order for child support as provided in Code Section 19-6-28.1. The commissioner shall also have the power to deny the application for issuance or renewal of a license required by this title when such applicant is not in compliance with a court order for child support as provided in Code Section 19-6-28.1. Notwithstanding the provisions of Code Section 27-2-25, the hearings and appeal procedures provided for in Code Section 19-6-28.1 shall be the only such procedures required to suspend or deny any license pursuant to this Code section.

History.
Code 1981, § 27-2-25.2, enacted by Ga. L. 1997, p. 1613, § 34.
Law reviews.
For article commenting on the 1997 enactment of this Code section, see 14 Ga. St. U.L. Rev. 121 (1997).

27-2-26. Rules and regulations regarding suspensions, denials, or nonrenewals under Code Section 27-2-25; surrender of license.

(a) The board is authorized to provide by rule or regulation the procedure whereby the department may, pursuant to Code Section 27-2-25, revoke or cancel any license, certificate, stamp, card, or permit upon determination that the holder thereof was not entitled to issuance or obtained the license, certificate, stamp, card, or permit by any fraudulent means. Upon revocation or cancellation, the holder thereof shall surrender the license, certificate, stamp, card, or permit to the department.

(b) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

History.
Code 1933, § 45-302.1, enacted by Ga. L. 1978, p. 2264, § 1.

27-2-27. Civil penalty in lieu of revocation, suspension, denial, or nonrenewal.

In addition to the authority granted in Code Sections 27-2-4 and 27-2-25 to revoke, suspend, deny, or refuse to renew any license or permit, or both, the commissioner or board, or the commissioner and board, may impose a reasonable penalty, with the written consent of the affected party or parties, not to exceed $1,000.00 for each and every violation, in lieu of revocation, suspension, denial, or nonrenewal of a license or permit, or both. All penalties recovered by the commissioner as provided in this Code section shall be paid into the general fund of the state treasury.

History.
Code 1933, § 45-324, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

27-2-28. Refusing inspection of identification or license; making false statements in obtaining license; counterfeiting or altering license; unauthorized collection of funds.

(a) It shall be unlawful for any person who is required to have on his person any license, permit, or stamp issued under this title to refuse the inspection of such license, permit, or stamp upon demand by a game warden or deputy game warden. It shall also be unlawful for any such person, upon demand by a game warden or deputy game warden, to refuse to provide a driver's license or equally reliable identification of such person and his current residence.

(b) It shall be unlawful for any person to make any false statement as to any fact which is required as a prerequisite to the issuance of a license or permit; and any license or permit obtained in violation of this Code section is void. Any license agent may require the applicant for a license or permit to show proof of any statement or facts required for issuance of any license or permit.

(c) It shall be unlawful for any person to counterfeit, change, or alter or to attempt to counterfeit, change, or alter any license or permit issued pursuant to this title. It shall be unlawful for any person, other than a license agent authorized by the department or authorized personnel of the department, to collect any funds for any license or permit issued pursuant to this title or to charge a fee to obtain any such license or permit.

History.

Ga. L. 1924, p. 101, § 36; Ga. L. 1925, p. 302, § 27; Code 1933, §§ 45-203, 45-214; Ga. L. 1955, p. 483, §§ 29, 30; Ga. L. 1968, p. 497, § 8; Ga. L. 1975, p. 1290, § 1; Code 1933, § 45-302, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 924, § 2; Ga. L. 2017, p. 27, § 12/HB 208; Ga. L. 2019, p. 808, § 7/SB 72.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

JUDICIAL DECISIONS

Licenses obtained in violation of statute are void. — See Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

RESEARCH REFERENCES

C.J.S.

36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-2-29. Free fishing days.

Notwithstanding any other provision of this article, the commissioner

may designate not more than three days, which need not be consecutive, in each calendar year as free fishing days during which residents may, without obtaining a fishing license, exercise the privileges of a holder of a fishing license, subject to all limitations, restrictions, conditions, rules, and regulations applicable to the holder of a fishing license. This Code section shall in no way affect the commercial fishing licenses required under this article.

History. Code 1981, § 27-2-29, enacted by Ga. L. 1987, p. 536, § 1; Ga. L. 2002, p. 1179, § 3.

27-2-30. Establishment of the Wildlife Endowment Trust Fund; investment, accounting, and expenditures.

(a) The General Assembly recognizes that lifetime sportsman's license purchasers expect and are entitled to assurance that funds for such licenses will be used throughout their life expectancy to provide quality hunting and fishing experiences. Therefore, the General Assembly declares its intent that lifetime licenses yield annual revenue in perpetuity for the support of wildlife management programs of the department and recognizes that annual income generation is necessary for these licenses to be included in apportionment formulas for federal fish and wildlife funding.

(b)(1) In recognition of its obligations to lifetime sportsman's license purchasers, the General Assembly directs the state treasurer to establish the Wildlife Endowment Trust Fund as a separate fund in the state treasury and all funds held in the Wildlife Endowment Fund previously established by this Code section shall be transferred to the Wildlife Endowment Trust Fund.

(2) The state treasurer shall invest the money held in the Wildlife Endowment Trust Fund in the same manner in which state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund shall be accounted for separately and shall be credited to the trust fund to be disbursed as other moneys in the trust fund. The fund is authorized to accept donations from private individuals and entities.

(c) Under the authority granted and subject to the conditions imposed by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, for the period beginning on July 1, 2022, and ending on June 30, 2032, all of the money collected pursuant to subsection (d) of Code Section 27-2-3.1 shall be annually appropriated to the Wildlife Endowment Trust Fund established by subsection (b) of this Code section and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia. Each

annual appropriation shall be made through the General Appropriations Act and shall include all of the money collected from such source during the most recently completed fiscal year.

(c.1) The commissioner of natural resources shall be the trustee of the Wildlife Endowment Trust Fund with full authority over the administration of the fund.

(c.2) All of the money appropriated to the Wildlife Endowment Trust Fund pursuant to subsection (c) of this Code section shall be dedicated for use and expended by the commissioner of natural resources for the purposes provided in subsection (d) of this Code section.

(c.3) The commissioner of natural resources shall prepare an accounting of the funds expended pursuant to this Code section during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

(d) The Wildlife Endowment Fund constitutes a special trust derived from a contractual relationship between the state and the members of the public whose lifetime license purchases contribute to the fund. In recognition of such special trust, the following limitations and restrictions are placed on expenditures from the fund:

(1) No expenditures or disbursements from appropriations equivalent to the income or proceeds derived from the sales of Types I and Y lifetime sportsman's licenses shall be made for any purpose until the respective holders of such licenses attain the age of 16 years. The state treasurer, as custodian of the fund, shall determine actuarially from time to time the amount of such proceeds which remains encumbered by and the amount of such proceeds which is free of this restriction and shall advise the commissioner of such information. For such purposes, the commissioner shall cause the amount of proceeds from Type I licenses to be identified and proceeds from Type Y licenses to be accompanied by information as to the ages of the license recipients;

(2) No expenditure or disbursement may be made from the principal and interest of the fund except as otherwise provided by law;

(3) The principal and interest of the fund must be spent only for the conservation and management of wildlife and fisheries resources and the acquisition of habitat upon which such resources are dependent;

(4) No such habitat acquired with money from the fund shall be voluntarily transferred to the federal government or any international agency or organization;

(5) The trustee of the Wildlife Endowment Fund may accumulate

the income of the fund and may direct expenditures from the income of the fund; and

(6) Expenditure of the income derived from the fund must be made with the approval of the trustee in accordance with the provisions of the General Appropriations Act. The fund is subject to the oversight of the state treasurer.

(e) The fund and income from it do not take the place of other state appropriations or agency receipts but are supplemental to other funds and appropriations made available to the department for carrying out its responsibilities under this title.

(f) If the department is dissolved, the chief executive officer of the succeeding agency shall assume the trusteeship of the fund and shall be bound by all the limitations and restrictions placed by this Code section on expenditures from the fund. No repeal or modification of this Code section alters the fundamental purposes to which the fund is applied. No future dissolution of the department or substitution of any agency in its stead shall invalidate any lifetime license issued in accordance with this title.

History.

Code 1981, § 27-2-30, enacted by Ga. L. 1998, p. 826, § 3; Ga. L. 2010, p. 863, § 3/SB 296; Ga. L. 2013, p. 141, § 27/HB 79; Ga. L. 2014, p. 859, § 2/HB 786; Ga. L. 2015, p. 5, § 27/HB 90; Ga. L. 2021, p. 761, § 10/HB 511; Ga. L. 2026, p. 1069, § 27(6)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "department" for "Department of Natural Resources" in the first and third sentences in subsection (f).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1998, in subsection (d), a semicolon was substituted for a period at the end of paragraph (d)(4).

Editor's notes.

Ga. L. 2021, p. 761, § 23/HB 511, not codified by the General Assembly, provides: "In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, this Act shall not become law unless it receives the requisite two thirds' majority vote in both the Senate and the House of Representatives and the amount of the funds dedicated by this Act do not equal or exceed 1 percent of the previous fiscal year's state revenues subject to appropriations."

27-2-31. Wildlife control permits.

(a) The department is authorized to issue wildlife control permits authorizing the permittee to trap, transport and release, or kill wildlife and feral hogs where such action is otherwise prohibited by law or regulation:

(1) When the department determines that there is a substantial likelihood the presence of such wildlife will endanger or cause injury to persons or will destroy or damage agricultural crops, domestic animals, buildings, structures, or other personal property;

(2) For the control of white-tailed deer on airport property; provided, however, that permits shall be issued under this paragraph for purposes of public safety, and the control of white-tailed deer for other purposes and the removal of black bear shall be as provided in Code Sections 27-2-18 and 27-3-21, respectively;

(3) For fur-bearing animals, as defined in paragraph (31) of Code Section 27-1-2, to implement a bona fide wildlife management plan that has been approved by the department; and

(4) For feral hogs, provided that:

(A) All permitted activities must comply with all rules and regulations of the Department of Agriculture; and

(B)(i) No person shall transport any live feral hog without carrying on his or her person a feral hog transport permit issued by the Department of Agriculture pursuant to Code Section 2-7-201, and no person shall release any trapped or transported feral hog into any area that is not fenced to prevent the escape of such feral hog onto the land of another.

(ii) Any person who violates division (i) of this subparagraph shall, upon conviction thereof, be guilty of a misdemeanor of a high and aggravated nature and shall be punished as provided by Code Section 17-10-4; provided, however, that if a fine is imposed pursuant to such Code section, such fine shall be not less than $1,500.00.

(iii) Any license or permit previously issued under this title to any person convicted of violating division (i) of this subparagraph shall by operation of law be revoked and shall not be reissued for a period of three years after the date of such conviction. The licensee or permit holder shall be notified of the revocation personally or by a letter sent by certified mail or statutory overnight delivery to the name and address indicated on the application for the license or permit, or both, or to the Secretary of State as provided in Code Section 27-2-24.

(b) In issuing a wildlife control permit, the department shall prescribe the method, means, species, numbers, time limits, location, and any other conditions it deems necessary to ensure the continued viability of the wildlife population involved and to ensure that the public safety and interest are not compromised.

(c) Nothing in this Code section shall be construed to authorize the taking of any species which is protected by the federal Endangered Species Act of 1973, Public Law 93-205, as amended, or under any state law or regulation which has as its purpose the protection of endangered or threatened species.

History.

Code 1981, § 27-2-31, enacted by Ga. L. 2000, p. 418, § 1; Ga. L. 2001, p. 4, § 27; Ga. L. 2011, p. 468, § 1/HB 485; Ga. L. 2015, p. 1352, § 5/HB 475; Ga. L. 2026, p. 572, § 2/HB 946, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, redesignated paragraph (b)(1) as subsection (b) and deleted paragraphs (b)(2) and (b)(3), which read: "(2) Notwithstanding the provisions of paragraph (1) of this subsection, a wildlife control permit for feral hogs shall authorize the hunting or trapping of such feral hogs:

"(A) At night with a light except during the season prescribed for hunting deer;

"(B) From within a motor vehicle or while on a motor vehicle; and

"(C) By a Georgia resident without a hunting or trapping license if such hunting occurs on premises owned by the permittee or his or her immediate family or leased by him or her or his or her immediate family and used primarily for raising or harvesting crops other than timber or for containing livestock or poultry. Nothing in this subparagraph shall be construed to affect or negate the terms of any lease agreement.

"(3) A wildlife control permit for feral hogs shall expire not less than five years from the issuing date; provided, however, that if the permittee is leasing the premises upon which the hunting is to occur, such permit shall expire automatically upon the termination of the lease. The department shall provide for the renewal of permits.".

Editor's notes.

Ga. L. 2015, p. 1352, § 1/HB 475, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Feral Hog Control Act.'"

Ga. L. 2015, p. 1352, § 2/HB 475, not codified by the General Assembly, provides: "The General Assembly finds that feral hogs are an invasive species in Georgia and are detrimental to the natural resources and agricultural production of the state. Feral hogs cause significant damage to crops and wildlife habitat. In addition, as carriers of communicable diseases, feral hogs pose a health risk to humans, livestock, companion animals, pets, and native wildlife."

U.S. Code.

The federal Endangered Species Act of 1973, referred to in this Code section, is codified at 16 U.S.C. § 1531 et seq.

Law reviews.

For note on 2000 enactment of this Code section, see 17 Ga. St. U.L. Rev. 202 (2000).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Offenses arising from a violation of O.C.G.A. § 27-2-31 are offenses for which fingerprinting is required. 2011 Op. Att'y Gen. No. 11-5.

RESEARCH REFERENCES

ALR.

Construction and application of the consultation requirement under Section 7 of the Endangered Species Act, 16 U.S.C.A. § 1536(a) to (d), 1 A.L.R. Fed. 3d 4.

Construction and application of exceptions under § 10 of the Endangered Species Act of 1973, 16 U.S.C.A. § 1539, 2 A.L.R. Fed. 3d 2.

Construction and application of threatened species requirements under Sec. 4(a) and (b) of the Endangered Species Act of 1973, 16 U.S.C.A. § 1533(a) and (b), 6 A.L.R. Fed. 3d 2.

Construction and application of the cooperation with states requirement under Sec. 6 of the Endangered Species Act of 1973, 16 U.S.C.A. § 1535, 8 A.L.R. Fed. 3d 3.

Construction and application of prohibited acts under Sec. 9(a) of the Endangered Species Act of 1973, 16 U.S.C.A. § 1538(a), 9 A.L.R. Fed. 3d 3.

ARTICLE 2

WILDLIFE VIOLATOR COMPACT

Cross references.

Prohibition against killing, harming, removing or disturbing wildlife found in a cave, § 12-4-146.

Editor's notes.

The compact provided by this article has been adopted by the number of states required to make the compact effective according to its terms.

Administrative rules and regulations.

Wildlife Violator Compact, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-15-.01 et seq.

RESEARCH REFERENCES

C.J.S.

36A C.J.S., Fish, § 24 et seq.

27-2-40. Enactment and text of compact.

The Wildlife Violator Compact is enacted into law and entered into by the State of Georgia with any and all states legally joining therein in accordance with its terms. The compact is substantially as follows:

"WILDLIFE VIOLATOR COMPACT

ARTICLE I

FINDINGS, DECLARATION OF POLICY, AND PURPOSE

(a) The party states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.

(4) Wildlife resources are valuable without regard to political boundaries, therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of

wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(A) Must post collateral or bond to secure appearance for a trial at a later date; or

(B) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(C) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in paragraph (7) of this subdivision is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in paragraph (7) of this subdivision causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in paragraph (7) of this subdivision consume an undue amount of law enforcement time.

(b) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges or rights of any person whose license privileges or rights have been suspended by a party state and treat this suspension as if it had occurred in their state.

(3) Allow violators to accept a wildlife citation, except as provided in subdivision (b) of Article III, and proceed on the violator's way

without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subdivision (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

ARTICLE II

DEFINITIONS

Unless the context requires otherwise, the definitions in this article apply through this compact and are intended only for the implementation of this compact:

(a) 'Citation' means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(b) 'Collateral' means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) 'Compliance' with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(d) 'Conviction' means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(e) 'Court' means a court of law, including Magistrate's Court and the Justice of the Peace Court.

(f) 'Home state' means the state of primary residence of a person.

(g) 'Issuing state' means the party state which issues a wildlife citation to the violator.

(h) 'License' means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.

(i) 'Licensing authority' means the department within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) 'Party state' means any state which enacts legislation to become a member of this wildlife compact.

(k) 'Personal recognizance' means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(l) 'State' means any state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(m) 'Suspension' means any revocation, denial, or withdrawal of any or all license privileges or rights, including the privilege or right to apply for, purchase, or exercise the benefits conferred by any license.

(n) 'Terms of the citation' means those conditions and options expressly stated upon the citation.

(o) 'Wildlife' means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as 'wildlife' and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. 'Wildlife' also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of 'wildlife' vary from

state to state and determination of whether a species is 'wildlife' for the purposes of this compact shall be based on local law.

(p) 'Wildlife law' means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(q) 'Wildlife officer' means any individual authorized by a party state to issue a citation for a wildlife violation.

(r) 'Wildlife violation' means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

ARTICLE III

PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subdivision (b) of this article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

(1) If not prohibited by local law or the compact manual adopted by the Board of Natural Resources as a rule; and

(2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual adopted by the Board of Natural Resources as a rule as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subdivision (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual adopted by the Board of Natural Resources as a rule.

ARTICLE IV

PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a

citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges or rights until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual adopted by the Board of Natural Resources as a rule.

ARTICLE V

RECIPROCAL RECOGNITION OF SUSPENSION

All party states shall recognize the suspension of license privileges or rights of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and would have been the basis for suspension of license privileges or rights in their state.

ARTICLE VI

APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

ARTICLE VII

COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board of compact administrators shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state, or his or her designee, and will serve and be subject to removal in

accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board of compact administrators member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board of compact administrators.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board of compact administrators shall be binding unless taken at a meeting at which a majority of the total number of votes on the board of compact administrators are cast in favor thereof. Action by the board of compact administrators shall be only at a meeting at which a majority of the party states are represented.

(c) The board of compact administrators shall elect annually, from its membership, a chairperson and vice-chairperson.

(d) The board of compact administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board of compact administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The board of compact administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The board of compact administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board of contact administrators action shall be contained in the compact manual adopted by the Board of Natural Resources as a rule.

ARTICLE VIII

ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted by at least two states.

(b)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board of compact administrators.

(2) The resolution shall be in a form and content as provided in the compact manual adopted by the Board of Natural Resources as a rule and shall include statements that in substance are as follows:

(A) A citation of the authority by which the state is empowered to become a party to this compact;

(B) Agreement to comply with the terms and provisions of the compact; and

(C) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than sixty days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board of compact administrators to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

ARTICLE IX

AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairperson within one hundred twenty days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the

United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XI

TITLE

This compact shall be known as the 'Wildlife Violator Compact.' "

History.
Code 1981, § 27-2-40, enacted by Ga. L. 2002, p. 1179, § 1.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2002, punctuation and capitalization was revised in Article XI.

Pursuant to Code Section 28-9-5, in 2003, single quotes were substituted for double quotes in subdivision (k) of Article II.

27-2-41. Rules and regulations authorized.

The board shall make and publish in print or electronically such rules and regulations, not inconsistent with law, as it deems necessary to carry out the purposes of this article.

History.
Code 1981, § 27-2-41, enacted by Ga. L. 2002, p. 1179, § 1; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2026, p. 1069, § 27(20)(F)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources".

27-2-42. Exercise of hunting or fishing privileges following suspension or revocation; penalty.

It shall be unlawful for any person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to this article, to exercise that right or privilege within this state or to purchase or possess such a license which grants such right or privilege. Any person who hunts, fishes, traps, possesses, or transports wildlife in this state or who purchases or possesses a license to hunt, fish, trap, possess, or transport wildlife in this state in violation of such suspension or revocation pursuant to this article shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by a fine of not less than $1,500.00 nor more than $5,000.00 or imprisonment for a period not exceeding 12 months or both.

History.

Code 1981, § 27-2-42, enacted by Ga. L. 2002, p. 1179, § 1.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2002, punctuation was revised in this Code section.

CHAPTER 3

WILDLIFE GENERALLY

Article 1

Hunting

Part 1

General Provisions

Sec.

27-3-1. Hunting upon lands of others; penalty; enforcement; liability.

27-3-1.1. Acts prohibited on wildlife management areas.

27-3-2. Hunting at night.

27-3-3. Hours for hunting migratory game birds.

27-3-4. Weapons for hunting wildlife generally; prohibited actions; penalties.

27-3-5. [Reserved] Legal weapons for hunting certain animals.

27-3-6. Possession of firearm while hunting with bow and arrow.

27-3-7. Hunting under the influence of alcohol or drugs; chemical tests; penalties.

27-3-8. Unlawful devices.

27-3-9. Enticing game animals and game birds; penalty; enforcement.

27-3-10. Hunting upon or discharging weapons across or from a public road; penalty.

27-3-11. [Reserved] Confiscation of vehicles and firearms used in hunting big game on public roads; state not required to negate exemptions in prosecutions.

27-3-12. Unlawful substances and equipment; computer assisted remote hunting prohibited; penalty.

27-3-13. Hunting of wildlife or feral hog from boats, aircraft, or motor vehicles; use of unmanned aircraft systems; penalties.

27-3-14. Killing or crippling of game bird or game animal without reasonable effort to retrieve.

27-3-15. Seasons and bag limits; deer management assistance program.

27-3-16. Hunting with dogs generally; training of hunting dogs.

27-3-17. Hunting deer with dogs; permits; suspension of hunting privileges; administrative and judicial review.

27-3-18. Hunting foxes with dogs.

27-3-19. Hunting alligators; possessing, transporting, and dealing in alligator products; gathering and transporting alligator eggs; seizure; penalties.

27-3-19.1. Exporting, farming, and selling fresh-water turtles.

27-3-20. Taking rabbits and hares out of season.

27-3-21. Petition to remove bear by property owner.

27-3-22. Hunting, trapping, possessing, transporting, or dealing in birds generally.

27-3-23. Selling of squirrel tails.

27-3-24. Hunting and transporting feral hogs.

27-3-25. Clothing requirements for hunting bears.

27-3-26. Hunting, possessing, transporting, and dealing in bears; penalties; seizure.

27-3-27. Use of bear bait; penalty.

27-3-28. Taking possession of native wildlife killed by a motor vehicle; reporting requirement.

27-3-29. Harvest recording and reporting requirements for game animals and game birds; penalty.

Part 2

Deer

27-3-40. Clothing requirements for hunting deer.

Sec.
27-3-41. Unsupervised hunting by persons under 12 years of age.
27-3-42. Taking of deer in lake, stream, or pond.
27-3-43. Removal of head of deer.
27-3-44. Killing of deer which have no antlers visible.
27-3-45. [Reserved] Information required before removal of carcass from place of killing; exception for certain managed hunts; using multiple sets of licenses or license card carriers.
27-3-46. [Reserved] Failure to affix deer tag to carcass before storage or processing.
27-3-47. [Reserved] Collision with deer by motor vehicle.
27-3-48. Hunting deer at night; penalties.
27-3-49. Killing of dogs running deer.
27-3-50. Sale of antlers, hides, and tails of deer.

Article 2

Trapping, Trappers, and Fur Dealers

27-3-60. Commercial trapping license requirement; penalty.
27-3-61. Bond requirement for nonresident commercial trapping license applicants.
27-3-62. Trapping seasons; penalty.
27-3-63. General offenses and penalties.
27-3-64. Killing or injuring mink or otter with firearm; possession or sale of mink or otter, or pelt thereof, killed by firearm.
27-3-65. Removing legally set traps owned by others; removing and possessing wildlife from legally set traps owned by others.
27-3-66. Trapping of rabbits on one's own premises or on premises of family member or landlord.
27-3-67. Taking of rabbits or hares out of season; special permit to trap or sell rabbits or hares.
27-3-68. Confiscation and disposal of unlawful devices.
27-3-69. License requirement for fur dealers and fur dealers' agents; eligibility for resident license; penalty.
27-3-70. Posting of bond by applicants for fur dealer license; effect of breach of conditions of bond.
27-3-71. Reports and records of fur dealers; inspection of premises; penalty.
27-3-72. Service of process for licensees; filing as an admission of doing business in Georgia.
27-3-73. Disposal of carcasses of fur-bearing animals or alligators; penalties.

Article 3

Transportation

27-3-90. Requirements for lawful transportation.
27-3-91. Transportation by carrier within state.
27-3-92. Transportation out of state.
27-3-93. Transportation for propagation and scientific purposes.
27-3-94. Acceptance by carriers of wildlife for shipment; reports required.

Article 4

Shooting Preserves

27-3-110. Shooting preserve license requirement; effective dates; contents of application; conditions for issuance.
27-3-111. Removal of pen raised game bird; release of mallards or black ducks; failure to maintain or furnish records; failure to notify department of diseases.
27-3-112. Hunting seasons for game birds and game animals; bag limits.
27-3-113. Propagation, possession, release, or importation of wildlife or wild animals.
27-3-114. Applicability of wildlife laws and regulations.

Sec.
27-3-115. Issuance and sale of shooting preserve hunting licenses by shooting preserves; nondisclosure of records.

Article 5

Protection of Endangered Wildlife

27-3-130. Short title.
27-3-131. "Protected species" defined.
27-3-132. Powers and duties of department and board.
27-3-133. Penalty for violation of rules and regulations of board.

Article 6

Interference with Lawful Taking

27-3-150. "Lawful taking" defined.
27-3-151. Activity prohibited.
27-3-152. Injunctions; damages for violations.

Article 7

Feeding of Wild Alligators

27-3-170. Feeding of wild alligators; penalty.

Article 8

Fertility Control on Wildlife

27-3-180. Findings and declarations.
27-3-181. Use of wildlife fertility control.
27-3-182. Wildlife fertility control permits; appeals.
27-3-183. Rules and regulations.
27-3-184. Issuance, revocation, or denial of wildlife fertility control permits; cease and desist orders; seizures.
27-3-185. Penalties.

Cross references.

Prohibition against killing, harming, removing or disturbing wildlife found in a cave, § 12-4-146.

Cruelty to animals, § 16-12-4.

Right to hunt, trap, and fish, subject to certain laws and regulations, § 27-1-3.

Unlawful acts relating to taking, sale, purchase of wildlife, § 27-1-28 et seq.

Consent of state to acquisition by United States of lands for forest and wildlife purposes, § 50-2-25.

RESEARCH REFERENCES

ALR.

Validity, construction, and effect of statutes or regulations making possession of fish or game, or of specified hunting or fishing equipment, prima facie evidence of violation, 81 A.L.R.2d 1093.

ARTICLE 1

HUNTING

Administrative rules and regulations.

Hunting Regulations, Official Compilation of Rules and Regulations of State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-2-.01 et seq.

PART 1

GENERAL PROVISIONS

RESEARCH REFERENCES

ALR.
Hunter's civil liability for unintentionally shooting another person, 26 A.L.R.3d 561.

27-3-1. Hunting upon lands of others; penalty; enforcement; liability.

(a) It shall be unlawful for any person to hunt upon the lands of another or enter upon the lands of another in pursuit of wildlife, with or without a license, without first obtaining permission from the landowner or lessee of such land or the lessee of the game rights of such land. Such permission shall not be required, however, if the person hunting or a member of the person's family is the owner of the land, the lessee of the land, or the lessee of the game rights of the land. As used in this Code section, the term "family" means mother, father, son, daughter, brother, sister, uncle, aunt, son-in-law, daughter-in-law, niece, nephew, grandson, granddaughter, grandmother, grandfather, or spouse.

(b) If the land is posted and if the owner of the land, lessee of the land, or lessee of the game rights of the land has informed a law enforcement agency that permission to hunt upon the land must be in writing, then the permission required by subsection (a) of this Code section must be in writing and must be carried on the hunter's person.

(c)(1) Except as otherwise provided in this subsection, any person who violates subsection (a) or (b) of this Code section shall be guilty of a misdemeanor and shall be punished by a fine of not less than $975.00.

(2) Any person who violates subsection (a) or (b) of this Code section for the second time within a two-year period shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by a fine of not less than $2,000.00; and the department shall revoke the right of such person to a hunting license for a period of one year for each such second conviction within a two-year period.

(3) Any person who violates subsection (a) or (b) of this Code section for a third or subsequent time within a three-year period shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by a fine of not less than $3,000.00; and the department shall revoke the right of such person to a hunting license for a period of three years for each such third or subsequent conviction within a three-year period.

(4) The minimum fines and revocation periods specified in this subsection shall not apply, however, to an offender who is 17 years of age or younger.

(d) It shall be the duty of any peace officer whose duty it is to preserve the peace or make arrests or enforce the law to enforce this Code section.

(e) Any owner of land, lessee of land, or lessee of the game or fishing rights to land who gives permission to another person to hunt, fish, or take wildlife upon the land with or without charge shall be entitled to the same protection from civil liability provided by Article 2 of Chapter 3 of Title 51 for landowners who allow the public to use their land for recreational purposes without charge.

History.

Ga. L. 1911, p. 137, § 7; Code 1933, § 45-320; Ga. L. 1955, p. 483, § 65; Code 1933, § 45-501, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 38; Ga. L. 1984, p. 546, § 1; Ga. L. 2001, p. 1013, § 11; Ga. L. 2001, p. 1076, § 1; Ga. L. 2022, p. 739, § 1/HB 343; Ga. L. 2026, p. 1069, § 27(7)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this Code section, the term" for "For the purposes of this Code section only," in the last sentence in subsection (a).

Law reviews.

For annual survey on trial practice and procedure, see 70 Mercer L. Rev. 253 (2018).

JUDICIAL DECISIONS

Permission of landowner. — One must have permission of landowner as condition precedent to hunting any game or animals. Blassingame v. State, 11 Ga. App. 809, 76 S.E. 392, 1912 Ga. App. LEXIS 198 (1912).

Conviction for hunting without permission. — In order to convict person of hunting on land of another without permission, it is incumbent upon the state to prove that permission to hunt was not obtained from the landowner, lessee, or lessee of the game rights, and where the state proved only that the defendant did not obtain permission from one of the owners, and there was no showing that the owner was the only person empowered to give permission to hunt on the land, the evidence was insufficient for a rational jury to reasonably find the defendant guilty beyond a reasonable doubt. Townsend v. State, 173 Ga. App. 389, 326 S.E.2d 569, 1985 Ga. App. LEXIS 1557 (1985).

Protected status of game being hunted has no effect. — Former Ga. L. 1911, p. 137, § 7 (see now O.C.G.A. § 27-3-1) expressly protected lands of another from trespassing by hunters regardless of whether the game being hunted was specifically protected by that section. Blassingame v. State, 11 Ga. App. 809, 76 S.E. 392, 1912 Ga. App. LEXIS 198 (1912).

The state must negate the disjunction that the landowner or the lessee or the lessee of the game rights gave permission to hunt on the land, which requires a showing that the landowner did not give permission, the lessee (if extant) did not give permission, and the lessee of the game rights (if extant) did not give per-

mission. Burkhalter v. State, 256 Ga. 236, 347 S.E.2d 588, 1986 Ga. LEXIS 803 (1986).

Evidence sufficient to sustain conviction. — See Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

Evidence insufficient to support conviction. — Where the lessee of the game rights had not given the defendants permission to hunt on the property, there was no evidence that another lessee existed and the only other evidence was one defendant's testimony that they had not intended to hunt on private property because they did not have the appropriate hunting license to hunt on such property, this evidence was insufficient to support a conviction under this statute. Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

Incorrect date on summons. — Because the date of the alleged offense is not generally material, except for statute of limitations purposes, and failure to rely on a specific date is not harmful unless the defendant is surprised and prejudiced in the preparation of a defense, defendant was not harmed by the appearance of an incorrect date on the summons. Blackwelder v. State, 256 Ga. 283, 347 S.E.2d 600, 1986 Ga. LEXIS 810 (1986).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting. — Hunting on the land of another without permission is no longer designated as an offense for which those charged with a violation must be fingerprinted, except to the extent mandated by statute. 1987 Op. Att'y Gen. No. 87-21.

The Georgia Crime Information Center is not authorized to collect and file fingerprints of persons charged with a violation of O.C.G.A. § 27-3-1(c). 2001 Op. Att'y Gen. No. 2001-11.

Intrusions by dogs. — O.C.G.A. § 27-3-1 does not apply to persons lawfully engaged in hunting whose dogs enter the lands of another without permission. 1997 Op. Att'y Gen. No. U97-16.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 23.

C.J.S.

38 C.J.S., Game; Conservation and Preservation of Wildlife, § 4.

27-3-1.1. Acts prohibited on wildlife management areas.

It shall be unlawful for any person on any wildlife management area owned or operated by the department:

(1) To possess a firearm other than a handgun, as such term is defined in Code Section 16-11-125.1, during a closed hunting season for that area unless such firearm is unloaded and stored in a motor vehicle so as not to be readily accessible or to possess a handgun during a closed hunting season for that area unless such person is a lawful weapons carrier as defined in Code Section 16-11-125.1;

(2) To possess a loaded firearm other than a handgun, as such term is defined in Code Section 16-11-125.1, in a motor vehicle during a legal open hunting season for that area or to possess a loaded handgun in a motor vehicle during a legal open hunting season for that area unless such person is a lawful weapons carrier as defined in Code Section 16-11-125.1;

(3) To be under the influence of drugs, intoxicating liquors, beers, or wines. The determination of whether any person is under the influence of drugs or intoxicating liquors, beers, or wines may be made in accordance with Code Section 27-3-7;

(4) To hunt within 50 yards of any road which receives regular maintenance for the purpose of public vehicular access;

(5) To target practice, except where an authorized shooting range is made available by the department, and then only in a manner consistent with the rules for shooting ranges promulgated by the board;

(6) To drive a vehicle around a closed gate, cable, sign, or other structure or device intended to prevent vehicular access to a road entering onto or within such an area;

(7) To hunt within any posted safety zone;

(8) To camp upon or drive a motor vehicle over any permanent pasture or area planted in crops;

(9) While hunting bears in any such area opened to bear hunting, to kill a female bear with a cub or cubs or to kill a cub weighing less than 75 pounds;

(10) To fail to report if he or she kills a deer, bear, or turkey in the manner specified by the rules of the department for that wildlife management area on the date killed to the state game and fish checking station on the area;

(11) To construct any tree stand or to hunt from any tree stand except a portable or natural tree stand; or

(12) To trap except with a special trapping permit issued by the department.

History.

Code 1981, § 27-3-1.1, enacted by Ga. L. 1982, p. 1729, § 8; Ga. L. 1993, p. 91, § 27; Ga. L. 1996, p. 1134, § 1; Ga. L. 2003, p. 140, § 27; Ga. L. 2010, p. 963, § 2-13/SB 308; Ga. L. 2022, p. 74, § 14/SB 319.

Editor's notes.

Ga. L. 2010, p. 963, § 3-1/SB 308, not codified by the General Assembly, provides, in part, that the amendment of this Code section shall apply to all offenses committed on and after June 4, 2010, and shall not affect any prosecutions for acts occurring before June 4, 2010, and shall not act as an abatement of any such prosecutions.

Ga. L. 2022, p. 74, § 1/SB 319, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Chairman John Meadows Act.'"

Ga. L. 2022, p. 74, § 2/SB 319, not codified by the General Assembly, provides: "The General Assembly finds and determines that:

"(1) The Second Amendment to the United States Constitution recognizes the right of the people to keep and bear arms and that such right shall not be infringed; and

"(2) The people of this state, to perpetuate the principles of free government, insure justice to all, preserve peace, promote

the interest and happiness of the citizen and of the family, and transmit to posterity the enjoyment of liberty, provided that the right of the people to keep and bear arms shall not be infringed but that the General Assembly shall have power to prescribe the manner in which arms may be borne."

Law reviews.

For article, "Crimes and Offenses," see 27 Ga. St. U.L. Rev. 131 (2011).

For article, "SB 319: Chairman John Meadows Act," see 39 Ga. St. U.L. Rev. 1 (2022).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-1.1 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

27-3-2. Hunting at night.

It shall be unlawful to hunt at night any game bird or game animal in this state except for alligators, raccoons, opossums, foxes, and bobcats. Any light used to hunt raccoons, opossums, foxes, or bobcats shall be carried on the person of a hunter, affixed to a helmet or hat worn by a hunter, or be part of a belt system worn by a hunter.

History.

Ga. L. 1911, p. 137, § 17; Code 1933, § 45-322; Ga. L. 1949, p. 1005, § 1; Ga. L. 1952, p. 362, § 1; Ga. L. 1955, p. 483, § 67; Ga. L. 1962, p. 671, § 1; Ga. L. 1968, p. 497, § 19; Code 1933, § 45-502, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 40; Ga. L. 2003, p. 654, § 8; Ga. L. 2009, p. 48, § 1/SB 111.

JUDICIAL DECISIONS

Hunting "wildlife" at night legal. — An accusation charging the defendant with the "offense of misdemeanor hunting at night with aid of lights: for that the said accused . . . did unlawfully hunt wildlife at night with aid of lights" was deficient, since one may admit hunting wildlife at night with aid of a light and still be innocent of any criminal activity. Manley v. State, 187 Ga. App. 773, 371 S.E.2d 438, 1988 Ga. App. LEXIS 856 (1988).

Deer hunting at night. — Hunting deer at night with the aid of lights is a violation of this statute. Manley v. State, 187 Ga. App. 773, 371 S.E.2d 438, 1988 Ga. App. LEXIS 856 (1988).

Conviction for separate offenses. — Where defendants hunted from a motor vehicle on a public road at night using a light exceeding six volts, it was not error to convict them of the three separate crimes of hunting at night, hunting on a public road and hunting from a motor vehicle. Sanford v. State, 169 Ga. App. 769, 315 S.E.2d 281, 1984 Ga. App. LEXIS 1707 (1984).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-2 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-3. Hours for hunting migratory game birds.

It shall be unlawful to hunt migratory game birds between sunset and one-half hour before sunrise. It shall also be unlawful to hunt migratory game birds between one-half hour before sunrise and sunset, except that it shall not be unlawful to hunt migratory game birds during those hours as may be designated by the board for a particular migratory game bird. In accordance with the framework of open hunting season dates established by the United States Fish and Wildlife Service, and as may be appropriate based on sound wildlife management principles, the board is specifically authorized to promulgate rules and regulations establishing the hours, on a state-wide, regional, or local basis, for hunting migratory game birds. The board is specifically authorized to promulgate such rules and regulations without complying with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and all rules and regulations promulgated by the board pursuant to this Code section shall be effective immediately upon adoption.

History.
Code 1933, § 45-502, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 41.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 24 et seq.

ALR.
Power of Congress to protect migratory birds, 11 A.L.R. 991.

27-3-4. Weapons for hunting wildlife generally; prohibited actions; penalties.

(a) It shall be unlawful to hunt wildlife with any weapon, except that:

(1) Longbows, recurve bows, crossbows, and compound bows may be used for taking small game, feral hogs, or big game. Arrows for hunting deer, bear, and feral hogs must be broadhead type;

(2) During primitive weapon hunts or primitive weapons seasons:

(A) Longbows, recurve bows, crossbows, compound bows, muzzleloading firearms of .30 caliber or larger, and muzzleloading

shotguns of 20 gauge or larger loaded with single shot may be used; and

(B) Youth under 16 years of age may hunt deer with any firearm legal for hunting deer;

(3) Firearms for hunting deer and bear are limited to 20 gauge shotguns or larger shotguns loaded with slugs or buckshot (except that no buckshot is permitted on state wildlife management areas unless otherwise specified), muzzleloading firearms of .30 caliber or larger, and center-fire firearms .22 caliber or larger; provided, however, that firearms for hunting feral hogs, other than those weapons specified in this paragraph, may be authorized by rule or regulation of the board. Bullets used in all center-fire rifles and handguns must be of the expanding type;

(4) Weapons for hunting small game shall be limited to shotguns with shot shell size of no greater than 3 1/2 inches in length with No. 2 lead shot or smaller or federally approved nontoxic shot size of F or smaller shot, .22 caliber or smaller rimfire firearms, air rifles, muzzleloading firearms, longbows, recurve bows, crossbows, and compound bows; provided, however, that in addition to the weapons listed in this paragraph, any center-fire firearm of .17 caliber or larger may be used for hunting fox and bobcat. For hunting migratory game birds, shotguns are limited to a capacity of not more than three shells in the magazine and chamber combined. Further, the plug shall be of a single piece incapable of being removed through the loading end of the magazine. Nothing contained in this paragraph shall permit the taking of protected species;

(5) It shall be unlawful to hunt turkey with any weapons except shotguns using No. 2 shot or smaller, muzzleloading firearms, longbows, crossbows, recurve bows, or compound bows. Any person taking turkey in violation of this paragraph shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor, except that a fine imposed for such violation shall not be less than $250.00;

(6) Weapons for hunting alligators shall be limited to hand-held ropes or snares, snatch hooks, harpoons, gigs, or arrows with restraining lines attached. Lawfully restrained alligators may be killed with any caliber handgun or bangstick and shall be killed immediately before transporting;

(7) There are no firearms restrictions for taking nongame animals, nongame birds, or feral hogs;

(8) The use of silencers or suppressors for hunting within this state is prohibited; provided, however, that a silencer or suppressor may be

used for hunting on the private property of the person using such silencer or suppressor, on private property for which the owner of such property has provided verifiable permission to the person using such silencer or suppressor, and on public lands in areas designated by the department; and

(9) As used in this subsection, the term "air gun" means any pistol, handgun, or shoulder-held device, each of not less than 0.30 caliber, or air bow that propels a projectile in the form of a slug, shot, or arrow equipped with a broadhead utilizing unignited compressed air or gas. Air guns are legal weapons for hunting big game only during primitive weapon hunts, primitive weapon seasons, and firearm seasons. This paragraph shall stand repealed effective July 1, 2030, unless continued in effect by the General Assembly prior to that date. At its 2030 regular session, the General Assembly shall review this paragraph to determine whether it should be continued in effect.

(b)(1) It shall be illegal to use a silencer or suppressor for hunting in violation of paragraph (8) of subsection (a) of this Code section. A person who violates the provisions of this paragraph shall be guilty of a misdemeanor.

(2) The hunting privileges of any person who has been convicted of violating the provisions of this title or any rule or regulation promulgated pursuant thereto by hunting without landowner permission, hunting in an area that is closed for hunting, or hunting big game out of season or at night with a firearm equipped with a suppressor shall be suspended for three years.

History.

Code 1933, § 45-503, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 42; Ga. L. 1979, p. 591, § 1; Ga. L. 1979, p. 678, § 25; Ga. L. 1979, p. 828, § 1; Ga. L. 1981, p. 730, § 1; Ga. L. 1981, p. 798, § 6; Ga. L. 1983, p. 664, §§ 1, 2; Ga. L. 1984, p. 22, § 27; Ga. L. 1989, p. 1552, § 2; Ga. L. 1990, p. 8, § 27; Ga. L. 1990, p. 380, § 1; Ga. L. 1992, p. 2863, § 5; Ga. L. 1994, p. 496, § 2; Ga. L. 1995, p. 437, § 1; Ga. L. 1998, p. 592, § 1; Ga. L. 1998, p. 783, § 11; Ga. L. 1999, p. 81, § 27; Ga. L. 2001, p. 1013, § 12; Ga. L. 2002, p. 1179, § 4; Ga. L. 2003, p. 654, § 9; Ga. L. 2006, p. 226, § 2/HB 338; Ga. L. 2010, p. 952, § 3/SB 474; Ga. L. 2013, p. 538, § 2/HB 207; Ga. L. 2014, p. 599, § 1-2A/HB 60; Ga. L. 2015, p. 1352, § 6/HB 475; Ga. L. 2019, p. 808, § 3/SB 72; Ga. L. 2020, p. 827, § 4-1/HB 998; Ga. L. 2021, p. 105, § 2-3/HB 362; Ga. L. 2022, p. 308, § 4/HB 1233; Ga. L. 2025, p. 663, § 1/HB 491, effective July 1, 2025; Ga. L. 2026, p. 1069, § 54(2)(K)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (a)(9), substituted "2030" for "2025" in the third and fourth sentences.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" at the beginning of paragraph (a)(9).

Cross references.

Firearms offenses against public order and safety, § 16-11-101.1 et seq.

Possession of dangerous weapons, § 16-11-120 et seq.

Carrying and possession of firearms, § 16-11-125.1 et seq.

Prohibition against taking fish by means of firearms, § 27-4-8.

Code Commission notes.

Pursuant to Code Section 28-9-5, in

2019, "and" was deleted at the end of paragraph (a)(7) and "; and" was substituted for the period at the end of paragraph (a)(8).

Pursuant to Code Section 28-9-5, in 2020, "paragraph (8)" was substituted for "paragraph (9)" in paragraph (b)(1).

Editor's notes.

Ga. L. 1983, p. 664, §§ 1 and 2 purported to amend Code Section 27-2-4 but actually amended Code Section 27-3-4.

Ga. L. 2015, p. 1352, § 1/HB 475, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Feral Hog Control Act.'"

Ga. L. 2015, p. 1352, § 2/HB 475, not codified by the General Assembly, provides: "The General Assembly finds that feral hogs are an invasive species in Georgia and are detrimental to the natural resources and agricultural production of the state. Feral hogs cause significant damage to crops and wildlife habitat. In addition, as carriers of communicable diseases, feral hogs pose a health risk to humans, livestock, companion animals, pets, and native wildlife."

Law reviews.

For article on the 2014 amendment of this Code section, see 31 Ga. St. U.L. Rev. 47 (2014).

JUDICIAL DECISIONS

Sufficiency of evidence. — For a case in which the evidence was sufficient to support a conviction of hunting with an unplugged pump shotgun, see Beard v. State, 151 Ga. App. 724, 261 S.E.2d 404, 1979 Ga. App. LEXIS 2769 (1979).

Seizure of evidence. — Conservation rangers had authority to seize unlicensed hunter's crossbow and rifle without a warrant. Dowis v. State, 232 Ga. App. 111, 501 S.E.2d 275, 1998 Ga. App. LEXIS 587 (1998).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.

38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-5. [Reserved] Legal weapons for hunting certain animals.

History.

Repealed by Ga. L. 1981, p. 798, § 7, effective July 1, 1981.

Editor's notes.

Ga. L. 2013, p. 141, § 27/HB 79, reserved the designation of this Code section, effective April 24, 2013.

27-3-6. Possession of firearm while hunting with bow and arrow.

It shall be unlawful for any person to possess any center-fire or rimfire firearm other than a handgun, as such term is defined in Code Section 16-11-125.1, while hunting with a bow and arrow during archery or primitive weapons season for deer or while hunting with a muzzleloading firearm during a primitive weapons season for deer or to possess a loaded handgun while hunting with a bow and arrow during archery or primitive weapons season for deer or while hunting with a muzzleloading firearm during primitive weapons season for deer unless

such person is a lawful weapons carrier as defined in Code Section 16-11-125.1.

History.

Code 1933, § 45-505, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1998, p. 783, § 12; Ga. L. 2010, p. 963, § 2-14/SB 308; Ga. L. 2022, p. 74, § 15/SB 319.

Editor's notes.

Ga. L. 2010, p. 963, § 3-1/SB 308, not codified by the General Assembly, provides, in part, that the amendment of this Code section shall apply to all offenses committed on and after June 4, 2010, and shall not affect any prosecutions for acts occurring before June 4, 2010, and shall not act as an abatement of any such prosecutions.

Ga. L. 2022, p. 74, § 1/SB 319, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Chairman John Meadows Act.'"

Ga. L. 2022, p. 74, § 2/SB 319, not codified by the General Assembly, provides: "The General Assembly finds and determines that:

"(1) The Second Amendment to the United States Constitution recognizes the right of the people to keep and bear arms and that such right shall not be infringed; and

"(2) The people of this state, to perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen and of the family, and transmit to posterity the enjoyment of liberty, provided that the right of the people to keep and bear arms shall not be infringed but that the General Assembly shall have power to prescribe the manner in which arms may be borne."

Law reviews.

For article, "Crimes and Offenses," see 27 Ga. St. U.L. Rev. 131 (2011).

For article, "SB 319: Chairman John Meadows Act," see 39 Ga. St. U.L. Rev. 1 (2022).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-6 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.

38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-7. Hunting under the influence of alcohol or drugs; chemical tests; penalties.

(a) As used in this Code section, the term "hunt" or "hunting" means the act of hunting, as such term is defined in Code Section 27-1-2, while in possession of or using a firearm, bow, or any other device which serves to launch a projectile.

(a.1) As used in this Code section, the term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(b) A person shall not hunt while:

(1) Under the influence of alcohol to the extent that it is less safe for the person to hunt;

(2) Under the influence of any drug to the extent that it is less safe for the person to hunt;

(3) Under the combined influence of alcohol and any drug to the extent that it is less safe for the person to hunt;

(4) The person's alcohol concentration is 0.08 grams or more at any time within three hours after such hunting from alcohol consumed before such hunting ended; or

(5) Subject to the provisions of subsection (c) of this Code section, there is any amount of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in the person's blood or urine, or both, including the metabolites and derivatives of each or both without regard to whether or not any alcohol is present in the person's breath or blood.

(c) The fact that any person charged with violating this Code section is or has been legally entitled to use a drug shall not constitute a defense against any charge of violating this Code section; provided, however, that such person shall not be in violation of this Code section unless such person is rendered incapable of hunting safely as a result of using a drug other than alcohol which such person is legally entitled to use.

(d) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person in violation of subsection (b) of this Code section, evidence of the amount of alcohol or drug in a person's blood, urine, breath, or other bodily substance at the alleged time, as determined by a chemical analysis of the person's blood, urine, breath, or other bodily substance shall be admissible. Where such a chemical test is made, the following provisions shall apply:

(1) Chemical analysis of the person's blood, urine, breath, or other bodily substance, to be considered valid under this Code section, shall have been performed according to methods approved by the Division of Forensic Sciences of the Georgia Bureau of Investigation on a machine which was operated with all the electronic and operating components prescribed by its manufacturer properly attached and in good working order and by an individual possessing a valid permit issued by the Division of Forensic Sciences for this purpose. The Division of Forensic Sciences of the Georgia Bureau of Investigation shall approve satisfactory techniques or methods to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits, along with requirements for properly operating and maintaining any testing instruments, and to issue certificates certi-

fying that instruments have met those requirements, which certificates and permits shall be subject to termination or revocation at the discretion of the Division of Forensic Sciences;

(2) When a person undergoes a chemical test at the request of a law enforcement officer, only a physician, registered nurse, laboratory technician, emergency medical technician, or other qualified person may withdraw blood for the purpose of determining the alcoholic content therein, provided that this limitation shall not apply to the taking of breath or urine specimens. No physician, registered nurse, or other qualified person or employer thereof shall incur any civil or criminal liability as a result of the medically proper obtaining of such blood specimens when requested in writing by a law enforcement officer;

(3) The person tested may have a physician or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The justifiable failure or inability to obtain an additional test shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer; and

(4) Upon the request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to such person or such person's attorney. The arresting officer at the time of arrest shall advise the person arrested of his or her rights to a chemical test or tests according to this Code section.

(e) In the event of a hunting accident involving a fatality, the investigating coroner or medical examiner having jurisdiction shall direct that a chemical blood test to determine the alcohol concentration or the presence of drugs be performed on the dead person and that the results of such test be properly recorded on his or her report.

(f) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person hunting in violation of subsection (b) of this Code section, the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

(1) If there was at that time an alcohol concentration of 0.05 grams or less, it shall be presumed that the person was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (b) of this Code section;

(2) If there was at that time an alcohol concentration in excess of 0.05 grams but less than 0.08 grams, such fact shall not give rise to

any presumption that the person was or was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (b) of this Code section, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of subsection (b) of this Code section; and

(3) If there was at that time or within three hours after hunting, from alcohol consumed before such hunting ended, an alcohol concentration of 0.08 or more grams, the person shall be in violation of paragraph (4) of subsection (b) of this Code section.

(g)(1) Any person who exercises the privilege of hunting in this state shall be deemed to have given consent, subject to subsection (d) of this Code section, to a chemical test or tests of his or her blood, breath, urine, or other bodily substances for the purpose of determining the presence of alcohol or any other drug, if arrested for any offense arising out of acts alleged to have been committed while such person was hunting in violation of subsection (b) of this Code section. Subject to subsection (d) of this Code section, the requesting law enforcement officer shall designate which test or tests shall be administered.

(2) At the time a chemical test or tests are requested, the arresting officer shall read to the person the following implied consent warning:

"The State of Georgia has conditioned your license to hunt in this state upon your submission to state administered chemical tests of your blood, breath, urine, or other bodily substances for the purpose of determining if you are under the influence of alcohol or drugs. If you refuse this testing and you are convicted of hunting while under the influence of alcohol or drugs, your ability to lawfully hunt in this state will be suspended for a period of two years. Your refusal to submit to blood or urine testing may be offered into evidence against you at trial. If you submit to testing and the results indicate an alcohol concentration of 0.08 grams or more and if you are subsequently convicted of hunting under the influence of alcohol by having an alcohol concentration of 0.08 grams or more at any time within three hours after hunting from alcohol consumed before such hunting ended, your ability to lawfully hunt in this state will be suspended for a period of one year. After first submitting to the requested state tests, you are entitled to additional chemical tests of your blood, breath, urine, or other bodily substances at your own expense and from qualified personnel of your own choosing. Will you submit to the state administered chemical tests of your (designate which test?)"

(h) Any person who is dead, unconscious, or otherwise in a condition rendering such person incapable of refusal shall be deemed not to have

withdrawn the consent provided by subsection (g) of this Code section, and the test or tests may be administered, subject to subsection (d) of this Code section.

(i)(1) If a person refuses, upon the request of a law enforcement officer, to submit to a chemical test designated by the law enforcement officer as provided in subsection (g) of this Code section, no test shall be given; provided, however, that subject to the provisions of paragraphs (2) and (3) of this subsection, such refusal shall be admissible in any legal action; and provided, further, that upon conviction of a violation of subsection (b) of this Code section, in addition to any other punishment imposed, such person's privileges to hunt in this state shall be suspended by operation of law for a period of two years. The fact that such person was not in possession of a valid hunting license at the time of the violation shall have no effect on the suspension of his or her hunting privilege.

(2) If in any legal action a party desires to present evidence of the refusal of a person charged with violating subsection (b) of this Code section to submit to a chemical test designated by a law enforcement officer as provided in subsection (g) of this Code section, the party desiring to present such evidence shall request the judge presiding over such legal proceeding to hold a hearing to determine the admissibility of such evidence after notice to the person alleged to have refused to submit to such testing and to the law enforcement officer.

(3) The scope of the hearing shall be limited to the following issues:

(A) Whether the law enforcement officer had reasonable grounds to believe the person was hunting while under the influence of alcohol or a controlled substance and was lawfully placed under arrest for violating subsection (b) of this Code section;

(B) Whether at the time of the request for the test or tests the officer informed the person of the person's implied consent rights and the consequence of submitting or refusing to submit to such test; and

(C) Whether the person refused to submit to the test.

(4) It shall be unlawful during any period of a person's hunting privilege suspension for such person to:

(A) Hunt without a license in violation of Code Section 27-2-1;

(B) Possess a current Georgia hunting license; or

(C) Hunt in any situation where a hunting license is not required.

(5) Any person convicted of hunting while intoxicated while his or her hunting privileges are suspended pursuant to this subsection shall be guilty of a misdemeanor.

(j) Nothing in this Code section shall be deemed to preclude the acquisition or admission of evidence of a violation of this Code section if the evidence was obtained by voluntary consent or a search warrant as authorized by the Constitution or the laws of this state or the United States.

(k) Upon the request of a law enforcement officer, if a person consents to submit to a chemical test designated by such officer as provided in subsection (g) of this Code section, and the results of such test indicate an alcohol concentration of 0.08 grams or more, upon a conviction of a violation of paragraph (4) of subsection (b) of this Code section, in addition to any other punishment imposed, such person's privileges to hunt in this state shall be suspended by operation of law for a period of one year. Even if such person did not possess a valid hunting license at the time of the violation, such person's hunting privileges shall be suspended for one year.

(l) Following the period of suspension set forth in subsection (i) or (k) of this Code section, such person may apply to the department for reinstatement of his or her hunting privileges. Any suspension pursuant to this Code section shall remain in effect until such person submits proof of completion of a DUI Alcohol or Drug Use Risk Reduction Program certified by the Department of Driver Services and pays a restoration fee of $200.00, unless such conviction was a recidivist conviction, in which case the restoration fee shall be $500.00.

History.

Ga. L. 1953, Nov.-Dec. Sess., p. 327, § 1; Ga. L. 1955, p. 483, § 56; Code 1933, § 45-506, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1996, p. 1134, § 2; Ga. L. 2013, p. 92, § 3/SB 136; Ga. L. 2014, p. 344, § 2/HB 783; Ga. L. 2019, p. 295, § 1/HB 471; Ga. L. 2020, p. 827, § 2-2/HB 998.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2020, "alcohol concentration" was substituted for "blood alcohol concentration" in subsection (e).

Editor's notes.

Ga. L. 2013, p. 92, § 14/SB 136, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act "shall apply to all offenses occurring on and after May 15, 2013; provided, however, that for purposes of determining the number of prior convictions or pleas of nolo contendere pursuant to the felony provisions of paragraph (4) of subsection (m) of Code Section 52-7-12, only those offenses for which a conviction or a plea of nolo contendere is obtained on or after May 15, 2013, shall be considered."

Ga. L. 2014, p. 344, § 5/HB 783, not codified by the General Assembly, provides: "This Act shall become effective on May 1, 2014, and shall apply to offenses occurring on or after such date."

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Offenses under O.C.G.A. § 27-3-7 are ones for which those charged with a violation are to be fingerprinted. 1996 Op. Att'y Gen. No. 96-17.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

JUDICIAL DECISIONS

Admissibility of breath test results. — Officers' testimony that blood alcohol breath test machines were functioning properly, had been inspected, that no pieces or components were missing, that the officers performed all required tests, and that they prepared the instruments in accordance with their training showed substantial compliance with the required procedures, and admission of the test results was proper; defendants' arguments that the breath test results should have been inadmissible because the machines registered increasing blood alcohol concentration readings as a person continued to blow into them went to the weight of the evidence, which was for the trial court to determine. Whittaker v. State, 279 Ga. App. 148, 630 S.E.2d 560, 2006 Ga. App. LEXIS 411 (2006), cert. denied, No. S06C1580, 2006 Ga. LEXIS 691 (Ga. Sept. 18, 2006), cert. denied, No. S06C1578, 2006 Ga. LEXIS 709 (Ga. Sept. 18, 2006).

27-3-8. Unlawful devices.

It shall be unlawful for any person to make use of any pitfall, deadfall, catch, snare, trap, net, salt lick, blind pig, baited hook, or other device for the purpose of taking any game animal or game bird or any other wildlife, except as otherwise provided in this title or by rule or regulation of the board.

History.
Ga. L. 1911, p. 137, § 17; Code 1933, § 45-322; Ga. L. 1949, p. 1005, § 1; Ga. L. 1952, p. 362, § 1; Ga. L. 1955, p. 483, § 62; Ga. L. 1972, p. 925, § 2; Code 1933, § 45-507, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1981, p. 798, § 8.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-9. Enticing game animals and game birds; penalty; enforcement.

(a) It shall be unlawful for any person to place, expose, deposit, distribute, or scatter any corn, wheat, or other grains, salts, apples, or other feeds or bait so as to constitute a lure or attraction or enticement for any game bird or game animal on or over any area where hunters are or will be hunting.

(a.1) Nothing in subsection (a) of this Code section shall prohibit any person from placing, exposing, depositing, distributing, or scattering any corn, wheat, or other grains, salts, apples, or other feeds or bait so

as to constitute a lure or attraction or enticement for deer on lands that are not under the ownership or control and management of the state or federal government; provided, however, that any such lure or attraction or enticement shall not be placed, exposed, deposited, distributed, or scattered so as to cause hunting any species of wildlife on any adjoining property to be prohibited under subsection (b) of this Code section.

(b)(1) Except as otherwise provided by law or regulation, it shall be unlawful for any person to hunt any game bird or game animal upon, over, around, or near any place where any corn, wheat, or other grains, salts, apples, or other feed or bait has been placed, exposed, deposited, distributed, or scattered so as to constitute a lure, attraction, or enticement to such birds or animals. It shall also be unlawful to hunt any game animal or game bird upon, over, around, or near any such place for a period of ten days following the complete removal of all such feed or bait.

(2) The prohibitions of paragraph (1) of this subsection shall not apply to the hunting of deer, other than on lands under the ownership or control and management of the state or federal government, if the hunter has written permission of the landowner to hunt upon, over, around, or near such feed or bait, except as otherwise provided by paragraph (3) of this subsection.

(3)(A) The board may by rule or regulation restrict the feeding, baiting, or hunting of deer upon, over, around, or near such feed or bait in any county wherein there is a documented occurrence of a communicable disease in deer and in any county adjoining such county. Such restriction may be imposed in such county and any adjoining county for a period of up to and including one year and may be extended for additional periods of up to and including two years each upon documentation that the communicable disease is still present in deer in such county. No person shall feed, bait, or hunt deer in violation of any restriction imposed pursuant to this paragraph.

(B) The department shall give notice of such restriction by mail or electronic means to each person holding a current license to hunt whose last known address is within a restricted county. The department may place or designate the placement of signs and markers so as to give notice of such restriction.

(4) Any person who takes any big game animal, other than deer, within 200 yards of any place where any corn, wheat, or other grains, salts, apples, or other feed or bait has been placed, exposed, deposited, distributed, or scattered so as to constitute a lure, attraction, or enticement for any game bird or game animal shall, upon conviction of thereof, be guilty of a misdemeanor of a high and aggravated nature and shall be punished as provided by Code Section 17-10-4.

(c) When a game warden is aware or becomes aware that a clearly identifiable area of land or field is baited for doves in such a manner that hunting thereon would be a violation of paragraph (1) of subsection (b) of this Code section, it shall be the duty of the game warden to require the owner or other person having lawful possession or control of the baited area of land or field to remove such bait. The game warden shall require such owner or other person to erect on the area of land or field signs having printed thereon the words: "No Hunting, Baited Field." Such signs shall remain for ten days after bait is removed. The printing on such signs shall be clearly visible to a person with normal eyesight from a distance of at least 50 yards. A sufficient number of such signs shall be erected to provide reasonable notice to hunters that the field or area is baited for doves. If the game warden cannot locate the owner or other person having lawful possession or control of the area of land or field baited for doves, it shall be the duty of such game warden to erect such signs. The owner or other person having lawful possession or control of an area or field baited for doves who fails to comply with an order of a game warden requiring the removal of bait or the erection of signs, or both, as required by this subsection shall be guilty of a misdemeanor. When a game warden is aware that a clearly identifiable area of land or field is baited for doves in such a manner that hunting thereon would be a violation of paragraph (1) of subsection (b) of this Code section prior to any such violation, no charge may be brought against any person under paragraph (1) of subsection (b) of this Code section unless the provisions of this subsection have been followed. Nothing in this subsection shall be construed to preclude the owner or other person having lawful possession or control of a baited area or field from being charged with and convicted of a violation of subsection (a.1) of this Code section. Nothing in this subsection shall be construed to preclude a person's being charged with and convicted of a violation of paragraph (1) of subsection (b) of this Code section when such violation is on an area of land or field baited for doves which was not previously identified by a game warden as provided in this subsection prior to such violation.

History.

Ga. L. 1925, p. 302, § 6; Code 1933, § 45-317; Ga. L. 1955, p. 483, § 64; Ga. L. 1968, p. 497, § 18; Code 1933, § 45-508, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1989, p. 469, § 1; Ga. L. 2002, p. 1179, § 5; Ga. L. 2007, p. 47, § 27/SB 103; Ga. L. 2011, p. 249, § 1/HB 277; Ga. L. 2019, p. 808, §§ 4, 7/SB 72.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1989, in subsection (c), "ten" was substituted for "10" in the third sentence, "(c)" was deleted following "this subsection" in the eighth sentence, and "person's" was substituted for "person" in the tenth sentence.

Law reviews.

For article on the 2011 amendment of this Code section, see 28 Ga. St. U.L. Rev. 181 (2011).

JUDICIAL DECISIONS

Due process satisfied. — Statute, when read as a whole, gives sufficient notice of the acts it prohibits so as to comply with the requirements of due process.

Activities constituting "hunting." — In a prosecution for hunting over a baited field, evidence was sufficient to show defendant was "hunting" where defendant's activities constituted placing, setting, drawing, or using a device to take wildlife, whether or not defendant was actually in the act of pursuing, shooting, killing, or taking deer at the time of apprehension. Redding v. State, 217 Ga. App. 529, 458 S.E.2d 168, 1995 Ga. App. LEXIS 504 (1995).

Evidence of violation. — Private land under surveillance for illegal hunting was not a "private place" within the meaning of O.C.G.A. § 16-11-62, prohibiting the filming of activities of persons in a private place; thus, in a prosecution for hunting over bait, a videotape showing defendant in possession of a bow and arrows on a hunting stand in that area was admissible. Quintrell v. State, 231 Ga. App. 268, 499 S.E.2d 117, 1998 Ga. App. LEXIS 429 (1998).

Punishment for violation. — Suspension of defendant's hunting and fishing "privileges" during the probation period imposed upon conviction of a violation of this statute was not an abuse of discretion. Quintrell v. State, 231 Ga. App. 268, 499 S.E.2d 117, 1998 Ga. App. LEXIS 429 (1998).

State's compliance with statute was not a condition precedent to defendants' prosecution for hunting over a baited field as the legislature did not intend for the provision to apply to any game animal or bird, or the legislature would have so specified. Bennett v. State, 252 Ga. App. 451, 557 S.E.2d 29, 2001 Ga. App. LEXIS 1303 (2001).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting. — Offenses arising from a violation of paragraph (b)(4) of O.C.G.A. § 27-3-9 are offenses for which fingerprinting is required, while those offenses arising from a violation of subsection (c) are not offenses for which fingerprinting is required. 2011 Op. Att'y Gen. No. 11-5.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-10. Hunting upon or discharging weapons across or from a public road; penalty.

(a) It shall be unlawful for any person to hunt, with or without dogs, any wildlife upon any public road in this state. It shall also be unlawful for any person while hunting to discharge any weapon from or across any public road in this state.

(b) Any person who violates the provisions of subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $50.00 and not more than $1,000.00 and, in the discretion of the sentencing court, imprisonment for not more than 12 months; provided, however, that such fine shall not be subject to suspension, stay, or probation except that if the

court finds that payment of such fine would impose great economic hardship upon the defendant, the court may order such fine paid in installments.

History.
Ga. L. 1955, p. 483, § 60; Ga. L. 1968, p. 497, § 17; Code 1933, § 45-509, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 43; Ga. L. 1992, p. 2391, § 2.

Cross references.
Discharge of gun or pistol near public highway, § 16-11-103.

JUDICIAL DECISIONS

Sufficient evidence. — When defendants turned their truck around and went back to shoot a deer in a field, they were "pursuing" the deer upon a public highway from a motor vehicle; therefore, the evidence was sufficient to support their guilty verdict. Passmore v. State, 253 Ga. App. 901, 561 S.E.2d 123, 2001 Ga. App. LEXIS 1433 (2001).

Conviction for separate offenses. — Where defendants hunted from a motor vehicle on a public road at night using a light exceeding six volts, it was not error to convict them of the three separate crimes of hunting at night, hunting on a public road and hunting from a motor vehicle. Sanford v. State, 169 Ga. App. 769, 315 S.E.2d 281, 1984 Ga. App. LEXIS 1707 (1984).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-11. [Reserved] Confiscation of vehicles and firearms used in hunting big game on public roads; state not required to negate exemptions in prosecutions.

History.
Repealed by Ga. L. 1992, p. 2391, § 3, effective July 1, 1992.

Editor's notes.
Ga. L. 2013, p. 141, § 27/HB 79, reserved the designation of this Code section, effective April 24, 2013.

27-3-12. Unlawful substances and equipment; computer assisted remote hunting prohibited; penalty.

(a) It shall be unlawful to hunt any wild animal, game animal, or game bird by means of drugs, poisons, chemicals, smoke, gas, explosives, or recorded calls or sounds including, but not limited to, electronically imitated or amplified calls or sounds, except that bobcat and fox may be hunted using recorded calls or sounds. It shall also be unlawful to use electronic communications equipment for the purpose of facilitating pursuit of any wild animal, game bird, or game animal.

(b)(1) As used in this subsection, the term "computer assisted remote

hunting" means the use of a computer or other device, equipment, hardware, or software to control remotely the aiming and discharge of a firearm or other weapon so as to allow a person not holding that firearm or other weapon to hunt or shoot a wild animal or any wildlife.

(2) It shall be unlawful for any person, firm, partnership, or association to engage in computer assisted remote hunting or provide or operate a facility that allows others to engage in computer assisted remote hunting if the wild animal or wildlife being hunted or shot is located in this state.

(3)(A) Any person violating the provisions of this subsection shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction thereof shall be punished by a fine of not less than $1,000.00 and not more than $5,000.00, imprisonment for a term not to exceed 12 months, or both such fine and imprisonment.

(B) Any equipment used or intended for use in a violation of this Code section, excluding motor vehicles, is declared to be contraband and shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

(C) The hunting and fishing privileges of any person convicted of violating this subsection shall be suspended for three years.

History.

Ga. L. 1911, p. 137, § 17; Code 1933, § 45-322; Ga. L. 1949, p. 1005, § 1; Ga. L. 1952, p. 362, § 1; Ga. L. 1955, p. 483, § 62; Ga. L. 1968, p. 497, § 20; Code 1933, § 45-510, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 44; Ga. L. 2006, p. 226, § 3/HB 338; Ga. L. 2015, p. 693, § 3-18/HB 233; Ga. L. 2024, p. 429, § 4/HB 244, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, in subsection (a), inserted "or" preceding "recorded calls" and substituted "including, but not limited to, electronically imitated or amplified calls or sounds, except that bobcat and fox may be hunted using recorded calls or sounds" for ", or recorded and electronically imitated or amplified sounds or calls". See Editor's notes for applicability.

Editor's notes.

Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendment to subsection (a) became effective April 25, 2024.

Law reviews.

For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-13. Hunting of wildlife or feral hog from boats, aircraft, or motor vehicles; use of unmanned aircraft systems; penalties.

(a) Except as provided in subsection (a.1) of this Code section, it shall be unlawful to hunt any wildlife or feral hog from an electric, gas, or diesel boat, a steamboat, a sailboat, an aircraft, a hydroplane, a hovercraft, or a motor vehicle; except that alligators may be hunted from any boat or watercraft under power and feral hogs may be hunted on private property, subject to the provisions of Code Section 27-3-24, from motor vehicles.

(a.1) Unmanned aircraft systems, as such term is defined in Code Section 6-1-4, may be used to locate feral hogs, subject to all applicable laws and regulations governing the use of unmanned aircraft systems.

(b) Any person who violates the provisions of subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $250.00 and, in the discretion of the sentencing court, confinement for not more than 12 months; provided, however, that such fine shall not be subject to suspension, stay, or probation except that if the court finds that payment of such fine would impose great economic hardship upon the defendant, the court may order such fine paid in installments.

History.
Ga. L. 1955, p. 483, § 61; Code 1933, § 45-511, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 45; Ga. L. 1992, p. 2391, § 4; Ga. L. 1993, p. 91, § 27; Ga. L. 2003, p. 654, § 10; Ga. L. 2015, p. 1352, § 7/HB 475; Ga. L. 2026, p. 572, § 3/HB 946, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, in subsection (a), added "Except as provided in subsection (a.1) of this Code section," at the beginning, inserted "on private property, subject to the provisions of Code Section 27-3-24,", and deleted "in accordance with an applicable wildlife control permit issued by the department" at the end; added subsection (a.1); and substituted "confinement" for "imprisonment" in subsection (b).

Editor's notes.
Ga. L. 2015, p. 1352, § 1/HB 475, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Feral Hog Control Act.'"

Ga. L. 2015, p. 1352, § 2/HB 475, not codified by the General Assembly, provides: "The General Assembly finds that feral hogs are an invasive species in Georgia and are detrimental to the natural resources and agricultural production of the state. Feral hogs cause significant damage to crops and wildlife habitat. In addition, as carriers of communicable diseases, feral hogs pose a health risk to humans, livestock, companion animals, pets, and native wildlife."

JUDICIAL DECISIONS

Hunting "wildlife" from motor vehicle. — An accusation alleging that the defendants "did with force of arms unlawfully hunt, chase, or kill wildlife from a motor vehicle" was deficient, since one may admit to hunting wildlife from a motor vehicle and still be innocent of criminal activity. Manley v. State, 187 Ga. App. 773, 371 S.E.2d 438, 1988 Ga. App. LEXIS 856 (1988) (decided prior to the 1992 amendment, which substituted "wildlife or feral hog" for "game bird, game animal, or fur-bearing animal" in subsection (a)).

When defendants turned their truck around and went back to shoot a deer in a field, they were "pursuing" the deer upon a public highway from a motor vehicle; therefore, the evidence was sufficient to support their guilty verdict. Passmore v. State, 253 Ga. App. 901, 561 S.E.2d 123, 2001 Ga. App. LEXIS 1433 (2001).

Conviction for separate offenses. — Where defendants hunted from a motor vehicle on a public road at night using a light exceeding six volts, it was not error to convict them of the three separate crimes of hunting at night, hunting on a public road, and hunting from a motor vehicle. Sanford v. State, 169 Ga. App. 769, 315 S.E.2d 281, 1984 Ga. App. LEXIS 1707 (1984).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-14. Killing or crippling of game bird or game animal without reasonable effort to retrieve.

It shall be unlawful for any person to kill or cripple any game bird or game animal without making a reasonable effort to retrieve the same.

History.
Code 1933, § 45-512, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-15. Seasons and bag limits; deer management assistance program.

(a) It shall be unlawful to hunt the following game species at any time during the periods set forth below:

Game Species	Closed Season
(1) Quail	March 16 — Oct. 31
(2) Grouse	March 1 — Oct. 14
(3) Turkey	
(A) Gobblers	May 22 — March 14

(B) Hens	All year
(4) Deer	Jan. 16 — Sept. 7; except that as may be appropriate, and based solely on sound wildlife management principles, the department may by rule extend the season by region, by county, or locale to Jan. 31 for archery only.
(5) Bobcat	March 1 — Oct. 14
(6) Opossum	No closed season, except as may be adopted by the board
(7) Rabbit	March 1 — Oct. 31
(8) Raccoon	No closed season, except as may be adopted by the board
(9) Squirrel	March 1 — August 14
(10) Bear	Jan. 16 — Sept. 7
(11) Sea turtles and their eggs	All year
(12) Cougar (Puma concolor)	All year
(13) Alligators	Nov. 1 — March 31
(14) Migratory game birds	March 11 — August 31

(b) It shall be unlawful to hunt the following game species at any time during the period set forth below, except that it shall not be unlawful to hunt the following game species during such periods or portions thereof, and in such number not to exceed the following numbers, as may be designated by the board as open seasons and bag limits for such species:

Game Species	Maximum Open Season	Maximum Bag Limits	
		Daily	Season
(1) Quail	Nov. 1 — March 15	12	No limit
(2) Grouse	Oct. 15 — Feb. 29	3	No limit
(3) Turkey gobblers	March 15 — May 21	3	3
(4) Deer	Sept. 8 — Jan. 15; except that as may be appropriate and based solely on sound wildlife management principles, the department may by rule extend the season by region, by county, or locale to Jan. 31 for archery only	12 The department may by rule exempt deer taken on department managed lands from the statewide bag limit.	12
(5) Bobcat	Oct. 15 — Feb. 29	No limit	No limit
(6) Opossum	Jan. 1 — Dec. 31	No limit	No limit

Game Species	Maximum Open Season	Maximum Bag Limits	
		Daily	Season
(7) Rabbit	Nov. 1 — Feb. 29	12	No limit
(8) Raccoon	Jan. 1 — Dec. 31	No limit	No limit
(9) Squirrel	Aug. 15 — Feb. 29	12	No limit
(10) Fox	Jan. 1 — Dec. 31	No limit	No limit
(11) Migratory game birds	Sept. 1 — March 10	Subject to limits set by the federal government and adopted by the board	
(12) Bear	Sept. 8 — Jan. 15	2	2
		The department may by rule exempt bear taken on department managed lands from the state-wide bag limit.	
(13) Alligators	April 1 — Oct. 31	Subject to limits adopted by the board	

(c) In accordance with subsection (b) of this Code section and as may be appropriate, based on sound wildlife management principles, the board is authorized to promulgate rules and regulations establishing open seasons on a state-wide, regional, or local basis and establishing daily and season bag limits.

(d) In accordance with subsection (b) of this Code section and in accordance with the framework of open hunting season dates for migratory game birds established by the United States Fish and Wildlife Service and as may be appropriate based on sound wildlife management principles, the board is authorized to promulgate rules and regulations establishing methods of taking, daily and season bag limits, and open seasons for migratory game birds on a state-wide, regional, or local basis. The board is specifically authorized to promulgate such rules and regulations without complying with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act"; and all rules and regulations promulgated by the board pursuant to this subsection shall be effective immediately upon adoption by the board.

(e) It shall be unlawful for any person to possess more than the daily bag limit or more than the aggregate of the daily bag limits while in the field or while returning from the field to one's automobile or principal means of land transportation or to one's permanent abode or temporary or transient place of lodging or to a commercial storage facility or to a post office or to a common carrier facility.

(f) Notwithstanding the provisions of subsections (a) and (b) of this Code section, it shall be unlawful to take the species designated below, except squirrels, by means of falconry at any time during the period

March 16 through September 30; but it shall not be unlawful to take the species designated below, except squirrels, by means of falconry during the period October 1 through March 15. It shall be unlawful to take squirrels by means of falconry at any time during the period March 16 through August 14, but it shall not be unlawful to take squirrels by means of falconry at any time during the period August 15 through March 15 in such number not exceeding the bag limits for each such species as follows:

Game Species	Maximum Bag Limits	
	Daily	Season
(1) Quail	12	No limit
(2) Grouse	3	No limit
(3) Rabbit	12	No limit
(4) Squirrel	12	No limit

(g) As may be appropriate based on sound principles of wildlife management, the department is authorized to establish a deer management assistance program, which may include fees and may prescribe property-specific bag limits without complying with the statewide bag limit specified in subsection (b) of this Code section.

History.

Code 1933, § 45-513, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 46; Ga. L. 1979, p. 394, §§ 1, 2; Ga. L. 1979, p. 678, §§ 26, 27; Ga. L. 1980, p. 95, § 2; Ga. L. 1980, p. 323, § 3; Ga. L. 1981, p. 798, §§ 9-12; Ga. L. 1982, p. 3, § 27; Ga. L. 1982, p. 1263, § 1; Ga. L. 1983, p. 3, § 20; Ga. L. 1987, p. 3, § 27; Ga. L. 1988, p. 323, § 1; Ga. L. 1988, p. 835, § 1; Ga. L. 1988, p. 848, §§ 4, 5; Ga. L. 1989, p. 253, § 2; Ga. L. 1989, p. 1552, § 3; Ga. L. 1992, p. 6, § 27; Ga. L. 1992, p. 2863, § 6; Ga. L. 2000, p. 1472, § 1; Ga. L. 2002, p. 1179, § 6; Ga. L. 2005, p. 1218, §§ 1, 2/HB 292; Ga. L. 2010, p. 952, § 4/SB 474; Ga. L. 2019, p. 808, § 5/SB 72; Ga. L. 2020, p. 827, § 4-2/HB 998; Ga. L. 2021, p. 105, § 2-4/HB 362; Ga. L. 2022, p. 743, § 1/HB 1147.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1987, "August" was substituted for "Aug." in paragraph (a)(14).

Pursuant to Code Section 28-9-5, in 1989, a period was deleted at the end of paragraph (b)(13).

Law reviews.

For article on the 2011 amendment of this Code section, see 28 Ga. St. U.L. Rev. 181 (2011).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45 et seq.

ALR.

Construction and application of statute or ordinance making possession of carcass of game, fish, or bird, or parts thereof, a criminal offense, 125 A.L.R. 1200.

Applicability, to domesticated or captive game, of game laws relating to closed season and the like, 74 A.L.R.2d 974.

Validity, construction, and application of state wildlife possession laws, 50 A.L.R.5th 703.

27-3-16. Hunting with dogs generally; training of hunting dogs.

(a) It shall be unlawful for any person to have in his or her possession any firearms, axes, climbers, or other equipment for taking game while training hunting dogs, provided that handguns with blank ammunition or shot cartridges may be used for training hunting dogs, and shotguns with number six shot or smaller shot may be used while training pointing, flushing, and retrieving dogs using pen raised quail and pigeons.

(b) There is no closed season for training hunting dogs, except as otherwise provided.

(c) It shall be unlawful to run deer with dogs, except during the lawful open season for hunting deer with dogs.

(d) It shall be unlawful to take game by any means while training hunting dogs, except during the lawful open seasons for such game; provided, however, that pen raised quail may be taken at any time for training hunting dogs if the dog trainer maintains proof of purchase of pen raised quail.

(e) It shall be unlawful for any person to train hunting dogs on property other than that owned by such person or his immediate family unless such person has a hunting license in his immediate possession.

History.
Code 1933, § 45-514, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 47; Ga. L. 1984, p. 537, § 3; Ga. L. 2002, p. 807, § 2.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 23, 44 et seq., 51 et seq.

Am. Jur. Trials.
Hunting Accident Litigation, 27 Am. Jur. Trials 261.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 62.

27-3-17. Hunting deer with dogs; permits; suspension of hunting privileges; administrative and judicial review.

(a) It shall be unlawful to hunt deer with dogs except during such special open seasons for the hunting of deer with dogs as may be designated by the board on a state-wide, regional, or local basis.

(b) In accordance with subsection (a) of this Code section, the board is authorized to promulgate rules and regulations establishing an open season for the hunting of deer with dogs as may be appropriate based on sound wildlife management principles.

(c) It shall be unlawful for any person to hunt deer with dogs on any tract of real property unless a permit for hunting deer with dogs has been issued by the department for such tract to the owner or owners of such tract or the lessee of deer hunting rights for such tract. A permit for hunting deer with dogs shall not be issued to a lessee of deer hunting rights for any tract of real property that is less than 1,000 contiguous acres or to the property owner or owners for any tract of real property that is less than 250 contiguous acres. Any application for a permit for hunting deer with dogs shall be on such form as prescribed by the department and shall include a written description of the tract boundaries and a map showing key features such as public roads or streams on or bordering the tract and occupied dwellings on adjacent properties. The application must be signed by all persons owning any portion of the tract of real property or an authorized agent thereof.

(d) The owner of any dog that is used for hunting deer must cause such dog to be identified at all times during the hunt with the permit number for the tract being hunted.

(e) Any person operating a motor vehicle used in conducting a deer hunt with dogs shall during such hunt clearly display in the front or rear windshield of such motor vehicle a decal or card showing the tract permit number in numerals not less than two inches high.

(f) The department shall thoroughly investigate for validity any complaints from adjacent property owners regarding hunting deer with dogs in violation of this title or rules and regulations issued pursuant to this title. The commissioner may take action against a permit as provided by Code Section 27-2-25 for violations of the provisions of this title or rules and regulations issued pursuant to this title occurring on the tract of real property for which the permit was issued.

(g) In addition to the provisions of subsection (f) of this Code section, the commissioner may suspend deer-dog hunting privileges for a specified period of time not to exceed two years for any hunter who, within a single hunting season, commits two or more violations of dogs off of permitted property. The hunter shall be notified of the proposed suspension personally or by a letter sent by certified mail or statutory overnight delivery to the hunter's address indicated on the application for a hunting license. The proposed suspension shall become final 30 days after issuance if not appealed as provided in this Code section. The hunter shall, upon petition within 30 days of issuance of notice given as stated in this Code section, have a right to a hearing before an administrative law judge appointed by the board. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. The decision of the administrative law judge shall constitute the final

decision of the board, and any party to the hearing, including the commissioner, shall have the right of judicial review thereof in accordance with such chapter.

History.
Ga. L. 1955, p. 483, § 58; Code 1933, § 45-515, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2003, p. 654, § 11; Ga. L. 2005, p. 655, § 2/SB 206; Ga. L. 2006, p. 502, § 1/HB 1424; Ga. L. 2017, p. 27, § 13/HB 208.

Editor's notes.
Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

Administrative rules and regulations.
Hunting Deer with Dogs, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Hunting Regulations, Rules 391-4-28 and 391-4-2-.29.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 62.

27-3-18. Hunting foxes with dogs.

It shall be lawful to hunt foxes with dogs; provided, however, that no hunter shall go upon the land of another without the permission of the owner or the lessee of such land or the lessee of the game rights of such land.

History.
Ga. L. 1931, p. 172, § 1; Code 1933, § 45-333; Ga. L. 1955, p. 483, § 57; Code 1933, § 45-516, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 23, 44 et seq., 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 62.

27-3-19. Hunting alligators; possessing, transporting, and dealing in alligator products; gathering and transporting alligator eggs; seizure; penalties.

(a) Except as provided in Code Section 27-3-15, it shall be unlawful for any person to hunt alligators within this state. The display or use of a light in any area closed to alligator hunting by any person not otherwise authorized to do so by regulations of the board in a place which alligators might be known to inhabit and in a manner capable of disclosing the presence of alligators, together with the possession of firearms, spear guns, gigs, harpoons, or other such equipment

customarily used for the taking of alligators, during the period between one-half hour after sunset and one-half hour before sunrise shall be considered prima-facie evidence of an intent to violate this subsection.

(b) Any person who violates the provisions of subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $500.00 and, in the discretion of the sentencing court, imprisonment for not more than 12 months; provided, however, that such fine shall not be subject to suspension, stay, or probation except that if the court finds that payment of such fine would impose great economic hardship upon the defendant, the court may order such fine paid in installments.

(c)(1) It shall be unlawful for any person to possess, buy, or sell in this state the untanned hide or skin or alligator products from an alligator not lawfully taken under the authority of Code Section 27-3-15. All such hides, skins, and alligators not lawfully taken are declared to be contraband and shall be seized and disposed of as directed by the commissioner. Possession in a store, warehouse, or retail place of business of such untanned hides or skins or alligator products not lawfully taken shall be prima-facie evidence of violation of this subsection. This subsection shall not apply to alligator products made from hides or skins of alligators produced on farms licensed under this title or from hides or skins of alligators lawfully possessed, taken, or acquired outside or inside this state, nor shall any provision of this subsection be construed so as to prohibit the preparation, processing, or manufacturing of such commercially grown or lawfully possessed, taken, or acquired alligator hides or the storage or sale of products made therefrom, subject to rules and regulations promulgated by the board.

(2) It shall be unlawful for any person to gather alligator eggs from the wild or possess alligator eggs gathered from the wild in this state except pursuant to permit issued by the department for such purpose. The board shall establish the conditions of such permits by such rules or regulations as are reasonable and necessary under sound game management practices, which shall include without limitation specification of when and where such eggs may be gathered, limits on the number of eggs that may be gathered, the placement of gathered eggs in incubators, return of a minimum percentage and size of hatchlings from gathered eggs to the wild, and permit fees in such amounts as are necessary to cover the cost of administration. This paragraph shall not apply to the collection of alligator eggs from an alligator farm licensed under this title.

(d)(1) It shall be unlawful to possess or transport into this state any untanned alligator hide, skin, or alligator product from any place in which the taking of alligators is prohibited.

(2) It shall be unlawful to possess or transport into this state any alligator eggs gathered from the wild from any place where such gathering of alligator eggs from the wild is prohibited.

(3) All such hides, skins, alligator products, and alligator eggs are declared to be contraband and shall be seized and disposed of in accordance with Code Section 27-1-21.

(4) Notwithstanding any other provision to the contrary, it shall be lawful to possess and transport into this state any untanned alligator hide, skin, alligator product, or alligator egg which was lawfully taken and transported and which is accompanied by a bill of sale, bill of lading, invoice, or permit.

(e) Any person who possesses any untanned alligator hide, skin, alligator product, or alligator egg from any place in which the taking of alligators is lawful, the gathering of alligator eggs from the wild is lawful, or from an alligator farm licensed under this title shall retain such receipts, invoices, bills of lading, permits, or other indicia of lawful possession, taking, or acquisition as are necessary to indicate clearly at all times the place of origin of the specific untanned alligator hides, skins, alligator products, or alligator eggs possessed.

(f) The hunting privileges of a person found guilty of hunting alligators at night in violation of subsection (a) of this Code section shall be suspended by the court of jurisdiction for a period not less than two years.

History.

Ga. L. 1956, p. 590, § 8; Ga. L. 1968, p. 479, § 1; Ga. L. 1971, p. 236, § 3; Code 1933, § 45-527, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 3, § 27; Ga. L. 1982, p. 1619, §§ 1, 2; Ga. L. 1988, p. 848, § 6; Ga. L. 1992, p. 2391, § 5; Ga. L. 2003, p. 654, § 12.

Administrative rules and regulations.

Alligator Hunting, Season, Zones, Quotas and Limits, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Hunting Regulations, Rules 391-4-2-.20 and 391-4-2-.21.

Nuisance Alligator Harvest, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-12-.01 et seq.

Sale of Alligator Meat and Products, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-13-.01 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 45 et seq.

C.J.S.

38 C.J.S., Game; Conservation and Preservation of Wildlife, § 48 et seq.

27-3-19.1. Exporting, farming, and selling fresh-water turtles.

(a) It shall be unlawful to export, farm, or sell any fresh-water turtle or part thereof except in accordance with rules and regulations adopted by the board.

(b) As the board deems appropriate for purposes of this Code section, it may promulgate such rules and regulations as are reasonable and necessary under sound wildlife management practices.

History.
Code 1981, § 27-3-19.1, enacted by Ga. L. 2010, p. 952, § 5/SB 474.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-19.1 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

27-3-20. Taking rabbits and hares out of season.

It shall be unlawful for any person to take rabbits or hares in this state except during the lawful hunting season as prescribed by law or rules and regulations. Persons under 16 years of age may trap or capture rabbits or hares by use of rabbit boxes or similar traps and sell them under the conditions set forth in Code Section 27-3-67.

History.
Ga. L. 1953, Nov.-Dec. Sess., p. 3, §§ 1-3A; Ga. L. 1955, p. 483, § 63; Ga. L. 1956, p. 590, § 23; Ga. L. 1972, p. 925, § 3; Code 1933, § 45-528, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 45 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 48, 62, 63.

27-3-21. Petition to remove bear by property owner.

Any property owner or his or her agent shall have the right to petition the department to remove any bear which shall constitute a clear and immediate threat to his or her property. The property owner shall petition the department for such removal on a form containing such information as may be necessary for the proper evaluation and consideration of the application. Removal shall occur only in cases where the department has determined that the removal of the bear is justified. Representatives of the department are authorized to investigate claims of damage and the necessity of removal of the bear prior to taking action on the petition.

History.
Code 1933, § 45-529, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 1755, § 1; Ga. L. 1993, p. 392, § 2.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 23, 38, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 4.

27-3-22. Hunting, trapping, possessing, transporting, or dealing in birds generally.

It shall be unlawful for any person to hunt, trap, take, possess, sell, purchase, ship, or transport any hawk, eagle, owl, or any other bird or any part, nest, or egg thereof, except for the English or European house sparrow, the European starling, feral pigeons, and domestic fowl, and except as otherwise permitted by the game and fish laws of this state; provided, however, that any person may transport into this state feathers of birds, other than migratory game birds, for millinery purposes.

History.
Ga. L. 1963, p. 476, §§ 1, 2; Code 1933, § 45-530, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 48 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 48, 61, 64.

27-3-23. Selling of squirrel tails.

Notwithstanding any other provision of this title to the contrary, it shall be lawful to sell the tails of legally taken squirrels.

History.
Code 1933, § 45-526, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 61.

27-3-24. Hunting and transporting feral hogs.

(a) It shall be unlawful to hunt, or engage in the hunting of, feral hogs:

(1) Upon the lands of another or to enter upon the lands of another in pursuit of feral hogs without first obtaining permission from the

landowner or lessee of such land or the lessee of the game rights of such land;

(2) Upon any land which is posted without having the permission required by paragraph (1) of this subsection in writing and carried upon the person; or

(3) During the firearms deer season unless the hunter and each person accompanying the hunter are wearing a total of at least 500 square inches of daylight fluorescent orange or fluorescent pink material as an outer garment and such material or garment is worn above the waistline, and may include a head covering.

(a.1)(1) The board may by rule or regulation restrict the feeding, baiting, or hunting of feral hogs upon, over, around, or near feed or bait in any county wherein there is a documented occurrence of a communicable disease in deer and in any county adjoining such county. Such restriction may be imposed in such county and any adjoining county for a period of up to and including one year and may be extended for additional periods of up to and including two years each upon documentation that the communicable disease is still present in deer in such county. No person shall feed, bait, or hunt feral hogs in violation of any restriction imposed pursuant to this paragraph.

(2) The department shall give notice of such restriction by mail or electronic means to each person holding a current license to hunt whose last known address is within a restricted county. The department may place or designate the placement of signs and markers so as to give notice of such restriction.

(a.2) Nothing in this Code section shall prohibit any person from placing, exposing, depositing, distributing, or scattering any corn, wheat, or other grains, salts, apples, or other feed or bait so as to constitute a lure, attraction, or enticement for feral hogs; provided, however, that any such lure, attraction, or enticement shall not be placed, exposed, deposited, distributed, or scattered so as to cause hunting any species of wildlife on any adjoining property to be prohibited under this Code section.

(b) It shall be unlawful to transport any live feral hog without carrying on his or her person a feral hog transport permit issued by the Department of Agriculture pursuant to Code Section 2-7-201. Any person who captures live feral hogs without such permit shall kill such feral hogs prior to transport from the point of capture.

(c) The board is authorized by rules or regulations to control and regulate the hunting or taking of feral hogs on wildlife management areas.

History.
Code 1981, § 27-3-24, enacted by Ga. L. 1984, p. 568, § 3; Ga. L. 2009, p. 48, § 2/SB 111; Ga. L. 2011, p. 249, § 2/HB 277; Ga. L. 2015, p. 1352, § 8/HB 475; Ga. L. 2019, p. 808, § 6/SB 72; Ga. L. 2025, p. 290, § 1/HB 167, effective July 1, 2025; Ga. L. 2026, p. 1069, § 27(20)(G)/HB 1268, effective July 1, 2026.

Amendments.
The 2025 amendment, effective July 1, 2025, inserted "to" in paragraph (a)(1) and inserted "or fluorescent pink" in paragraph (a)(3).

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in subsection (c).

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1986, "subsection" was substituted for "Code section" in paragraph (a)(2).

Editor's notes.
Ga. L. 2015, p. 1352, § 1/HB 475, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Feral Hog Control Act.'"

Ga. L. 2015, p. 1352, § 2/HB 475, not codified by the General Assembly, provides: "The General Assembly finds that feral hogs are an invasive species in Georgia and are detrimental to the natural resources and agricultural production of the state. Feral hogs cause significant damage to crops and wildlife habitat. In addition, as carriers of communicable diseases, feral hogs pose a health risk to humans, livestock, companion animals, pets, and native wildlife."

Law reviews.
For article on the 2011 amendment of this Code section, see 28 Ga. St. U.L. Rev. 181 (2011).

27-3-25. Clothing requirements for hunting bears.

It shall be unlawful for any person to hunt bears or for any person to accompany another person hunting bears unless each person shall wear a total of at least 500 square inches of daylight fluorescent orange or fluorescent pink material as an outer garment during firearms and primitive weapons seasons. Such clothing must be worn above the waistline and may include a head covering.

History.
Code 1981, § 27-3-25, enacted by Ga. L. 1988, p. 842, § 5; Ga. L. 2001, p. 1013, § 13; Ga. L. 2025, p. 290, § 2/HB 167, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, inserted "or fluorescent pink" in the first sentence.

27-3-26. Hunting, possessing, transporting, and dealing in bears; penalties; seizure.

(a) It shall be unlawful for any person to:

(1) Hunt, take, or attempt to take a bear except during the open season for hunting and taking bears or under authority of a permit by the department to kill or take a bear;

(2) Buy, sell, barter, or exchange a bear or bear part; or

(3) Possess or transport a freshly killed bear or bear part except during the open season for hunting and taking bears and except as provided in Code Section 27-3-28.

(b) Each act constituting a violation of this Code section is a separate offense.

(c) Any person violating the provisions of this Code section shall be guilty of a misdemeanor of a high and aggravated nature, and, upon conviction, may be punished by a fine of not less than $500.00 nor more than $5,000.00, by confinement for a term not to exceed 12 months, or both. The court may order that restitution be paid to the department of not less than $1,500.00 for each bear or bear part which is the subject of a violation of this Code section. Any equipment which is used or intended for use in a violation of this Code section, excluding motor vehicles, is declared to be contraband and is forfeited in accordance with the procedures set forth in Chapter 16 of Title 9. The hunting and fishing privileges of any person convicted of violating the provisions of this Code section shall be suspended for three years.

History.

Code 1981, § 27-3-26, enacted by Ga. L. 1991, p. 1157, § 2; Ga. L. 1992, p. 2391, § 6; Ga. L. 2010, p. 952, § 6/SB 474; Ga. L. 2015, p. 693, § 3-19/HB 233; Ga. L. 2026, p. 1069, § 27(8)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "department" for "Department of Natural Resources" in paragraph (a)(1).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1992, "$500.00" was substituted for "$500" in subsection (c).

Editor's notes.

Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

Law reviews.

For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Violations of O.C.G.A. § 27-3-26 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

27-3-27. Use of bear bait; penalty.

(a) It is unlawful to use any type of bait to concentrate the bear population in any area or to lure them to any location which gives or might give a hunter an unnatural advantage when hunting bear.

(b) Any person violating the provisions of this Code section is guilty of a misdemeanor of a high and aggravated nature and, upon conviction, may be punished by a fine of not less than $500.00 and not to exceed $5,000.00 or by confinement for a term not to exceed 12 months, or both.

History.
Code 1981, § 27-3-27, enacted by Ga. L. 1991, p. 1157, § 2; Ga. L. 1992, p. 2391, § 7; Ga. L. 1993, p. 91, § 27.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Violations of O.C.G.A. § 27-3-26 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

27-3-28. Taking possession of native wildlife killed by a motor vehicle; reporting requirement.

(a) Except as otherwise provided in this Code section, any person may lawfully possess native wildlife which has been accidentally killed by a motor vehicle. The following exceptions and conditions to this general rule shall apply:

(1) Any person taking possession of a bear accidentally killed by a motor vehicle shall notify the department or a law enforcement officer of the fact and location of the taking of possession and his or her name and address within 48 hours after taking possession of the bear; and

(2) This Code section shall not authorize any person to take possession of any animal of a species designated as a protected species under Article 5 of this chapter or under federal law.

(b) A law enforcement officer receiving a report of a person taking possession of a bear under paragraph (1) of subsection (a) of this Code section shall in turn transmit the reported information to the department within 48 hours after receipt of such information.

History.
Code 1981, § 27-3-28, enacted by Ga. L. 2010, p. 952, § 7/SB 474.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-28 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

27-3-29. Harvest recording and reporting requirements for game animals and game birds; penalty.

(a) The board shall promulgate rules and regulations establishing harvest recording and reporting requirements for game animals and game birds. Such rules and regulations shall describe the type of information that is required, the requirements for transportation of the carcass of a game animal or game bird killed by another person, and the requirements for possession of the carcass of a game animal or game bird by any private or commercial cold storage or processing facility.

(b) Except in compliance with all applicable rules and regulations of the board regarding required harvest recording and reporting, it shall be unlawful for:

(1) Any person killing a game animal or game bird to remove the carcass from the place of killing or for any person to transport the carcass of a game animal or game bird killed by another person; or

(2) Any private or commercial cold storage or processing facility to possess the carcass of a game animal or game bird.

(c) It shall be unlawful to obtain, possess, or otherwise use multiple sets of licenses or harvest records for the purpose of circumventing the bag limit for any game animal or game bird for which a harvest record is required by the rules and regulations of the board.

(d) Any person violating the provisions of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $200.00 or by imprisonment for not more than 30 days, or both.

History.
Code 1981, § 27-3-29, enacted by Ga. L. 2015, p. 1056, § 1/SB 112.

Part 2

Deer

Cross references.
Permits to kill deer causing damage to crops, § 27-2-18.

27-3-40. Clothing requirements for hunting deer.

It shall be unlawful for any person to hunt deer or for any person to accompany another person hunting deer during the firearms deer season unless each person shall wear a total of at least 500 square inches of daylight fluorescent orange or fluorescent pink material as an outer garment. Such clothing must be worn above the waistline and may include a head covering.

History.
Ga. L. 1973, p. 711, § 1; Code 1933, § 45-517, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2025, p. 290, § 3/HB 167, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, inserted "or fluorescent pink" in the first sentence.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-41. Unsupervised hunting by persons under 12 years of age.

(a) It shall be unlawful for any person who is under 12 years of age to hunt any wildlife in this state unless such person is under the direct supervision of an adult during the period in which such person is hunting.

(b) It shall be unlawful for any person to cause or knowingly permit such person's child or ward who is less than 12 years of age to hunt any wildlife with a weapon in this state unless such child or ward is under adult supervision.

History.
Ga. L. 1968, p. 497, § 16A; Code 1933, § 45-518, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1993, p. 779, § 3.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-42. Taking of deer in lake, stream, or pond.

It shall be unlawful to take any deer by any means while the deer is in any lake, stream, or pond.

History.
Code 1933, § 45-519, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-43. Removal of head of deer.

It shall be unlawful to remove the head of any deer until the carcass is processed or surrendered to a storage facility for processing or storage.

History.
Code 1933, § 45-520, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49 et seq.

27-3-44. Killing of deer which have no antlers visible.

It shall be unlawful to kill any deer in this state unless the deer has antlers (bone) visible above the hair, provided that the board may by regulation authorize an antlerless or either-sex season or hunt in accordance with sound wildlife management practices.

History.
Ga. L. 1968, p. 497, § 20; Code 1933, § 45-521, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1987, p. 530, §§ 1, 4; Ga. L. 1988, p. 835, §§ 2, 5.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45 et seq.

38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-45. [Reserved] Information required before removal of carcass from place of killing; exception for certain managed hunts; using multiple sets of licenses or license card carriers.

History.
Ga. L. 1977, p. 396, § 1; Ga. L. 1992, p. 2863, § 7; Ga. L. 1995, p. 946, § 8; repealed by Ga. L. 2015, p. 1056, § 3/SB 112, effective July 1, 2015.

Editor's notes.
Ga. L. 2015, p. 1056, § 3/SB 112, reserved the designation of this Code section, effective July 1, 2015.

27-3-46. [Reserved] Failure to affix deer tag to carcass before storage or processing.

History.
Ga. L. 1925, p. 302, § 4; Ga. L. 1931, p. 173, §§ 1-3; Code 1933, § 45-313; Ga. L. 1955, p. 483, § 68; Code 1933, § 45-522, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1995, p. 946, § 9; repealed by Ga. L. 2015, p. 1056, § 4/SB 112, effective July 1, 2015.

Editor's notes.
Ga. L. 2015, p. 1056, § 4/SB 112, reserved the designation of this Code section, effective July 1, 2015.

27-3-47. [Reserved] Collision with deer by motor vehicle.

History.
Ga. L. 1968, p. 497, § 20; Code 1933, § 45-525, enacted by Ga. L. 1977, p. 396, § 1; repealed by Ga. L. 2010, p. 952, § 8, effective June 3, 2010.

Editor's notes.
Ga. L. 2010, p. 952, § 8, reserved the designation of this Code section, effective June 3, 2010.

27-3-48. Hunting deer at night; penalties.

(a) Any person who hunts deer at night shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $500.00 and, in the discretion of the sentencing court, imprisonment for not more than 12 months.

(b) If, after July 1, 1978, a person commits and is convicted of two or more violations of hunting deer at night, such person shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished by a fine of not less than $1,500.00 nor more than $5,000.00, and, in the discretion of the sentencing court, by imprisonment for not more than 12 months.

(c) The fines imposed by this Code section shall not be subject to suspension, stay, or probation except that if the court finds that payment of such fine would impose great economic hardship upon the defendant, the court may order such fine paid in installments.

(d) The hunting privileges of a person found guilty of hunting deer at night shall be suspended by the court of jurisdiction for a period of not less than two years.

History.

Ga. L. 1962, p. 671, § 1; Ga. L. 1963, p. 215, § 1; Ga. L. 1968, p. 497, § 19; Ga. L. 1973, p. 795, § 2; Code 1933, § 45-502, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 41; Ga. L. 1982, p. 1629, §§ 2, 3; Ga. L. 1982, p. 1729, § 9; Ga. L. 1991, p. 1782, § 1; Ga. L. 1992, p. 2391, § 8.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1992, "economic" was substituted for "ecomonic" in subsection (c).

JUDICIAL DECISIONS

Convictions upheld. — Defendant's convictions for several wildlife offenses was upheld because the statutory language imposes reporting requirements on those who transport deer carcasses, even if they did not personally kill the deer and defendant abandoned any challenge to the accuracy of cell phone tower mapping data by failing to cite legal authority or record evidence in support. Sullens v. State, 375 Ga. App. 74, 914 S.E.2d 651, 2025 Ga. App. LEXIS 146 (2025).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45 et seq.

C.J.S.

38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 24 et seq., 63, 64.

27-3-49. Killing of dogs running deer.

(a) It shall be the duty of every game warden to kill any dog pursuing

or killing any deer in any locality other than that prescribed by law or rules and regulations permitting such hunting, and no action for damages shall be maintained against the person for such killing.

(b) It shall be unlawful for any person other than a game warden, sheriff, or deputy sheriff to kill a dog wearing a collar, which dog is or has been pursuing or killing a deer.

(c) It shall not be unlawful for any person to kill a dog which does not have a collar and which is pursuing or killing deer in any locality other than that prescribed by law or rules and regulations permitting such hunting, and no action for damages shall be maintained against the person for such killing.

History.
Ga. L. 1955, p. 483, § 59; Code 1933, § 45-524, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 49; Ga. L. 2019, p. 808, § 7/SB 72.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

27-3-50. Sale of antlers, hides, and tails of deer.

Notwithstanding any other provision of this title to the contrary, it shall be lawful to sell the antlers, hides, and tails of legally taken deer.

History.
Code 1933, § 45-526, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 61.

ARTICLE 2

TRAPPING, TRAPPERS, AND FUR DEALERS

Administrative rules and regulations.
Trapping, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Hunting Regulations, Rule 391-4-2-.12.

27-3-60. Commercial trapping license requirement; penalty.

(a) It shall be unlawful for any person to engage in business as a trapper unless that person or his agent has a current valid commercial

trapping license issued by the department, as provided in Code Section 27-2-23.

(b) A landowner or a member of his immediate family desiring to trap on the landowner's private property may obtain a license for such purpose annually from the department at no charge.

(c) Any person violating any provision of this Code section shall be guilty of a misdemeanor.

History.
Ga. L. 1977, p. 1270, § 4.

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under Ga. L. 1956, p. 590, as it read prior to revision by Ga. L. 1977, p. 1270, § 4, is included in the annotations for this Code section.

Disabled veteran's license exemption is from business and occupational taxes and is not applicable to regulatory licenses such as hunting or fishing. 1962 Ga. Op. Att'y Gen. 248 (decided under Ga. L. 1956, p. 590).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 35 et seq., 44, 51 et seq.

38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-3-61. Bond requirement for nonresident commercial trapping license applicants.

(a) Upon application for a nonresident commercial trapping license, the person making such application must do one of the following:

(1) Post a cash forfeiture bond in the form prescribed by the board in favor of the State of Georgia in the amount of $2,500.00, conditioned upon faithful compliance with the laws of this state and regulations of the board governing trappers and trapping; or

(2) File with the commissioner a forfeiture bond in the form prescribed by the board executed by a bonding, surety, or insurance company licensed to do business in this state in favor of the state in the amount of $2,500.00, conditioned upon faithful compliance with the laws of this state and regulations of the board governing trappers and trapping.

(b) The term of the bond provided for in paragraphs (1) and (2) of subsection (a) of this Code section shall be for one year and shall correspond to the period of the license. The commissioner shall have the right to recover on the bond for the breach of its conditions whenever the trapper violates the laws of this state governing trappers or

trapping or any rule or regulation promulgated by the board pursuant thereto, as follows:

(1) For the first violation, $500.00;

(2) For the second violation within a two-year period of time of any prior violation, $1,000.00;

(3) For the third violation within a two-year period of time of any prior violation, $2,500.00;

(4) For each subsequent violation within a two-year period of time of any prior violation, $2,500.00.

(c) Every breach or violation shall carry over to all succeeding bonds filed under this Code section. The aggregate liability shall not exceed the amount of the bond; however, in the event that the total amount of any bond is forfeited, the nonresident commercial trapping license shall be suspended until a new bond is filed covering the remainder of the period of the license; and it shall be unlawful and punishable under Code Section 27-3-60 for such trapper to trap at any time during the suspension of such license.

History.
Ga. L. 1977, p. 1270, § 5.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.
C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.
ALR.
Validity, construction, and application of state statutes prohibiting, limiting, or regulating fishing or hunting in state by nonresidents, 31 A.L.R.6th 523.

27-3-62. Trapping seasons; penalty.

(a) Except as otherwise specifically provided in this Code section, it shall be unlawful to trap any wildlife in this state between March 1 and November 19.

(b) It shall be unlawful to trap any wildlife during the period between November 20 and February 29, except as otherwise provided in this Code section and except that it shall not be unlawful to trap a fur-bearing animal during that period or a portion thereof if that period or portion thereof is designated by the board as an open trapping season for such fur-bearing animal.

(c) In accordance with subsection (b) of this Code section and as may be appropriate in accordance with sound wildlife management principles, the board is authorized to promulgate rules and regulations

establishing open seasons for the trapping of fur-bearing animals on a state-wide, regional, or local basis.

(d) Notwithstanding subsection (a) or (b) of this Code section, it shall be lawful to trap on private land not operated by the department beaver, raccoons, opossum, rats, and mice at any time during the year. It shall also be lawful for any person to set steel traps within 200 yards of the residence or dwelling of any such person for the protection of livestock, ratites, poultry, or other fowl or domestic animals from any predatory bird or animal.

(e) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

History.
Code 1933, § 45-601, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1977, p. 1270, § 3; Ga. L. 1979, p. 800, § 4; Ga. L. 1980, p. 323, § 1; Ga. L. 1995, p. 244, § 31; Ga. L. 2015, p. 107, § 1/HB 160; Ga. L. 2022, p. 743, § 2/HB 1147.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 45 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 61 et seq.

27-3-63. General offenses and penalties.

(a) It shall be unlawful for any person to:

(1) Trap any wildlife upon the right of way of any public road or highway of this state; provided, however, that this paragraph shall not apply to any person licensed as required by Code Section 27-3-60 who traps beaver upon the right of way of any state highway, county road, or municipal street as an authorized agent, employee, or contractor of the state, county, or municipality for the purpose of preventing, reducing, or stopping damage to such highway, road, or street resulting from beaver activity;

(2) Set, place, or bait any trap for the purpose of taking any wildlife upon the land or in the waters adjoining the land of any other person, except during the open trapping season for such wildlife, and then only after obtaining the written consent of the owner of the land, which written consent shall be carried upon the trapper's person while engaged in trapping;

(3) Trap any wildlife without inspecting the traps used for such purpose at least once during each 24 hour period and removing from the traps any wildlife caught therein;

(4) Trap any wildlife by the use of any trap or other device which is not legibly etched, stamped, or tagged by affixing a stamped metal

tag showing the owner's permanent trapper's identification number as provided by the department or the owner's name. In the event that a trap or other device etched or stamped with the owner's permanent trapper's identification number or name is being used in the field by another, such trap or device must have attached to it a stamped metal tag with the user's permanent trapper's identification number or name. Any trap or other device found in use in the field which is not etched, stamped, or tagged as required by this paragraph may be confiscated and destroyed by the department through its officers and game wardens;

(5) Ship or otherwise remove or cause to be removed from this state any raw or undressed hide, fur, pelt, or skin of any fur-bearing animal without first making a report to the department of the removal on forms to be furnished by the department for such purpose;

(6) Fail to carry a weapon of .22 caliber rimfire while tending traps and to fail to use such weapon to dispatch any fur-bearing animal found in a trap, which animal is to be taken by the person;

(7) Fail to carry a choke stick or similar device while tending traps, which device shall be used for releasing domestic animals;

(8) Set on land any trap with a jaw opening larger than 5 3/4 inches, provided that nothing in this Code section shall be construed to restrict the type of trap which may be used in water;

(9) Sell the fur, hide, or pelt of any domestic dog or cat caught by a trap;

(10) Sell the raw, undressed fur, hide, skin, or pelt of any fur-bearing animal unless the person has a current valid commercial trapping license or fur dealer license; or

(11) Set any body-gripping trap (as opposed to a leg-hold trap) of a size in excess of 9 1/2 inches square except in water or on land within ten feet of water, including swamps, marshes, and tidal areas.

(b) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor and shall be punished as for a misdemeanor, subject to a minimum punishment as follows:

(1) For the first offense, the offender shall be fined not less than $100.00, except that this minimum fine shall not apply to the offender if he is 17 years of age or younger;

(2) For a second offense within a two-year period after the first offense, the offender shall be fined not less than $300.00; or

(3) For a third offense and for each subsequent offense within a two-year period after the first offense, the offender shall be fined not less than $750.00.

History.
Code 1933, § 45-603, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1977, p. 1270, § 2; Ga. L. 1979, p. 800, §§ 2, 3; Ga. L. 1982, p. 988, § 1; Ga. L. 1983, p. 3, § 20; Ga. L. 1984, p. 802, § 1; Ga. L. 1992, p. 2863, § 8; Ga. L. 2009, p. 47, § 1/SB 110; Ga. L. 2019, p. 808, § 7/SB 72.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-63 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 23, 42, 45 et seq.
C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 74 et seq.
ALR.
Constitutionality of statute to prevent cruelty in trapping animals, 79 A.L.R. 1308.

27-3-64. Killing or injuring mink or otter with firearm; possession or sale of mink or otter, or pelt thereof, killed by firearm.

It shall be unlawful to use any kind of firearm to kill or injure mink or otter or to possess or sell any mink or otter, or the pelt thereof, which was killed by any kind of firearm, provided that nothing in this Code section shall prevent a person from dispatching a mink or otter found in a trap or from killing any mink or otter while it is destroying or damaging, or about to destroy or damage, the person's crops, domestic fowl, or other personal property.

History.
Code 1933, § 45-606, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1984, p. 802, § 2.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 38, 46 et seq.
C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 61 et seq.

27-3-65. Removing legally set traps owned by others; removing and possessing wildlife from legally set traps owned by others.

It shall be unlawful for any person to remove a legally set trap, except for the owner of the land on which the trap is set, or to remove any lawfully trapped wildlife from any legally set trap or to possess any wildlife so removed from such a trap without the permission of the owner of the trap.

History.
Code 1933, § 45-608, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1984, p. 802, § 3.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 62, 63.

27-3-66. Trapping of rabbits on one's own premises or on premises of family member or landlord.

Notwithstanding any other provision of this title to the contrary, it shall be permissible for any person, his family, and his tenants to trap rabbits upon the premises of such person by employing a device commonly called a rabbit box. No permit or license shall be required before engaging in such activity. Nothing contained in this Code section shall be construed to authorize a person to trap a rabbit out of the season provided by law or rule or regulation for hunting rabbits in this state.

History.
Code 1933, § 45-607, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 45 et seq., 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 4, 62, 63.

27-3-67. Taking of rabbits or hares out of season; special permit to trap or sell rabbits or hares.

(a) Except as otherwise provided in subsections (b) and (c) of this Code section, it shall be unlawful for any person to take rabbits or hares in this state except during the lawful hunting season as prescribed by law or rules and regulations of the board.

(b) The director of the Game and Fish Division of the department may issue a special permit to any person, including any minor under 16 years of age, for the purpose of trapping or capturing rabbits or hares by means of rabbit boxes or other similar devices. Such person shall be authorized to sell such rabbits or hares for use at time trials licensed or sanctioned by the American Kennel Club. When issuing such special permits, the director shall consider principles of sound wildlife management as well as the demand for rabbits or hares in a given locality of the state. Nothing in this subsection shall be construed to repeal the provisions of Code Sections 27-3-20 and 27-3-66.

(c) The prohibitions of this Code section shall not apply to domestic rabbits.

(d) Any person who violates this Code section shall be guilty of a misdemeanor.

History.
Ga. L. 1977, p. 1270, § 12; Ga. L. 1981, p. 1006, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 45 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 61 et seq.

27-3-68. Confiscation and disposal of unlawful devices.

It shall be the duty of game wardens to confiscate any trap, pitfall, deadfall, scaffold, catch, snare, net, salt lick, blind pig, baited hook, or other similar device used in violation of the wildlife laws, rules, and regulations and to dispose of same as directed by the commissioner.

History.
Code 1933, § 45-604, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2019, p. 808, § 7/SB 72.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 55.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 67 et seq.

27-3-69. License requirement for fur dealers and fur dealers' agents; eligibility for resident license; penalty.

(a) It shall be unlawful for any person to engage in business as a fur dealer or in business as a fur dealer's agent unless such person has a current valid license to engage in such business.

(b) For purposes of obtaining a fur dealer license, a person who is a legal resident of Georgia at the time of application for such license, a partnership in which all partners are residents of this state, and a corporation which is incorporated under the laws of this state or qualified to do business within this state and having a regularly maintained and established place of business within this state shall be deemed eligible for a resident license. All other fur dealer license applicants shall be required to obtain a nonresident license. Fur dealer licenses shall include the name of the licensee if the holder is an individual, the names of the partners if the holder is a partnership, and the names of the president and the manager if the holder is a corporation.

(c) Any employee or officer of a fur dealer may apply for a fur dealer's agent license if the employee or officer is authorized to purchase, sell, or otherwise acquire title to or possession of furs, hides, skins, and pelts for and on behalf of a licensed fur dealer and if the fur dealer approves any such application, provided that no employee may be a licensed fur dealer's agent for more than one licensed fur dealer at the same time. No such license shall be transferable, and there shall be no rebate, refund, or reduction in the license fee for any reason whatsoever.

(d) Any person who violates this Code section shall be guilty of a misdemeanor.

History.
Ga. L. 1968, p. 497, § 11; Code 1933, § 45-309, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 67 et seq.

ALR.
Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-3-70. Posting of bond by applicants for fur dealer license; effect of breach of conditions of bond.

(a) Upon application for a fur dealer license, the person making the application must do one of the following:

(1) Post a cash forfeiture bond in the form prescribed by the board in favor of the State of Georgia in the amount of $5,000.00, conditioned upon faithful compliance with the laws of this state and regulations of the board governing fur dealers; or

(2) File with the commissioner a forfeiture bond in the form prescribed by the board executed by a bonding, surety, or insurance company licensed to do business in this state in favor of the state in the amount of $5,000.00, conditioned upon faithful compliance with the laws of this state and regulations of the board governing fur dealers.

(b) The term of the bond provided for in paragraphs (1) and (2) of subsection (a) of this Code section shall be for one year and shall correspond to the period of the license. The commissioner shall have the right to recover on the bond for the breach of its conditions whenever the fur dealer violates the laws of this state governing fur dealers or any rule or regulation promulgated by the board pursuant thereto, as follows:

(1) For the first violation, $500.00;

(2) For the second violation within a two-year period of time of any prior violation, $1,000.00;

(3) For the third violation within a two-year period of time of any prior violation, $5,000.00;

(4) For each subsequent violation within a two-year period of time of any prior violation, $5,000.00.

(c) Every breach or violation shall carry over to all succeeding bonds filed under this Code section. The aggregate liability shall not exceed the amount of the bond; however, in the event that the total amount of any bond is forfeited, the fur dealer's license shall be suspended until a new bond is filed covering the remainder of the period of the license; and it shall be unlawful and punishable under Code Section 27-3-69 for the fur dealer to engage in business as such at any time during the suspension of the license.

History.
Ga. L. 1977, p. 1270, § 7.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 59, 67 et seq.

27-3-71. Reports and records of fur dealers; inspection of premises; penalty.

(a) It shall be unlawful for any person to engage in business as a fur dealer unless the person files an annual report with the department not later than 60 days after the close of the trapping season. The report shall list the number of each type of hide, fur, skin, or pelt purchased during the preceding year, the date of purchase, the name of the person from whom purchased, and the person's trapping or raccoon fur seller's license number. The report shall be submitted on forms provided by the department. In addition, each fur dealer shall maintain in a legible manner on his business premises a listing of furs purchased during the license year showing each type of hide, fur, skin, or pelt purchased, the date of purchase, and the name of the person from whom purchased.

(b) Game wardens and other authorized representatives of the department shall be authorized to enter the premises of a fur dealer, during normal working hours and at any other time when the licensed activity is being conducted, for the purpose of inspecting the premises and the records maintained by the fur dealer pursuant to subsection (a) of this Code section.

(c) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor.

History.
Ga. L. 1977, p. 1270, § 8; Ga. L. 1984, p. 802, § 4; Ga. L. 2019, p. 808, § 7/SB 72.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

27-3-72. Service of process for licensees; filing as an admission of doing business in Georgia.

All applications to the department for any license or permit required by this article shall designate an address in Georgia where the applicant can be personally served with legal process, or shall contain an appointment of an agent in Georgia for acceptance of service of legal process together with the agent's Georgia address, or shall contain a designation of the Secretary of State of Georgia for acceptance of service of legal process. A copy of any application so designating the Secretary of State shall be forwarded by the department to the Secretary of State. The filing of an application with the department for a license or permit shall constitute an admission by the applicant that the applicant is doing business in Georgia.

History.
Ga. L. 1977, p. 1270, § 9.

27-3-73. Disposal of carcasses of fur-bearing animals or alligators; penalties.

It shall be unlawful for any fur dealer to dispose of any carcasses or parts of carcasses of any fur-bearing animals or alligators except pursuant to a written plan of disposal submitted to and approved by the department in writing. Such a plan of disposal shall be designed to minimize vermin infestation, odors, and disease hazards. Any person who violates this Code section shall be guilty of a misdemeanor and shall be subject to the administrative license revocation, suspension, denial, and refusal provisions of Code Section 27-2-25.

History.
Code 1981, § 27-3-73, enacted by Ga. L. 1984, p. 802, § 5; Ga. L. 1985, p. 149, § 27; Ga. L. 1988, p. 848, § 7.

ARTICLE 3

TRANSPORTATION

27-3-90. Requirements for lawful transportation.

It shall be unlawful for any person to remove, ship, or transport from any point within this state to another point within this state or from any point within this state to any point beyond the borders of this state, except as otherwise provided, any wildlife taken in this state unless the wildlife is in the personal possession of or is carried openly by the person who took such wildlife and unless the person has in his possession a proper license or permit as prescribed by the wildlife laws, rules, and regulations.

History.
Ga. L. 1911, p. 137, § 13; Ga. L. 1916, p. 114, § 3; Code 1933, § 45-305; Ga. L. 1955, p. 483, § 45; Code 1933, § 45-401, enacted by Ga. L. 1977, p. 396, § 1.

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, Ch. 45-3, as it read prior to revision by Ga. L. 1977, p. 396, § 1, is included in the annotations for this Code section.

Transportation of pet birds. — The game and fish laws do not prohibit the transportation of two pet birds within this state. 1952-53 Ga. Op. Att'y Gen. 102 (decided under former Code 1933, Ch. 45-3).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 35, 39. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-3-91. Transportation by carrier within state.

It shall be unlawful for any person to take any wildlife and have such wildlife transported to his home or any other place within this state by a carrier unless the person files with the carrier a written statement giving his name and address and the number of wildlife to be so transported and specifying that he lawfully took the wildlife and that it is to be disposed of lawfully. A copy of the statement shall be attached to the wildlife or to its packaging.

History.
Ga. L. 1955, p. 483, § 46; Code 1933, § 45-402, enacted by Ga. L. 1977, p. 396, § 1.

Cross references.
Standard of care for carriers and common carriers, § 46-9-1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 48.
C.J.S.
36A C.J.S., Fish, § 39. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 64.

27-3-92. Transportation out of state.

It shall be unlawful for any person, other than a carrier who has complied with Code Section 27-3-94, to remove, ship, or transport wildlife out of this state except under the following conditions:

(1) The person must have in his possession at the time of such removing, shipping, or transporting the proper wildlife license or permit duly issued to such person by the department;

(2) The person cannot remove from the state more than the bag or possession limits established by law or regulation;

(3) The person shall make a sworn statement, duly attested to by an authorized officer of this state, which statement shall show that the person has lawfully taken such wildlife and that they are not for sale, except as otherwise permitted by the wildlife laws, rules, and regulations, and shall show the number of wildlife being shipped, transported, or removed from the state. One copy of the statement shall be given the carrier, if such wildlife is being transported by carrier, and one shall be attached to the wildlife being shipped, transported, or removed from the state; and

(4) The person shall submit his license or permit and sworn statement to any sheriff, deputy sheriff, or game warden for inspection when requested to do so.

History.
Ga. L. 1955, p. 483, § 47; Code 1933, § 45-403, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2019, p. 808, § 7/SB 72.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 42, 44 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 35, 36, 39. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 64.

27-3-93. Transportation for propagation and scientific purposes.

It shall be unlawful for any person to ship or transport from any point within this state to any other point within this state, or to points beyond this state, any wildlife or parts thereof for propagation or scientific

purposes unless the person has been issued and is holding a valid scientific collecting permit. Both the person shipping or transporting the wildlife and any carrier accepting such shipment shall, on the same day the shipment is made, report to the department the number and the species of wildlife shipped, to whom shipped, and by whom shipped.

History.
Ga. L. 1955, p. 483, § 48; Code 1933, § 45-404, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 42, 44 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 39. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 59, 64.

27-3-94. Acceptance by carriers of wildlife for shipment; reports required.

It shall be unlawful for any carrier to ship, transport, or receive for shipment or transportation any wildlife, except as otherwise provided by the wildlife laws, rules, or regulations, without having ascertained that the person offering the wildlife for shipment or transportation was then and there in possession of a proper license or permit duly issued for the period when the shipment was offered, or without receiving from the person a sworn statement as provided in paragraph (3) of Code Section 27-3-92. Any carrier who shall ship or transport the skins, hides, or pelts of fur-bearing animals shall be required to make reports of such shipments or transportation as may be required by the rules and regulations of the board.

History.
Ga. L. 1911, p. 137, § 19; Ga. L. 1916, p. 114, § 8; Code 1933, § 45-306; Ga. L. 1955, p. 483, § 49; Code 1933, § 45-405, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 42, 44 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 38. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 59, 60, 65.

ARTICLE 4

SHOOTING PRESERVES

27-3-110. Shooting preserve license requirement; effective dates; contents of application; conditions for issuance.

(a) It shall be unlawful for any person to release pen raised game birds, except as provided in Code Section 27-2-14, unless the person has first obtained a commercial or private shooting preserve license as provided in Code Section 27-2-23. Such license shall be effective from April 1 through March 31 of the following year.

(b) An application for a shooting preserve license shall be submitted on a form furnished by the department and shall contain the following:

(1) The applicant's name and address;

(2) A detailed description of the proposed activities and operations on the shooting preserve;

(3) The location and description of the premises of the preserve; and

(4) Such other information as may be necessary in order for the department to evaluate the application properly.

(c) No shooting preserve license shall be issued unless the following conditions are met:

(1) The land to comprise the preserve must consist of not more than 1,000 acres and not less than 100 contiguous acres and must be owned or leased by the applicant. If the land is under lease to the applicant, the lease shall be for a term of not less than one year from the date of application, and such lease shall be subject to inspection and approval by the department;

(2) The boundary lines of the premises must be marked by signs indicating that they are the boundary line signs and that the premises are posted as against trespassing; and

(3) As a condition of holding a shooting preserve license issued pursuant to this Code section, the owner of the shooting preserve, or his or her lessee or agent, shall, prior to allowing any person to hunt on such shooting preserve:

(A) Confirm that such person has either completed a hunter education course as prescribed in Code Section 27-2-5; or

(B) Provide such person with hunter education instruction that, at minimum, demonstrates techniques for proper firearm handling, unloading, and safety.

History.
Ga. L. 1957, p. 295, §§ 3, 4, 9; Code 1933, § 45-1001, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1990, p. 386, § 3; Ga. L. 2002, p. 807, § 3; Ga. L. 2007, p. 47, § 27/SB 103; Ga. L. 2013, p. 771, § 1/HB 155.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 44, 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-3-111. Removal of pen raised game bird; release of mallards or black ducks; failure to maintain or furnish records; failure to notify department of diseases.

(a) It shall be unlawful to remove any pen raised game bird from a shooting preserve unless accompanied by the contact information of the preserve from which it was taken.

(b) It shall be unlawful to release on a shooting preserve any mallard or black duck unless such duck is a pen raised mallard or black duck.

(c) It shall be unlawful for a licensee under this article to fail to maintain a complete record of all pen raised game birds propagated, released, or taken on the preserve or to fail to allow the department access to such records during all regular business hours.

(d) It shall be unlawful for any such licensee to fail to notify the department within 24 hours of the diagnosis of any epizootic disease of any pen raised game bird on the preserve, including unreleased stock.

History.
Code 1933, § 45-1002, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2013, p. 771, § 1/HB 155.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 51 et seq.

27-3-112. Hunting seasons for game birds and game animals; bag limits.

(a) It shall be unlawful to hunt pen raised game birds, other than ring-necked pheasants, on a shooting preserve except between October 1 and March 31 of the following year, and except from one-half hour before sunrise to sunset.

(b) It shall be unlawful to exceed the daily or season bag limits prescribed by law or regulation for any game bird or game animal, provided that there shall be no bag limits for pen raised game birds.

(c) It shall be unlawful to hunt on a shooting preserve any game bird or game animal except during the open season for such game bird or game animal as prescribed by law or regulation; provided, however, that it shall be lawful to hunt bobwhite quail between October 1 and March 31 of the following year; provided, further, that it shall be lawful to hunt any other pen raised game bird between October 1 and March 31 of the following year when prior approval has been obtained from the department.

History.
Code 1933, § 45-1003, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1981, p. 798, § 16; Ga. L. 2002, p. 807, § 4; Ga. L. 2013, p. 771, § 1/HB 155.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41, 45 et seq., 51 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-3-113. Propagation, possession, release, or importation of wildlife or wild animals.

It shall be unlawful for any person to propagate, possess, or release on any shooting preserve any wildlife or wild animal except pen raised game birds unless the person has received prior written approval from the department. Importation of any wildlife or wild animal for purposes of propagation, possession, or release on a shooting preserve shall be in conformance with the requirements of Article 3 of this chapter regarding transportation of wildlife, the requirements of Code Section 27-2-11 regarding game species, and the requirements of Chapter 5 of this title regarding wild animals.

History.
Code 1933, § 45-1004, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, § 52; Ga. L. 2013, p. 771, § 1/HB 155.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 41 et seq., 49 et seq.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 58 et seq.

27-3-114. Applicability of wildlife laws and regulations.

(a) Except as otherwise specifically provided, all wildlife laws and regulations shall be in full force and effect on shooting preserves licensed pursuant to this article. Specifically, hunting licenses shall be required of all persons hunting on such preserves; provided, however, that it shall be lawful for any resident or nonresident to hunt pen raised

game birds or fish in any private or state waters within the boundaries of such a preserve with a shooting preserve hunting license as provided in Code Section 27-2-23.

(b) The requirements of subsection (b) of Code Section 27-2-5 shall not apply to any person hunting pen raised game birds on a properly licensed shooting preserve, provided such person has received hunter education instruction that, at minimum, demonstrates techniques for proper firearm handling, unloading, and safety.

History.
Code 1933, § 45-1005, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 420, § 13; Ga. L. 1990, p. 386, § 4; Ga. L. 2002, p. 807, § 5; Ga. L. 2009, p. 787, § 9/HB 326; Ga. L. 2013, p. 771, § 1/HB 155.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.

C.J.S.
38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-3-115. Issuance and sale of shooting preserve hunting licenses by shooting preserves; nondisclosure of records.

(a) The department is authorized to make and enter into agreements with properly licensed shooting preserves for the purpose of issuance and sale of shooting preserve hunting licenses.

(b) Notwithstanding the provisions of subsection (b) of Code Section 27-2-5, a shooting preserve authorized by the department pursuant to subsection (a) of this Code section may sell shooting preserve hunting licenses so long as such shooting preserve meets the requirements of subsection (c) of Code Section 27-3-110. The department may authorize a shooting preserve to issue temporary paper copies of shooting preserve hunting licenses to be used on such shooting preserve for one hunting season. Such paper copy shall satisfy the requirements of Code Section 27-2-1.

(c) Notwithstanding any other law to the contrary, the department shall not disclose any shooting preserve hunting license record which was lawfully purchased from a properly licensed shooting preserve and which reveals the name, home address, home telephone number, or social security number of the license holder unless written consent from the owner or lessee of such shooting preserve is obtained.

History.
Code 1981, § 27-3-115, enacted by Ga. L. 2013, p. 771, § 1/HB 155.

ARTICLE 5

PROTECTION OF ENDANGERED WILDLIFE

Administrative rules and regulations.

Protection of Endangered, Threatened, Rare, or Unusual Species, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-10-.01 et seq.

Law reviews.

For article, "Hazardous Waste Issues in Real Estate Transactions," see 38 Mercer L. Rev. 581 (1987).

For note, "Feeling the Heat: The Endangered Species Act and Climate Change," see 36 Ga. St. U.L. Rev. 437 (2020).

RESEARCH REFERENCES

ALR.

Criminal prosecution under Endangered Species Act of 1973 (16 USCS §§ 1531-1543), 128 A.L.R. Fed. 271.

27-3-130. Short title.

This article shall be known and may be cited as the "Endangered Wildlife Act of 1973."

History.

Ga. L. 1973, p. 932, § 1.

RESEARCH REFERENCES

ALR.

Construction and application of state endangered species acts, 44 A.L.R.6th 325.

Construction and application of the consultation requirement under Section 7 of the Endangered Species Act, 16 U.S.C.A. § 1536(a) to (d), 1 A.L.R. Fed. 3d 4.

Construction and application of threatened species requirements under Sec. 4(a) and (b) of the Endangered Species Act of 1973, 16 U.S.C.A. § 1533(a) and (b), 6 A.L.R. Fed. 3d 2.

Construction and application of the cooperation with states requirement under Sec. 6 of the Endangered Species Act of 1973, 16 U.S.C.A. § 1535, 8 A.L.R. Fed. 3d 3.

Construction and application of prohibited acts under Sec. 9(a) of the Endangered Species Act of 1973, 16 U.S.C.A. § 1538(a), 9 A.L.R. Fed. 3d 3.

27-3-131. "Protected species" defined.

As used in this article, the term "protected species" means a species of animal life which the department shall have designated as a protected species and shall have made subject to the protection of this article.

History.

Ga. L. 1973, p. 932, § 2.

RESEARCH REFERENCES

ALR.
Validity and construction of statute prohibiting sale within state of skin or body of specified wild animals or of the animal itself, 44 A.L.R.3d 1008.

Construction and application of state endangered species acts, 44 A.L.R.6th 325.

27-3-132. Powers and duties of department and board.

(a) The department shall identify and inventory any species of animal life within this state which it determines from time to time to be rare, unusual, or in danger of extinction; and, upon such determination, such species shall be designated protected species and shall become subject to the protection of this article.

(b) The board shall issue such rules and regulations as it may deem necessary for the protection of protected species and for the enforcement of this article. Such rules and regulations shall not affect rights in private property or in public or private streams, nor shall such rules and regulations impede construction of any nature. Such rules and regulations shall be limited to the regulation of the capture, killing, or selling of protected species and the protection of the habitat of the species on public lands.

(c) The department may delegate the powers and duties which this article grants to it to any official or officials of the department.

History.
Ga. L. 1973, p. 932, § 3.

OPINIONS OF THE ATTORNEY GENERAL

Construed with Environmental Policy Act. — The factors enumerated in the Georgia Environmental Policy Act, O.C.G.A. § 12-16-1 et seq., must be considered when evaluating environmental concerns under O.C.G.A. § 32-2-3; the provisions of O.C.G.A. § 27-3-132 are not repealed by implication by the Georgia Environmental Policy Act. 1991 Op. Att'y Gen. No. 91-29.

RESEARCH REFERENCES

ALR.
Construction and application of state endangered species acts, 44 A.L.R.6th 325.

27-3-133. Penalty for violation of rules and regulations of board.

Any person who violates any rule or regulation promulgated by the board pursuant to this article shall be guilty of a misdemeanor.

History.
Ga. L. 1973, p. 932, § 4.

RESEARCH REFERENCES

ALR.
Construction and application of state endangered species acts, 44 A.L.R.6th 325.

ARTICLE 6

INTERFERENCE WITH LAWFUL TAKING

27-3-150. "Lawful taking" defined.

As used in this article, the term "lawful taking" means taking wildlife when such taking is authorized by the provisions of this title or by rules or regulations of the board adopted pursuant to the authority of this title.

History.
Code 1981, § 27-3-150, enacted by Ga. L. 1986, p. 1460, § 1.

Law reviews.
For comment on hunter harassment statutes, see 48 Emory L.J. 1023 (1999).

27-3-151. Activity prohibited.

(a) It shall be unlawful for any person to:

(1) Interfere with the lawful taking of wildlife by another person by intentionally preventing or attempting to prevent such person from such lawful taking of wildlife;

(2) Disturb or engage in activity tending to disturb wildlife for the purpose of intentionally preventing or attempting to prevent the lawful taking of such wildlife; or

(3) Fail to obey an order of a law enforcement officer to desist from conduct violating paragraph (1) or (2) of this subsection if the law enforcement officer observes such conduct or if the law enforcement officer has reasonable grounds for believing that the person has engaged in such conduct that day or that the person plans or intends to engage in such conduct that day at a specific location.

(b) Nothing in subsection (a) of this Code section shall be construed to apply to the activities of law enforcement officers or employees of the department in the performance of their duties.

History.
Code 1981, § 27-3-151, enacted by Ga. L. 1986, p. 1460, § 1.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1986, "subsection" was substituted for "Code section" in paragraph (a)(3).

RESEARCH REFERENCES

ALR.
Validity and construction of statutes prohibiting harassment of hunters, fishermen, or trappers, 17 A.L.R.5th 837.

27-3-152. Injunctions; damages for violations.

(a) The superior court of a county may enjoin conduct which would be in violation of Code Section 27-3-151 upon the petition of a person who is affected or who reasonably may be affected by such conduct upon a showing that such conduct is threatened or that such conduct has occurred at a particular location in the past and that it is not unreasonable to expect that under similar circumstances such conduct will be repeated.

(b) A person who engages in conduct in violation of Code Section 27-3-151 shall be civilly liable to any other person who is adversely affected by such conduct, and any award for damages may include punitive damages. In addition to any other items of special damage, the measure of damages may include expenditures of the affected person for license and permit fees, travel, guides, and special equipment and supplies to the extent that such expenditures were rendered futile by preventing the lawful taking of wildlife.

History.
Code 1981, § 27-3-152, enacted by Ga. L. 1986, p. 1460, § 1; Ga. L. 1987, p. 3, § 27.

ARTICLE 7

FEEDING OF WILD ALLIGATORS

27-3-170. Feeding of wild alligators; penalty.

(a) It shall be unlawful for any person to willfully feed or bait any wild alligator not in captivity. For purposes of this Code section, willfully tossing any food item edible by alligators to or in the vicinity of a live alligator or willfully leaving any such item in or near the water where an alligator is known to frequent shall constitute willfully feeding or baiting a live alligator.

(b) Violation of this Code section shall constitute a misdemeanor and upon conviction a violator shall be punished by a fine not to exceed $200.00 or confinement for not over 30 days, or both.

History.
Code 1981, § 27-3-170, enacted by Ga. L. 1995, p. 467, § 1.

ARTICLE 8

FERTILITY CONTROL ON WILDLIFE

27-3-180. Findings and declarations.

The General Assembly recognizes that the hunting and taking of wildlife pursuant to this title are a valued cultural heritage consistent with the sound scientific principles of wildlife management and play an essential and effective role in the management of wildlife populations. The General Assembly further recognizes that the State of Georgia and its citizens derive substantial economic, recreational, and esthetic benefits from such activities. Therefore, the General Assembly finds and declares that it is in the public interest to ensure public health, safety, welfare, and conservation of the state's wildlife resources by strictly regulating in this state the use of fertility control on any wildlife.

History.
Code 1981, § 27-3-180, enacted by Ga. L. 2010, p. 952, § 9/SB 474.

27-3-181. Use of wildlife fertility control.

(a) As used in this article, the term "fertility control" means any action that results in contraception, contragestation, or sterilization or produces a temporary or permanent state of infertility.

(b) It shall be unlawful to apply any fertility control to any wildlife, except in accordance with a wildlife fertility control permit issued under the provisions of this article and any rules or regulations adopted by the board.

(c) Nothing in this article shall prohibit or apply to the medically necessary treatment of sick or injured wildlife by properly licensed veterinarians. This article shall not limit employees of the department in the performance of their official duties.

History.
Code 1981, § 27-3-181, enacted by Ga. L. 2010, p. 952, § 9/SB 474.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-3-181 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

27-3-182. Wildlife fertility control permits; appeals.

(a) Application for a wildlife fertility control permit shall be made on forms obtained from the department.

(b) The department may issue such a permit only if it has determined that the proposed activity is in the best interest of the wildlife resources. In making such a determination, the department may consider the following:

(1) Whether the proposed activity may preclude the use of hunting as the primary management tool;

(2) Whether the drug has been approved by the federal Food and Drug Administration;

(3) Whether there is a need for the information and data or a need to manage the target wildlife population to achieve the objectives sought by the applicant;

(4) Whether the proposed activity would duplicate sound scientific research previously accomplished;

(5) Whether the proposed activity is of reasonably sound design;

(6) Whether the proposed activity poses health or safety risks to humans and wildlife, including, but not limited to, wildlife species that may consume the target wildlife;

(7) Whether the proposed activity includes all necessary approvals, including, but not limited to, any federal or state agency approvals for specific or extra label use and any agency or institutional endorsement of the application; and

(8) Whether the applicant or the sponsor has documented that he or she has adequate funds available to implement the proposed activity.

(c) In the event that a determination has been made to revoke, suspend, deny, or refuse to renew any wildlife fertility control permit issued pursuant to this article, the applicant for such permit may appeal the determination according to the provisions stated in Code Section 27-2-25.

History.
Code 1981, § 27-3-182, enacted by Ga. L. 2010, p. 952, § 9/SB 474.

27-3-183. Rules and regulations.

The board is authorized to promulgate and adopt any rules and regulations, consistent with sound wildlife management practices and

not inconsistent with law, as it deems necessary and appropriate to carry out the purposes of this article.

History.
Code 1981, § 27-3-183, enacted by Ga. L. 2010, p. 952, § 9/SB 474.

27-3-184. Issuance, revocation, or denial of wildlife fertility control permits; cease and desist orders; seizures.

(a) The department shall have the authority to prescribe the form, contents, and conditions for a wildlife fertility control permit and application as it deems necessary to carry out the purposes of this article.

(b) The department shall have the authority to issue, revoke, or deny any permit required by this article and pursuant to any rules and regulations adopted pursuant to this article.

(c) The department may, prior to a hearing and in accordance with Code Section 27-1-37, issue a cease and desist order or other appropriate order to any person who is violating any provision of this article or any regulation, permit, or license issued pursuant to this article.

(d) The department shall have the authority in accordance with Code Sections 27-1-21 and 27-1-37 to take possession of and dispose of any wildlife if it has reason to believe that fertility control has been administered to such wildlife in violation of this article.

History.
Code 1981, § 27-3-184, enacted by Ga. L. 2010, p. 952, § 9/SB 474.

27-3-185. Penalties.

(a) Any person who violates any provision of this article shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction shall be punished by a fine of not less than $1,500.00 nor more than $5,000.00, imprisonment for a period not exceeding 12 months, or both such fine and imprisonment.

(b) Any licenses or permits issued under this title to any person convicted of violating any provision of this article shall by operation of law be revoked and shall not be reissued for a period of three years. The department shall notify the person in writing of the revocation.

History.
Code 1981, § 27-3-185, enacted by Ga. L. 2010, p. 952, § 9/SB 474.

CHAPTER 4

FISH

Article 1

General Provisions

Sec.
27-4-1. Salt-water and fresh-water demarcation line.
27-4-2. Fishing in waters or from lands of others; interference with fishing rights of others; enforcement.
27-4-3. [Reserved] Right to take shellfish from stream or estuary.
27-4-4. Dumping into state waters; recovery of damages.
27-4-5. Methods for taking fish generally.
27-4-6. Use of minnow seines or traps.
27-4-7. Use of gill nets; seizure of illegal nets.
27-4-8. Unlawful devices or substances.
27-4-9. Possession of nets or other devices for taking shad during closed season deemed evidence of violation.
27-4-10. Creel and possession limits; size restrictions.
27-4-11. Fishing in department fish hatcheries.
27-4-11.1. Possession of firearms and intoxication on public fishing areas; fishing in closed fishing areas; other restrictions in public fishing areas.
27-4-12. Rules and regulations; reporting; legislative override of rules and regulations.

Article 2

Noncommercial Fishing

Part 1

General Provisions

27-4-30. Fishing in private ponds.
27-4-31. Catch-out pond licenses.
27-4-32. Sport trotlines.
27-4-33. Spearing of fish.
27-4-34. Fishing with bow and arrow.
27-4-35. [Reserved] Sport shad fishing.
27-4-36. Artificial-lure streams or lakes.
27-4-37. Fishing by grabbling, noodling, or hand grabbing.

Part 2

Trout Fishing

27-4-50. Fishing in trout waters; moving of trout.
27-4-51. Designation of certain waters as trout waters; establishment of seasons and methods of fishing.

Article 3

Commercial Fishing and Fish Dealing

Part 1

General Provisions

27-4-70. Fishing in waters not opened for commercial fishing.
27-4-71. Commercial fishing for shad, American eels, catfish, and horseshoe crabs.
27-4-72. [Reserved] Commercial eel fishing.
27-4-73. Confiscation and disposition of illegally used commercial fishing gear.
27-4-74. Sale, purchase, or transportation of game fish generally.
27-4-75. Sale of fish by commercial fish hatcheries; sale of game fish; bill of sale or lading requirement for possession of certain fish.
27-4-76. Wholesale and retail fish dealers; license requirement; seizure.
27-4-77. Suspension of license for violation of article.

Sec.
27-4-78. Governance of food fish processing plants.

Part 2

Fresh-water Fishing

27-4-90. License requirement; effective dates.
27-4-91. Lawful fishing gear.
27-4-92. Fishing with baskets.
27-4-93. Use of commercial fishing gear within one-half mile below lock or dam.

Part 3

Salt-water Fishing

27-4-110. License requirement.
27-4-111. Filing of bond or affidavit as condition for validity of commercial fishing boat license.
27-4-112 through 27-4-115. [Reserved].
27-4-116. [Reserved] Diamondback terrapins.
27-4-117. Identification tags, numbers, and letters for boats or vessels.
27-4-118. Records and reporting requirements for persons landing seafood.

Article 4

Seafood

Part 1

General Provisions

27-4-130. Closure of salt waters; notice; rules and regulations prohibiting sale of seafood.
27-4-131. [Reserved] Zoning of salt waters.
27-4-132. Regulation of noncommercial fishing for shrimp.
27-4-132.1. Quantity of shrimp that may be fished or possessed; use of cast nets; exceeding allowable quantities; penalties; judicial review.
27-4-133. Fishing for shrimp with nets; opening and closing of waters; identification on boats; penalty.
27-4-134. Bond or affidavit requirement for use of power-drawn nets; penalties for breach of bond conditions.
27-4-135. [Reserved] Maintenance of records by sellers; reports of oysters and clams harvested.
27-4-136. Seafood dealer licenses; records and reports; seafood purchasing requirements.
27-4-137. Civil forfeiture proceedings.
27-4-138. Penalties relating to illegal fishing with power-drawn nets.
27-4-139. [Reserved] Taking of shrimp for recreational purposes; lawful nets and use of shrimp; penalty for violation.
27-4-140. Penalties relating to use of cast nets to fish for shrimp.

Part 2

Crabs

27-4-150. Taking, possessing, and dealing in crabs and peelers; issuance, sale, and transfer of commercial crabbing licenses; records and reports; penalties.
27-4-151. Use of crab traps; identification of boats or vessels; closure of salt waters; penalties.

Part 3

Taking Shrimp for Bait

27-4-170. [Reserved] Sport bait shrimping.
27-4-171. Bait shrimping; licensing requirements; prohibited actions.
27-4-172. [Reserved] Protections for horseshoe crabs; catch limits; exceptions.

Part 4

Shellfish

27-4-187. Legislative finding; policy.
27-4-188. Definitions.
27-4-189. Rules and regulations; recommendations by board on legislation.

Sec.
27-4-190. Taking or possessing shellfish generally; commercial fishing license with shellfish endorsement and master harvester permit or harvester permit.
27-4-191. [Reserved] Shellfish dredging permits; bond required of master collecting permittees applying for shellfish dredging permits.
27-4-192. Methods of taking shellfish.
27-4-193. Taking or transplanting shellfish from unapproved growing areas; closure of growing areas; operating facility for controlled purification of shellfish.
27-4-194. Minimum size of shellfish which may be taken or possessed.
27-4-195. Seasons for taking shellfish; issuance, suspension, and revocation of conditional permission for master harvester to harvest during closed periods.
27-4-196. Distribution and transplanting of wild oyster shells and culch material by permittee.
27-4-197. Shellfish sanitation program; requirements as to shipment of shellfish.
27-4-198. Lease of state intertidal and subtidal water bottoms within approved growing areas from department.
27-4-199. Evidence of intent to use as food; inspection of businesses; seizures.
27-4-200. Forged or false documents, records, or permits.
27-4-201. Penalties.
27-4-202. Shellfish mariculture permit; bond requirement of master harvester; penalty for noncompliance.
27-4-203. Conditional certification of shellfish hatcheries and nurseries; seed importation approvals and conditions; authorizations for mariculture activities; revocation.
Sec.
27-4-204. Mariculture cage identification tag requirement.

Part 5

Commercial Shrimp Cast Netting

27-4-205. License requirement.
27-4-206. Issuance of licenses; limits; fees.

Article 5

Interstate Agreements

Part 1

Atlantic States Marine Fisheries Compact

27-4-210. Text of compact.
27-4-211. Establishment of commission; members; terms of office; removal.
27-4-212. Powers and duties of commission and state officers.
27-4-213. Extent of commission's powers.
27-4-214. Accounting; reporting; recommendations.
27-4-215. Examination of commission's accounts by state auditor; report to Governor.
27-4-216. Annual appropriation for commission.

Part 2

Fishing License Reciprocity

27-4-230 through 27-4-233. [Repealed].
27-4-234. Agreements with adjoining states.

Article 6

Aquaculture Development

27-4-251. Short title.
27-4-252. Definitions.
27-4-253. Aquaculture Development Commission; creation; membership; terms of office; bylaws; quorum; reimbursement for expenses; meetings.
27-4-254. Aquaculture development plan; contents of plan; meetings of commission; staff support.
27-4-255. Registration requirement

Sec.
for sale of domestic fish; regulation of sale without registration.
27-4-256. Duty of department to register sellers of domestic fish; expiration of registration.
27-4-257. Application for registration as seller of domestic fish.
27-4-258. Filing of application for registration as seller of domestic fish as admission of doing business in state.
27-4-259. Denial of registration as seller of domestic fish.
27-4-260. Revocation of registration as seller of domestic fish.
Sec.
27-4-261. Evidence of registration as seller of domestic fish; list of registered persons.
27-4-262. Rules and regulations.
27-4-263. Inspections; penalty.

Article 7

Sport Fishing Locations

27-4-280. Legislative intent.
27-4-281. Definitions.
27-4-282. Immunity from liability for injury or death; exceptions.
27-4-283. Warning notice requirement; effect of noncompliance.

Cross references.

Right to hunt, trap, and fish, subject to certain laws and regulations, § 27-1-3.

Unlawful acts relating to taking, sale, purchase of wildlife, § 27-1-28 et seq.

Exclusive right to the oysters, clams, and other shellfish in beds of nonnavigable tidewaters, § 44-8-6.

Administrative rules and regulations.

Saltwater Fishing Regulations, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-2-4-.01 et seq.

Fishing Regulations, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Rule 391-4-3-.01 et seq.

ARTICLE 1

GENERAL PROVISIONS

27-4-1. Salt-water and fresh-water demarcation line.

(a) The line established in this state as the separation point between salt waters and fresh waters for commercial fishing and sport fishing is as follows:

(1) The point at which U.S. Highway 17 crosses the following bodies of water and their tributaries shall be the line of demarcation for them: St. Marys River, Satilla River, South Altamaha River, Champney River, Butler River, Darien River, Little Ogeechee System (except Salt Creek), North Newport River, Medway River, Big Ogeechee River, and the point at which Georgia Highway 25 / South Carolina 170 crosses the Savannah River and its tributaries. All water seaward of these points shall be considered salt water; and

(2) The following streams and their tributaries are designated as salt water for their entire length: Crooked River, Little Satilla River, South Brunswick River, Turtle River, Sapelo River, South Newport

River, Salt Creek (Little Ogeechee System), and all other rivers, streams, and tributaries in the six coastal counties which are not enumerated in this subsection.

(b) This Code section shall not apply to fresh-water ponds on the seaward side of the demarcation line.

History.
Code 1933, § 45-811, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 1629, § 4; Ga. L. 1984, p. 537, § 4; Ga. L. 1998, p. 783, § 13; Ga. L. 2008, p. 163, § 1/HB 1016.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1997, "St. Marys River" was substituted for "St. Mary's River" in paragraph (a)(1).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-4-2. Fishing in waters or from lands of others; interference with fishing rights of others; enforcement.

It shall be unlawful for any person to fish in the waters or from upon the lands of another without first having obtained permission from the landowner or person in charge of such lands, provided that nothing contained in this Code section shall be construed to apply to the fishing or taking of fish, other than oysters, clams, and other shellfish, in any of the salt-water creeks, streams, or estuaries leading from the Atlantic Ocean or from the sounds, rivers, or bays surrounding the several islands of this state. It shall also be unlawful for any person to obstruct or interfere with the right of any other person to fish in these salt-water creeks, streams, or estuaries leading from the Atlantic Ocean or from the sounds, rivers, or bays surrounding the several islands of this state. Game wardens, sheriffs, deputy sheriffs, and all other peace officers of this state or of any county or municipality thereof shall enforce this Code section.

History.
Ga. L. 1911, p. 137, § 7; Code 1933, § 45-513; Ga. L. 1955, p. 483, § 81; Ga. L. 1972, p. 200, § 2; Code 1933, § 45-701, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2019, p. 808, § 7/SB 72.
Cross references.
Criminal trespass, § 16-7-21.
Limitation of liability of owners of property used for recreational purposes, § 51-3-20 et seq.
Law reviews.
For article, "Public Rights in Georgia's Tidelands," see 9 Ga. L. Rev. 79 (1974).

OPINIONS OF THE ATTORNEY GENERAL

Owner of both sides of nonnavigable stream. — Owner of nonnavigable stream who owns the land on both sides of stream is entitled to exclusive fishing rights in that stream. 1962 Ga. Op. Att'y Gen. 249.

Owner of land adjacent to navigable stream owns to low-water mark of stream, and may prevent fishing from upon owner's lands and could well have exclusive fishing rights to low-water mark thereof. 1962 Ga. Op. Att'y Gen. 249.

Where a river is navigable at point where a lake comes into the river, and the same person owns the land on both sides of the lake and the land on both sides of the mouth of the lake, the owner would have the exclusive fishing rights to the low-water mark of a navigable stream; and the lake and the lands could be posted by the owner notwithstanding fact that the lake and lands might be posted by operation of law. 1962 Ga. Op. Att'y Gen. 249.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 14, 21 et seq.

C.J.S.

36A C.J.S., Fish, §§ 5, 6.

ALR.

Right of public to fish in stream notwithstanding objection by riparian owner, 47 A.L.R.2d 381.

Rights of fishing, boating, bathing, or the like in inland lakes, 57 A.L.R.2d 569.

27-4-3. [Reserved] Right to take shellfish from stream or estuary.

History.

Ga. L. 1952, p. 247, §§ 1-6; Ga. L. 1955, p. 483, § 90; Code 1933, § 45-704, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1981, Ex. Sess., p. 8; repealed by Ga. L. 1991, p. 693, § 2, effective July 1, 1991.

Editor's notes.

Ga. L. 1991, p. 693, § 2, reserved the designation of this Code section, effective July 1, 1991.

27-4-4. Dumping into state waters; recovery of damages.

(a) It shall be unlawful for any person to throw, dump, drain, or allow to pass into any waters of this state which belong to the department or which are being utilized by the department for fish propagation any sawdust, dyestuff, oil, chemicals, or other deleterious substances that will or may tend to injure, destroy, or drive away from such waters any fish or aquatic organisms which may inhabit such waters.

(b) The state, through the department, may recover damages in a civil action against any person who unlawfully or negligently injures or destroys any fish or aquatic organism in any waters which belong to the department or which are being utilized by the department for fish propagation. The measure of damages in such action shall be the amount which will compensate for all the detriment proximately caused by the destruction or injury of such fish or aquatic organism.

History.
Ga. L. 1968, p. 497, § 22; Code 1933, § 45-702, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 27, 43, 51 et seq.

C.J.S.
36A C.J.S., Fish, §§ 38, 43, 48.

27-4-5. Methods for taking fish generally.

(a) It shall be unlawful to fish for game fish, except American shad, hickory shad, flathead catfish, and channel catfish, by any means other than a pole and line. Except as otherwise provided, it shall be unlawful to take any fish in the fresh waters of this state by any method other than a pole and line, sport trotlines in accordance with Code Section 27-4-32, set hooks, jugs, bow and arrow in accordance with Code Section 27-4-34, spears in accordance with Code Section 27-4-33, minnow seines and minnow traps in accordance with Code Section 27-4-6, by hand in accordance with Code Section 27-4-37, and as authorized in Code Section 27-4-91 with regard to commercial fresh-water fishing.

(b) Notwithstanding subsection (a) of this Code section, dip nets and cast nets may be used to take for bait threadfin shad, blueback herring, gizzard shad, and other nongame fish as authorized by the board; and landing nets may be used to land fish legally caught.

(c) Notwithstanding subsection (a) of this Code section, it shall be lawful to use seines, nets, and chemicals in a pond if all the owners of a pond desire that such be done and if a local game warden is notified at least two hours in advance of the use, provided that it shall not be lawful to use such seines, nets, and chemicals in an oxbow lake. As used in this Code section, the term "oxbow lake" means a lake formed in an abandoned river channel which has become separated from the main stream by a natural change in the river.

History.
Code 1933, § 45-705, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 49; Ga. L. 1986, p. 169, § 1; Ga. L. 2005, p. 1487, § 1/HB 301; Ga. L. 2012, p. 739, § 3/HB 869; Ga. L. 2019, p. 808, § 7/SB 72; Ga. L. 2021, p. 105, § 2-5/HB 362; Ga. L. 2026, p. 1069, § 27(9)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this Code section, the term" for "For purposes of this Code section, an" in the second sentence in subsection (c).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 35.

27-4-6. Use of minnow seines or traps.

It shall be unlawful to take any game fish or American eels by minnow seines or minnow traps from the fresh waters of this state. It shall also be unlawful to take any nongame fish by minnow seines or minnow traps from any of the fresh waters of this state, except where such fish are five inches in length or less and are not to be sold or otherwise used for commercial purposes and except where such waters are not trout waters as designated pursuant to Code Section 27-4-51. It shall further be unlawful for any person to engage in the use of minnow seines or minnow traps to collect nongame fish in the fresh waters of this state without a valid resident or nonresident fishing license as provided in Code Section 27-2-23. In accordance with sound principles of wildlife research and management, the department shall have the authority to specify open seasons, creel and possession limits, gear specifications, species taken, and waters open to the use of minnow seines and minnow traps in accordance with this title.

History.
Ga. L. 1956, p. 231, § 1; Ga. L. 1962, p. 120, § 1; Ga. L. 1968, p. 497, § 25; Code 1933, § 45-708, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1999, p. 81, § 27; Ga. L. 2021, p. 105, § 2-6/HB 362.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-7. Use of gill nets; seizure of illegal nets.

(a) Except as otherwise provided by law or rule and regulation, it shall be unlawful for any person to use a gill net in any of the fresh waters or salt waters of this state at any time, provided that it shall be lawful for properly licensed fishermen to use such nets in the taking of shad in accordance with Code Section 27-4-71 and all other laws and rules and regulations applicable to the taking of shad. All nets violative of this Code section found in the fresh waters or salt waters of this state or in the possession of any person on or around fresh water or salt water shall be seized by game wardens or other peace officers of this state. Nets so seized shall be confiscated and shall become the property of the department and shall be disposed of as the commissioner shall direct.

(b) Except for shad taken in accordance with Code Section 27-4-71, it shall be unlawful to land in this state any of the species of fish

enumerated in Code Section 27-4-10 which were taken by means of a gill net. For purposes of this subsection, "to land" fish means to bring the fish to shore in this state in the boat or vessel utilized in taking the fish by means of a gill net, regardless of the jurisdiction from which the fish were taken.

History.
Ga. L. 1957, p. 93, §§ 1, 2; Code 1933, § 45-712, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 2000, p. 1290, § 1; Ga. L. 2012, p. 739, § 4/HB 869; Ga. L. 2019, p. 808, § 7/SB 72.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 46, 47.
Law reviews.
For note on 2000 amendment of this Code section, see 17 Ga. St. U.L. Rev. 195 (2000).

27-4-8. Unlawful devices or substances.

It shall be unlawful for any person to use any firearm, battery, generator or other similar device or any dynamite, explosives, or destructive substances, including poisons, walnut hulls, and lime, for the purpose of catching, killing, taking, or harming fish. The possession of any of the foregoing devices or substances, except firearms, in any boat on the fresh waters of this state shall be deemed prima-facie evidence of guilt under this Code section; provided, however, this provision shall not apply to batteries used to operate motors or lights.

History.
Ga. L. 1862-63, p. 46, § 1; Code 1868, § 4533; Code 1873, § 4624; Code 1882, § 4624; Penal Code 1895, § 723; Ga. L. 1899, p. 68, § 1; Ga. L. 1903, p. 100, §§ 5, 8; Penal Code 1910, §§ 611, 774; Ga. L. 1925, p. 306, §§ 16, 17; Code 1933, §§ 45-507, 45-508, 45-509; Ga. L. 1952, p. 236, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 181, § 1; Ga. L. 1955, p. 483, §§ 83, 84; Code 1933, § 45-711, enacted by Ga. L. 1977, p. 396, § 1.
Law reviews.
For article, "Public Rights in Georgia's Tidelands," see 9 Ga. L. Rev. 79 (1974).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.
C.J.S.
36A C.J.S., Fish, § 36.

27-4-9. Possession of nets or other devices for taking shad during closed season deemed evidence of violation.

The possession, in any boat upon the waters of this state, of nets or other devices capable of taking shad during such time as laws or regulations prohibit the taking of such fish shall be prima-facie evidence that the person having such nets or equipment in his possession

is guilty of taking shad in violation of the wildlife laws, rules, and regulations.

History.
Code 1933, § 45-710, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-10. Creel and possession limits; size restrictions.

(a) It shall be unlawful to take in one day or to possess at any one time, except at a commercial storage facility or at one's place of abode, more than the creel and possession limits established by the board for that fish species; provided, however, that it shall be illegal to possess more than a total of 50 individuals of all fresh water species named in this Code section. It shall be unlawful to take from the waters of this state or to possess any fish species larger or smaller or in numbers greater than the limits established by the board in accordance with this Code section. The board shall establish creel and possession limits which shall be no greater than the following limits and shall establish sizes of fish species within the following ranges which may not be taken:

	Species	Ranges of Sizes Within Which Fish May Not Be Taken	Maximum Daily Creel And Possession Limit
(1)	Genus micropterus (black bass)	0 — 24 inches	10
(2)	Mountain trout	0 — 24 inches	8
(3)	White bass	0 — 36 inches	15
(4)	Striped bass	0 — 36 inches	15
(5)	Striped white bass hybrids	0 — 36 inches	15
(6)	Any one or combination of the species of bream or sunfish	0 — 10 inches	50
(7)	Walleye	0 — 24 inches	15
(8)	Sauger	0 — 24 inches	15
(9)	Chain pickerel	0 — 24 inches	15
(10)	Grass pickerel	0 — 12 inches	15
(11)	Redfin pickerel	0 — 12 inches	15

	Species	Ranges of Sizes Within Which Fish May Not Be Taken	Maximum Daily Creel And Possession Limit
(12)	Black crappie	0 — 14 inches	30
(13)	White crappie	0 — 14 inches	30
(14)	American shad	0 — 30 inches	8
(15)	Hickory shad	0 — 24 inches	8
(16)	Amberjack	0 — 50 inches	5
(17)	Atlantic croaker	0 — 10 inches	25
(18)	Atlantic sturgeon	0 — 86 inches	1
(19)	Black drum	0 — 36 inches	15
(20)	Black sea bass	0 — 15 inches	15
(21)	Blue marlin		3
(22)	Bluefish	0 — 20 inches	15
(23)	Cobia	0 — 40 inches	5
(24)	Dolphin	0 — 24 inches	15
(25)	Flounder (Paralicthys spp.)	0 — 15 inches	15
(26)	Gag grouper	0 — 25 inches	5
(27)	King mackerel	0 — 36 inches	5
(28)	Red drum	0 — 36 inches	5
(29)	Red porgy	0 — 20 inches	10
(30)	Red snapper	0 — 25 inches	5
(31)	Sailfish		3
(32)	Sand tiger shark	0 — 140 inches	1
(33)	Sharks	0 — 120 inches	2
(34)	Sheepshead	0 — 20 inches	15
(35)	Small sharks composite (Atlantic sharpnose, bonnethead, and spiny dogfish)	0 — 54 inches	4
(36)	Spanish mackerel	0 — 20 inches	20
(37)	Spot	0 — 10 inches	25
(38)	Spotted sea trout	0 — 25 inches	15
(39)	Tarpon	0 — 90 inches	1
(40)	Tripletail	0 — 25 inches	5
(41)	Weakfish	0 — 15 inches	15
(42)	White marlin		3

(b) In accordance with sound principles of wildlife research and management, the board shall have the authority to promulgate rules and regulations establishing size limits, open seasons, creel and possession limits, and possession and landing specifications on a statewide, regional, or local basis in accordance with this Code section. The board is further authorized to designate certain areas as catch and release fishing areas and to promulgate rules and regulations necessary for the management of such areas for catch and release fishing.

History.
Code 1933, § 45-713, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 50; Ga. L. 1986, p. 504, § 1; Ga. L. 1988, p. 552, § 1; Ga. L. 1989, p. 1552, § 4; Ga. L. 1990, p. 762, § 1; Ga. L. 1991, p. 94, § 27; Ga. L. 1992, p. 1636, § 2; Ga. L. 1995, p. 543, § 3; Ga. L. 1996, p. 980, § 4; Ga. L. 2012, p. 739, § 5/HB 869; Ga. L. 2021, p. 105, § 2-7/HB 362; Ga. L. 2022, p. 308, § 5/HB 1233.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2021, an inch symbol was deleted following "10" in paragraph (a)(1).

Administrative rules and regulations.
Creel and Possession Limits, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Wildlife Resources Division, Fishing Regulations, Rule 391-4-3-.05.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 47 et seq.

C.J.S.
36A C.J.S., Fish, § 31 et seq.

27-4-11. Fishing in department fish hatcheries.

It shall be unlawful to fish in ponds or other waters of fish hatcheries owned or operated by the department, except for those waters which the department opens for fishing. The department may set special creel limits, hours, open dates, age limitations, and other conditions for fishing in the ponds or other waters at each facility.

History.
Code 1933, § 45-714, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1980, p. 2004, §§ 1, 2; Ga. L. 1981, p. 798, § 13; Ga. L. 1986, p. 504, § 2; Ga. L. 1988, p. 541, § 1; Ga. L. 1989, p. 1552, § 5; Ga. L. 1990, p. 762, § 2; Ga. L. 1996, p. 980, § 5.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 47, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 31 et seq.

27-4-11.1. Possession of firearms and intoxication on public fishing areas; fishing in closed fishing areas; other restrictions in public fishing areas.

(a) It shall be unlawful for any person on any public fishing area owned or operated by the department:

(1) To possess a firearm other than a handgun, as such term is defined in Code Section 16-11-125.1, during a closed hunting season for that area unless such firearm is unloaded and stored in a motor vehicle so as not to be readily accessible or to possess a handgun during a closed hunting season for that area unless such person is a lawful weapons carrier as defined in Code Section 16-11-125.1;

(2) To possess a loaded firearm other than a handgun, as such term is defined in Code Section 16-11-125.1, in a motor vehicle during a legal open hunting season for that area or to possess a loaded handgun in a motor vehicle during a legal open hunting season for that area unless such person is a lawful weapons carrier as defined in Code Section 16-11-125.1; or

(3) To be under the influence of drugs, intoxicating liquors, beers, or wines. The determination of whether any person is under the influence of drugs or intoxicating liquors, beers, or wines may be made in accordance with the provisions of Chapter 3 of this title relating to hunting while under the influence of drugs or alcohol.

(b) It shall be unlawful for any person to fish at any time in any pond or lake on a public fishing area owned or operated by the department which has been posted "closed" by the department for purposes of fisheries management or to take or possess any species or any size of any species or to exceed the creel limit of any species at any time from any pond or lake on a public fishing area which has been posted with a sign which states that that species or size may not be taken or that creel limit exceeded. Creel and size limits posted as permissible must be within the limits set forth in Code Section 27-4-10 and, if applicable, the limits set by the board pursuant to subsection (c) of this Code section.

(c) It shall be unlawful for any person to take in one day or to possess at any one time any number of fish caught from public fishing areas except in compliance with limits set by rule and regulation of the board, which limits shall not be more than the maximum limit for that species set forth in Code Section 27-4-10.

(d) It shall be unlawful for any person to fish or to be present on any public fishing area except in accordance with rules and regulations established by the board for the use of such area. The board shall have the authority to adopt rules and regulations governing methods of fishing; to regulate the operation and use of vessels; to close the area or

certain ponds or lakes of the area to vessels; and to regulate other matters that the board deems necessary for the safe operation and sound management of the area.

(e) It shall be unlawful on any public fishing area for any person to drive or otherwise operate a vehicle on any road posted "closed" to vehicular access, to drive around a closed gate or cable blocking a road, or to drive on any road that is not improved in that it is not receiving maintenance for the purpose of vehicular access. It shall be unlawful for any person to park a vehicle at any place within a public fishing area, including upon the right of way of any county, state, or federal highway which traverses the public fishing area, where signs placed at the direction of the commissioner or his or her designee prohibit parking.

(f) It shall be unlawful for any person to camp anywhere on any public fishing area except in those areas designated by appropriate signs as camping areas.

(g) It shall be unlawful for persons under 14 years of age to enter or remain upon any public fishing area unless such person is under adult supervision. It shall be unlawful for any person to cause or knowingly to permit his or her ward who is under 14 years of age to enter or remain upon any public fishing area unless such child or ward is under adult supervision.

(h) It shall be unlawful for any person who has fished at a public fishing area to refuse to allow department personnel to count, measure, and weigh his or her catch.

History.

Ga. L. 1981, p. 1380, § 1; Ga. L. 1982, p. 1729, § 10; Ga. L. 1989, p. 1552, § 6; Ga. L. 1992, p. 1636, §§ 3-5; Ga. L. 1993, p. 91, § 27; Ga. L. 1996, p. 980, § 6; Ga. L. 2010, p. 963, § 2-15/SB 308; Ga. L. 2022, p. 74, § 16/SB 319.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1997, "right of way" was substituted for "right-of-way" in the second sentence of subsection (e).

Editor's notes.

Ga. L. 2010, p. 963, § 3-1/SB 308, not codified by the General Assembly, provides, in part, that the amendment of this Code section shall apply to all offenses committed on and after June 4, 2010, and shall not affect any prosecutions for acts occurring before June 4, 2010, and shall not act as an abatement of any such prosecutions.

Ga. L. 2022, p. 74, § 1/SB 319, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Chairman John Meadows Act.'"

Ga. L. 2022, p. 74, § 2/SB 319, not codified by the General Assembly, provides: "The General Assembly finds and determines that:

"(1) The Second Amendment to the United States Constitution recognizes the right of the people to keep and bear arms and that such right shall not be infringed; and

"(2) The people of this state, to perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen and of the family, and transmit to posterity the enjoyment of liberty, provided that the right of the people to keep and bear arms shall not be infringed but that the

General Assembly shall have power to prescribe the manner in which arms may be borne."

Law reviews.

For article, "Crimes and Offenses," see 27 Ga. St. U.L. Rev. 131 (2011).

For article, "SB 319: Chairman John Meadows Act," see 39 Ga. St. U.L. Rev. 1 (2022).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offense arising from a violation of O.C.G.A. § 27-4-11.1 does not appear to be an offense for which fingerprinting is required. 2010 Op. Att'y Gen. No. 10-6.

27-4-12. Rules and regulations; reporting; legislative override of rules and regulations.

(a) In accordance with current, sound principles of wildlife research and management, the board shall have the authority to adopt rules and regulations establishing seasons; methods of fishing and disposition; size, possession, and creel limits; and gear and landing specifications for the taking of fish from the fresh waters and salt waters of this state, except to the extent that such matters are specifically provided for by this title.

(b) Within the first ten days of a subsequent legislative session, the board shall report to the appropriate standing committees of each house and to all members whose districts are included within current boundaries of the First Congressional District the following information for the previous year:

(1) A listing and description of rules promulgated by the board for salt-water species listed in Code Section 27-4-10; and

(2) A listing and description of any findings made by the department in making a determination pursuant to Code Section 27-4-130.

(c) The General Assembly may override any rule or regulation promulgated by the board affecting salt-water finfish fisheries after January 1, 2013, by adopting a joint resolution of the General Assembly so stating, the provisions of Code Section 50-13-4 notwithstanding.

History.

Code 1933, § 45-732, enacted by Ga. L. 1977, p. 396, § 1; Code 1933, § 45-733, as redesignated by Ga. L. 1981, p. 1380, § 1; Ga. L. 2012, p. 739, § 6/HB 869.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 30 et seq., 39, 44, 47 et seq.

C.J.S.

36A C.J.S., Fish, §§ 24 et seq., 31 et seq.

ARTICLE 2
NONCOMMERCIAL FISHING

PART 1
GENERAL PROVISIONS

27-4-30. Fishing in private ponds.

The owner of a private pond, the owner's immediate family, or tenants with the owner's consent shall be permitted to fish within the bounds of the pond at any time and in any manner without a fishing license. All other persons shall be required to obtain fishing licenses to fish within the bounds of a private pond as provided in this title unless the fish in the private pond are "domestic fish" as defined in paragraph (23) of Code Section 27-1-2. As used in this Code section, the term "private pond" shall not include ponds owned by city or county governments, the State of Georgia, the United States, or authorities or political subdivisions of such governments.

History.

Ga. L. 1931, p. 169, § 5; Code 1933, § 45-505; Ga. L. 1955, p. 483, § 82; Code 1933, § 45-703, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1992, p. 1507, § 3; Ga. L. 1994, p. 600, § 3; Ga. L. 2017, p. 27, § 14/HB 208; Ga. L. 2026, p. 1069, § 54(2)(L)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For the purposes of" at the beginning of the third sentence of this Code section.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under Ga. L. 1937, p. 675, § 7, is included in the annotations for this Code section.

License required for invitees of owner of private pond. — While owner of private pond may fish therein without personally procuring license, and may take fish therefrom in any manner whatever, other residents of state over 16 years of age, even though fishing in such private pond as invitees of owner, would be required to obtain license. Vickers v. Jones, 200 Ga. 338, 37 S.E.2d 205, 1946 Ga. LEXIS 395 (1946) (decided under Ga. L. 1937, p. 675, § 7).

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 20, 40, 44.

C.J.S.

36A C.J.S., Fish, §§ 4, 5, 28.

ALR.

Applicability of state fishing license laws or other public regulations to fishing in private lake or pond, 15 A.L.R.2d 754.

Rights of fishing, boating, bathing, or the like in inland lakes, 57 A.L.R.2d 569.

27-4-31. Catch-out pond licenses.

The owner or operator of a catch-out pond operated as one contiguous unit and under single ownership, including ownership by a partnership, firm, association, or corporation, may purchase a catch-out pond license as provided in Code Section 27-2-23. Such license shall not be transferable to another owner or operator or to any other site. Persons, both residents and nonresidents, may fish in a properly licensed catch-out pond without obtaining a fishing license or trout license and without complying with the creel limits, possession limits, size limits, and seasons set forth in this title. It shall be unlawful for the owner or operator of a catch-out pond not properly licensed to represent to any person that such person may fish in the pond as if the pond were a licensed catch-out pond.

History.
Ga. L. 1973, p. 274, § 2; Code 1933, § 45-307, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 28; Ga. L. 1998, p. 783, § 14.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 6, 23, 44.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 13, 14.
ALR.
Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-4-32. Sport trotlines.

Sport trotlines must be marked with the owner's name and address and with visible buoys and must be submerged at least three feet below the surface of the water. Such trotlines must be attended regularly and removed after the completed fishing trip. Unmarked or unattended lines will be confiscated by personnel of the department. As used in this Code section, the term "sport trotlines" means one line or a combination of lines using less than 51 hooks. It shall be unlawful to use any sport trotline within one-half mile below any lock or dam on any of the fresh waters of this state.

History.
Code 1933, § 45-706, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1988, p. 306, § 1; Ga. L. 2026, p. 1069, § 27(10)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "the term" in the third sentence of this Code section.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-33. Spearing of fish.

(a) It shall be unlawful to spear game fish and all species of catfish in the fresh waters of this state except as provided in this Code section; provided, however, other species of nongame fish may be speared solely for the purpose of sport, provided the person engaged in the act of spearing is completely submerged.

(b) "Spearing" as used in this Code section shall be limited to the use of a spear or similar instrument that is held in the hand of the person using the same and the use of a weapon other than a firearm which propels or forces a projectile or similar device therefrom, to which a wire, rope, line, cord, or other means of recovering the projectile or similar device is attached, which wire, rope, line, cord, or other means is secured to the weapon or the person using the weapon.

(c) It shall also be unlawful for any person to engage in the spearing of fish in the fresh waters of this state without a resident or nonresident fishing license as provided in Code Section 27-2-23.

(d) It shall be unlawful to use spears with poisonous or exploding heads.

(e) It shall be unlawful to discharge spears into waters nearer than 150 feet to anyone engaged in any other means of recreation.

(f) Any game fish, except channel catfish and flathead catfish taken under the provisions of subsection (g) of this Code section, with an open wound and in the possession of a person fishing with a spear shall be prima-facie evidence of taking and possessing fish illegally.

(g) It shall be unlawful to take channel catfish and flathead catfish anywhere in the Savannah River, including its tributaries and impoundments within the Savannah River Basin, by means of spearing, except under the following conditions:

(1) The taking of channel catfish and flathead catfish in the Savannah River, including its tributaries and impoundments within the Savannah River Basin, by spear shall be legal at any time of the day and at night by the use of a light; and

(2) All spears used pursuant to this subsection must be equipped with barbs or contain devices on the point to act as a harpoon for recovering fish and must be attached to the person using the spear or to the weapon by a rope, line, or cord sufficient for recovering the spear and channel catfish or flathead catfish.

History.
Ga. L. 1959, p. 181, § 1; Ga. L. 1968, p. 497, § 23; Code 1933, § 45-707, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 420, § 9; Ga. L. 1984, p. 537, § 5; Ga. L. 2005, p. 1487, § 2/HB 301.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44 et seq.

C.J.S.
36A C.J.S., Fish, §§ 28, 36.

27-4-34. Fishing with bow and arrow.

(a) It shall be unlawful to take nongame fish from the waters of this state by means of bow and arrow except under the following conditions:

(1) Each person using a bow and arrow shall have on his or her person a valid state resident or nonresident fishing license;

(2) All arrows used pursuant to this Code section must be equipped with barbs or contain devices on the point to act as a harpoon for recovering fish and must be attached to the person or bow by a rope, line, or cord sufficient for recovering the arrow and nongame fish;

(3) Arrows with poisonous or exploding heads are illegal;

(4) It shall be unlawful to discharge arrows into waters nearer than 150 feet to anyone engaged in any other means of recreation; and

(5) Legal hours for the taking of fish by bow and arrow shall be from sunrise to sunset, except as otherwise provided in subsection (d) in this Code section.

(b) Any game fish, except channel catfish and flathead catfish taken under the provisions of subsection (d) of this Code section, with an open wound and in the possession of a person fishing with a bow and arrow shall be prima-facie evidence of taking and possessing fish illegally.

(c) Notwithstanding the provisions of paragraph (5) of subsection (a) of this Code section, if all other requirements of said subsection (a) are met, nongame fish may be taken in impounded waters of reservoirs over 500 acres in size by bow and arrow at any time during the day and may be taken at night by the use of a light.

(d) It shall be unlawful to take any catfish species from the waters of this state by means of bow and arrow, except under the following conditions:

(1) Each person using a bow and arrow shall have on his or her person a valid state resident or nonresident fishing license;

(2) All arrows used pursuant to this subsection must be equipped with barbs or contain devices on the point to act as a harpoon for

recovering fish and must be attached to the person or bow by a rope, line, or cord sufficient for recovering the arrow and channel catfish or flathead catfish;

(3) Arrows with poisonous or exploding heads are illegal;

(4) It shall be unlawful to discharge arrows into waters nearer than 150 feet to anyone engaged in any other means of recreation; and

(5) The taking of any catfish species from the waters of this state by bow and arrow shall be legal at any time of the day and at night by the use of a light.

(e) Subject to the provisions of this Code section, and in accordance with current, sound principles of wildlife research and management, the board is authorized to promulgate rules and regulations regarding the taking of any fish from the salt waters of this state by means of bow and arrow.

History.
Code 1933, § 45-709, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1988, p. 366, § 1; Ga. L. 1992, p. 1636, § 6; Ga. L. 2000, p. 1393, § 1; Ga. L. 2012, p. 739, § 7/HB 869; Ga. L. 2025, p. 663, § 2/HB 491, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, substituted "any catfish species from the waters of this state" for "channel catfish and flathead catfish anywhere in the Savannah River, including its tributaries and impoundments within the Savannah River Basin" in subsection (d) and substituted "any catfish species from the waters of this state" for "channel catfish and flathead catfish in the Savannah River, including its tributaries and impoundments within the Savannah River Basin" in paragraph (d)(5).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44 et seq.

C.J.S.
36A C.J.S., Fish, §§ 28, 31 et seq.

27-4-35. [Reserved] Sport shad fishing.

History.
Ga. L. 1977, p. 396, § 1; repealed by Ga. L. 2012, p. 739, § 8/HB 869, effective January 1, 2013.

Editor's notes.
Ga. L. 2012, p. 739, § 8/HB 869, reserved the designation of this Code section, effective January 1, 2013.

27-4-36. Artificial-lure streams or lakes.

(a) It shall be unlawful to fish in any artificial-lure stream or lake except with an artificial lure or to have any bait or lure other than artificial in possession at such stream or lake. The board shall have the authority to designate streams, lakes, or parts of streams or lakes as artificial-lure streams or lakes and to promulgate rules regarding

fishing methods, gear, and size or type of artificial lures that may be used on such streams or lakes.

(b) It shall be unlawful to have in possession while fishing such streams or lakes any bait, lure, landing net, or other gear which may not be lawfully used on such streams or lakes.

History.
Code 1933, § 45-719, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1980, p. 2004, § 3; Ga. L. 1981, p. 798, §§ 14, 15; Ga. L. 1995, p. 543, § 4; Ga. L. 1996, p. 980, § 7.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-37. Fishing by grabbling, noodling, or hand grabbing.

(a) It shall be unlawful to fish for game fish, catfish, and all other species of fish in the freshwaters of the state by grabbling, noodling, or hand grabbing except as provided in this Code section. Flathead, channel, and blue catfish may be taken by hand without the aid of any device, hook, snare, net, or other artificial instrument and without the aid of any scuba equipment, air hose, or other artificial breathing apparatus between March 1 and July 15 of each year.

(b) It shall be unlawful to alter any natural or manmade feature by placing boards, wire, barrels, buckets, or any device or obstruction in any stream or other body of water or to modify any log, hole, or other feature in an attempt to attract or capture fish by grabbling, noodling, or hand grabbing or to take fish by grabbling, noodling, or hand grabbing from such altered devices. It shall also be unlawful to raise any part of a natural or artificial device out of the water to aid in the hand capture of enclosed fish.

(c) Any game fish, except channel and flathead catfish, taken in violation of the provisions of subsections (a) and (b) of this Code section that are in the possession of a person grabbling, noodling, or hand grabbing fish shall be prima-facie evidence of taking and possessing fish illegally.

(d) It shall be unlawful for any person to engage in the grabbling, noodling, or hand grabbing of flathead, channel, or blue catfish in the fresh waters of this state without a resident or nonresident fishing license as provided in Code Section 27-2-23.

History.
Code 1981, § 27-4-37, enacted by Ga. L. 2005, p. 1487, § 3/HB 301; Ga. L. 2006, p. 72, § 27/SB 465.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
36A C.J.S., Fish, § 36.

PART 2

TROUT FISHING

27-4-50. Fishing in trout waters; moving of trout.

(a) It shall be unlawful to fish for trout in any waters designated as trout waters pursuant to Code Section 27-4-51 by any means other than using one pole and line held in hand.

(b) It shall be unlawful to use live fish for bait in any waters designated as trout waters pursuant to Code Section 27-4-51, except as authorized by the board.

(c) It shall be unlawful to move trout from any of the fresh waters of this state to any other fresh waters of this state, except that authorized agents of the department may move trout as necessary for purposes of fisheries management, conservation, and restoration.

History.
Code 1933, § 45-715, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1995, p. 543, § 5; Ga. L. 1998, p. 1550, § 3; Ga. L. 2012, p. 739, § 9/HB 869.

Cross references.
Trout license, § 27-2-6.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 48, 51 et seq.

C.J.S.
36A C.J.S., Fish, §§ 36, 39.

27-4-51. Designation of certain waters as trout waters; establishment of seasons and methods of fishing.

(a) The board is authorized to promulgate rules and regulations as may be appropriate based on sound wildlife management principles designating all or any portion of any watershed, stream, or lake as trout waters and establishing seasons, times, and methods of fishing in such waters.

(b) It shall be unlawful to fish in any waters which the board designates as trout waters except during such times and in such methods as the board establishes by rule or regulation.

History.
Code 1933, § 45-716, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1984, p. 537, § 6; Ga. L. 1995, p. 543, § 6; Ga. L. 1998, p. 1550, § 4.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 45, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 31 et seq.

ARTICLE 3

COMMERCIAL FISHING AND FISH DEALING

Cross references.
Regulation of business of wholesale dealers in fish or seafood, § 26-2-310 et seq.

PART 1

GENERAL PROVISIONS

27-4-70. Fishing in waters not opened for commercial fishing.

It shall be unlawful to fish commercially except in waters opened for commercial fishing by regulation of the board.

History.
Ga. L. 1955, p. 483, § 91; Code 1933, § 45-801, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

ALR.
Liability for damage by vessel to nets or other articles used in fishing, 7 A.L.R. 52.

27-4-71. Commercial fishing for shad, American eels, catfish, and horseshoe crabs.

(a) It shall be unlawful to fish commercially for shad, American eels, catfish in salt water, or horseshoe crabs except with a valid commercial fishing license as prescribed in Code Section 27-2-23 and a valid commercial fishing boat license as prescribed in Code Section 27-2-8. In accordance with current, sound principles of wildlife research and management, the commissioner may authorize any person so licensed to fish for shad, American eels, catfish in salt water, or horseshoe crabs.

(b) In accordance with current, sound principles of wildlife research and management, the board is authorized to promulgate rules and regulations establishing the seasons, days, and places; methods of fishing and disposition; and size, creel, and possession limits for fishing

commercially for shad, American eels, catfish in salt water, and horseshoe crabs.

(c) It shall be unlawful to fish commercially for shad, American eels, catfish in salt water, or horseshoe crabs except in compliance with the rules and regulations of the board pertaining to the seasons, days, and places; methods of fishing and disposition; and size, creel, and possession limits for fishing commercially for such species.

History.
Code 1933, § 45-805, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 54, 55; Ga. L. 1979, p. 420, § 1; Ga. L. 1979, p. 678, § 31; Ga. L. 2012, p. 739, § 10/HB 869.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 31 et seq. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-4-72. [Reserved] Commercial eel fishing.

History.
Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 63; Ga. L. 1979, p. 678, § 33; Ga. L. 1979, p. 893, § 5; Ga. L. 1981, p. 823, § 4; Ga. L. 1992, p. 470, § 2; repealed by Ga. L. 2012, p. 739, § 11/HB 869, effective January 1, 2013.

Editor's notes.
Ga. L. 2012, p. 739, § 11/HB 869, reserved the designation of this Code section, effective January 1, 2013.

27-4-73. Confiscation and disposition of illegally used commercial fishing gear.

Should any law enforcement officer of this state or employee of the department discover any commercial fishing gear or any trap, net, seine, basket, or similar device for taking fish, which gear or device is being used in violation of this title, such officer or employee shall seize and hold the same. In the event no one within a reasonable time claims the seized commercial fishing gear and the owner thereof is unknown to such officer or employee, the gear shall be confiscated and shall become the property of the department and disposed of as ordered by the commissioner.

History.
Ga. L. 1955, p. 483, § 91; Code 1933, § 45-807, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 55.

C.J.S.
36A C.J.S., Fish, §§ 46, 47.

27-4-74. Sale, purchase, or transportation of game fish generally.

(a) Except as otherwise provided in this Code section and in Code Section 27-4-75, it shall be unlawful for any person to sell or purchase any game fish.

(b) Game fish shipped into this state and accompanied by a bona fide bill of sale or lading giving the date of the transaction, the details of the source of the fish, and the species, number, and pounds thereof may be lawfully transported, sold, and resold, provided each person in possession thereof has the bill of sale or lading and has otherwise complied with this Code section and any regulations promulgated pursuant to this Code section.

(c) It shall be lawful for any person to sell or purchase game fish from a pond when the owner of the pond has obtained a valid permit from the department and the permit is displayed in a prominent place at the pond and the person shall have complied with all the requirements of this Code section and any regulations promulgated pursuant to this Code section. The permit may be issued to the owner only once annually and shall limit the time for taking fish from the pond to 15 days unless an extension is granted by the department. However, no person shall sell, purchase, or possess any game fish taken from such a pond unless the fish are packaged and labeled with the pond permit number and the number and pounds of each species of fish contained therein. The fish shall remain so packaged until processed for consumption or released into another body of water.

(d) Notwithstanding any of the provisions of this title to the contrary, American shad, hickory shad, flathead catfish, and channel catfish harvested from Georgia waters other than private ponds in the course of commercial fishing as that term is defined in Code Section 27-1-2 shall not be subject to the prohibitions set forth in this Code section.

History.
Ga. L. 1955, p. 483, § 85; Ga. L. 1957, p. 340, § 1; Ga. L. 1958, p. 221, § 1; Ga. L. 1973, p. 897, § 2; Code 1933, § 45-808, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 56; Ga. L. 1992, p. 1507, § 4; Ga. L. 1994, p. 600, § 4.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1994, "fish, and" was substituted for "fish and" in subsection (b).

JUDICIAL DECISIONS

There is no exception made for sale of crappie cultivated in private ponds. Maddox v. State, 252 Ga. 198, 312 S.E.2d 325, 1984 Ga. LEXIS 641, cert. denied, 469 U.S. 820, 105 S. Ct. 93, 83 L. Ed. 2d 39, 1984 U.S. LEXIS 3105 (1984).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 42 et seq., 49 et seq.

C.J.S.
36A C.J.S., Fish, §§ 28, 31 et seq.

27-4-75. Sale of fish by commercial fish hatcheries; sale of game fish; bill of sale or lading requirement for possession of certain fish.

(a) It shall be unlawful to sell any fish from a commercial fish hatchery as defined in Code Section 27-1-2 unless the hatchery is licensed under Code Section 27-2-23 or except as follows:

(1) Fish may be sold as provided in Code Section 27-4-74 or 27-4-76; and

(2) Domestic fish as defined in paragraph (23) of Code Section 27-1-2 and that are produced by an aquaculturist registered under Code Section 27-4-255.

(b) Except as provided in Code Section 27-4-74 and except for persons licensed as wholesale or retail fish dealers as provided in Code Section 27-4-76, it shall be unlawful for anyone other than a commercial fish hatchery licensed under Code Section 27-2-23 to sell any species of game fish. It shall also be unlawful for any person to have in his or her possession any such game fish obtained from a commercial fish hatchery, wholesale fish dealer, or retail fish dealer or domestic fish from an aquaculturist registered under Code Section 27-4-255 without a bona fide bill of sale or lading which provides the date of transaction, identifies the seller, and details at least two of the following three criteria for each species of fish contained therein: number, weight, or average length.

(c) It shall also be unlawful to sell fish from a commercial fish hatchery which the department has determined to have diseases or parasites which would be harmful to native fish populations.

History.
Ga. L. 1973, p. 897, § 3; Code 1933, § 45-809, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1989, p. 1207, § 2; Ga. L. 1989, p. 1579, § 3; Ga. L. 1992, p. 1507, § 5; Ga. L. 1994, p. 600, § 5; Ga. L. 2004, p. 948, § 2-4.

Editor's notes.
Ga. L. 2019, p. 919, § 1-1/HB 553, repealed the provisions of the Georgia

Pacific White Shrimp Development Aquaculture Act, effective July 1, 2019. As a result, the amendment by Ga. L. 2004, p. 948, § 2-4, which was never funded and therefore remained dormant, is now moot.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49 et seq.

C.J.S.
36A C.J.S., Fish, § 35.

27-4-76. Wholesale and retail fish dealers; license requirement; seizure.

(a) It shall be unlawful to engage in the business of a wholesale or retail fish dealer, as defined in Code Section 27-1-2, without first obtaining an annual license from the department as provided in Code Section 27-2-23. Properly licensed wholesale fish dealers or retail fish dealers may sell game fish obtained from a licensed fish hatchery or domestic fish obtained from a registered aquaculturist or as otherwise provided in Code Section 27-4-74. Notwithstanding any other provision to the contrary, a licensed commercial fish hatchery shall not be required to obtain a license as a wholesale fish dealer or a retail fish dealer.

(b) Notwithstanding subsection (a) of this Code section, nonresident persons may sell and transport fish and fish eggs into the state without being required to procure a wholesale fish dealer license where the sale and shipment are made to a wholesale fish dealer duly licensed under Code Section 27-2-23.

(c) The board may by regulation prohibit or limit the importation, possession, or sale in this state of live fish or fish eggs where the same are found to be harmful to endemic fish populations or where the importation, possession, or sale might introduce or spread disease or parasites.

(d) The game wardens or other agents or officials of the department shall confiscate any fish imported, purchased, or acquired by any person in violation of this Code section or any regulation promulgated by the board pursuant to this Code section.

History.
Ga. L. 1937-38, Ex. Sess., p. 332, § 5; Ga. L. 1945, p. 315, § 1; Ga. L. 1956, p. 231, § 1; Code 1933, § 45-810, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 58, 59; Ga. L. 1979, p. 420, § 12; Ga. L. 1979, p. 893, § 4; Ga. L. 1986, p. 1460, § 2; Ga. L. 1989, p. 1207, § 3; Ga. L. 1989, p. 1579, § 4; Ga. L. 1992, p. 1507, § 6; Ga. L. 2004, p. 948, § 2-5; Ga. L. 2019, p. 808, § 7/SB 72.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1992, "aquaculturist" was substituted for "acquaculturalist" in subsection (a).

Editor's notes.
Ga. L. 2019, p. 919, § 1-1/HB 553, repealed the provisions of the Georgia

Pacific White Shrimp Development Aquaculture Act, effective July 1, 2019. As a result, the amendment by Ga. L. 2004, p. 948, § 2-5, which was never funded and therefore remained dormant, is now moot.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 42 et seq., 51 et seq.

C.J.S.
36A C.J.S., Fish, §§ 28, 35, 39, 46, 47. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 67 et seq.

27-4-77. Suspension of license for violation of article.

Upon a conviction of any person for the violation of any of the provisions of this article, all licenses held by any such person to fish commercially or operate or use commercial fishing gear in the public impounded waters or navigable streams of this state may, at the option of the court, be forfeited for a period of six months from the date of conviction.

History.
Code 1933, § 45-817, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.

C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-4-78. Governance of food fish processing plants.

Any food fish processing plant shall be governed by the provisions of Article 6 of Chapter 2 of Title 26 as such provisions apply to meat and poultry processing plants.

History.
Code 1981, § 27-4-78, enacted by Ga. L. 1989, p. 1207, § 4; Code 1981, § 27-4-78, enacted by Ga. L. 1989, p. 1579, § 5; Ga. L. 1992, p. 1507, § 7.

PART 2

FRESH-WATER FISHING

27-4-90. License requirement; effective dates.

It shall be unlawful for any person to engage in commercial fresh-water fishing in this state without having a valid commercial fishing license as provided in Code Section 27-2-23. The license shall be a personal license required of each individual engaging in the activities covered by

this Code section and shall be effective from April 1 to March 31 of the following year.

History.
Ga. L. 1955, p. 483, § 91; Code 1933, § 45-802, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 420, § 10; Ga. L. 1982, p. 1729, § 7; Ga. L. 2003, p. 140, § 27.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.
C.J.S.
36A C.J.S., Fish, § 10.
ALR.
Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-4-91. Lawful fishing gear.

(a) Except as otherwise provided by law or regulation, it shall be unlawful for any person engaged in commercial fresh-water fishing in this state to use any gear other than trotlines, baskets in accordance with Code Section 27-4-92, turtle traps, or shad nets in accordance with Code Section 27-4-71, to which have been attached a tag bearing the name, address, and commercial fishing license number of the person using any such gear.

(b) As used in subsection (a) of this Code section, the term "trotlines" means one line which has more than 50 hooks in any combination or a combination of lines with more than 50 hooks in use by one person. The lines must be marked with visible buoys and must be attended regularly and removed after the completed fishing trip. The lines must be submerged at least three feet below the surface of the water. It shall be unlawful to keep any game fish, except flathead catfish, channel catfish, American shad, and hickory shad, taken with such lines.

(c) For purposes of subsection (a) of this Code section, turtle traps must be constructed of netting and shaped as hoop nets. The traps must also have one open muzzle or throat at least 32 inches wide with a ring ten inches in diameter made into the rear of the trap to permit fish to escape. Notwithstanding any other provision to the contrary, it shall be unlawful to use such traps in the Chattahoochee River and its impoundments lying between Georgia and Alabama. It shall also be unlawful to retain any game fish taken in such traps in any of the waters of this state.

History.
Ga. L. 1931, p. 169, § 5; Code 1933, § 45-505; Ga. L. 1955, p. 483, § 91; Code 1933, § 45-803, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1980, p. 2004, § 5; Ga. L. 1982, p. 1729, § 7; Ga. L. 2012, p. 739, § 12/HB 869; Ga. L. 2026, p. 1069, § 27(11)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in the first

sentence of subsection (b), substituted "As used in" for "For purposes of" and inserted "the term".

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-92. Fishing with baskets.

(a) Except as otherwise provided by law or regulation, it shall be unlawful to fish with any basket unless such basket is constructed of one-inch mesh wire and is not more than 72 inches in length and 60 inches in circumference. One throat shall be located at the extreme front of the basket, and the second throat shall be located 17 inches behind the first. The second throat shall have a trap door 7 1/2 inches square.

(b) It shall be unlawful to fish with baskets in fresh-water flowing streams. It shall also be unlawful to fish with a basket without notifying the game warden in the area of the time and place such basket is to be used.

(c) It shall be unlawful for any person to possess any basket or trap made of metal, wire, wood, fabric, or other material suitable for use or capable of use in taking fish from the waters of this state unless the person has a commercial fishing license and unless an identification tag as required in Code Section 27-4-91 is attached to the basket or trap; provided, however, that the owner of a private pond may possess and use a basket or trap for taking fish therefrom without the necessity of obtaining a commercial fishing license; provided, further, that baskets meeting the requirements of subsection (a) of this Code section may be possessed for the purpose of sale and may be sold at a regularly established place for sale without the owner or operator of the place obtaining a commercial fishing license.

(d) Notwithstanding any other provision to the contrary, it shall be unlawful to take any game fish, except flathead catfish and channel catfish, with baskets.

(e) Notwithstanding any other provision to the contrary, it shall be unlawful for any person to fish with more than five baskets in the waters of Lake Sinclair and Lake Oconee. No person shall fish with the baskets of other persons unless accompanied by such other persons at the time of such fishing.

History.
Ga. L. 1925, p. 302, § 19; Code 1933, § 45-506; Ga. L. 1953, Nov.-Dec. Sess., p. 85, §§ 1-5; Ga. L. 1955, p. 483, § 87; Ga.

L. 1962, p. 477, §§ 1, 2; Ga. L. 1972, p. 925, § 4; Code 1933, § 45-804, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1989, p. 253, § 1; Ga. L. 1989, p. 1552, § 8; Ga. L. 2019, p. 808, § 7/SB 72.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-93. Use of commercial fishing gear within one-half mile below lock or dam.

It shall be unlawful to use any commercial fishing gear, as designated in this title, within one-half mile below any lock or dam on any of the fresh waters of this state.

History.
Ga. L. 1955, p. 483, § 91; Code 1933, § 45-806, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 46.

C.J.S.
36A C.J.S., Fish, § 36.

Part 3

Salt-water Fishing

27-4-110. License requirement.

It shall be unlawful for any person other than the crew of a trawler licensed as provided in Code Section 27-2-8 with a trawler crew license, for purposes of such license, or a person in possession of a valid commercial crabbing license as provided for in Code Section 27-4-150, for purposes of such license, or a person in possession of a commercial food shrimp cast netting license as provided in Code Section 27-4-205, for purposes of such license, to engage in commercial fishing in any of the salt waters of this state without first obtaining a commercial fishing license, which shall be carried on his or her person while engaging in such activities. Each license shall be separate and distinct from each other and separate from and in addition to the commercial fishing boat license required by Code Section 27-2-8.

History.
Ga. L. 1955, p. 483, § 37; Ga. L. 1956, p. 590, § 3; Ga. L. 1967, p. 634, § 3; Ga. L. 1975, p. 424, § 1; Code 1933, § 45-306, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 27; Ga. L. 1982, p. 1729, § 7; Ga. L. 1991, p. 1012, § 1; Ga. L. 1995, p. 156, § 2; Ga. L. 1998, p. 1133, § 5; Ga. L. 2007, p. 93, § 4/HB 100; Ga. L. 2017, p. 27, § 15/HB 208.

Editor's notes.
Ga. L. 2017, p. 27, § 20/HB 208, not

codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 14, 51.
C.J.S.
36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 13, 14.
ALR.
Right to enjoin business competitor from unlicensed or otherwise illegal acts or practices, 90 A.L.R.2d 7.

27-4-111. Filing of bond or affidavit as condition for validity of commercial fishing boat license.

A commercial fishing boat license issued under Code Section 27-2-8 shall not be valid unless there is in effect in the name of the owner of the boat one of the following:

(1) A cash forfeiture bond meeting the requirements of Code Section 27-4-134 sufficient to cover the forfeiture prescribed by law for the next offense; or

(2) A forfeiture bond executed by a bonding, surety, or insurance company meeting the requirements of Code Section 27-4-134 sufficient to cover the forfeiture prescribed by law for the next offense; or

(3) An affidavit meeting the requirements of Code Section 27-4-134.

History.
Code 1933, § 45-906, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 46, 47.

27-4-112 through 27-4-115. [Reserved].

History.
Code 1933, §§ 45-812, 45-813, 45-814, enacted by Ga. L. 1977, p. 396, § 1; Code 1933, § 45-818, enacted by Ga. L. 1979, p. 678, § 34; Ga. L. 1978, p. 816, §§ 60, 61, 62; Ga. L. 1979, p. 678, § 32; Ga. L. 1981, p. 1003, § 1; Ga. L. 1982, p. 1729, § 7; Ga. L. 1984, p. 801, § 1; Ga. L. 1985, p. 1047, § 4; Ga. L. 1998, p. 1133, § 6; Ga. L. 2007, p. 93, §§ 5, 6/HB 100; repealed by Ga. L. 2012, p. 739, §§ 13-16/HB 869, effective January 1, 2013.
Editor's notes.
Ga. L. 2012, p. 739, §§ 13-16/HB 869, reserved the designation of these Code sections, effective January 1, 2013.

The former Code sections, relating to lawful methods of commercial salt water fishing generally, lawful commercial salt-water fishing gear generally, use of purse seines, and commercial catfishing, consisted of Code Sections 27-4-112 through 27-4-115.

27-4-116. [Reserved] Diamondback terrapins.

History.
Ga. L. 1967, p. 634, §§ 1-4; Code 1933, § 45-816, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 1729, § 7; repealed by Ga. L. 2003, p. 654, § 13, effective July 1, 2003.

Editor's notes.
Ga. L. 2003, p. 654, § 13, reserved the designation of this Code section, effective July 1, 2003.

27-4-117. Identification tags, numbers, and letters for boats or vessels.

It shall be unlawful for any boat or vessel licensed by the department pursuant to Code Section 27-2-8 to fail to have fixed securely on each side of the bow or pilothouse thereof, and displayed conspicuously in order that it may be read from a reasonable distance, a tag furnished by the department. It shall also be unlawful for any boat or vessel so licensed to fail to have painted upon the boat or vessel, in a size and upon such part as may be prescribed by the department, such numbers and letters to identify the boat or vessel. The paint used for such purpose shall be different from and in clear contrast in color to the boat or vessel on which applied. The numbers and letters so painted on the boat or vessel shall not be covered at any time while the boat or vessel is trawling, fishing, or taking any seafood.

History.
Ga. L. 1925, p. 339, § 1; Ga. L. 1931, p. 7, § 25; Code 1933, § 45-212; Ga. L. 1955, p. 483, § 35; Ga. L. 1967, p. 634, § 5; Ga. L. 1968, p. 202, § 2; Code 1933, § 45-311, enacted by Ga. L. 1977, p. 396, § 1.

Cross references.
Numbering and registering vessels, § 52-7-5 et seq.
Display of watercraft information, § 52-7-40 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.

27-4-118. Records and reporting requirements for persons landing seafood.

(a) It shall be unlawful for any person landing seafood in this state to fail to maintain at all times a record book showing the amount of seafood landed per trip; the name and address of the person or persons to whom sold; the date of sale and the time and place of delivery; and such other information as may be required by the department.

(b) Each person required to maintain records pursuant to the provisions of subsection (a) of this Code section shall report such information to the department, whose address for the purpose of reporting shall be the Coastal Resource Division headquarters, at such times and in such manner as the board provides by rule or regulation.

History.
Ga. L. 1925, p. 339, § 2; Ga. L. 1931, p. 7, § 25; Code 1933, § 45-215; Ga. L. 1955, p. 483, § 36; Code 1933, § 45-910, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1991, p. 693, § 3; Ga. L. 1998, p. 1133, § 7; Ga. L. 2007, p. 93, § 7/HB 100; Ga. L. 2012, p. 739, § 17/HB 869.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-118 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49 et seq.

C.J.S.
36A C.J.S., Fish, § 35.

ARTICLE 4

SEAFOOD

PART 1

GENERAL PROVISIONS

27-4-130. Closure of salt waters; notice; rules and regulations prohibiting sale of seafood.

(a) The commissioner shall have the power to close all or any portion of the salt waters of this state to commercial and noncommercial fishing by species for a period not to exceed six months within a calendar year. Any determination to close the salt waters pursuant to this subsection or to reopen such waters shall be made in accordance with current, sound principles of wildlife research and management.

(b) Nothing in this Code section shall prohibit a person from landing in this state any fish or seafood taken in federal waters pursuant to a valid commercial federal permit.

(c) For the purposes of enforcing this article, the department is authorized to zone the salt waters of this state.

(d) Public notice of the opening or closing of salt waters as provided in this article shall be given by posting a notice of such opening or closing at the courthouse in each coastal county and by such other means as may appear feasible to inform interested persons of the

opening or closing. Such notices shall be posted at least 24 hours prior to any enforcement action taken pursuant to this Code section.

(e) In accordance with current, sound principles of wildlife research and management, the board is authorized to promulgate rules and regulations to prohibit the sale of any or all seafood in this state.

History.
Code 1981, § 27-4-130, enacted by Ga. L. 2012, p. 739, § 18/HB 869.
Editor's notes.
The former Code section, relating to factors governing the decision to open or close salt waters and public notice thereof, was based on Code 1933, § 45-900, enacted by Ga. L. 1979, p. 678, § 35; Ga. L. 1982, p. 3, § 27, and was repealed by Ga. L. 2012, p. 739, § 18/HB 869, effective January 1, 2013.

27-4-131. [Reserved] Zoning of salt waters.

History.
Ga. L. 1968, p. 202, § 4; Code 1933, § 45-903, enacted by Ga. L. 1977, p. 396, § 1; repealed by Ga. L. 2012, p. 739, § 20/HB 869, effective January 1, 2013.
Editor's notes.
Ga. L. 2012, p. 739, § 20/HB 869, reserved the designation of this Code section, effective January 1, 2013.

27-4-132. Regulation of noncommercial fishing for shrimp.

(a) In accordance with current, sound principles of wildlife research and management, the board is authorized to promulgate rules and regulations establishing the seasons, days, and places; methods of fishing and disposition; and size, creel, and possession limits for noncommercial fishing for shrimp. Except as otherwise provided by law, it shall be unlawful to fish for shrimp for noncommercial purposes in the salt waters of the State of Georgia except by means established by the board. The determination of whether to open or close a river or creek or a portion thereof for fishing for shrimp shall be made by the commissioner in accordance with current, sound principles of wildlife research and management.

(b) Reserved.

(c) It shall be unlawful to fish for shrimp except at such times and places as the commissioner may establish. The commissioner is authorized to open or close any or a portion of the salt waters of this state to fishing for food shrimp at any time between May 15 and the last day of February if the commissioner has determined that such action in opening or closing such waters is in accordance with current sound principles of wildlife research and management.

History.
Code 1933, § 45-902.1, enacted by Ga. L. 1980, p. 2004, § 6; Ga. L. 1998, p. 1133, § 9; Ga. L. 2007, p. 93, § 9/HB 100; Ga. L. 2012, p. 739, § 21/HB 869.

27-4-132.1. Quantity of shrimp that may be fished or possessed; use of cast nets; exceeding allowable quantities; penalties; judicial review.

(a)(1) No person or group of persons occupying the same boat fishing for shrimp for noncommercial purposes by means of a food shrimp cast net may take more than 48 quarts of shrimp with heads or 30 quarts of shrimp tails in any day. No such person or group of persons occupying the same vessel may possess at any time more than 48 quarts of shrimp with heads or 30 quarts of shrimp tails.

(2) Reserved.

(3)(A) No group of persons occupying the same boat, one or more of whom is in possession of a commercial food shrimp cast netting license and who are fishing for shrimp by means of a food shrimp cast net, may take more than 150 quarts of shrimp with heads or 95 quarts of shrimp tails taken by such cast net or a combination of a cast net and a seine in any day; provided, however, that beginning December 1 and until the close of each food shrimp season, possession shall be limited to 75 quarts of shrimp with heads or 48 quarts of shrimp tails in any day.

(B) No such group of persons occupying the same vessel may possess at any time more than 150 quarts of shrimp with heads or 95 quarts of shrimp tails; provided, however, that beginning December 1 and until the close of each food shrimp season, no such group of persons occupying the same vessel may possess at any time more than 75 quarts of shrimp with heads or 48 quarts of shrimp tails.

(4) No one person fishing for shrimp solely by means of a seine, whether such person is acting alone or in a group of persons, may take more than 24 quarts of shrimp with heads or 15 quarts of shrimp tails in any day. No such person may possess at any time more than 24 quarts of shrimp with heads or 15 quarts of shrimp tails. If any person or group of persons are in possession of a food shrimp cast net and a seine, such person or group of persons shall be subject to the limits imposed upon taking shrimp by food shrimp cast net.

(5) No person or group of persons fishing for food shrimp for commercial purposes shall have on board a vessel any cast net other than a food shrimp cast net.

(6) Reserved.

(7) No vessel owner shall allow the vessel to be used by any person or persons to take more than the legal quantity allowable in any day regardless of the number of trips made or the duration of any trip by

such vessel. It shall be unlawful for any vessel owner or operator to allow a vessel to be left anchored and unoccupied for the purpose of receiving shrimp taken by the occupant of any other vessel.

(b)(1) Violation of subsection (a) of this Code section shall constitute a misdemeanor.

(2) In addition to any criminal penalties assessed, any person violating the provisions of subsection (a) of this Code section shall pay a civil penalty in the amount of $50.00 for each quart of shrimp taken or possessed in excess of the allowable limit.

(c) Whenever the commissioner or his or her designee has reason to believe that any person has violated subsection (a) of this Code section or any rule or regulation promulgated to implement such subsection, he or she may request and shall receive a hearing before an administrative law judge of the Office of State Administrative Hearings acting in place of the board, as provided by Code Section 50-13-41. Upon finding that such person has violated subsection (a) of this Code section, the administrative law judge shall impose a civil penalty in the amount of $50.00 for each quart of shrimp taken or possessed in excess of the allowable limit. The decision of the administrative law judge shall constitute a final decision in the matter, and any party to the hearing, including the commissioner, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.

Code 1981, § 27-4-132.1, enacted by Ga. L. 1996, p. 4, § 1; Ga. L. 1998, p. 1133, § 10; Ga. L. 2007, p. 93, § 10/HB 100; Ga. L. 2026, p. 1069, § 27(20)(H)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "board" for "Board of Natural Resources" in the first sentence in subsection (c).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Offenses under O.C.G.A. § 27-4-132.1 are not ones for which those charged with a violation are to be fingerprinted. 1996 Op. Att'y Gen. No. 96-17.

27-4-133. Fishing for shrimp with nets; opening and closing of waters; identification on boats; penalty.

(a) Except as otherwise specifically provided, it shall be unlawful for any person to use a power-drawn net in any of the salt waters of this state for commercial shrimping for human consumption. All sounds shall be closed to such fishing, except that the commissioner may open Cumberland, St. Simons, Sapelo, St. Andrew, Wassaw, or Ossabaw sounds or any combination of such sounds at any time between September 1 and December 31, provided that he or she has determined

that the shrimp in the waters of each sound to be opened are 45 or fewer shrimp with heads on to the pound; and the commissioner shall close each sound so opened when he or she has determined that the shrimp in the waters of the sound exceed 45 shrimp with heads on to the pound. The commissioner may open any waters outside, on the seaward side, of the sounds between May 15 and December 31, provided that he or she has determined that the shrimp in such outside waters are 45 or fewer shrimp with heads on to the pound; and the commissioner shall close the waters so opened when he or she has determined that the shrimp in such outside waters exceed 45 shrimp with heads on to the pound. The commissioner may open any waters outside the sounds during the months of January and February, provided that he or she has determined that the shrimp in such outside waters are 50 or fewer shrimp with heads on to the pound; and the commissioner shall close such outside waters so opened when he or she has determined that the shrimp in such outside waters exceed 50 shrimp with heads on to the pound. The department shall conduct inspections for such shrimp count, and a determination by the commissioner shall be conclusive as to the count. The commissioner shall provide public notice of the opening and closing of such waters, as provided in this Code section, by posting a notice of all openings and closings at the courthouse and on all shrimp docks and by such other means as may appear feasible. The notices shall be posted at least 24 hours prior to any change in the opening and closing of any such waters, provided that such notice is required only when waters are opened or closed by action of the commissioner.

(a.1)(1) It shall be unlawful to fish for shrimp for human consumption with any trawl or trawls having a total foot-rope length greater than 220 feet, not including the foot-rope length of a single trawl not greater than 16 feet when used as a try net. Foot-rope shall be measured from brail line to brail line, first tie to last tie on the bottom line. The provisions of this subsection shall not apply to vessels having a maximum draft of seven feet or less when fully loaded. The department is authorized to exempt trawls used by persons holding a valid scientific collection permit granted by the department.

(2) A vessel operator who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $500.00 nor more than $2,500.00, imprisoned for not longer than 30 days, or both, and any trawl on board the vessel shall be contraband and forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

(b) Reserved.

(c) Except as otherwise specifically provided, it shall be unlawful to fish with nets other than cast nets in any of the tidal rivers or creeks,

except to fish for shad, provided that nothing contained in this Code section shall be construed so as to prohibit any person from using a beach seine along any public beach.

(d) The department shall have the power to close all or any portion of the salt waters of this state to commercial and recreational fishing in the event of a disaster likely to cause seafood to be unfit for human consumption or in the event of any other emergency situation.

(e) Nothing contained in this Code section shall be construed to prohibit any person from fishing in the salt waters of this state for shrimp to be used or sold for live bait pursuant to Code Section 27-4-171, provided that it shall be unlawful to fish for shrimp for bait with any trawl equipment which has been used to fish for shrimp pursuant to this Code section.

(f) In accordance with current, sound principles of wildlife research and management, the commissioner may authorize any person to fish for crabs, jellyfish, or whelks with power-drawn nets of four-inch stretched mesh from any waters outside, on the seaward side, of the sounds at any time during the year, or from the waters of Cumberland, St. Simons, Sapelo, St. Andrew, Wassaw, and Ossabaw sounds during the months of January, February, and March, when the commissioner has determined that fishing for crabs, jellyfish, or whelks within such waters will not be detrimental to the conservation of crabs, jellyfish, whelks, or shrimp. Possession of any net with mesh smaller than that provided in this subsection while taking crabs, jellyfish, or whelks shall be prima-facie evidence of the violation of this Code section.

(g) It shall be unlawful for any person fishing for shrimp for commercial purposes pursuant to this Code section to fail to have positioned on the bow or cabin of the boat taking such shrimp a board with a background color of daylight fluorescent orange and with such numerals and letters painted or affixed thereon as are specified by the department for the boat. The numerals and letters shall be at least 16 inches in height, black in color, of block character, and spaced so as to be readable from the air from left to right.

(h) Any determination to open or close the salt waters pursuant to this Code section shall be made in accordance with current, sound principles of wildlife research and management.

History.

Ga. L. 1924, p. 101, § 34; Code 1933, § 45-512; Ga. L. 1952, p. 77, §§ 1-4; Ga. L. 1953, Jan.-Feb. Sess., p. 491, §§ 1-7; Ga. L. 1955, p. 483, § 94; Ga. L. 1956, p. 590, §§ 12, 13, 20; Ga. L. 1964, p. 174, § 1; Ga. L. 1966, p. 270, § 1; Ga. L. 1968, p. 202, § 3; Ga. L. 1970, p. 961, §§ 1, 2; Ga. L. 1971, p. 221, § 1; Ga. L. 1974, p. 1170, § 1; Ga. L. 1974, p. 1175, § 1; Code 1933, § 45-902, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 1552, § 3; Ga. L. 1979, p. 678, § 36; Ga. L. 1981, p. 688, § 1; Ga. L. 1982, p. 3, § 27; Ga. L. 1998, p. 1133, § 11; Ga. L. 2001, p. 1069, § 1; Ga. L. 2002, p. 797, § 1; Ga. L. 2007, p. 93,

§ 11/HB 100; Ga. L. 2012, p. 739, § 22/HB 869; Ga. L. 2015, p. 693, § 3-20/HB 233.

Cross references.

Numbering and registering vessels, § 52-7-5 et seq.

Display of watercraft information, § 52-7-40 et seq.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2001, "30" was substituted for "thirty" in paragraph (a.1)(2).

Pursuant to Code Section 28-9-5, in 2012, an extra comma was deleted following "management," in the first sentence of subsection (f).

Editor's notes.

Ga. L. 2002, p. 797, § 1, which amended this Code section, purported to amend paragraph (a)(1) but actually amended paragraph (a.1)(1).

Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

Law reviews.

For article surveying Georgia cases dealing with environment, natural resources, and land use from June 1977 through May 1978, see 30 Mercer L. Rev. 75 (1978).

For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

JUDICIAL DECISIONS

Measurement of salt water boundary. — The salt waters of this state extend from the mean low watermark of the foreshore to three geographical miles offshore; except where a low tide elevation is situated within three nautical miles seaward of the low water line along the coast, the state's three mile boundary is measured from such low tide elevation. Department of Natural Resources v. Joyner, 241 Ga. 390, 245 S.E.2d 644, 1978 Ga. LEXIS 967 (1978).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — The Georgia Crime Information Center is not authorized to collect and file fingerprints of persons charged with a violation of O.C.G.A. § 27-4-133(a.1). 2001 Op. Att'y Gen. No. 2001-11.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 43 et seq., 51 et seq.

C.J.S.

36A C.J.S., Fish, § 31 et seq.

ALR.

Liability for damage by vessel to nets or other articles used in fishing, 7 A.L.R. 52.

27-4-134. Bond or affidavit requirement for use of power-drawn nets; penalties for breach of bond conditions.

(a) Upon application for a commercial fishing boat license under Code Section 27-2-8, the owner of such boat, if said boat is to be used for fishing with power-drawn nets in accordance with the provisions of Code Section 27-4-133, must do one of the following:

(1) Post a cash forfeiture bond in the form prescribed by the board

in favor of the State of Georgia in the amount of $5,000.00, conditioned upon faithful compliance with Code Section 27-4-133;

(2) File with the commissioner a forfeiture bond in the form prescribed by the board executed by a bonding, surety, or insurance company licensed to do business in this state in favor of the state in the amount of $5,000.00, conditioned upon faithful compliance with Code Section 27-4-133; or

(3) File with the commissioner an affidavit in the form prescribed by the board stating that the affiant is a resident of the State of Georgia, that he is the sole owner of the boat to be licensed, and that the boat is free from all encumbrances, including but not limited to liens, mortgages, and other evidences of security interests. The department may require proof of residence or ownership or proof of residence and ownership. The affidavit shall acknowledge that the boat sought to be licensed will be subject to Code Section 27-4-137. The affidavit shall be filed by the department in the office of the clerk of the superior court as follows: when the owner is an individual, then in the county where he resides; when the owner is a partnership, corporation, or business entity other than an individual, then in the county of the owner's principal place of business. The affidavit shall be filed by the clerk like other security interests on boats; provided, however, that the filing of such affidavit shall not be permissible where the boat is documented under the laws of the United States.

(b) The term of the bond provided for in paragraphs (1) and (2) of subsection (a) of this Code section shall be for one year and shall correspond to the period of the license. When such a bond has been filed, Code Section 27-4-137 shall not apply to the boat covered by the bond. The commissioner shall have the right to recover on the bond for the breach of its conditions whenever said boat is used in violation of Code Section 27-4-133 or any rule or regulation promulgated pursuant thereto, either with or without the knowledge, consent, or acquiescence of the owner of the boat. The recovery shall be:

(1) For the first violation, $1,000.00; and

(2) For each subsequent violation within the period of any license, $4,000.00.

(c) Every breach or violation shall carry over to all succeeding bonds filed under this Code section. The aggregate liability shall not exceed the amount of the bond. However, in the event that the total amount of any bond is forfeited, the commercial fishing boat license shall be suspended until a new bond in the amount of $10,000.00 is filed covering the remainder of the period of the license. Until the new bond is filed, any commercial use of the boat shall be unlawful; and the owner shall be guilty of a misdemeanor of a high and aggravated nature.

Nothing in this subsection shall be construed so as to alter or affect the seizure and civil forfeiture, under Code Section 27-4-137, of any boat not covered by the bonds provided for in paragraphs (1) and (2) of subsection (a) of this Code section.

History.
Ga. L. 1974, p. 1173, § 1; Ga. L. 1975, p. 428, § 2; Code 1933, § 45-905, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 1552, §§ 4, 5; Ga. L. 1991, p. 1012, § 2; Ga. L. 2015, p. 693, § 3-21/HB 233.

Editor's notes.
Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

Law reviews.
For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-134 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.

C.J.S.
36A C.J.S., Fish, §§ 28, 46, 47.

ALR.
Validity of statute or ordinance which requires liability or indemnity insurance or bond as condition of license for conducting business or profession, 120 A.L.R. 950.

27-4-135. [Reserved] Maintenance of records by sellers; reports of oysters and clams harvested.

History.
Ga. L. 1968, p. 497, § 15; Code 1933, § 45-911, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, § 41; repealed by Ga. L. 1991, p. 693, § 4, effective July 1, 1991.

Editor's notes.
Ga. L. 1991, p. 693, § 4, reserved the designation of this Code section, effective July 1, 1991.

27-4-136. Seafood dealer licenses; records and reports; seafood purchasing requirements.

(a)(1) It shall be unlawful for any person to operate as a seafood dealer or to own or operate shellfish canning or shucking facilities or otherwise deal in purchasing, landing, packing, or supplying raw shrimp, shellfish, crabs, fish, or other seafood for commercial purposes without having a valid seafood dealer license as provided for in Code Section 27-2-23.

(2) It shall be unlawful for any person required to have a seafood dealer license to fail to keep a record in which is entered the amount

of shrimp, shellfish, crabs, fish, or other seafood taken from Georgia waters for commercial purposes; the name of each person from whom purchased; the date and price of purchase; the grade and quantity purchased; the name, number, and approximate tonnage of the boat in which they were brought to the facility; the number of calendar days expended in harvesting the product; the approximate location or locations of harvest; the quantity canned and packed for shipment; the date and amount of each shipment; and such other information as the department requires.

(3) Each person required to maintain records pursuant to paragraph (2) of this subsection shall report such information to the department, whose address for the purpose of reporting shall be the Coastal Resource Division headquarters, at such times and in such manner as the board provides by rule or regulation. For the purposes of this subsection, a person licensed as a seafood dealer who has taken no activity described in paragraph (2) of this subsection within any given month shall report such nonactivity to the department in the same manner as provided by rule or regulation.

(b) It shall be unlawful for any master collecting permittee to fail to maintain records in a form as prescribed by the Department of Agriculture.

(c) It shall be unlawful for any person required to have a seafood dealer license to purchase seafood from any person other than a properly licensed seafood harvester or another seafood dealer.

History.

Ga. L. 1924, p. 101, § 23; Ga. L. 1931, p. 7, § 25; Code 1933, § 45-818; Ga. L. 1943, p. 543, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 374, § 4; Ga. L. 1955, p. 483, § 112; Code 1933, § 45-919, enacted by Ga. L. 1977, p. 396, § 1; Code 1933, § 45-917, as redesignated by Ga. L. 1979, p. 678, § 46; Ga. L. 1991, p. 693, § 5; Ga. L. 1998, p. 1133, § 12; Ga. L. 2007, p. 93, § 12/HB 100; Ga. L. 2017, p. 27, § 16/HB 208; Ga. L. 2024, p. 429, § 5/HB 244, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, added the second sentence in paragraph (a)(3). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendment to paragraph (a)(3) became effective April 25, 2024.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-136 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-137. Civil forfeiture proceedings.

(a) Each boat, propulsion unit, net, door, boom, winch, cable, electronic device, or accessory equipment used in violation of Code Section 27-4-133 or 27-4-171 is declared to be contraband and forfeited to the state in accordance with the procedures set forth in Chapter 16 of Title 9; provided, however, that:

(1) Forfeiture shall only be done in accordance with Code Section 9-16-12 and the property shall be described only in general terms; and

(2) The holder of any bona fide lien on the property shall be protected to the full extent of the lien, but only if the lien was perfected prior to the filing by the department of the affidavit provided for in paragraph (3) of subsection (a) of Code Section 27-4-134, provided that the state shall not be obligated beyond the proceeds of any such sale less the actual costs incurred.

(b) The Attorney General may, upon the request of the commissioner, aid the district attorney in the in rem proceeding arising from any seizure or confiscation of property.

History.
Ga. L. 1953, Jan.-Feb. Sess., p. 491, § 6; Ga. L. 1955, p. 483, § 94; Ga. L. 1970, p. 961, § 1; Ga. L. 1973, p. 795, § 2; Ga. L. 1975, p. 428, § 1; Code 1933, § 45-902, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1982, p. 1729, § 11; Ga. L. 2012, p. 739, § 23/HB 869; Ga. L. 2015, p. 693, § 3-22/HB 233.

Editor's notes.
Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

Law reviews.
For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 1 (2015).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 55.

C.J.S.
36A C.J.S., Fish, §§ 46, 47.

27-4-138. Penalties relating to illegal fishing with power-drawn nets.

(a)(1) As used in this Code section, the term "fishing day" means any day in any period during which the waters of this state are open to commercial shrimping pursuant to Code Section 27-4-133 and any administrative order of the commissioner.

(2) Any person on board any commercial fishing boat who violates or causes to be violated the provisions of Code Section 27-4-133 or of Code Section 52-7-13 with regard to waters identified in paragraph (1) of subsection (a) of such Code section, which violation occurs not more than one-fourth mile within any waters which are closed or declared a boating safety zone at the time of the violation, shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished as such, subject to minimum punishment as follows:

(A) For the first offense, the person shall be fined not less than $500.00;

(B) For the second offense, the person shall be fined not less than $1,500.00 and given a mandatory suspension from any commercial fishing for ten fishing days; and

(C) For the third or any subsequent offense, the person shall be fined not less than $5,000.00 and given a mandatory suspension from any commercial fishing for 60 fishing days.

(3) Any person in command of any commercial fishing boat who violates or causes to be violated the provisions of Code Section 27-4-133, which violation occurs one-fourth mile or more within any waters which are closed at the time of the violation, shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished as such, subject to minimum punishment as follows:

(A) For the first offense, the person shall be fined not less than $5,000.00 and given a mandatory suspension from any commercial fishing for 60 fishing days;

(B) For the second offense, the person shall be fined not less than $10,000.00 and given a mandatory suspension from any commercial fishing for 120 fishing days; and

(C) For the third or any subsequent offense, the person shall be fined not less than $10,000.00 and given a mandatory suspension from any commercial fishing for one year.

(4) Any person who violates a mandatory suspension provided for in paragraphs (2) and (3) of this subsection shall, upon a proper showing, be subject to imprisonment for a period not to exceed 12 months.

(b) It is the responsibility of every person operating a commercial fishing boat to determine whether or not the boat has a license which is valid and in effect. Any person who is engaged in illegal fishing with power-drawn nets while operating a boat which has not been licensed or which has had its license suspended and not reinstated shall be guilty of a misdemeanor and shall be punished by a mandatory minimum sentence as follows:

(1) For the first offense, the person shall be fined not less than $2,500.00 or sentenced to not less than 30 days' nor more than 12 months' imprisonment, or both; and

(2) For the second offense, the person shall be fined not less than $5,000.00 and given a mandatory suspension from any fishing for not less than five years. Any person who violates such mandatory suspension shall, upon a proper showing, be subject to imprisonment not to exceed 12 months.

(c) As used in this Code section, the term "illegal fishing with power-drawn nets" means any violation of Code Section 27-4-133 or 27-4-171.

(d) Adjudication of guilt or imposition of sentence shall not be suspended, probated, deferred, or withheld for any offense punishable under this Code section.

History.

Ga. L. 1968, p. 202, § 5; Ga. L. 1974, p. 1173, § 2; Ga. L. 1975, p. 428, § 4; Code 1933, § 45-904, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1983, p. 490, § 1; Ga. L. 1988, p. 364, § 1; Ga. L. 1991, p. 1012, § 3; Ga. L. 1998, p. 1133, § 13; Ga. L. 2026, p. 1069, § 27(12)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this Code section, the term" for "For purposes of this Code section" in subsection (c).

Editor's notes.

Ga. L. 1988, p. 364, § 2, not codified by the General Assembly, provides: "This Act shall be effective on April 1, 1988, and shall apply to all violations of Code Section 27-4-133 which occur on or after that date."

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-138 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 44, 51 et seq.

C.J.S.

36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-4-139. [Reserved] Taking of shrimp for recreational purposes; lawful nets and use of shrimp; penalty for violation.

History.
Ga. L. 1998, p. 1133, § 14; repealed by Ga. L. 2007, p. 93, § 13, effective July 1, 2007.

Editor's notes.
Ga. L. 2007, p. 93, § 13, reserved the designation of this Code section, effective July 1, 2007.

27-4-140. Penalties relating to use of cast nets to fish for shrimp.

(a) Any enforcement officer or other law enforcement officer who discovers an illegal cast net being used on the waters of this state shall confiscate the net, which shall be forfeited.

(b) Any person convicted of using an illegal cast net to fish for shrimp from the waters of this state for commercial sale for food purposes shall be guilty of a misdemeanor.

(c) Any person convicted for the second or any subsequent time of using an illegal cast net shall, in addition to any other penalty imposed by law, forfeit the vessel on which the violation occurred and in addition all commercial fishing and boat licenses issued to such person shall be revoked in accordance with the provisions of Code Section 27-2-25.

(d) Any person convicted of illegally fishing for shrimp from the waters of this state for commercial sale for food purposes shall be guilty of a misdemeanor. Possession of a quantity of shrimp in excess of the noncommercial food shrimp possession limit allowed pursuant to Code Section 27-4-132.1 shall be prima-facie evidence of the intent of the person or persons so in possession to take shrimp for commercial purposes.

History.
Code 1981, § 27-4-140, enacted by Ga. L. 1998, p. 1133, § 14; Ga. L. 2007, p. 93, § 14/HB 100.

Administrative rules and regulations.
Commercial Crabbing, Official Compilation of the Rules and Regulations of the State of Georgia, Department of Natural Resources, Saltwater Fishing Regulations, Rule 391-2-4.

Part 2

Crabs

27-4-150. Taking, possessing, and dealing in crabs and peelers; issuance, sale, and transfer of commercial crabbing licenses; records and reports; penalties.

(a) It shall be unlawful for any person to take or possess in this state any crab, other than a mature adult female crab, measuring less than

five inches from spike to spike across the back; provided, however, that any person may take or possess peelers measuring at least three inches from spike to spike across the back. Any crabs taken or possessed in violation of this subsection may not be intentionally killed and shall be returned to the salt waters of this state as soon as possible; provided, however, nothing in this subsection shall prohibit any person from importing, transporting, or possessing crabs when such person can provide documentary evidence showing that the crabs were taken from outside this state in full compliance with the laws of the state of origin. He or she shall have an executed invoice showing the point of origin of such crabs and exhibit such an invoice upon demand to any game warden.

(b) It shall be unlawful for any person other than a licensed commercial fisherman or licensed commercial crab fisherman to take or possess commercial quantities of crabs, other than soft-shelled crabs, during any 24 hour period; provided, however, nothing in this subsection shall be construed to prohibit a person from possessing commercial quantities of such crabs when the person can provide documentary evidence showing that the crabs were purchased from a licensed commercial fisherman, a licensed commercial crab fisherman, or any person licensed to engage in the business of selling seafood or were purchased outside this state.

(c)(1) It shall be unlawful for any person other than a licensed commercial crab fisherman or a licensed soft-shell crab dealer to take or possess peelers in commercial quantities; provided, however, it shall be lawful for any person to possess such amount of peelers when the person can provide documentary evidence showing that the peelers were purchased from a licensed soft-shell crab dealer or any person licensed to engage in the business of selling seafood or were purchased outside the state.

(2) It shall be unlawful for any person taking peelers to sell the peelers to any person other than a licensed soft-shell crab dealer.

(3) It shall be unlawful for a soft-shell crab dealer to purchase peelers from any person other than a licensed commercial crab fisherman or another soft-shell crab dealer, provided that it shall be lawful for a soft-shell crab dealer to purchase peelers from any person outside this state, or from outside this state.

(d) It shall be unlawful for any person other than a licensed soft-shell crab dealer to operate a shedding facility for commercial purposes.

(e)(1) Except as provided in Code Section 27-4-133, only a person in possession of a valid commercial crabbing license may operate a commercial fishing boat for the purpose of commercial crabbing activities as provided for in subsections (b) and (c) of this Code

section. Such license shall be distinct from and in addition to the commercial fishing boat license required by Code Section 27-2-8.

(2) On and after May 1, 2013, the total number of new commercial crabbing licenses issued shall not exceed 100. Those commercial crabbing licenses issued prior to May 1, 2013, shall remain active until such time the license is not renewed. Any license which is not renewed by May 1 of any license year shall revert to the department for reissue by lottery devised and operated by the department. No person may hold more than one license at any time.

(3) Commercial crabbing licenses may be sold for consideration to any person not holding a current commercial crabbing license unless otherwise prohibited by law or regulation.

(4) Commercial crabbing licenses may be transferred to the licensee's spouse, lineal descendants, siblings, or lineal ancestors if the licensee dies or is permanently and totally disabled. An instrument of the court declaring the rightful heir or recipient may be required for transfers upon a death. For purposes of this Code section, a permanent, total disability shall be a physical or mental impairment of a total and permanent nature which prevents gainful employment and which is certified as such by the United States Department of Veterans Affairs, the Social Security Administration, Medicaid, medicare, the Railroad Retirement System, or a unit of federal, state, or local government recognized by the board by rule or regulation. The transferee of a license so transferred shall engage in commercial crabbing as evidenced by his or her commercial crab harvest records within two years after such transfer or the license shall revert to the department for reissue as provided in paragraph (2) of this subsection. Any person receiving a commercial crabbing license by transfer shall register such transfer with the department and pay to the department the license fee, if so required, within 30 days following the date of the transfer.

(f)(1) It shall be unlawful for anyone engaged in commercial fishing for crabs in the salt waters of this state to fail to maintain at all times a record book showing the amount of crabs caught daily; the name and address of the person or persons to whom sold; the date of sale and the time and place of delivery; and such other information as may be required by the department. If no fishing occurred during any calendar month, a report stating such must be filed.

(2) Each person required to maintain records pursuant to the provisions of paragraph (1) of this subsection shall report such information to the department at such time and in such manner as the board provides by rule or regulation. Such records shall be deemed provided in accordance with the provisions of this subsection

on the date they were postmarked with the correct address and postage.

(3) Any person who fails to report records as required by the provisions of paragraph (2) of this subsection within 60 days of the date such report is due shall be penalized as follows:

(A) On a first offense, the person shall pay a fine of $250.00;

(B) On a second offense, the person shall pay a fine of $500.00; and

(C) On a third or any subsequent offense, the person shall pay a fine of $500.00, and his or her commercial crabbing license shall be suspended for a period of ten days.

(4) Any licensed crabber who has not submitted all harvest records for the previous year, as required by paragraph (2) of this subsection and all pertinent rules and regulations, shall be ineligible for license renewal until such time as the required records have been submitted and all penalties paid.

(g) Any person violating the provisions of subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction, shall pay a fine as follows:

(1) For a first offense, the person shall pay a fine of $250.00;

(2) For a second offense, the person shall pay a fine of $500.00, and his or her commercial crabbing and commercial fishing boat licenses shall be suspended for ten days and may not be used by any person; and

(3) For a third and each subsequent offense, the person shall pay a fine of $1,000.00, and his or her commercial crabbing and commercial fishing boat licenses shall be suspended for 60 days and may not be used by any person. Any person whose license is so suspended shall remove all of his or her traps from the water not later than ten days after the first day of the suspension.

History.

Ga. L. 1939, p. 367, § 1; Ga. L. 1955, p. 483, § 92; Ga. L. 1957, p. 96, § 1; Ga. L. 1976, p. 771, § 1; Code 1933, § 45-901, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 893, § 6; Ga. L. 1995, p. 156, § 3; Ga. L. 1997, p. 444, § 1; Ga. L. 1998, p. 1647, §§ 1, 2; Ga. L. 1999, p. 81, § 27; Ga. L. 2002, p. 805, § 1; Ga. L. 2005, p. 594, § 1/SB 119; Ga. L. 2009, p. 8, § 27/SB 46; Ga. L. 2012, p. 775, § 27/HB 942; Ga. L. 2012, p. 958, § 1B/SB 464; Ga. L. 2019, p. 808, § 7/SB 72; Ga. L. 2026, p. 1069, § 27(13)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in subsection (a), substituted "subsection" for "paragraph" in two places, substituted "shall"

for "must" in two places, and inserted "from" preceding "outside" in the second sentence.

Editor's notes.

Former paragraph (a)(2) was repealed on its own terms effective July 1, 2008.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 47 et seq.

C.J.S.

36A C.J.S., Fish, §§ 35, 36.

27-4-151. Use of crab traps; identification of boats or vessels; closure of salt waters; penalties.

(a) For purposes of crabbing, that portion of the St. Marys River and the Satilla River System (including the Satilla River and White Oak Creek) which is seaward of the points at which the Seaboard Coastline Railroad crosses such streams and that portion of the Altamaha River System which is seaward of the points at which U.S. Highway I-95 crosses the streams of that system shall be considered salt water. It shall be unlawful to place any crab trap in the waters of this state other than that described as salt water in Code Section 27-4-1 or by this subsection.

(b) It shall be unlawful to set or place any commercial crab trap in the salt waters of this state which does not have attached a float which is made of a substance visible from a distance of 100 feet in clear weather at slack tide. As used in this Code section, the term "slack tide" means that portion of the tidal current characterized by slowness, sluggishness, and lack of energy and which occurs approximately midway between maximum flood-tide and maximum ebb-tide currents and between maximum ebb-tide and maximum flood-tide currents.

(c) It shall also be unlawful to set or place in the salt waters of this state any commercial crab trap which does not have attached a float with such identification as is assigned by the department to the owner of the trap. Such identification shall be at least one inch in height, of a color which contrasts with the color of the float, of block character, and spaced so as to be readable from left to right. The identification shall be assigned by the department to the owner of the trap when the owner is issued his or her commercial crabbing license. For subsequent years, the same identification shall be assigned to such commercial crab fisherman.

(d)(1) When the float of a commercial crab trap has been identified as provided in this Code section, it shall be unlawful for any person, other than the licensed commercial crab fisherman or a sole individual licensed as required in subsection (b) of Code Section 27-4-150 and carrying on his or her person written permission from the licensed commercial crab fisherman if the department has been

previously notified in writing of such permission, to pull such trap or to take crabs from such trap or intentionally to damage, destroy, remove from the water any crab trap or float thereof, or to use such a float for any purpose. It shall also be unlawful for any person to use such a float for any purpose other than to mark a submerged crab trap. For purposes of determining the number of crab traps a person is employing, it shall be conclusively presumed that a crab trap is tethered to each such float.

(2) In addition to the penalty provided by Code Section 27-1-38, any person convicted of violating the provisions of this subsection shall be penalized as follows:

(A) On a first offense, his or her crabbing license shall be suspended for a period of three months, during which time the person shall be ineligible to apply for a new license and upon the completion of which he or she may renew the license;

(B) On a second offense, his or her crabbing license shall be suspended for a period of six months, during which time the person shall be ineligible to apply for a new license and upon the completion of which he or she may renew the license; and

(C) On a third or any subsequent offense, his or her crabbing license shall be permanently revoked and the person shall be prohibited from purchasing a license in the future.

(e) It shall also be unlawful for any person to engage in commercial crabbing with a boat or vessel unless there is displayed on each side of the forward third of the boat or vessel so as to be readable from the water such identification as is assigned by the department to such person. The identification shall be at least eight inches in height, of a color which contrasts with the color of the background, of block character, and spaced so as to be readable from left to right. The assigned identification of the boat or vessel being utilized shall correspond to the identification of the float of the trap from which crabs are being taken. No boat or vessel shall be assigned more than one identification in any license year unless such boat or vessel is transferred to another licensed commercial fisherman and such transfer is registered with the department. A crabbing boat or vessel may only employ traps marked with floats with identification issued by the department corresponding to the identification of the boat or vessel being utilized. No identification may be assigned to more than one boat or vessel in any license year, except for replacement vessels as provided in subparagraph (g)(1)(B) of this Code section; provided, however, that one identification number may be assigned to a licensed crabber's primary and alternate vessels, only one of which may be operated for crabbing at any time.

(f) It shall be unlawful for any person to catch crabs for commercial purposes within 100 feet of the dock of any other person. It shall also be unlawful to place or set commercial crab traps in the channel of any stream when such channel has been marked by a lawfully established system of waterway markers.

(g)(1)(A) The first time after July 1, 1998, that a person obtains or renews a commercial crabbing license, he or she shall obtain a permit from the department establishing the maximum number of traps he or she may deploy at any given time during that license year. Such permits shall be issued in 50 trap increments up to a maximum of 200 traps. The licensee shall pay a fee of $2.50 per trap for the permit, and the permit shall be for the same duration and shall be renewed at the same time as the commercial crabbing license.

(B) No crab trap permit may be amended to permit the use of more traps except at the time of license renewal. The licensee shall have the trap permit in his or her possession at all times while crabbing.

(2) It shall be unlawful for any licensed commercial crab fisherman or a person designated by such licensee as provided in subsection (d) of this Code section to employ more crab traps than the number allowed by his or her crab trap permit at any time. It shall be unlawful for any person to exercise harvest permission as provided in subsection (d) of this Code section from more than one licensed commercial crab fisherman at any time.

(3) Any person violating the provisions of paragraph (1) or (2) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction, shall be punished by a fine of not more than $2,000.00 or incarceration for not longer than one year or both. In addition to such criminal penalty, any person found guilty of employing more than the permitted number of crab traps shall pay a civil fine of $100.00 for each excess trap. In addition to such criminal and civil penalties, the license of any person found guilty of employing more than 50 excess crab traps shall be suspended for one year, during which time the person shall be ineligible to apply for a new license and upon the completion of which he or she may renew the license. Upon a second or subsequent such offense, the person's license shall be revoked for one year, and at the end of that time such person must apply for a new license as if he or she had never before been in possession of a license; provided, however, that such individual shall not be eligible to receive a license through transfer pursuant to paragraph (3) or (4) of subsection (e) of Code Section 27-4-150.

(4) Whenever the commissioner or his or her designee has reason

to believe that any person has violated the provisions of paragraph (1) or (2) of this subsection or any rule or regulation promulgated to implement such subsection, he or she may request and shall receive a hearing before an administrative law judge of the Office of State Administrative Hearings acting in place of the board, as provided by Code Section 50-13-41. Upon finding that such person has violated this Code section, the administrative law judge shall impose a civil penalty in the amount of $100.00 for each trap in excess of the permitted number. The decision of the administrative law judge shall constitute a final decision in the matter, and any party to the hearing, including the commissioner, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(h) Any commercial crab trap in violation of this Code section is declared to be contraband and subject to seizure by game wardens, sheriffs, and other peace officers authorized to enforce this title.

(i) Nothing in this title shall be construed to require any individual to obtain a commercial fishing license or a commercial crabbing license when such person is deploying six or fewer crab traps in the salt waters of this state to take crabs for personal consumption; provided, however, that each crab trap measures 2 feet by 2 feet or smaller; a float clearly marked with the owner's name and address is attached to each crab trap; the quantity of crabs taken or possessed by such person does not exceed one bushel per person or two bushels per boat when the boat is occupied by more than one person; and the crabs are not sold.

(j) The commissioner shall have the power to close all or any portion of the salt waters of this state to commercial and recreational fishing for blue crabs or any component of the blue crab fishery, including peeler, soft, or sponge crabs. Any determination to close the salt waters pursuant to this subsection or to reopen such waters shall be made in accordance with current, sound principles of wildlife research and management as provided by Code Section 27-4-130.

History.

Ga. L. 1956, p. 590, § 10; Code 1933, § 45-909, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 893, § 7; Ga. L. 1982, p. 1629, § 5; Ga. L. 1982, p. 1729, § 7; Ga. L. 1995, p. 156, §§ 4, 5; Ga. L. 1997, p. 444, §§ 2, 3; Ga. L. 1998, p. 1647, § 3; Ga. L. 1999, p. 785, § 1; Ga. L. 2000, p. 136, § 27; Ga. L. 2002, p. 805, § 2; Ga. L. 2008, p. 163, § 2/HB 1016; Ga. L. 2012, p. 958, § 2/SB 464; Ga. L. 2017, p. 27, § 17/HB 208; Ga. L. 2019, p. 808, § 7/SB 72; Ga. L. 2026, p. 1069, § 27(14)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this Code section, the term" for "For the purposes of this Code section," in subsection (b) and substituted "board" for "Board of Natural Resources" in the first sentence in paragraph (g)(4).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1995, "two" was substituted for "2" preceding "bushels per boat" near the end of subsection (i).

Pursuant to Code Section 28-9-5, in 1997, "St. Marys River" was substituted for "St. Mary's River" in the first sentence of subsection (a).

Pursuant to Code Section 28-9-5, in 1998, in the first sentence of paragraph (g)(3), "than" was deleted following "more than" and "a" was deleted preceding "one year".

Pursuant to Code Section 28-9-5, in 1999, "licensed" was substituted for "licenced" in the fourth sentence in subsection (e).

Editor's notes.

Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violation of O.C.G.A. § 27-4-151 is not designated as an offense for which fingerprinting is required. 1999 Op. Att'y Gen. No. 99-17.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.

36A C.J.S., Fish, § 31 et seq.

Part 3

Taking Shrimp for Bait

27-4-170. [Reserved] Sport bait shrimping.

History.

Ga. L. 1956, p. 590, § 19; Ga. L. 1957, p. 122, § 1; Ga. L. 1958, p. 408, §§ 1, 2; Ga. L. 1975, p. 425, §§ 1, 3; Code 1933, § 45-907, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 1552, §§ 6, 7, 12; Ga. L. 1979, p. 678, § 37; Ga. L. 1985, p. 1047, § 5; Ga. L. 1994, p. 1834, § 1; Ga. L. 1998, p. 783, § 15; Ga. L. 1998, p. 1133, § 15; Ga. L. 1999, p. 81, § 27; Ga. L. 2002, p. 415, § 27; Ga. L. 2007, p. 93, § 15/HB 100; repealed by Ga. L. 2012, p. 739, § 24/HB 869, effective January 1, 2013.

Editor's notes.

Ga. L. 2012, p. 739, § 24/HB 869, reserved the designation of this Code section, effective January 1, 2013.

27-4-171. Bait shrimping; licensing requirements; prohibited actions.

(a)(1) It shall be unlawful for any person to fish for shrimp for live bait to be sold, to engage in the sale of shrimp for live bait, or to engage in the sale of shrimp for dead bait unless the person has a bait dealer license and possesses a valid personal commercial fishing license as provided in Code Section 27-2-23 or is an employee of a licensed bait dealer and possesses a valid personal commercial fishing license as provided in Code Section 27-2-23; provided, however, that no cashier employed by a licensed bait dealer and not actively involved in the harvest of bait shrimp shall be required to obtain a commercial fishing license under this Code section. No bait

dealer license shall be issued to a person holding a commercial food shrimp cast netting license issued pursuant to Part 5 of this article. Any license issued pursuant to this Code section shall be invalid immediately upon the holder's obtaining such a commercial food shrimp cast netting license. No bait dealer license shall be issued for an individual whose establishment is located on any dock or other facility, including platforms, walkways, and buildings, which is one contiguous unit and where shrimp taken pursuant to Code Section 27-4-133 are processed, stored, or sold for retail purposes.

(2) In addition to complying with subsection (b) of this Code section, any applicant for a bait dealer license must first file with the commissioner a forfeiture bond in the form prescribed by the department, executed by a bonding, surety, or insurance company licensed to do business in this state, in favor of the state in the amount of $2,000.00, conditioned upon the faithful compliance by the person and all his or her employees with all the laws and regulations relating to the taking, possession, and sale of bait shrimp, provided that a cash forfeiture bond in like amount may be substituted in lieu of the commercial bond provided for in this Code section. The term of the bond shall be one year and shall correspond to the period of the bait dealer license, which shall be from April 1 to March 31. The bond shall be in addition to the commercial fishing boat license, where applicable, required by Code Section 27-2-8 and in addition to the personal commercial fishing license required by this Code section. Notation of execution of the bond shall be stamped or endorsed on the applicant's bait dealer license.

(3) Trawler licenses for bait shrimp trawling shall not be issued to any person who does not possess a valid bait dealer license unless such person is an employee of a licensed bait dealer.

(4) In addition to the general provisions of this Code section and in accordance with current, sound principles of wildlife research and management, the board is authorized to promulgate rules and regulations establishing the seasons, days, and places; methods of fishing and disposition; and size, creel, and possession limits for commercial bait shrimping.

(5) It shall be unlawful for any person fishing for shrimp for live bait pursuant to this Code section to:

(A) Hold a valid commercial food shrimp cast netting license issued pursuant to Part 5 of this article or to employ any person holding such a commercial food shrimp cast netting license;

(B) Fish for shrimp pursuant to this Code section in closed waters. All salt waters of this state shall be closed to fishing for shrimp pursuant to this Code section, except those rivers or creeks

or portions thereof opened to such taking. The determination of whether to open or close a river or creek or portion thereof shall be made by the commissioner in accordance with current, sound principles of wildlife research and management; and

(C) Fail to maintain on the commercial fishing boat bait-holding facilities which comply with the requirements set forth by the board.

(b) It shall be unlawful for any person to sell or otherwise dispose of, for human consumption, any shrimp caught pursuant to this Code section or to possess such shrimp for the purpose of sale or other distribution for human consumption or personally to consume such shrimp. Possession of shrimp with heads off shall be prima-facie evidence that the shrimp are to be sold for human consumption or are personally to be consumed. Possession of more than 20 quarts of unlabeled, unpackaged, or unfrozen heads-on shrimp shall be prima-facie evidence that such shrimp are to be used for human consumption or are personally to be consumed.

(c) This Code section shall not prohibit the interstate import of bait shrimp provided that a bona fide bill of lading accompanies such shrimp as proof that such shrimp were not taken or transported in violation of this Code section or the laws of the jurisdiction from which the bait shrimp originated.

(d) It shall be unlawful for any person fishing for shrimp pursuant to this Code section to fail to have positioned on the bow or cabin of the boat being used for fishing for shrimp a board with a background color of daylight fluorescent orange with such numerals and letters painted or affixed thereon as are specified by the department for a particular established bait dealership. The numerals and letters shall be at least 16 inches in height and two inches in width or thickness, black in color, of block character, clearly legible, and spaced so as to be readable from the air from left to right. The numerals and letters required for compliance with this subsection shall be assigned by the department at the time a bait dealer license is issued pursuant to Code Section 27-2-23.

(e) The department shall inspect the bait dealer facilities within 30 days from the time application for license is received to ensure the facilities comply with the requirements of this Code section and Code Section 48-8-59 before issuing a bait dealer license.

History.

Code 1981, § 27-4-171, enacted by Ga. L. 2012, p. 739, § 25/HB 869.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2012, an engrossing error in the Code section designation was corrected.

Editor's notes.

The former Code section, relating to bait dealers, was based on Ga. L. 1970, p.

961, §§ 2-4; Ga. L. 1975, p. 425, §§ 2, 3; Code 1933, § 45-908, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 1552, §§ 8-11, 13; Ga. L. 1979, p. 678, §§ 38-40; Ga. L. 1982, p. 1729, § 7; Ga. L. 1984, p. 22, § 27; Ga. L. 1985, p. 1047, §§ 6-8; Ga. L. 1994, p. 1834, § 2; Ga. L. 1995, p. 10, § 27; Ga. L. 2001, p. 1052, § 1; Ga. L. 2007, p. 93, § 16/HB 100, and was repealed by Ga. L. 2012, p. 739, § 25/HB 869, effective January 1, 2013.

27-4-172. [Reserved] Protections for horseshoe crabs; catch limits; exceptions.

History.
Ga. L. 2001, p. 323, § 2; repealed by Ga. L. 2012, p. 739, § 26/HB 869, effective January 1, 2013.

Editor's notes.
Ga. L. 2012, p. 739, § 26/HB 869, reserved the designation of this Code section, effective January 1, 2013.

Part 4

Shellfish

Editor's notes.
The former part, relating to oysters and clams, consisted of Code Sections 27-4-190 through 27-4-199. That part was based on Ga. L. 1889, p. 143, § 4; Civil Code 1895, §§ 1691, 1694; Penal Code 1895, §§ 586, 589, 590; Ga. L. 1905, p. 73, § 1; Civil Code 1910, §§ 1937, 1940; Penal Code 1910, §§ 615, 618, 619; Ga. L. 1924, p. 101, §§ 10, 11; Ga. L. 1931, p. 7, § 25; Code 1933, §§ 45-801, 45-802, 45-809, 45-811; Ga. L. 1937, p. 671, §§ 2-4; Ga. L. 1937-38, Ex. Sess., p. 332, §§ 7-9; Ga. L. 1943, p. 543, § 1; Ga. L. 1943, p. 583, §§ 1-7; Ga. L. 1945, p. 164, §§ 1, 2; Ga. L. 1945, p. 198, §§ 1-4; Ga. L. 1955, p. 483, §§ 38-40, 95, 96, 104-107, 111, 113, 115; Ga. L. 1958, p. 382, §§ 1, 2, 4; Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, §§ 21, 22, 42-51; Ga. L. 1982, p. 1729, § 7; Ga. L. 1984, p. 416, §§ 1-4; Ga. L. 1985, p. 149, § 27; Ga. L. 1981, Ex. Sess., p. 8 (Code enactment Act) and Ga. L. 1988, p. 1435, § 1, and was repealed by Ga. L. 1991, p. 693, effective July 1, 1991.

27-4-187. Legislative finding; policy.

The General Assembly finds that the wild harvest and mariculture of shellfish provide increased seafood production and long-term economic opportunities for coastal Georgia as well as increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly also finds that there exists a public health concern when consuming raw or undercooked shellfish, especially during warm water, summer conditions. Therefore, the General Assembly declares that it is the policy of the state to encourage development of the commercial shellfish industry in ways that protect the public health and are compatible with the environment and with other public uses of the estuarine area, such as navigation, fishing, swimming, and other forms of recreation.

History.
Code 1981, § 27-4-187, enacted by Ga. L. 2019, p. 619, § 1/HB 501.

Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly,

provides that, for purposes of promulgating rules and regulations, this Code section became effective May 26, 2019.

27-4-188. Definitions.

As used in this part, the term:

(1) "Approved growing area" means that area or areas approved by the department in conformance with the National Shellfish Sanitation Program which supports or could support the propagation of wild or maricultured shellfish that may be harvested and directly marketed for human consumption.

(2) "Approved shellfish pathologist" means a pathologist approved by the department.

(2.1) "Cage" means a containment unit of any size that contains or may contain shellfish for commercial sale. For a larger outer unit which holds smaller units inside, the entire unit shall be treated as a single cage.

(3) "Certified firms" means those firms certified by the Department of Agriculture and includes, but is not limited to, certified dealers, shellstock shippers, shuckers or packers, repackers, reshippers, depuration processors, and wholesalers.

(4) "Culch" means, but is not limited to, oyster shells, clam shells, and other shellfish shells when those shells originated from Georgia salt waters; oak brush, cement coated shingles, nongalvanized wire fencing, small gravel, and any other material approved by the department.

(5) "Culch material" means that material which is approved by the department and which is conducive to larval oyster attachment.

(6) "Director" means the director of the Coastal Resources Division of the Department of Natural Resources.

(7) "Harvester" means a person who is authorized by the department to harvest shellfish for commercial purposes at the request of a master harvester.

(8) "Intertidal" means the area of the marine shoreline that is exposed to air at mean low tide and covered with seawater at mean high tide.

(9) "Management plan" means a detailed plan submitted by the master harvester describing all activities related to shellfish production and marketing over the term of a shellfish lease, as approved by the department.

(10) "Master harvester" means a person who has acquired a lease with permission to grow or harvest shellfish from the state or from an

owner with exclusive rights to shellfish pursuant to Code Sections 44-8-6 through 44-8-8, who has been permitted by the department.

(11) "Operational plan" means a detailed annual plan submitted by the master harvester or shellfish hatchery and nursery, specifying all processes and activities related to shellfish mariculture, as approved by the department.

(12) "Shellfish hatchery and nursery" means a facility where shellfish are artificially bred, hatched, or reared.

(13) "Shellfish mariculture" means the controlled cultivation of shellfish in confinement from seed size until harvest for commercial purposes.

(14) "Shellfish seed" means juvenile shellstock intended for growth to market size.

(15) "Shellstock" means live molluscan shellfish in the shell.

(16) "Subtidal" means the area of the marine shoreline that is below mean low tide and is covered with seawater at all stages of the tide.

(17) "Unapproved growing areas" means all those areas other than approved growing areas.

(18) "Water bottoms" means the lands within this state covered at mean high water from the salt water and fresh water demarcation line seaward to the state boundary.

History.
Code 1981, § 27-4-188, enacted by Ga. L. 2019, p. 619, § 1/HB 501; Ga. L. 2024, p. 429, § 6/HB 244, effective July 1, 2024.
Amendments.
The 2024 amendment, effective July 1, 2024, added paragraph (2.1). See Editor's notes for applicability.
Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, this Code section became effective May 26, 2019.
Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, paragraph (2.1) became effective April 25, 2024.

27-4-189. Rules and regulations; recommendations by board on legislation.

(a) Except as otherwise provided by law and in accordance with current, sound principles of wildlife research and management, the board is authorized to promulgate rules and regulations necessary to develop and cultivate the shellfish industry in Georgia to include, but not be limited to, size, possession, and creel limits; season criteria; siting criteria, including lease size for mariculture activities; methods

for issuing leases, including number issued per year, lease values and terms, and the importation of molluscan shellfish, shellfish tissues, or shells into this state to include place or region of origin, minimum and maximum seed size, ploidy, and type. When promulgating rules and regulations, the board shall take into account public health as the primary consideration.

(b) The board shall transmit to the chairpersons of the Game, Fish, and Parks Committee of the House of Representatives and the Senate Natural Resources and the Environment Committee a list of recommended legislation necessary to improve Georgia's mariculture industry.

History.
Code 1981, § 27-4-189, enacted by Ga. L. 2019, p. 619, § 1/HB 501.
Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, this Code section became effective May 26, 2019.

27-4-190. Taking or possessing shellfish generally; commercial fishing license with shellfish endorsement and master harvester permit or harvester permit.

(a)(1) It shall be unlawful to take or possess shellfish in commercial quantities or for commercial purposes without first having obtained a commercial fishing license with a shellfish endorsement and a master harvester permit or harvester permit or without proof of purchase that such shellfish were purchased from a certified shellfish dealer. Master harvester permits shall specify whether the permittee is authorized to take oysters, clams, or other shellfish and shall only be issued to persons certified by the Department of Agriculture to handle shellfish unless permission to take and possess shellfish has been granted by the department as described in subsection (d) of Code Section 27-4-197 and in Code Section 27-4-202. Such permits shall be provided annually. A permittee may request authorization from the department for employees or agents, who shall be referred to as harvesters, of such permittee to take shellfish from permitted areas. Such request shall be in writing to the department and shall include the name, address, and personal commercial fishing license number of the harvester. It shall be unlawful for harvesters to take or possess shellfish as authorized under their employer's master harvester permit unless they carry on their person while taking or in possession of shellfish a harvester permit as provided by the department indicating the exact area and circumstances allowed for taking. Such harvesters' permits and charts shall be provided annually by the department and shall be in a form as prescribed by the department. Harvesters must possess a valid personal commercial fishing license as provided for in Code Section 27-4-110, a shellfish endorsement as

provided for in the department's rules and regulations, and, when a boat is used, a valid commercial fishing boat license as provided in Code Section 27-2-8, unless the harvester is operating under a master harvester who has purchased a valid shellfish crew license as provided for in Code Section 27-2-23 for the purposes of such license. Master harvester permits and harvester permits may be denied pursuant to Code Section 27-2-25 to persons who have violated this part in the two years immediately preceding the filing of an application for a permit. Permits may be revoked pursuant to Code Section 27-2-25. Master harvester permits and harvester permits issued to master harvesters or agents shall be surrendered to the department upon termination of Department of Agriculture certification for handling shellfish or upon termination of right to harvest shellfish pursuant to Code Section 27-4-201. If a harvester is removed from authorization to take shellfish by the master harvester permittee, the master harvester shall immediately notify the department of such removal. In addition, that harvester shall immediately surrender to the department his or her harvester permit. It shall be unlawful to possess unauthorized harvester permits or harvester permits issued to another person.

(2) All commercially licensed vessels engaged in commercial shellfish harvest or transport, whether with shellfish on board or not, shall have a portable marine toilet on board, as the term is defined in Code Section 52-7-3.

(b) It shall be unlawful for any person to take or possess shellfish from unauthorized locations and during unauthorized periods of taking. It shall be unlawful to take shellfish except between the hours of one-half hour before sunrise and one-half hour after sunset.

(c) It shall be unlawful to take any quantity of shellfish for commercial purposes from public recreational harvest areas. Recreational quantities of oysters in the shell shall be two bushels per person with up to six bushels per boat per day. Recreational quantities of clams in the shell shall be one bushel or less per person with no more than one bushel per boat per day. Recreational quantities of shucked oysters or clams or a combination thereof shall be one gallon per day. It shall be unlawful to harvest shellfish recreationally except in areas designated by the commissioner except that private property owners or persons authorized by private property owners may harvest recreational quantities of shellfish from areas for which they have harvest rights to shellfish if they have in their possession proof of ownership or a letter of permission from the property owner stating the dates allowed to take shellfish, type of shellfish which may be taken, and a description of the area allowed for such taking. Private property owners wishing to harvest recreational quantities of shellfish or to issue permission to

others to harvest recreational quantities of shellfish shall notify the department in writing prior to the taking of shellfish or the permitting of others to take shellfish so harvest areas can be opened according to Code Section 27-4-195. Permission to harvest shellfish recreationally in public recreational harvest areas shall be granted to all residents and nonresidents upon the designation of individual public recreational harvest areas.

History.

Code 1981, § 27-4-190, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2012, p. 739, § 27/HB 869; Ga. L. 2019, p. 619, § 1/HB 501; Ga. L. 2024, p. 429, § 7/HB 244, effective July 1, 2024; Ga. L. 2025, p. 524, § 6/HB 287, effective July 1, 2025.

Amendments.

The 2024 amendment, effective July 1, 2024, in paragraph (a)(1), substituted "may be denied pursuant to Code Section 27-2-25" for "shall not be issued" in the ninth sentence, and in the eleventh sentence, substituted "shellfish or upon" for "shellfish, upon" near the middle, and substituted "pursuant to Code Section 27-4-201" for ", or upon violation of any provision of this title" at the end. See Editor's notes for applicability.

The 2025 amendment, effective July 1, 2025, inserted "unless the harvester is operating under a master harvester who has purchased a valid shellfish crew license as provided for in Code Section 27-2-23 for the purposes of such license" at the end of the eighth sentence of paragraph (a)(1).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1991, "harvest shellfish recreationally" was substituted for "recreationally harvest shellfish" twice in subsection (d) (now subsection (c)).

Editor's notes.

Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendment to paragraph (a)(1) became effective April 25, 2024.

OPINIONS OF THE ATTORNEY GENERAL

When lease from state required. — An applicant for a master collecting permit pursuant to O.C.G.A. § 27-4-190(a) must have a lease from the State of Georgia in order to harvest oysters and clams from marsh islands or from subtidal areas of tidal inlets. 1985 Op. Att'y Gen. No. 85-16.

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-190 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 7, 19 et seq., 44 et seq.

C.J.S.

36A C.J.S., Fish, §§ 14, 28, 35, 36.

27-4-191. [Reserved] Shellfish dredging permits; bond required of master collecting permittees applying for shellfish dredging permits.

History.
Ga. L. 1958, p. 382, § 4; Code 1933, § 45-320, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 678, § 22; Ga. L. 1982, p. 1729, § 7; repealed by Ga. L. 1991, p. 693, § 6, effective July 1, 1991.

Editor's notes.
Ga. L. 1991, p. 693, § 6, reserved the designation of this Code section, effective July 1, 1991.

27-4-192. Methods of taking shellfish.

(a) Unless authorized by the department, it shall be unlawful for any person to take or possess for commercial purposes any shellfish taken from the salt waters of this state except by hand or hand-held implement. The department may authorize the use of other equipment for taking shellfish for commercial purposes upon such conditions as the department determines are in accordance with current, sound principles of wildlife research and management. It shall be unlawful to take or possess shellfish taken by such other equipment unless prior written approval has been obtained from the department and unless a copy of the written permission is on the person of the authorized harvester and unless the conditions of the written authorization are being met. Such other equipment includes, but is not limited to, rock dredges, escalator dredges, hydraulic dredges, mechanical tongs, patent tongs, and any power drawn or driven device.

(b) It shall be unlawful for any person to take or possess shellfish for recreational purposes using any instrument other than by hand or hand-held implement.

History.
Code 1981, § 27-4-192, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501.

Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-192 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 46, 51 et seq.

C.J.S.
36A C.J.S., Fish, § 36.

27-4-193. Taking or transplanting shellfish from unapproved growing areas; closure of growing areas; operating facility for controlled purification of shellfish.

(a) It shall be unlawful to take or possess shellfish from unapproved growing areas except at such times and places as the department may establish. The department is authorized to close approved growing areas to allow transplanting at any time between January 1 and December 31. It shall be unlawful to engage in transplanting of shellfish from unapproved growing areas without written authorization from the department. Such authorization may condition the transplanting upon compliance with current, sound principles of wildlife research and management. In approving growing areas, the department shall consider such current guidelines as have been established by the National Shellfish Sanitation Program at the time of approval of the growing areas and current, sound principles of wildlife research and management.

(b) It shall be unlawful to build or operate a facility for controlled purification of shellfish without prior written authorization from the department. In issuing such authorization, the department shall consider such current guidelines as have been established by the National Shellfish Sanitation Program and the rules and regulations of the Department of Agriculture at the time of such authorization.

History.
Code 1981, § 27-4-193, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 1992, p. 6, § 27; Ga. L. 2019, p. 619, § 1/HB 501.

Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-193 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

27-4-194. Minimum size of shellfish which may be taken or possessed.

(a)(1) It shall be unlawful to take any oysters for noncommercial purposes when the shells of the oysters measure less than three

inches from hinge to mouth, except that oysters less than three inches from hinge to mouth may be removed if attached to an oyster of that minimum size and the oyster so attached cannot be removed without destroying the three-inch oyster.

(2) It shall be unlawful to take any oysters for commercial purposes when the shells of the oysters measure less than two inches from hinge to mouth, except that oysters less than two inches from hinge to mouth may be removed if attached to an oyster of that minimum size and the oyster to which it is so attached cannot be removed without destroying the two-inch oyster.

(3) It shall be unlawful for any person engaged in shucking or canning oysters for market to shuck, can, purchase, or have in possession any quantity of oysters containing more than 5 percent of oysters of prohibited size as defined in this Code section. Smaller oysters may be taken incidentally with such minimum-size oysters when they are directly attached to the minimum-size oysters. Oysters of prohibited size as defined in this Code section may be taken or possessed if prior written approval has been obtained from the department and such approval is on the person of the harvester or person in possession of the oyster.

(b) It shall be unlawful to take or possess any clam for commercial or recreational purposes when the maximum depth of the shell of the clam measures less than three-fourths' inch thickness from one shell half to the other unless prior written approval has been obtained from the department and such approval is on the person of the harvester or person in possession of the clam.

History.

Code 1981, § 27-4-194, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2001, p. 999, § 1; Ga. L. 2012, p. 739, § 28/HB 869; Ga. L. 2019, p. 619, § 1/HB 501.

Editor's notes.

Ga. L. 2019, p. 619, § 1/HB 501, effective May 6, 2019, for purposes of promulgating rules and regulations and effective March 1, 2020 for all other purposes, reenacted this Code section without change.

Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

Law reviews.

For note on the 2001 amendment of this Code section, see 18 Ga. St. U.L. Rev. 143 (2001).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-194 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 47 et seq.

C.J.S.
36A C.J.S., Fish, §§ 35, 36.

27-4-195. Seasons for taking shellfish; issuance, suspension, and revocation of conditional permission for master harvester to harvest during closed periods.

(a) It shall be unlawful to take shellfish from any of the salt waters of this state except at such times and places as the commissioner may establish. The commissioner is authorized to open or close for the purpose of taking shellfish any or all portions of the salt waters of this state at any time between January 1 and December 31, provided that he or she has determined that such action in opening or closing said salt waters is in accordance with current, sound principles of wildlife research and management.

(b) It shall be unlawful to give permission to take shellfish from any area not opened pursuant to this Code section unless permission has been granted by the department or to give permission to harvest shellfish from areas for which the individual granting such permission does not have harvest rights.

(c) A master harvester may request permission from the department to harvest shellfish during periods when shellfish harvest is closed pursuant to subsection (a) of this Code section. The department may consider a master harvester's past compliance with the provisions of this part in making its determination to issue conditional permission to harvest during closed periods. In addition, the master harvester shall provide:

(1) A closed season shellfish operations plan that is approved by the department and meets requirements established by the board to be protective of public health;

(2) A list of trained, authorized harvesters as provided in subsection (d) of this Code section; and

(3) A list of receiving certified firms.

(d) A master harvester shall ensure that a harvester receives training required by the National Shellfish Sanitation Program, abides by the conditions of the program, and holds all required licenses.

(e) The department may suspend or revoke a master harvester's permission for closed period harvest for a violation of a condition by the master harvester or harvester. The filing of a judicial appeal shall not act as an automatic stay of enforcement. No license, permit, or lease

shall be denied or revoked under this part without opportunity for hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.
Code 1981, § 27-4-195, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1991, a comma was inserted following "December 31" in subsection (a).

Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-195 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 45 et seq., 51 et seq.

C.J.S.
36A C.J.S., Fish, § 31 et seq.

27-4-196. Distribution and transplanting of wild oyster shells and culch material by permittee.

(a) It shall be unlawful for any permittee authorized pursuant to Code Section 27-4-190 to gather wild oysters for commercial purposes from intertidal water bottoms other than those leased from the state to fail to do one of the following each year:

(1) Distribute upon areas designated by the department at least 33 1/3 percent by volume of oyster shells taken by the permittee or taken under authorization by the permittee during the immediately preceding harvest season;

(2) Transplant at least such amount by volume of oysters from unapproved growing areas in accordance with the requirements of this article; or

(3) Distribute or transplant at least such amount by volume of culch material.

(b) It shall be unlawful for any permittee or permittee's authorized agent taking wild oysters from intertidal water bottoms leased from the state to fail to return culch amounts by volume as are specified in the lease agreement.

(c) Such shell deposition, oyster transplanting, or deposition of culch material shall be done under the direction or supervision of the department and shall require prior notification to the department of any such proposed action.

History.

Code 1981, § 27-4-196, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501.

Editor's notes.

Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-196 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 33, 43 et seq.

C.J.S.

36A C.J.S., Fish, §§ 35, 38. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 48, 61, 64.

ALR.

Pollution of oyster beds, 3 A.L.R. 762.

27-4-197. Shellfish sanitation program; requirements as to shipment of shellfish.

(a) The department and the Department of Agriculture shall conduct a shellfish program sufficient to be certified by the United States Food and Drug Administration for interstate shipment of shellfish produced in this state.

(b) It shall be unlawful for any person handling shellfish for purposes of sale or shipment to fail to keep such shellfish in clean barrels, bags, crates, baskets, or other containers as prescribed by the Department of Agriculture. It shall be unlawful to fail to attach to each such container a tag approved by the Department of Agriculture or to mark containers of shucked shellfish with mandatory information as described by the Department of Agriculture. It shall be unlawful to possess shellfish which are not properly tagged or labeled according to this Code section. Such tags or labels shall indicate the information as required by the Department of Agriculture.

(c) It shall be unlawful to affix tags issued to a certified dealer onto containers of another. Uncertified master harvesters shall tag harvested shellfish in a manner as prescribed by the department according to the guidelines of the National Shellfish Sanitation Program.

(d) It shall be unlawful to ship or possess commercial quantities of shellfish unless certified by the Department of Agriculture. It shall be unlawful to possess shellfish from out-of-state sources unless those shellfish were purchased from certified dealers. It shall be unlawful to ship shellfish through Georgia unless certified. Certified dealers are those permitted to handle shellfish according to the guidelines of the National Shellfish Sanitation Program. The department may issue permission to uncertified firms to take and possess shellfish. Such permission may be issued upon such conditions as the department determines are in accordance with current, sound principles of wildlife research and management.

History.
Code 1981, § 27-4-197, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501.

Cross references.
Sanitation, distribution, and transportation of fish and seafoods, § 26-2-315 et seq.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1991, "out-of-state" was substituted for "out of state" in the second sentence of subsection (d).

Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-4-197 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 51 et seq.

27-4-198. Lease of state intertidal and subtidal water bottoms within approved growing areas from department.

(a)(1) The department may offer leases of state intertidal water bottoms within an approved growing area for the exclusive rights to harvest wild or maricultured shellfish pursuant to this Code section through public competitive bidding. Any person desiring to lease state intertidal water bottoms shall make an application in writing to the department in the manner and time as described by the department in the competitive bid advertisement. Such lease shall include terms and conditions as prescribed by the department.

(2) The department shall cause to be published once per week for two consecutive weeks in the legal organ of the county or counties in

which the area to be bid upon is located an advertisement of an invitation for bid, setting forth a description of the area proposed to be leased; the date, time, and place when and where bids will be received; the minimum acceptable bid as determined by the department but not less than $15.00 per acre; and such other information as the department may deem necessary. Prior to such advertisement, the department shall prepare a proposed form of lease and appropriate instructions which shall be available to prospective bidders under such conditions as the department may prescribe. Sealed bids shall be submitted to the department, and each bid shall be accompanied by a refundable certified check, cashier's check, or money order for the total annual amount of the submitted bid. The funds submitted by the successful bidder will be applied toward the first annual lease payment. In addition, each sealed bid shall be accompanied by a detailed management plan for working the intertidal water bottoms lease area for wild harvest or mariculture. The lease form shall contain provisions regarding the term of the lease, the method of taking shellfish, the time and place for annual payment for the lease which shall be equal to the bid amount, the minimum replanting or production requirements of shellfish to be harvested, the placement and type of signs to mark the site as a leased area, and such other terms as the department deems necessary.

(3) All bids shall be opened in public on the date and at the time and place specified in the advertisement of the invitation to bid. The department shall announce which bid and bidder it considers most advantageous to the state. In so considering, the department shall give preference to residents over nonresidents. In exercising its discretion, the department may consider an applicant's previous performance and compliance with this article. The department shall have the right to reject any or all bids and bidders and the right to waive formalities in bidding.

(b)(1) The department may offer leases of state subtidal water bottoms within approved growing areas for the exclusive rights to mariculture shellfish to in-state and out-of-state residents. Prior to offering a subtidal water bottoms lease, the department shall consider compatibility with other public uses of the marine and estuarine resources in proximity of the lease area that include, but are not limited to, navigation, fishing, swimming, and other forms of recreation. Such lease shall include terms and conditions as the department may prescribe.

(2) Subtidal water bottoms leases shall be issued through a lottery devised and operated by the department. Preference may be given to certified firms, lease holders, and state residents.

(3) Subtidal water bottoms annual lease fees shall be equal to the

fair market value per acre as determined by the department but not less than $50.00 per acre.

(c) Each person granted an intertidal water bottoms or subtidal water bottoms lease shall pay an annual lease fee. If the annual fee is not paid by August 1, the department shall assess a late penalty of 10 percent. If the department does not receive the fee and any penalty on or before September 1, the lease shall be void.

(d) Intertidal water bottoms or subtidal water bottoms leased pursuant to this Code section shall be posted at the site by the lessee so as to identify clearly the areas so leased. The lessee shall also have a copy of the lease recorded within 30 days of the execution of the lease by the clerk of the superior court of the county or counties in which the leased area is located.

(e) Each intertidal water bottoms or subtidal water bottoms lease is valid for a term not to exceed ten years as determined by the board and may be renewed for additional terms so long as the leasee is in good standing pursuant to this part and all terms of the current lease.

(f)(1) Intertidal water bottoms and subtidal water bottoms leases may not be transferred, by sale or barter, without the written approval of the department along with a $50.00 transfer fee paid to the department. Transferees shall meet the same conditions as the original leasee.

(2) Intertidal water bottoms and subtidal water bottoms leases may be inheritable and transferable to the leasee's spouse, siblings, lineal descendants, or lineal ancestors without payment of a transfer fee if the leasee dies or is permanently and totally disabled. An instrument of the court declaring the rightful heir or recipient may be required for transfers upon a death. For purposes of this Code section, a permanent, total disability shall be a physical or mental impairment of a total and permanent nature which prevents gainful employment and which is certified as such by the United States Department of Veterans Affairs, the Social Security Administration, Medicaid, medicare, the Railroad Retirement System, or a unit of federal, state, or local government recognized by the board by rule or regulation. Inherited leases shall be valid only with approval of the department.

(3) Transferred leases shall be valid only upon receipt of the transfer fee, if applicable, and department approval. Leases may not be transferred, by sale or barter, by a leasee who has not harvested shellfish on such lease as evidenced by harvest records within the previous three years. A transferee shall assume the lease in its entirety and all conditions associated with the lease, acquire all additional authorizations if so required, and harvest shellfish on such

lease as evidenced by harvest records within two years after such transfer or the lease may revert to the department. Any person receiving a shellfish water bottoms or subtidal water bottoms lease by transfer shall pay to the department the lease fee within 30 days following the date of the transfer. If such fee is not paid within the required time, the lease shall revert to the department.

(g) The department is authorized to issue permission to remove shellfish from areas where those shellfish may be destroyed by dredging, development, or other destructive activities without entering into a lease as described in this Code section. Such authorization shall include terms and conditions as the department may prescribe and shall be issued only to master harvester permittees. The department shall notify permittees of its intentions to issue such authorization and set forth details on the proposed activity along with directions on how permittees may participate in the activity. When such authorization is issued, participants shall pay the department directly a one-time fee not to exceed $500.00 as set by the department.

(h) The department is authorized to issue permission to remove shellfish from unapproved growing areas without entering into a lease as described in this Code section. Such authorization shall be issued only to master harvester permittees and under guidelines as set forth in subsection (g) of this Code section.

History.
Code 1981, § 27-4-198, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501.

Cross references.
Substitutions for leased are within rights of way and spoil disposal areas, § 52-3-8.
Claims for damages to oysters, § 52-3-9.

Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 19.

C.J.S.
36A C.J.S., Fish, § 14.

ALR.
Pollution of oyster beds, 3 A.L.R. 762.

27-4-199. Evidence of intent to use as food; inspection of businesses; seizures.

(a) The distribution, sale, or possession with intent to distribute or

sell any shellfish shall be prima-facie evidence that the shellfish were intended for use as food unless prior written approval from the department authorizing such possession of shellfish is presented.

(b) Game wardens and other authorized personnel of the department are authorized to take samples from, to enter and have access to, and to examine during normal working hours and at any time when the licensed or authorized activity is being conducted all water bottoms, places of business, and other places where shellfish are grown, kept, stored, sold, or held in possession with intent to distribute, sell, or give away. Such personnel are also authorized at any time to take such samples of shellfish as are necessary to carry out the purposes of this article and to have access to and take samples from all streams, tributaries thereof, and lands adjacent thereto, the waters draining from which may come into contact with shellfish. It shall be unlawful for any person to obstruct or in any way interfere with any game warden or other authorized personnel of the department in carrying out the purposes of this article.

(c) Prior to and at point of landing game wardens and other authorized personnel of the department are authorized to seize, confiscate, and remove any and all shellfish discovered which were taken or possessed in violation of this article. Whenever a game warden or other authorized personnel of the department believes that shellfish examined may have been taken, contained, or stored in such a manner that may render the shellfish adulterated, misbranded, tainted, or otherwise which may pose a public health problem, the game warden or other authorized personnel of the department is authorized to seize, confiscate, and remove any and all shellfish. Such shellfish shall be destroyed or returned to the resource according to methods as the department may prescribe.

History.

Code 1981, § 27-4-199, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501; Ga. L. 2019, p. 808, § 7/SB 72.

Editor's notes.

Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 49 et seq.

C.J.S.

36A C.J.S., Fish, § 35.

27-4-200. Forged or false documents, records, or permits.

It shall be unlawful to knowingly produce, manufacture, or possess any forged or false documents, records, or permits provided for in this article.

History.
Code 1981, § 27-4-200, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501.
Editor's notes.
Ga. L. 2019, p. 619, § 1/HB 501, effective May 6, 2019, for purposes of promulgating rules and regulations and effective March 1, 2020 for all other purposes, reenacted this Code section without change.

Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Violations of O.C.G.A. § 27-4-200 are offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

27-4-201. Penalties.

(a) Except as otherwise provided in this article, any person who violates any provision of this part shall, upon conviction thereof, be guilty of a misdemeanor of a high and aggravated nature.

(b) Any authorizations issued under this part to any person convicted of violating any provision of this part may be revoked pursuant to Code Section 27-2-25; provided, however, that, upon the first such conviction, a harvester permit shall not be revoked if the harvester satisfactorily completes, within 30 days of notice from the department, the retraining specified by the department in accordance with the requirements of the National Shellfish Sanitation Program pursuant to subsection (d) of Code Section 27-4-195.

History.
Code 1981, § 27-4-201, enacted by Ga. L. 1991, p. 693, § 6; Ga. L. 2019, p. 619, § 1/HB 501; Ga. L. 2024, p. 429, § 8/HB 244, effective July 1, 2024.
Amendments.
The 2024 amendment, effective July 1, 2024, substituted "part" for "article" in subsection (a); and rewrote subsection (b), which read: "Any authorizations issued under this part to any person convicted of violating any provision of this article shall be revoked by operation of law and shall not be reissued for a period of three years. The department shall notify the person in writing of the revocation. Prior to revocation, such person shall have opportunity for hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'" See Editor's notes for applicability.
Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law with such approval for purposes of promulgating rules and

regulations necessary to administer the provisions of this Act and shall become effective on March 1, 2020, for all other purposes." This Act was signed by the Governor on May 6, 2019.

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendments to this Code section became effective April 25, 2024.

27-4-202. Shellfish mariculture permit; bond requirement of master harvester; penalty for noncompliance.

(a) It shall be unlawful for a master harvester to engage in shellfish mariculture activities without first obtaining a shellfish mariculture permit from the department. A detailed mariculture operational plan must be approved by the department prior to any shellfish mariculture permit being issued. An operational plan shall include the species to be farmed, types of gear, amounts, locations, sources and types of shellfish seed including genetic strains, a storm mitigation plan, a wildlife interaction mitigation plan, and any other information required by the department.

(b) Permits may be conditioned by the department to include requirements related to shellfish production, mariculture operations, public rights of access and nonconflicting uses of permitted areas, and correction of environmental degradation resulting from the permitted activity.

(c) Shellfish mariculture activities on a subtidal water bottoms lease shall require a performance bond provided to the director by a master harvester to ensure compliance with the procedures and standards contained in this part. Such performance bond shall be in the amount of $20,000.00 and conditioned upon faithful compliance with the conditions and terms of this part. Such performance bond shall be placed on file with the director. The bond shall be made payable to the director and issued by an insurance company authorized to issue such bonds in this state. If any party is aggrieved or adversely affected by the master harvester's failure to comply with the requirements of this article, the director may commence and maintain an action against the principal and surety on the bond.

(d) The department shall not issue any new leases or permits or renew any leases or permits unless the leasing application is accompanied by a letter from the director or his or her designee stating that the applicant's bond is acceptable. Failure to provide an acceptable bond shall constitute grounds for denial of the issuance or renewal of a lease or permit.

(e) Upon a determination by the director that a master harvester, or an agent or employee responsible for harvesting, has failed to meet the standards as set out in this part, the director may, after written notice

of such failure to the master harvester or the agent or employee responsible for harvesting:

(1) Forfeit or draw that amount of such bond that the director determines necessary to correct the violations;

(2) Expend such amount for such purposes;

(3) Enter into contracts for such purposes; or

(4) Require the replacement of that amount of such bond forfeited or drawn upon.

History.
Code 1981, § 27-4-202, enacted by Ga. L. 2019, p. 619, § 1/HB 501.
Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, this Code section became effective May 26, 2019.

27-4-203. Conditional certification of shellfish hatcheries and nurseries; seed importation approvals and conditions; authorizations for mariculture activities; revocation.

(a) In accordance with current, sound principles of wildlife research and management, the department may conditionally certify shellfish hatchery and nursery operations within the state, may approve out-of-state hatcheries for importation of shellfish seed into the state, and may issue authorization to shellfish hatchery and nursery operators to receive shellfish for mariculture activities.

(b) The department may grant permits to master harvesters to import hatchery produced shellfish seed under the following conditions:

(1) Shellfish seed shall be certified disease-free by an approved shellfish pathologist; and

(2) The importation of shellfish seed is confined to seed that originates from department approved hatcheries.

(c) Failure to comply with department rules and regulations, in whole or in part, may result in revocation of any applicable shellfish mariculture permits granted pursuant to this part.

History.
Code 1981, § 27-4-203, enacted by Ga. L. 2019, p. 69, § 1/HB 501.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2019, "originates" was substituted for "originate" in paragraph (b)(2).
Editor's notes.
Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, this Code section became effective May 26, 2019.

27-4-204. Mariculture cage identification tag requirement.

It shall be unlawful to set or place in the salt waters of this state any shellfish mariculture cage which does not have attached to it an identification tag approved by the department. The identification shall be assigned by the department to the permittee when such permittee is issued his or her shellfish mariculture permit. For subsequent years, the same identification shall be assigned to such permittee. All intertidal gear shall be exempt from the requirements of this Code section.

History.

Code 1981, § 27-4-204, enacted by Ga. L. 2019, p. 619, § 1/HB 501; Ga. L. 2024, p. 429, § 9/HB 244, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, rewrote this Code section, which read: "(a) The first time that a person obtains or renews a shellfish mariculture permit, he or she shall obtain a permit from the department establishing the maximum number of cages that may be deployed at any given time during that license year. Such permits shall be issued in 25 cage increments. The permittee shall pay a fee of $1.00 per cage for the permit, and the permit shall be for the same duration and shall be renewed at the same time as the shellfish mariculture permit. Containers used for the mariculture of clams shall be exempt from this subsection.

"(b)(1) No cage permit may be amended to permit the use of more cages except at the time of permit renewal. The permittee, or his or her agent or employee if the permittee is not actively harvesting, shall have the cage permit in his or her possession at all times while harvesting.

"(2) It shall be unlawful for any permittee or a person designated by such permittee as provided in Code Section 27-4-202 to employ more cages than the number allowed by the cage permit at any time.

"(c) It shall be unlawful to set or place in the salt waters of this state any shellfish mariculture cage which does not have attached to it the identification assigned by the department to the permittee. The identification shall be assigned by the department to the permittee when such permittee is issued his or her shellfish mariculture permit. For subsequent years, the same identification shall be assigned to such permittee." See Editor's notes for applicability.

Editor's notes.

Ga. L. 2019, p. 619, § 3/HB 501, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, this Code section became effective May 26, 2019.

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendments to this Code section became effective April 25, 2024.

Part 5

Commercial Shrimp Cast Netting

27-4-205. License requirement.

It shall be unlawful for any person to fish for shrimp with a cast net from the waters of the state for commercial sale for food purposes or to sell for food purposes any shrimp he or she has taken with a cast net from the waters of the state unless he or she is in possession of a commercial food shrimp cast netting license as provided in this part. Such license shall be required in addition to a commercial fishing boat license issued pursuant to Code Section 27-2-8.

History.
Code 1981, § 27-4-205, enacted by Ga. L. 1998, p. 1133, § 16; Ga. L. 2007, p. 93, § 17/HB 100.

27-4-206. Issuance of licenses; limits; fees.

(a) The department may issue no more than 200 commercial food shrimp cast netting licenses as provided in this Code section. Such licenses shall be issued only to individuals and shall not be transferable.

(b) If the number of licenses issued pursuant to subsection (a) of this Code section does not total 200, the department may issue the remaining allotment of commercial food shrimp cast netting licenses in the initial or any subsequent license year by lottery devised and operated by the department. After such lottery has been conducted, any remaining unissued licenses may be issued via a method established by the department.

(c) The department shall charge a license fee for the commercial food shrimp cast netting license in the amount of $250.00 for a resident commercial food shrimp cast netting license and $2,500.00 for a nonresident commercial food shrimp cast netting license.

(d) Any license which is not renewed in subsequent license years shall revert to the department to be issued as provided in subsection (b) of this Code section.

History.
Code 1981, § 27-4-206, enacted by Ga. L. 1998, p. 1133, § 16; Ga. L. 2007, p. 93, § 18/HB 100; Ga. L. 2017, p. 27, § 18/HB 208.
Editor's notes.
Ga. L. 2017, p. 27, § 20/HB 208, not codified by the General Assembly, provides, in part, that the amendment of this Code section by that Act shall be applicable to all offenses occurring on or after July 1, 2017.

ARTICLE 5

INTERSTATE AGREEMENTS

PART 1

ATLANTIC STATES MARINE FISHERIES COMPACT

Editor's notes.
The compact provided by this part has been adopted by the number of states required to make the compact effective according to its terms.

27-4-210. Text of compact.

The Governor of this state is authorized and directed to execute a compact on behalf of the State of Georgia with any one or more of the

States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Florida, and with such other states as may enter into the compact, legally joining therein the form substantially as follows:

"ATLANTIC STATES MARINE FISHERIES COMPACT.

The contracting states solemnly agree:

ARTICLE I.

The purpose of this compact is to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause. It is not the purpose of this compact to authorize the states joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof, or creating and perpetuating monopoly.

ARTICLE II.

This agreement shall become operative immediately as to those states executing it whenever any two or more of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon waters frequented by anadromous fish, flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

ARTICLE III.

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of such state charged with the conservation of the fisheries resources to which this compact pertains or, if there be more than one officer or agency, the official of that state named by the governor thereof. The second shall be a member of the legislature of such state designated by the commission or committee on interstate cooperation of such state, or if there be none, or if said commission on interstate cooperation cannot constitutionally designate the said member, such legislator shall be designated by the governor thereof; provided, that if it is constitutionally impossible to appoint a legislator as a commissioner from such state, the second member shall be appointed by the governor of said state in his discretion. The third shall be a

citizen who shall have a knowledge or an interest in the marine fisheries problem to be appointed by the governor. This commission shall be a body corporate with the powers and duties set forth herein.

ARTICLE IV.

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practice, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever, and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs or joint stocking by some or all of the states party hereto and when two or more of the states shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

ARTICLE V.

The commission shall elect from its number a chairman and a vice-chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

ARTICLE VI.

No action shall be taken by the commission in regard to its general

affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The commission shall define what shall be an interest.

ARTICLE VII.

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the commission.

An advisory committee to be representative of the commercial fisherman and the saltwater anglers and such other interests of each state as the commission deems advisable shall be established by the commission as soon as practical for the purpose of advising the commission upon such recommendations as it may desire to make.

ARTICLE VIII.

When any state other than those named specifically in Article II of this compact becomes a party thereto for the purpose of conserving its anadromous fish in accordance with the provisions of Article II, the participation of such state in the action of the commission shall be limited to such species of anadromous fish.

ARTICLE IX.

Nothing in this compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state imposing additional conditions and restrictions to conserve its fisheries.

ARTICLE X.

Continued absence of representation or of any representative on the commission from any state party hereto shall be brought to the attention of the governor thereof.

ARTICLE XI.

The states party hereto agree to make annual appropriations to the support of the commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recent published reports of the Fish and Wildlife Service of the United States Department of the Interior, provided no state shall contribute less than $200 per annum and the annual contribution of each state above the minimum shall be figured to the nearest $100.

The compacting states agree to appropriate initially the annual amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by a majority of the commission and the cost thereof allocated equitably among the states in accordance with their respective interests and submitted to the compacting states.

Schedule of Initial Annual State Contributions

Maine	$ 700.00
New Hampshire	200.00
Massachusetts	2,300.00
Rhode Island	300.00
Connecticut	400.00
New York	1,300.00
New Jersey	800.00
Delaware	200.00
Maryland	700.00
Virginia	1,300.00
North Carolina	600.00
South Carolina	200.00
Georgia	200.00
Florida	1,500.00

ARTICLE XII.

This compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other states party hereto."

History.

Ga. L. 1943, p. 117, § 1; Ga. L. 1955, p. 483, § 23; Code 1933, § 45-721, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1983, p. 3, § 20.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2003, double quotes were inserted at the beginning and end of this compact.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 17, 33.

C.J.S.

36A C.J.S., Fish, § 10.

27-4-211. Establishment of commission; members; terms of office; removal.

(a) Pursuant to Article III of the compact, there shall be three members (hereinafter called commissioners) of the Atlantic States Marine Fisheries Commission (hereinafter called commission) from the State of Georgia. The first commissioner from the State of Georgia shall

be the commissioner of natural resources ex officio; and the term of any such ex officio commissioner shall terminate at the time he ceases to hold the office of commissioner of natural resources; and his successor as commissioner shall be his successor as commissioner of natural resources. The second commissioner from the State of Georgia shall be a legislator and a member of the Commission on Interstate Cooperation of the State of Georgia ex officio, designated by the Commission on Interstate Cooperation; and the term of any such ex officio commissioner shall terminate at the time he ceases to hold such legislative office or office as commissioner on interstate cooperation; and his successor as commissioner shall be named in like manner. The Governor (by and with the advice and consent of the Senate) shall appoint a citizen as a third commissioner who shall have a knowledge of and interest in the marine fisheries problem. The term of the commissioner shall be three years, and he shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of the commissioner for any reason or cause shall be filled by appointment by the Governor (by and with the advice and consent of the Senate) for the unexpired term.

(b) The commissioner of natural resources, as ex officio commissioner, may delegate, from time to time, to any deputy or other subordinate in his department or office the power to be present and participate, including voting as his representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

(c) The terms of each of the initial three members shall begin at the date of the appointment of the appointive commissioner, provided the compact shall have then gone into effect in accordance with Article II of the compact; otherwise, they shall begin upon the date upon which the compact shall become effective in accordance with said Article II.

(d) Any commissioner may be removed from office by the Governor upon charges and after a hearing.

History.
Ga. L. 1943, p. 117, § 2; Ga. L. 1955, p. 483, § 23; Ga. L. 1972, p. 1015, § 1533; Code 1933, § 45-722, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 33.

27-4-212. Powers and duties of commission and state officers.

There is granted to the commission and the commissioners thereof all the powers provided for in the compact and all the powers necessary or incidental to the carrying out of the compact in every particular. All officers of the State of Georgia are authorized and directed to do all

things falling within their respective provinces and jurisdictions necessary or incidental to the carrying out of the compact in every particular, it being declared to be the policy of the State of Georgia to perform and carry out the compact and to accomplish the purposes thereof. All officers, bureaus, departments, and persons of and in the government or the administration of the State of Georgia are authorized and directed at convenient times and upon request of the commission to furnish the commission with information and data possessed by them and to aid the commission by loan of personnel or other means lying within their legal rights.

History. Ga. L. 1943, p. 117, § 3; Ga. L. 1955, p. 483, § 23; Code 1933, § 45-723, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 33, 39.

27-4-213. Extent of commission's powers.

Any powers granted to the commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in the commission by other laws of the State of Georgia or by the laws of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Florida or by the Congress or the terms of the compact.

History. Ga. L. 1943, p. 117, § 4; Ga. L. 1955, p. 483, § 23; Code 1933, § 45-724, enacted by Ga. L. 1977, p. 396, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 33, 39.

27-4-214. Accounting; reporting; recommendations.

The commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the General Assembly of the State of Georgia on or before December 10 of each year, setting forth in detail the transactions conducted by it during the 12 months preceding December 1 of that year. The commission shall also make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the State of Georgia which may be necessary to carry out the intent and purposes of the compact between the signatory states.

History.
Ga. L. 1943, p. 117, § 5; Ga. L. 1955, p. 483, § 23; Code 1933, § 45-725, enacted by Ga. L. 1977, p. 396, § 1.

27-4-215. Examination of commission's accounts by state auditor; report to Governor.

The state auditor is authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements, and such other items referring to its financial standing as the state auditor may deem proper, and to report the results of the examination to the Governor of the state.

History.
Ga. L. 1943, p. 117, § 5; Ga. L. 1955, p. 483, § 23; Code 1933, § 45-726, enacted by Ga. L. 1977, p. 396, § 1.

27-4-216. Annual appropriation for commission.

The sum of $200.00 per annum, or so much as may be necessary, is appropriated, out of any moneys in the state treasury not otherwise appropriated, for the expenses of the commission created by the compact authorized by this part.

History.
Ga. L. 1943, p. 117, § 6; Ga. L. 1945, p. 193, § 1; Ga. L. 1955, p. 483, § 23; Code 1933, § 45-727, enacted by Ga. L. 1977, p. 396, § 1.

Part 2

Fishing License Reciprocity

Cross references.
Power of department to make agreements with other states regarding hunting license reciprocity, § 27-2-7.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 34.

C.J.S.
36A C.J.S., Fish, § 10.

27-4-230 through 27-4-233. [Repealed].

History.
Code 1933, §§ 45-728 through 45-730, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 53; Ga. L. 1979, p. 678, § 30; Ga. L. 1980, p. 2004, § 4; Ga. L. 1984, p. 537, §§ 9, 10; repealed by Ga. L. 1989, p. 1552, §§ 9-12, effective April 18, 1989.

Editor's notes.
The former Code sections, relating to reciprocal agreements with Alabama, Florida, North Carolina and South Carolina, respectively, consisted of Code Sections 27-4-230 through 27-4-233. For present comparable provisions on reciprocity, see Code Section 27-4-234.

27-4-234. Agreements with adjoining states.

(a) As used in this Code section, the term "adjoining state" means any of the following states: Alabama, Florida, North Carolina, South Carolina, and Tennessee.

(b) The department is authorized to make and enter into agreements, from time to time, with the proper authorities of any adjoining state whereby:

(1) A citizen of the State of Georgia who has obtained an honorary fishing license as a blind person pursuant to the provisions of subsection (b) of Code Section 27-2-4 may fish within such adjoining state without the necessity of purchasing a nonresident fishing license in that state; and

(2) A citizen of the adjoining state who has an honorary fishing license as a blind person issued by that state may fish within the State of Georgia without the necessity of purchasing a nonresident fishing license in this state.

(c) An agreement entered into with an adjoining state pursuant to the provisions of subsection (b) of this Code section pertains only to reciprocity of fishing licenses and all other fishing laws and regulations of the State of Georgia shall apply to any nonresident fishing in Georgia waters pursuant to the authority of any such agreement.

(d) The commissioner is authorized to enter into agreements from time to time with the proper authorities of any of the adjoining states whereby a valid fishing license issued by the State of Georgia will be accepted and honored as and in lieu of a fishing license for adjoining states so agreeing on the banks and in the waters of the lakes, rivers, and streams lying between the State of Georgia and such adjoining state or partly within the boundaries of both the State of Georgia and that adjoining state. In turn, valid licenses issued by said adjoining state shall be accepted and honored as and in lieu of a Georgia fishing license on the banks and in the waters of such lakes, rivers, and streams. Notwithstanding provisions of this title to the contrary, it shall be unlawful to take game fish except channel catfish, flathead catfish, American shad, and hickory shad from waters of the lakes, rivers, and streams lying between the State of Georgia and such adjoining state or partly within the boundaries of Georgia and that adjoining state. The numbers of those game fish which may be lawfully taken from such waters are limited by the commissioner in accordance with current, sound principles of wildlife management. Those limits allow one to 50 fish of each species to be taken but no more than a total of 50 fish of all species.

History.
Code 1981, § 27-4-234, enacted by Ga. L. 1988, p. 370, § 1; Ga. L. 1989, p. 1552, § 13.

ARTICLE 6

AQUACULTURE DEVELOPMENT

Administrative rules and regulations.
Aquaculture, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia, Department of Natural Resources, Wildlife Resources Division, Rule 391-4-14-.01 et seq.

27-4-251. Short title.

This article shall be known and may be cited as the "Georgia Aquaculture Development Act."

History.
Code 1981, § 27-4-251, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 2026, p. 1069, § 27(15)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "shall be known and" in this Code section.

27-4-252. Definitions.

As used in this article, the term:

(1) "Aquaculture" means the extensive or intensive farming of aquatic animals and plants.

(2) "Commission" means the Aquaculture Development Commission created by Code Section 27-4-253.

History.
Code 1981, § 27-4-252, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 2004, p. 948, § 2-6.
Editor's notes.
Ga. L. 2019, p. 919, § 1-1/HB 553, repealed the provisions of the Georgia Pacific White Shrimp Development Aquaculture Act, effective July 1, 2019. As a result, the amendment by Ga. L. 2004, p. 948, § 2-6, which was never funded and therefore remained dormant, is now moot.

27-4-253. Aquaculture Development Commission; creation; membership; terms of office; bylaws; quorum; reimbursement for expenses; meetings.

(a) There is created the Aquaculture Development Commission. The commission shall be composed of 14 members as follows:

(1) The president of the Georgia Aquaculture Association or his representative, who shall serve as chairman of the commission;

(2) The president of the Georgia Farm Bureau Federation or his representative;

(3) The dean of the College of Agricultural and Environmental Sciences of the University of Georgia or his representative;

(4) The chairman of the Committee on Agriculture and Consumer Affairs of the House of Representatives or his representative;

(5) The chairman of the Senate Agriculture and Consumer Affairs Committee or his representative;

(6) The Commissioner of Agriculture or his representative;

(7) The commissioner of natural resources or his representative;

(8) The commissioner of economic development or his or her representative; and

(9) Six members to be appointed by the president of the Georgia Aquaculture Association as follows:

(A) Four members shall be representatives of the aquaculture industry;

(B) One member shall be a representative of the commercial fish farming supply and equipment industry; and

(C) One member shall be a representative of a private industry which is doing research in the promotion of fish farming.

Each of such six members shall be appointed for a term of two years and until a successor is appointed and assumes membership on the commission. The terms of the first six such members shall begin on July 1, 1989.

(b) The members of the commission shall enter upon their duties without further act or formality. The commission may make such bylaws for its government as it deems necessary but is under no duty to do so. The commission may appoint working subcommittees based on identified needs. These subcommittees may consist of noncommission members who exhibit an interest in the development of the aquaculture industry of Georgia.

(c) Eight members of the commission shall constitute a quorum necessary for the transaction of business, and a majority vote of those present at any meeting at which there is a quorum shall be sufficient to do and perform any action permitted the commission by this article. No vacancy on the commission shall impair the right of a quorum to transact any and all business of the commission.

(d) The members shall not receive compensation for their services on the commission but those members who are public officials or employees shall be reimbursed from the funds of their employing department, agency, or branch of government for per diem, travel, and other

expenses in the same manner and amount as they otherwise receive for performing services for their respective departments, agencies, or branches of government.

(e) The commission shall meet upon the call of its chairman.

History.
Code 1981, § 27-4-253, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 1995, p. 10, § 27; Ga. L. 1995, p. 1059, § 1; Ga. L. 2004, p. 690, § 13; Ga. L. 2009, p. 303, § 1/HB 117.

Editor's notes.
Ga. L. 2009, p. 303, § 20/HB 117, not codified by the General Assembly, provides: "This Act is intended to reflect the current internal organization of the Georgia Senate and House of Representatives and is not otherwise intended to change substantive law. In the event of a conflict with any other Act of the 2009 General Assembly, such other Act shall control over this Act."

27-4-254. Aquaculture development plan; contents of plan; meetings of commission; staff support.

(a) The commission shall make a thorough study of aquaculture and the potential for development and enhancement of aquaculture in the state. It shall be the duty of the commission to develop, distribute, and, from time to time, amend an aquaculture development plan for the State of Georgia for the purpose of facilitating the establishment and growth of economically viable aquaculture enterprises in Georgia. Such plan shall include:

(1) An evaluation of Georgia's natural resources as they relate to aquaculture;

(2) An evaluation of species with potential for culture in Georgia;

(3) An identification of constraints to development of aquaculture in Georgia and recommendations on methods to alleviate these constraints;

(4) An identification of the roles of the Department of Agriculture and the department in supporting the aquaculture industry, including an evaluation of existing physical and personnel resources and recommendations for allocation of additional resources where needed;

(5) Recommendations for implementation of the plan; and

(6) An identification of the role of other state and federal agencies in the development of the aquaculture industry.

(b) The commission is authorized to conduct meetings at such places and at such times as it considers expedient and to do all other things consistent with this article which are necessary or convenient to enable it to exercise its powers, perform its duties, and accomplish the objectives and purposes of this article.

(c) Staff support for the commission shall be provided by the department with assistance from the Department of Agriculture and the Department of Economic Development.

History.
Code 1981, § 27-4-254, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 2004, p. 690, § 14; Ga. L. 2026, p. 1069, § 27(16)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "department" for "Department of Natural Resources" in paragraph (a)(4) and in subsection (c).

27-4-255. Registration requirement for sale of domestic fish; regulation of sale without registration.

Any person engaged in the sale of domestic fish, except grocery stores, shall apply to the department for an aquaculture registration. The domestic fish of a registered aquaculture producer shall be privately owned subject to regulation by the department; provided, however, any person selling domestic fish without first obtaining an aquaculture registration shall be considered to be selling wildlife or wild animals and shall be subject to the provisions of this title governing such sale.

History.
Code 1981, § 27-4-255, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 2026, p. 1069, § 27(17)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in the second sentence, substituted "department" for "Department of Natural Resources", and revised punctuation in this Code section.

27-4-256. Duty of department to register sellers of domestic fish; expiration of registration.

The department shall register sellers of domestic fish under the applicable provisions of this article. Such registration shall expire on April 1 following the second anniversary of registration; provided, however, that such registration shall expire 30 days following any change in the status of any information required by the provisions of this article or by any rule or regulation adopted pursuant to this article to be reported to the department. The department shall issue to registrants who update their registration new certificates of registration for the full period of registration provided for in this Code section.

History.
Code 1981, § 27-4-256, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 1994, p. 600, § 6; Ga. L. 2026, p. 1069, § 27(18)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "department" for "Department of Natural Re-

sources" in the first sentence in this Code section.

27-4-257. Application for registration as seller of domestic fish.

(a) All applications to the department for registration as a seller of domestic fish shall:

(1) Designate an address in this state where the applicant can be personally served with legal process;

(2) Contain an appointment of an agent in this state for acceptance of service of legal process, together with the agent's address in this state; or

(3) Contain a designation of the Secretary of State for acceptance of service of legal process.

(b) A copy of such application shall be forwarded to the Secretary of State by the department.

History.
Code 1981, § 27-4-257, enacted by Ga. L. 1992, p. 1507, § 8.

27-4-258. Filing of application for registration as seller of domestic fish as admission of doing business in state.

The filing of an application with the department for registration as a seller of domestic fish shall constitute an admission by the applicant that the applicant is doing business in this state.

History.
Code 1981, § 27-4-258, enacted by Ga. L. 1992, p. 1507, § 8.

27-4-259. Denial of registration as seller of domestic fish.

(a) The Commissioner may deny registration to:

(1) Any applicant with a criminal record;

(2) Any applicant who is found by the Commissioner to have violated any law administered by the department or any regulation or quarantine of the department; or

(3) A corporation, when any of its officers has a criminal record or is found by the Commissioner to have violated any law administered by the department or any regulation or quarantine of the department.

(b) In the case of a partnership, all parties shall be considered applicants for the purpose of this Code section.

(c) No registration shall be denied under this article without opportunity for hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.
Code 1981, § 27-4-259, enacted by Ga. L. 1992, p. 1507, § 8.

27-4-260. Revocation of registration as seller of domestic fish.

The Commissioner may revoke any outstanding registration where the holder of the same or any officer or agent of the holder is found by the Commissioner to have violated any law administered by the department or any regulation or quarantine of the department, provided that no registration shall be revoked under this Code section without opportunity for hearing in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.
Code 1981, § 27-4-260, enacted by Ga. L. 1992, p. 1507, § 8.

27-4-261. Evidence of registration as seller of domestic fish; list of registered persons.

All registration certificates issued by the department shall be evidence of a registration. The department shall maintain a current list of all persons registered under this article.

History.
Code 1981, § 27-4-261, enacted by Ga. L. 1992, p. 1507, § 8.

27-4-262. Rules and regulations.

The board shall make and publish in print or electronically such rules and regulations, not inconsistent with law, as it deems necessary to carry out the purposes of this article.

History.
Code 1981, § 27-4-262, enacted by Ga. L. 1992, p. 1507, § 8; Ga. L. 2010, p. 838, § 10/SB 388.

27-4-263. Inspections; penalty.

(a) Any inspector or other person authorized to ascertain compliance with any rule or regulation of the department pertaining to the production or sale of domestic fish may enter during normal business hours and inspect the premises of a registered seller or producer of domestic fish to determine whether such person is in compliance with the rules and regulations of the department.

(b) In the event any person refuses to give his consent to an inspection as provided in subsection (a) of this Code section, the commissioner or any person authorized to make inspections may seek a warrant to make an inspection as provided in this subsection:

(1) Any application for an inspection warrant shall be made to a person who is a judicial officer within the meaning of Code Section 17-5-21;

(2) An inspection warrant shall be issued only upon cause and when supported by an affidavit particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is to be made. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. Cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, premises, or vehicle, or there is reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, premises, or vehicle;

(3) An inspection warrant shall be effective for the time specified therein, but not for a period of more than 14 days, unless extended or renewed by the judicial officer who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such inspection warrant must be executed and returned to the judicial officer by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, is void;

(4) An inspection pursuant to an inspection warrant shall be made between 8:00 A.M. and 6:00 P.M. of any day or at any time during operating or regular business hours. An inspection should not be performed in the absence of an owner or occupant of the particular place, dwelling, structure, premises, or vehicle unless specifically authorized by the judicial officer upon a showing that such authority is reasonably necessary to effectuate the purpose of the regulation being enforced. An inspection pursuant to a warrant shall not be made by means of forcible entry, except that the judicial officer may expressly authorize a forcible entry where facts are shown which are sufficient to create a reasonable suspicion of a violation of this title, which, if such violation existed, would be an immediate threat to health, safety, or welfare or where facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. Where prior consent has been sought and refused and a warrant has been issued, the warrant may be executed without

further notice to the owner or occupant of the particular place, dwelling, structure, premises, or vehicle to be inspected;

(5) It shall be unlawful for any person to refuse to allow an inspection pursuant to an inspection warrant issued as provided in this subsection. Any person violating this paragraph shall be guilty of a misdemeanor; and

(6) Under this subsection, an inspection warrant is an order, in writing, signed by a judicial officer, directed to the commissioner or any person authorized to make inspections for the department, and commanding him or her to conduct any inspection authorized by any rules or regulations promulgated pursuant to this article.

(c) The provisions of Code Section 27-1-23 shall not be applicable to any person registered under this article.

History.
Code 1981, § 27-4-263, enacted by Ga. L. 1992, p. 1507, § 8.

ARTICLE 7

SPORT FISHING LOCATIONS

Cross references.
Liability of volunteers, employees, or officers of nonprofit association conducting or sponsoring sports or safety program; liability of association, § 51-1-20.1.

27-4-280. Legislative intent.

The General Assembly recognizes that persons who participate in the sport of fishing may incur injuries as a result of the risks involved in such activity. The General Assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activity. The General Assembly finds, determines, and declares that this article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage the sport of fishing by limiting the civil liability of those involved in such activity.

History.
Code 1981, § 27-4-280, enacted by Ga. L. 1998, p. 1659, § 1.

27-4-281. Definitions.

As used in this article, the term:

(1) "Fishing location" means a body of water, whether naturally occurring or manmade, containing fish and for the privilege of fishing there a fee is charged.

(2) "Participant" means any person who enters the fishing location, singly or with a group, either by paying a fee or having the fee waived, for the purpose of fishing, education, or enjoying the outdoor environment and any person who accompanies such person.

History.
Code 1981, § 27-4-281, enacted by Ga. L. 1998, p. 1659, § 1.

27-4-282. Immunity from liability for injury or death; exceptions.

(a) Except as provided in subsection (b) of this Code section, the owner or operator of any fishing location, or any other person, corporation, group, partnership, or other entity, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of fishing, including but not limited to drowning, and, except as provided in subsection (b) of this Code section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an owner or operator, or any other person or entity for injury, loss, damage, or death of the participant resulting from any of the inherent risks of fishing.

(b) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an owner or operator or any other person or entity if the owner or operator:

(1) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the owner or operator and for which signs warning of the latent defect have not been conspicuously posted;

(2) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or

(3) Intentionally injures the participant.

(c) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an owner or operator under liability provisions as set forth in the products liability laws.

History.
Code 1981, § 27-4-282, enacted by Ga. L. 1998, p. 1659, § 1.

27-4-283. Warning notice requirement; effect of noncompliance.

(a) Every owner and operator of a fishing location shall post and

maintain signs which contain the warning notice specified in subsection (b) of this Code section. Such signs shall be placed in a clearly visible location on or near the water and at the location where the fee is paid. The warning notice specified in subsection (b) of this Code section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an owner or operator shall contain in clearly readable print the warning notice specified in subsection (b) of this Code section.

(b) The signs and contracts described in subsection (a) of this Code section shall contain the following warning notice:

WARNING

Under Georgia law, an owner or operator of a fishing location is not liable for an injury to or the death of a participant from the inherent risks of fishing, including but not limited to drowning, pursuant to Article 7 of Chapter 4 of Title 27 of the Official Code of Georgia Annotated.

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Code section shall prevent an owner or operator from invoking the privileges of immunity provided by this article.

History.
Code 1981, § 27-4-283, enacted by Ga. L. 1998, p. 1659, § 1.

CHAPTER 5

WILD ANIMALS

Sec.		Sec.	
27-5-1.	Legislative findings.	27-5-7.	Release or escape from captivity.
27-5-2.	Powers of board.	27-5-8.	Seizure of wild animals as contraband; civil action to recover animals.
27-5-2.1.	Cervid importation and possession; procedures following detection of chronic wasting disease; penalty.	27-5-9.	Seizure of wild animals pursuant to administrative order; appeal.
27-5-3.	Powers of department.	27-5-10.	Disposal of wild animals recaptured after escape or seizure.
27-5-4.	Wild animal licenses and permits; revocations, suspensions, denials, or nonrenewals; appeals.	27-5-11.	Wild animal auction license; applications; filing requirements.
27-5-5.	Wild animals for which license or permit required.	27-5-12.	Shooting of any wild animal held under wild animal permit or farmed deer.
27-5-6.	Specifications for humane handling, care, confinement, and transportation of wild animals.		

Cross references.

Unlawful acts relating to taking, sale, purchase of wildlife, § 27-1-28 et seq.

Property rights in animals, § 44-1-8.

Ownership of deposit and offspring by wild animals on land, § 44-1-9.

RESEARCH REFERENCES

ALR.

Liability for injury to property inflicted by wild animal, 57 A.L.R.2d 242.

27-5-1. Legislative findings.

The General Assembly finds and declares that it is in the public interest to ensure the public health, safety, and welfare by strictly regulating in this state the importation, transportation, sale, transfer, and possession of those wild animals which pose a possibility of:

(1) Harmful competition for wildlife;

(2) The introduction of a disease or pest harmful to wildlife;

(3) Problems of enforcing laws and regulations relative to wildlife;

(4) Threatening wildlife or other natural resources; or

(5) Endangering the physical safety of human beings.

The importation, transportation, sale, transfer, and possession of wild animals are privileges not to be granted unless it can be clearly demonstrated that such actions can be accomplished in a manner that

does not pose unnecessary risk to Georgia's wildlife and other natural resources or to the citizens of and visitors to this state. For these reasons, the General Assembly further finds and declares that only certain wild animals may be held for scientific or educational purposes, for public exhibition, or as pets and may only be lawfully held when the requirements of this chapter are met. The General Assembly further finds and declares that any wild animal for which a license or permit, or both, is required under the provisions of this chapter and for which no such license or permit, or both, has been obtained is a nuisance and is contraband and is subject to seizure by any peace officer authorized to enforce this chapter.

History.
Code 1933, § 45-1101, enacted by Ga. L. 1979, p. 1094, § 4; Ga. L. 1993, p. 91, § 27.

Cross references.
Liability of owner or keeper of vicious or dangerous animal for injuries caused by animal, § 51-2-7.

27-5-2. Powers of board.

(a) The board shall have the authority to regulate the importation, transportation, sale, and possession of wild animals when and to the extent that the importation, transportation, sale, or possession poses a possibility of:

(1) Harmful competition for wildlife;

(2) The introduction of a disease or pest harmful to wildlife;

(3) Problems of enforcement of laws and regulations relating to wildlife;

(4) Danger to wildlife or other natural resources; or

(5) Danger to the physical safety of human beings.

(b) The board is specifically authorized to supplement the list of wild animals set forth in this chapter for which a permit or license, or both, is required.

(c) The board shall have the authority to require that any listed wild animal that is imported, transported, possessed, sold, or transferred by any person, including wild animal dealers, be labeled with the correct species, number, age, or other relevant information.

(d) The board shall have the authority to require an applicant for a permit or license required under this chapter to supply such information and to supply it in such form as the board deems necessary for the department to discharge its responsibilities under this chapter.

History.
Ga. L. 1975, p. 1254, § 2; Code 1933, § 45-1107, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 1094, §§ 17, 18.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 33.

27-5-2.1. Cervid importation and possession; procedures following detection of chronic wasting disease; penalty.

(a) As used in this Code section, the term:

(1) "Cervid" means a member of the family cervidae.

(2) "Chronic wasting disease" means a fatal disease that belongs to a group of diseases known as transmissible spongiform encephalopathies and that affects the brains of cervids.

(3) "Importation" means the transportation of a cervid, cervid carcass, or carcass part into this state.

(4) "Whole" means the entire carcass, whether eviscerated or not, prior to the carcass being processed.

(b)(1) It shall be unlawful for any person, firm, partnership, or association to import, bring, or cause to be imported or brought into this state any live cervid, except as otherwise authorized by rule or regulation of the board in effect as of January 1, 2007, or such later date as may be provided by Code Section 27-1-39.

(2)(A) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction shall be punished by a fine of not less than $1,500.00 nor more than $5,000.00, imprisonment for a period not exceeding 12 months, or both such fine and imprisonment.

(B) The hunting and fishing privileges of any person convicted of violating paragraph (1) of this subsection shall be suspended for not less than three years from the date of conviction.

(c) It shall be unlawful for any person to import or possess a whole cervid carcass or cervid carcass part from any place outside of Georgia, except for any one or more of the following cervid carcass parts:

(1) Boned-out meat or products thereof;

(2) Antlers, skulls, skull plates, teeth, or jawbones with no soft tissue attached;

(3) Hides with no heads attached; and

(4) Finished taxidermy mounts.

(d) Upon the detection of chronic wasting disease in this state or any county adjacent to the borders of this state, the department shall have

the authority to restrict the movement or transport of cervid carcasses, or carcass parts within this state. A violation of any such restriction shall be treated as a violation of this Code section.

History.
Code 1981, § 27-5-2.1, enacted by Ga. L. 2006, p. 226, § 4/HB 338; Ga. L. 2022, p. 747, § 1/HB 1148.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2006, a colon was substituted for a comma in subsection (a).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting required. — Those charged with offenses under O.C.G.A. § 27-5-2.1 are to be fingerprinted. 2007 Op. Att'y Gen. No. 2007-1.

27-5-3. Powers of department.

(a) The department shall have the authority to prescribe the form and contents for the license and permit applications provided for in this chapter.

(b) The department shall issue or deny all permits and licenses required by this chapter and any rules and regulations adopted pursuant to this chapter.

(c) The department may, prior to a hearing, issue a cease and desist order or other appropriate order to any person who is violating this chapter or any regulation, permit, or license issued pursuant to this chapter.

(d) The department may quarantine or otherwise dispose of or order the disposition of any wild animal when it determines that the wild animal is affected with or exposed to a contagious or infectious disease or is infested with a parasite or pest harmful to wildlife.

(e) The department shall have the authority, based upon the standards set forth in Code Section 27-5-6, to determine if the necessary facilities, conditions, and standards prescribed by this chapter are sufficient for safety to the public and for the humane handling, care, confinement, and transportation of the wild animal for which application for a permit or license, or both, has been received. The department shall be authorized to make such determinations by inspecting the facilities of the permit or license holder. Following such determination, the department also has the authority to condition the license or permit so that the standards and intent of this chapter are met.

(f) The department is authorized to capture and contain any wild animal regulated by this chapter which has escaped or been released when such wild animal is determined by the department to pose a risk to Georgia's wildlife or other natural resources or to the citizens of and visitors to this state.

History. Ga. L. 1975, p. 1254, § 5; Code 1933, § 45-1106, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 1094, § 16.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 33.

27-5-4. Wild animal licenses and permits; revocations, suspensions, denials, or nonrenewals; appeals.

(a) Unless otherwise provided in Code Section 27-5-5, it shall be unlawful for any person to import, transport, transfer, sell, purchase, or possess any wild animal listed in Code Section 27-5-5 or specified by the board by regulation without first obtaining a wild animal license from the department as provided in Code Section 27-2-23 or a wild animal permit as provided in this Code section; provided, however, anyone holding a deer-farming license is not required to have a wild animal license or permit to possess farmed deer. Unless otherwise specified by the department, such license or permit shall be effective from April 1 through March 31 and may contain such conditions and restrictions, including restrictions as to numbers and species of animals, as the department determines appropriate in light of the provisions of this chapter. An applicant for a wild animal license or permit shall have the burden of proving that any wild animals subject to such license or permit are or will be imported, transported, transferred, sold, purchased, or possessed in compliance with this chapter.

(b)(1) Except as provided in paragraph (2) of this subsection, wild animal licenses will be issued only to persons engaged in the wholesale or retail wild animal business or persons exhibiting wild animals to the public. Wild animal permits will be issued at no cost and only to persons for scientific or educational purposes, to persons with a permanent disability or disease as provided and for the purpose described in paragraph (2) of this subsection, or to a pond owner for grass carp or grass carp hybrids where the department has determined that the possession of such carp by the pond owner will not constitute a threat to wildlife; provided, however, that no such permit shall be required for persons buying triploid grass carp from properly licensed wild animal dealers authorized to sell grass carp where the bill of sale is retained by the buyer as proof of such sale and where the triploid grass carp are to be stocked only into a private pond; provided, further, that no such license or permit shall be required solely for the transportation of wild animals through this state where the animals remain in this state no more than 24 hours and are not sold or transferred while in this state.

(2) The department shall issue a wild animal permit only for an

animal in the genus Cebus (capuchin monkeys) to any person who establishes to the satisfaction of the department that:

(A) Such person has a permanent disability or disease which interferes with the person's ability to perform one or more routine daily living activities;

(B) The animal for which the permit is to be issued has been trained to assist the person in performing his or her daily living activities;

(C) The animal will be humanely treated and will not present a health or safety threat;

(D) The animal for which the permit is to be issued is the only wild animal to be possessed by that person;

(E) The permittee does not have a history of violating this chapter; and

(F) The organization furnishing the animal to the applicant:

(i) Is reputable, lawful, and does not have any history of violating this chapter;

(ii) Provides to the department documentation and data sufficient to establish that the organization has a proven record, over at least a ten-year period, of furnishing animals which provide meaningful assistance to persons with disabilities; and

(iii) Has received and maintained a nonprofit, tax-exempt status.

(3) Permits issued under the provisions of paragraph (2) of this subsection shall be issued only to individuals and are nontransferable.

(4) Capuchin monkeys possessed under the provisions of paragraph (2) of this subsection are exempt from the requirements of paragraph (5) of subsection (k) of this Code section but must be treated humanely and shall be kept only in the residence of the permittee. When transported, the monkey must be in a USDA approved carrier and there shall be no contact allowed between the public and monkey when outside the permittee's residence. Under no circumstances may the monkey be present on premises where food is sold.

(c) It shall be unlawful for any person to sell, transfer, deliver, or surrender a wild animal listed in Code Section 27-5-5 or specified by the board by regulation to any other person unless that other person holds a license or permit issued pursuant to this chapter for such wild animal

or is exempt from the requirement for such a permit or license by the provisions of subsection (d) of this Code section.

(d) No wild animal license or permit shall be required for a carrier regulated either by the Interstate Commerce Commission, the Civil Aeronautics Board, or the Department of Public Safety to import or transport any wild animal.

(e) Any licenses issued by the department to any person for public exhibition purposes shall be conditioned so that the person operating a wild animal exhibition in a nontraveling, fixed facility shall make the facility open to the public for a time no less than 30 hours per week for at least six months each year; and the person operating a wild animal exhibition in a transient facility shall make the facility open to the public for a reasonable period of time and for reasonable hours of the day, depending upon the nature of the exhibition. The department is authorized to issue such licenses in accordance with this chapter requiring adequate facilities for the humane handling, care, and confinement of wild animals and ensuring public safety. Notwithstanding any other provision of this title, exhibitions of wild animals by federal, state, city, county, or municipal governments or their agencies and transient circuses, which circuses can demonstrate to the satisfaction of the department that 10 percent of the proceeds from such exhibitions shall be devoted to charitable purposes in this state, shall not be required to purchase a wild animal license but shall be required to obtain the license, at no charge, from the department; provided, however, all other provisions of this chapter and all regulations relating to the humane handling, care, and confinement of wild animals must be complied with.

(f) Except as otherwise provided in this chapter, a wild animal license or permit is required for the possession of any wild animal listed in subsection (b) of Code Section 27-5-5 or as required by regulation of the board. Liability insurance is required for the possession of any wild animal that is classified as being inherently dangerous to people in subsection (a) of Code Section 27-5-5 or as required by regulation of the board. Prior to the issuance of a wild animal license or permit for animals classified as being inherently dangerous to people, any applicant other than a governmental agency or university research facility must provide proof of liability insurance from a company licensed to do business in this state or an unauthorized insurer if permitted by Chapter 5 of Title 33. Such insurance must be maintained in force and effect and cover claims for injury or damage to persons or property in an amount equal to $40,000.00 for each inherently dangerous animal up to a maximum of $500,000.00. The insurance company shall notify the department at least 30 days prior to the termination of the policy by the company. Liability insurance is not

required for wild animals that are not considered to be inherently dangerous to people.

(g) Any license or permit issued in accordance with this chapter shall be valid only for the species and numbers of wild animals referenced on the application and the license or permit. The license or permit to hold a female wild animal shall cover her progeny only while the progeny are physically dependent upon her or until her progeny are two months of age, whichever period is longer. It shall also be unlawful to transfer any license or permit issued by the department from one person to another person.

(h) It shall be unlawful for any person holding a license or permit issued pursuant to this chapter to import, transport, sell, transfer, or possess any wild animal in facilities not approved by the department as described in Code Section 27-5-6.

(i) In the event that a determination has been made to revoke, suspend, deny, or refuse to renew any license or permit issued pursuant to this chapter, the applicant for the license or permit may appeal the determination according to the provisions stated in Code Section 27-2-25.

(j) It shall be unlawful for any person holding a license or permit pursuant to this chapter to import, purchase, transport, sell, or transfer any wild animal and fail to record in a record book, within 24 hours after the completion of such a transaction, the date, place, manner, and names and addresses of all persons involved in such a transaction. It shall also be unlawful to fail to maintain such records for a period of 12 months or to fail to provide the department access to such records during all regular business hours.

(k) Wild animal licenses shall not be issued unless the following conditions are met:

(1) The applicant must be at least 18 years of age;

(2) Applicants requesting a license for mammals must obtain a license from the Animal and Plant Health Inspection Service of the United States Department of Agriculture or provide written documentation that the applicant is exempt from such requirements;

(3) Applicants must submit documentation verifying that the proposed construction of facilities and the holding of wild animals is not prohibited by county or municipal ordinances;

(4) The applicant must obtain required business licenses; and

(5) Facilities for holding or exhibiting wild animals must be completely separated from a residence and meet specifications for humane handling, care, and confinement as provided in Code Section 27-5-6.

History.
Ga. L. 1975, p. 1254, § 3; Code 1933, § 45-1101, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 64-66; Code 1933, § 45-1101.1, as redesignated by Ga. L. 1979, p. 1094, § 4; Ga. L. 1979, p. 1094, §§ 5-9; Ga. L. 1981, p. 798, § 17; Ga. L. 1985, p. 913, § 3; Ga. L. 1988, p. 842, § 6; Ga. L. 1989, p. 1552, § 14; Ga. L. 1991, p. 1157, § 3; Ga. L. 1994, p. 1742, § 2; Ga. L. 1997, p. 1395, § 4; Ga. L. 2006, p. 138, § 2/HB 695; Ga. L. 2012, p. 580, § 5/HB 865.

Cross references.
Property rights in animals, § 44-1-8.
Ownership of deposits by and offspring of wild animals on land, § 44-1-9.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1986, "ensuring" was substituted for "insuring" in the second sentence of subsection (e).
Pursuant to Code Section 28-9-5, in 1988, the word "insurer" was substituted for "insuror" in the first (now third) sentence of subsection (f).
Pursuant to Code Section 28-9-5, in 2006, "this Code section" was substituted for "Code Section 27-5-4" in the first sentence of paragraph (b)(4).

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 39 et seq.

C.J.S.
36A C.J.S., Fish, §§ 28, 31 et seq., 44. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 24 et seq., 58 et seq.

ALR.
Owner's or keeper's liability for personal injury or death inflicted by wild animal, 21 A.L.R.3d 603.
Governmental liability from operation of zoo, 92 A.L.R.3d 832.
Liability of United States, under Federal Tort Claims Act (28 USCS secs. 1346, 2671 et seq.), for death or injury sustained by visitor to national park or national forest, 66 A.L.R. Fed. 305.

27-5-5. Wild animals for which license or permit required.

(a) The following animals are considered to be inherently dangerous to human beings and are subject to the license or permit and insurance requirements provided for in subsection (f) of Code Section 27-5-4:

(1) Class Mammalia:

(A) Order Marsupialia: Genus Macropus (Kangaroos, wallabies, wallaroos) — All species;

(B) Order Primates:

(i) Family Pongidae (gibbons, orang-utan, chimpanzees, siamangs, and gorillas) — All species;

(ii) Family Cercopithecidae:

(I) Genus Macaca (macaques) — All species;

(II) Genus Papio (mandrills, drills, and baboons) — All species;

(III) Theropithecus gelada (Gelada baboon);

(C) Order Carnivora:

(i) Family Canidae:

(I) Genus Canis (wolves, jackals, and dingos); all species; except that any person possessing hybrid crosses between wolves and domestic animals on July 1, 1994, shall have until July 1, 1995, to apply for a fee-exempt permit to possess these animals as pets; provided, however, that the said hybrid is sexually neutered; provided, further, that it shall be unlawful to transfer possession or ownership of said hybrid without prior written approval from the department. Liability insurance shall not be mandatory for wolf hybrids possessed under this fee-exempt permit;

(II) Chrysocyon brachyurus (maned wolf);

(III) Cuon alpinus (red dog);

(IV) Lycaon pictus (African hunting dog);

(ii) Family Ursidae (bears) — All species;

(iii) Family Mustelidae — Gulo gulo (wolverine);

(iv) Family Hyaenidae (hyenas) — All species;

(v) Family Felidae:

(I) Genus Leo or Panthera or Neofelis (lions, tigers, jaguars, and leopards) — All species;

(II) Unica unica (snow leopard);

(III) Acinonyx jubatus (cheetah);

(IV) Felis concolor (cougar) — All subspecies;

(D) Order Proboscidae: Family Elephantidae (elephants) — All species;

(E) Order Perissodactyla: Family Rhinocerotidae (rhinoceroses) — All species;

(F) Order Artiodactyla:

(i) Family Suidae — Phacochoerus aethiopicus (wart hog);

(ii) Family Hippopotamidae — Hippopotamus amphibius (hippopotamus);

(iii) Family Bovidae:

(I) Genus Taurotragus (elands) — All species;

(II) Boselaphus tragocamelus (nilgais);

(III) Bos sauveli (kouprey);

(IV) Syncerus caffer (African buffalo);

(V) Hippotragus niger (sable);

(VI) Oryx gazella (gemsbok);

(VII) Addax nasomaculatus (addax);

(VIII) Genus Alcelaphus (hartebeests) — All species;

(IX) Genus Connochaetes (gnu, wildebeest) — All species;

(2) Class Reptilia:

(A) Order Crocodylia:

(i) Family Crocodylidae (crocodiles, gavials, etc.) — All species;

(ii) Family Alligatoridae — (alligators and caimans) — All species;

(B) Order Squamata:

(i) Suborder Serpentes:

(I) Family Elapidae (cobras, coral snakes, etc.) — All species;

(II) Family Viperidae (adders, vipers, etc.) — All species;

(III) Family Colubridae — All poisonous rear-fanged species (Opisthoglypis);

(IV) Family Crotalidae (pit vipers) — All species;

(ii) Suborder Lacertilia: Family Helodermatidae (Gila monsters and beaded lizards) — All species;

(3) Class Osteichthyes:

(A) Order Cypriniformes (Suborder Characoidei): Family Characidae (tetra, piranha): Genera Serrasalmus, Serrasalmo, Pygocentrus, Taddyella, Rooseveltiella, Pygopristis (piranhas) — All species;

(B) Order Siluriformes: Family Trichomycteridae (parasitic catfishes): Genera Vandellia (candiru) and Urinophilus — All species; and

(4) Class Chondrichthyes (cartilaginous fish): Order Rajiformes: Family Potamotrygonidae (fresh-water stingray) — All species.

(b) Except as provided in this Code section, a license or permit is required for the following wild animals and any others specified by regulation of the board:

(1) Class Mammalia:

(A) Order Marsupialia — All species other than those listed in subparagraph (a)(1)(A) of this Code section; except that Petaurus breviceps (sugar glider) may be sold, purchased, exhibited, or held as a pet without a license or permit if the owner thereof possesses valid documentation that the animal originated from a source inspected and regulated by the United States Department of Agriculture;

(B) Order Insectivora (shrews, moles, etc.) — All species;

(C) Order Dermoptera (flying lemurs) — All species;

(D) Order Chiroptera (bats) — All species;

(E) Order Primates (monkeys, apes, etc.) — All species except Family Hominidae;

(F) Order Edentata (sloths, armadillos, etc.) — All species;

(G) Order Pholidota (pangolins or scaly anteaters) — All species;

(H) Order Lagomorpha (rabbits, hares, etc.) — All species except Genus Oryctolagus; or any other normally domesticated species;

(I) Order Rodentia (rats, mice, etc.) — All species except Genus Cavia; Genus Gerbillus; Genus Mesocricetus; Mus musculous; Rattus rattus; Rattus norvegicus; or any other normally domesticated species;

(J) Order Cetacea (whales, dolphins, etc.) — All species;

(K) Order Carnivora (weasels, ferrets, cats, bears, wolves, etc.) — All species, except that a European ferret (Mustela putorius furo) may be sold, purchased, exhibited, or held as a pet without a license or permit; provided, however, that the ferret owner can provide valid documentation that the ferret was sexually neutered prior to seven months of age and is vaccinated against rabies with a properly administered vaccine approved for use on ferrets by the United States Department of Agriculture;

(L) Order Tubulidentata (aardvark) — All species;

(M) Order Proboscidea (elephants) — All species;

(N) Order Hyracoidea (conies) — All species;

(O) Order Sirenia (manatees, dugong) — All species;

(P) Order Perissodactyla (odd-toed ungulates) — All species;

(Q) Order Artiodactyla (even-toed ungulates) — All species except Bison bison (buffalo), Bubalus bubalis (water buffalo), and Llama guanicoe, L. glama, and L. pacos (llamas);

(2) Class Aves:

(A) Order Falconiformes (hawks, eagles, vultures, etc.) — All species except that persons possessing a federal falconry license shall be allowed to possess birds in the Order Falconiformes without obtaining a wild animal license;

(B) Order Galliformes: Family Meleagrididae (turkeys) — All species not normally domesticated;

(C) Order Psittaciformes: Myiopsitta monachus (monk parakeet);

(D) Order Cuculiformes: Family Cuculidae (cuckoos) — All species;

(E) Order Strigiformes (owls) — All species;

(F) Order Passeriformes:

(i) Family Alaudidae (larks): Alauda arvensis (sky larks);

(ii) Family Pycnonotidae (bulbuls) — All species;

(iii) Family Muscicapidae (thrushes, blackbirds, fieldfare, etc.): Genus Turdus — All species;

(iv) Family Zosteropidae (white eyes): Genus Zosterops — All species;

(v) Family Emberizidae (buntings, etc.): Emberiza citrinella (yellow hammer);

(vi) Family Ploceidae (sparrows, weavers, queleas, weaver finches, etc.):

(I) Genus Passer — All species except Passer domesticus (English house sparrow);

(II) Ploceus capensis (cape weaver);

(III) Ploceus philippinus (Baya weaver);

(IV) Genus Quelea — All species;

(vii) Family Icteridae (blackbirds, grackles, orioles, etc.): Genera Molothrus, Quiscalus, and Agelaius — All species;

(viii) Family Estrildidae (waxbills, ricebirds, munias, weaver finches, etc.): Padda oryzivora (Java sparrow);

(ix) Family Sturnidae (starlings, mynas, etc.) — All species except Sturnus vulgaris (starling) and Gracula religiosa (Hill mynas);

(x) Family Corvidae (crows, ravens, etc.) — All species;

(3) Class Amphibia (Order Anura):

(A) Family Bufonidae (toads): Bufo marinus, Bufo paracnemis, Bufo horribilis (giant or marine toad group);

(4) Class Osteichthyes (bony fish):

(A) Order Cypriniformes (Suborder Characoidei): Family Characidae (tetra, piranha):

(i) Astyanax faciatus (banded tetra);

(ii) Genera Serrasalmus, Serrasalmo, Pygocentrus, Taddyella, Rooseveltiella, Pygopristis (piranhas) — All species;

(B) Order Cypriniformes (Suborder Cyprinoidei): Family Cyprinidae (carp, grass carp, orfe, etc.):

(i) Ctenopharyngodon idella (grass carp);

(ii) Hypophthalmichthys molitrix (silver carp);

(iii) Aristichthys nobilis (bighead carp);

(C) Order Siluriformes:

(i) Family Clariidae (air-breathing catfishes) — All species;

(ii) Family Trichomycteridae (parasitic catfishes): Genera Vandellia (candiru) and Urinophilus — All species;

(iii) Family Heteropneustidae (giant walking catfishes): Genus Heteropneustes — All species;

(D) Order Perciformes (Suborder Channoidei) Family Channidae (snakeheads): Genera Ophicephalus and Channa — All species;

(5) Class Chondrichthyes (cartilaginous fish): Order Rajiformes: Family Potamotrygonidae (fresh-water stingray) — All species; and

(6) All exotic fish which are not held in aquaria or tanks, provided that, as used in this Code section, "aquaria or tanks" means containers for holding fish from which no water is discharged, except during periodic cleaning, and which discharged water is passed through a filtering system capable of removing all fish and fish eggs and is disposed of only in a septic tank permitted by the county or in a waste-water treatment system permitted by the Environmental Protection Division of the department. For purposes of this paragraph, exotic fish are all fish species not native to Georgia. This paragraph shall not apply to any species of fish regulated by any other chapter of this title.

(c) Any person who on July 1, 1994, possessed a wild animal for which a license or permit was not required prior to July 1, 1994, shall

have until January 1, 1995, to apply for a fee-exempt permit, provided that the requirements of this chapter relating to insurance and humane handling, care, and confinement of wild animals are met. Such permits shall only be valid for wild animals possessed prior to July 1, 1994, and shall not authorize breeding, importation, sale, or transfer without specific authorization from the department.

History.

Code 1933, § 45-1102, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, §§ 67, 68; Ga. L. 1979, p. 1094, §§ 10-12; Ga. L. 1985, p. 913, § 4; Ga. L. 1991, p. 1157, § 4; Ga. L. 1992, p. 1636, § 7; Ga. L. 1994, p. 1742, § 3; Ga. L. 1996, p. 1219, § 19; Ga. L. 2008, p. 702, §§ 2, 3/HB 239.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1986, a colon was substituted for a period at the end of the introductory paragraph (now subsection (a)) and "Suborder" was substituted for "Sub-order" in subparagraph (2)(B)(a) (now subparagraph (a)(3)(A)).

JUDICIAL DECISIONS

Paragraph (4) (see now paragraph (b)(6)) void for vagueness. — O.C.G.A. § 27-5-5(4) (see now O.C.G.A. § 27-5-5(b)(6)), relating to exotic fish which are not held in aquaria or tanks, was void for vagueness, since there was no statutory definition of "exotic fish." Department of Natural Resources v. Blue Ridge Mt. Fisheries, 262 Ga. 305, 417 S.E.2d 12, 1992 Ga. LEXIS 446 (1992).

Exotic fish. — In deciding to prosecute a hatchery owner for violating the Game and Fish Code, based on a definition of "exotic fish" different than its generally accepted definition and not then codified or set forth in any regulation, Department of Natural Resource officials violated due process, acted outside their discretionary authority, and were not entitled to qualified immunity. Blue Ridge Mt. Fisheries, Inc. v. Department of Natural Resources, 217 Ga. App. 89, 456 S.E.2d 651, 1995 Ga. App. LEXIS 350 (1995), cert. denied, No. S95C1198, 1995 Ga. LEXIS 1238 (Ga. Dec. 1, 1995).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprinting not required. — Violations of O.C.G.A. § 27-5-5 are not offenses for which fingerprinting is required. 1991 Op. Att'y Gen. No. 91-35.

RESEARCH REFERENCES

Am. Jur. 2d.

35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 44.

C.J.S.

36A C.J.S., Fish, § 28. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 59.

27-5-6. Specifications for humane handling, care, confinement, and transportation of wild animals.

It shall be unlawful to import, transport, sell, transfer, or possess any wild animal regulated by this chapter without meeting the specifications expressed in this Code section for the humane handling, care, confinement, and transportation of such animals:

(1) **Facilities in general.**

(A) The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect and contain the animals. The facilities shall be designed in such manner, including the inclusion of barriers of sufficient dimensions and conformation, to safeguard both the animals and the public against injury by direct contact.

(B) Reliable and adequate electric power, if required to comply with other provisions of this Code section, and adequate potable water shall be available on the premises.

(C) Supplies of food and bedding shall be stored in facilities which adequately protect the supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(D) Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash, and debris. Disposal facilities shall be so provided and operated so as to minimize vermin infestation, odors, and disease hazards. The disposal facilities and any disposal of animal and food wastes, bedding, dead animals, trash, and debris shall comply with applicable federal, state, and local laws and regulations relating to pollution control or the protection of the environment.

(E) Facilities such as washrooms, basins, showers, or sinks shall be provided to maintain cleanliness among animal caretakers.

(2) **Indoor facilities.**

(A) Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from extremes of temperature, to provide for their health, and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

(B) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(C) Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for the species involved. Such lighting

shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

(D) A suitable sanitary method shall be provided for rapid elimination of excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage. The method of drainage shall comply with applicable federal, state, and local laws and regulations relating to pollution control or the protection of the environment.

(3) **Outdoor facilities.**

(A) When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(B) Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the local climate.

(C) A suitable method shall be provided for rapid elimination of excess water. The method of drainage shall comply with applicable federal, state, and local laws and regulations relating to pollution control or the protection of the environment.

(4) **Space requirements.** Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavioral patterns.

(5) **Feeding.**

(A) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of animal. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(B) Food and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the

enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self-feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

(6) **Watering.** If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall take into consideration the age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

(7) **Sanitation.**

(A) Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.

(B) Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard-surfaced pens or runs shall be sanitized either by washing them with hot water (180 degrees Fahrenheit at source) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt shall be sanitized when necessary.

(C) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Code section. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

(D) A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

(8) **Employees.** A sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices set forth in this Code section. Such employees shall be under a supervisor who has a background in animal care.

(9) **Separation.** Animals housed in the same primary enclosure must be compatible. Animals shall not be housed near animals that interfere with their health or cause them discomfort.

(10) **Veterinary care.**

(A) Programs of disease prevention, parasite control, euthanasia, and adequate veterinary care shall be established and maintained. The pest control programs shall be reviewed for the safe use of materials and methods.

(B) Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his direct supervision. Sick, diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed, unless such action is inconsistent with the research purposes for which the animal was obtained and is being held.

(C)(i) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. Such drugs shall be used in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides and shall produce in the individual subject animal a high level of tranquilization, anesthesia, or analgesia consistent with the protocol or design of the experiment.

(ii) It shall be incumbent upon each research facility to provide guidelines and consultation to research personnel with respect to the type and amount of tranquilizers, anesthetics, or analgesics recommended as being appropriate for each species of animal used by that institution.

(iii) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

(11) **Handling.**

(A) Handling of animals shall be done expeditiously and carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal. Care should be exercised also to avoid harm to the handler.

(B) Animals to which the public is afforded direct contact shall only be displayed for periods of time and under conditions consistent with the animals' health and not leading to their discomfort.

(C) During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between the animals and the viewing public to assure safety to both the public and the animals. Performing animals shall

be allowed a rest period between performances equal to the time for one performance.

(12) **Vehicles.**

(A) Vehicles used in transporting animals shall be mechanically sound and equipped to provide the animals adequate fresh air, both when moving and stationary, without injurious drafts or discomfort.

(B) The animal cargo space shall be so constructed and maintained so as to prevent the ingress of the vehicle's exhaust gases.

(C) The interior of the animal cargo space shall be kept physically clean.

(D) The ambient temperature shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature and to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below or rise above temperatures compatible with the health and comfort of the animals.

(13) **Primary enclosures used to transport animals.**

(A) Primary enclosures, such as compartments used to transport animals, shall be well constructed, well ventilated, and designed to protect the health and assure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that each animal in the vehicle has access to sufficient air for normal breathing, the openings of such enclosures are easily accessible at all times for emergency removal of the animals, and the animals are afforded adequate protection from the elements.

(B) Animals transported in the same primary enclosure shall be compatible. Socially dependent animals (e.g., siblings, dam, and young cagemates) must be allowed visual and olfactory contact.

(C) Primary enclosures used to transport animals shall be large enough to ensure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments; provided, however, that certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals or their handlers.

(D) Animals shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta or other wastes from entering lower enclosures.

(E) Primary enclosures used to transport animals shall be cleansed and sanitized before and after each shipment. All bedding in the vehicle shall be clean at the beginning of each trip.

(14) **Food and water requirements.**

(A) Potable water shall be provided to each animal at least once in each 12 hour period except as directed by hibernation, veterinary treatment, or other professionally accepted practices. Those animals which, by common accepted practice, require watering more frequently shall be so watered.

(B) Each animal shall be fed at least once in each 24 hour period except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices. Those animals which, by common accepted practice, require feeding more frequently shall be so fed.

(C) A sufficient quantity of food and water shall accompany the animal to provide food and water for the animal for a period of at least 24 hours, except as directed by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(15) **Care in transit.**

(A) It shall be the responsibility of the attendant or driver to inspect the animals frequently enough to assure the health and comfort of the animals.

(B) In the event of a breakdown or delay of the vehicle, it is the responsibility of the animal caretaker or vehicle operator to assure that animals get adequate ventilation and protection from fumes, vehicle exhaust, and extremes in temperature and to assure that the animals are not subjected to undue discomfort.

(C) In an emergency concerning the health and welfare of the animals, adequate veterinary care shall be provided without delay.

(16) Nothing in this Code section shall prevent wild animal license or permit holders from processing for meat or meat products animals that are surplus to the primary purpose of their wild animal business. Such processing must be done in compliance with the provisions of Article 3 of Chapter 2 of Title 26, the "Georgia Meat Inspection Act."

History.
Code 1933, § 45-1103, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1993, p. 91, § 27; Ga. L. 1994, p. 97, § 27; Ga. L. 1996, p. 1219, § 20.

Cross references.
Georgia Animal Protection Act, § 4-11-1 et seq.
Cruelty to animals, § 16-12-4.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 39 et seq.
C.J.S.
36A C.J.S., Fish, §§ 35, 38. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 48, 61, 64.

27-5-7. Release or escape from captivity.

It shall be unlawful for any person to release from captivity any wild animal or to import, transport, sell, transfer, or possess such a wild animal in such a manner so as to cause its release or escape from captivity. In the event a person imports, transports, sells, transfers, or possesses a wild animal in such a manner so as to pose a reasonable possibility that such wild animal may be released accidentally or escape from captivity, the department may revoke the license or permit, or both, of such person pursuant to the procedure set forth in Code Section 27-2-25.

History.
Code 1933, § 45-1104, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1979, p. 1094, § 13; Ga. L. 1994, p. 1742, § 4; Ga. L. 2026, p. 1069, § 27(19)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, deleted "as defined in paragraph (75) of Code Section 27-1-2" following the first occurrence of "wild animal" in the first sentence in this Code section.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, § 39 et seq.
C.J.S.
36A C.J.S., Fish, §§ 35, 38. 38 C.J.S., Game; Conservation and Preservation of Wildlife, §§ 48, 61, 64.
ALR.
Owner's or keeper's liability for personal injury or death inflicted by wild animal, 21 A.L.R.3d 603.
Governmental liability from operation of zoo, 92 A.L.R.3d 832.
Liability of United States, under Federal Tort Claims Act (28 USCS secs. 1346, 2671 et seq.), for death or injury sustained by visitor to national park or national forest, 66 A.L.R. Fed. 305.

27-5-8. Seizure of wild animals as contraband; civil action to recover animals.

(a) Peace officers authorized to enforce this chapter may seize as contraband any wild animal for which a permit or license, or both, is required and for which no permit or license, or both, has been obtained.

(b) When any peace officer authorized to enforce this chapter has seized as contraband any wild animal, he shall deliver the same to the department. To recover such wild animal, the owner or the person in

possession of the wild animal at the time of seizure may file, in the state or superior court having jurisdiction in the county where the seizure was made, a civil action against the State of Georgia, Department of Natural Resources, within 30 days following such seizure. The person filing the action shall have the burden of proof of showing that the wild animal was not held in violation of this title, and the action shall be tried as other civil cases in such court. The wild animal for which the action has been filed shall be held pending the resolution of the action. Reasonable charges for storage shall be paid to the department by the owner and the person in possession of the wild animal at the time of seizure unless it is determined that the seizure was unlawful.

History. Code 1933, § 45-1104.1, enacted by Ga. L. 1979, p. 1094, § 14; Ga. L. 1985, p. 913, § 5.

JUDICIAL DECISIONS

Seizure of fish based on warrant. — Where fish were seized from a hatchery owner under a warrant issued by the commissioner of the Department of Natural Resources, there was a deprivation of property by way of an established state criminal procedure, the implementation of which was authorized by an official act, and the owner had a claim for pre-deprivation denial of due process, notwithstanding the availability of a post-deprivation remedy under this statute. Blue Ridge Mt. Fisheries, Inc. v. Department of Natural Resources, 217 Ga. App. 89, 456 S.E.2d 651, 1995 Ga. App. LEXIS 350 (1995), cert. denied, No. S95C1198, 1995 Ga. LEXIS 1238 (Ga. Dec. 1, 1995).

27-5-9. Seizure of wild animals pursuant to administrative order; appeal.

(a) Authorized personnel of the department may seize any wild animal regulated by this chapter pursuant to an administrative order or an emergency administrative order issued by the department.

(b) In the event that any person is adversely affected by a seizure pursuant to an administrative order or emergency administrative order issued by the department, such person shall be entitled to appeal such order pursuant to subsection (d) of Code Section 27-1-37.

(c) Any wild animal seized under this Code section shall be held until the expiration of the time for filing any administrative appeal and, if such an appeal is filed, pending the resolution of this appeal. Reasonable charges for storage shall be paid to the department by the owner and the person in possession of the wild animal at the time of seizure unless it is determined that the seizure was unlawful.

History. Code 1933, § 45-1104.2, enacted by Ga. L. 1979, p. 1094, § 14; Ga. L. 1985, p. 913, § 6.

27-5-10. Disposal of wild animals recaptured after escape or seizure.

(a) The commissioner may authorize the disposal of any wild animal regulated by this chapter which has escaped and been recaptured or any wild animal which has been seized under this title. Such disposal shall be in the manner determined by the commissioner to be in the best interest of the state and shall not be in violation of this title, provided that no such disposal shall be made until there has been a final adjudication of any civil or administrative proceeding commenced by any person authorized to do so by this title.

(b) Notwithstanding any other provisions of this title, when a wild animal regulated by this chapter has escaped, the commissioner or the commissioner's designee may authorize the destruction of the wild animal by employees or agents if it is determined that the wild animal poses a threat to the safety of human beings, threatens the well-being of wildlife populations, or if it is determined that there is very little likelihood that the wild animal can be recaptured.

History.
Code 1933, § 45-1105, enacted by Ga. L. 1977, p. 396, § 1; Ga. L. 1978, p. 816, § 69; Ga. L. 1979, p. 1094, § 15; Ga. L. 1997, p. 1395, § 5.

RESEARCH REFERENCES

Am. Jur. 2d.
35A Am. Jur. 2d, Fish, Game, and Wildlife Conservation, §§ 39 et seq., 51 et seq.
C.J.S.
36A C.J.S., Fish, §§ 28, 35, 39, 46, 47. 38 C.J.S., Game; Conservation and Preservation of Wildlife, § 67 et seq.
ALR.
Escape of wild animal from confinement as affecting property rights, 52 A.L.R. 1061.

27-5-11. Wild animal auction license; applications; filing requirements.

(a) As used in this Code section, the term "auction" means a public or private sale of wild animals to the highest bidder.

(b) No person shall conduct an auction of wild animals without first obtaining a wild animal auction license from the department. Such license shall be good only for a specific auction of not more than seven days in duration at a single location.

(c) All applications for a wild animal auction license shall include:

(1) A $5,000.00 wild animal auction license fee which shall be refunded if the application is denied;

(2) A cash bond or surety bond issued by a surety company authorized to do business in this state in the amount of $50,000.00

made payable to the commissioner and conditioned upon the applicant's conducting the auction in accordance with this chapter, any regulations issued by the board pursuant to this chapter, and the terms and conditions of the applicant's wild animal auction license;

(3) A description by species and number of the wild animals to be sold at auction and plans of the facilities to be used to house such wild animals which include an explanation of which facilities are to house which animals;

(4) A certificate or policy of insurance issued to the auctioneer and the owner of the auction facilities meeting all the requirements of subsection (f) of Code Section 27-5-4 if any wild animals inherently dangerous to human beings are to be sold at auction;

(5) A description of facilities to be provided for the obtainment of any insurance required by subsection (f) of Code Section 27-5-4 for persons who buy wild animals at the auction and an affidavit from an officer or agent of such an insurer that it is ready, willing, and able to provide such insurance;

(6) Authorization for the department to inspect the proposed facilities for the auction prior to a determination on the application and, if the application is granted, at any time thereafter until all wild animals have been removed from the premises of the auction;

(7) Copies of all materials to be distributed to the public or potential participants about the auction; and

(8) Such other information as the commissioner deems necessary for the department to discharge its responsibilities under this Code section.

(d) No application for a wild animal auction license shall be considered unless it is filed and completed at least 60 days prior to the proposed auction. The department shall have 30 days to respond to a completed application.

(e) All other provisions of this chapter, including, without limitation, those relating to licensing, insurance, humane handling, care, confinement and transportation of wild animals, and seizure and disposal of wild animals shall be applicable to a wild animal auction and any participants therein.

History.
Code 1981, § 27-5-11, enacted by Ga. L. 1985, p. 913, § 7.

Cross references.
Sale by auction, § 11-2-328.
Regulation of business of auctioneers, § 43-6-1 et seq.

RESEARCH REFERENCES

Am. Jur. Pleading and Practice Forms.
2C Am. Jur. Pleading and Practice Forms, Auctions and Auctioneers, § 2 et seq.

27-5-12. Shooting of any wild animal held under wild animal permit or farmed deer.

It shall be unlawful to shoot, kill, or wound any wild animal held under a wild animal license or permit or any farmed deer for enjoyment, gain, amusement, or sport. This Code section does not prohibit:

(1) A licensed veterinarian from diagnosing, treating, or performing other duties within the standards of veterinary practice on a farmed deer;

(2) The slaughter of wild animals or farmed deer in compliance with the provisions of paragraph (16) of Code Section 27-5-6 and with the laws of this state relating to the slaughter of livestock; or

(3) The recapture or disposal of farmed deer which have escaped and which have become classified as wild animals pursuant to Code Section 4-4-174 or the disposal of wild animals according to Code Section 27-5-10.

History.
Code 1981, § 27-5-12, enacted by Ga. L. 1997, p. 1395, § 6.

TITLE 28

GENERAL ASSEMBLY

Chap.

1. General Provisions, 28-1-1 through 28-1-18.
2. Apportionment and Member Qualifications, 28-2-1 through 28-2-2.
3. Administrative Personnel, 28-3-1 through 28-3-25.
4. Legislative Services, 28-4-1 through 28-4-9.
5. Financial Affairs, 28-5-1 through 28-5-127.
6. Interstate Cooperation, 28-6-1 through 28-6-8.
7. Prohibited Lobbying Practices, 28-7-1 through 28-7-5.
8. Georgia Criminal Justice Improvement Council, 28-8-1 through 28-8-3. [Reserved].
9. Code Revision Commission, 28-9-1 through 28-9-5.
10. Georgia Rail Passenger Authority Overview Committee, 28-10-1 through 28-10-7.
11. Ethics and Efficiency in Government Act, 28-11-1 through 28-11-8.
12. Legislative Review of Taxation, 28-12-1.

Cross references.

Election and term of members, Ga. Const. 1983, Art. III, Sec. II, Para. V.

Legislative privileges and immunity, Ga. Const. 1983, Art. III, Sec. IV, Para. IX.

Advertisement of notice to introduce local legislation, Ga. Const. 1983, Art. III, Sec. V, Para. IX.

Exercise of powers, Ga. Const. 1983, Art. III, Sec. VI.

Special sessions of the General Assembly, Ga. Const. 1983, Art. V, Sec. II, Para. VII.

Rules of statutory construction, § 1-1-1 et seq. and § 1-3-1 et seq.

Grounds for continuance of case applicable to members and staff of General Assembly, § 9-10-150.

Legislator attending General Assembly excused as a witness, § 9-10-159.

Exemption from jury duty for members of General Assembly, § 15-12-2.

Date of election for offices, § 21-2-9.

Vacancies and special elections for members of General Assembly, § 21-2-544.

Acceptance of contributions or pledges during legislative sessions, § 21-5-35.

Legislators' exemption from attending or testifying at hearing or trial or to produce evidence during legislative session, § 24-13-29.

Audit regulatory agencies, § 43-2-1 et seq.

Law reviews.

For article, "SB 6: The Review, Creation, and Extension of Georgia Tax Credits and Deductions," see 38 Ga. St. U.L. Rev. 167 (2021).

JUDICIAL DECISIONS

Legislative immunity. — Members of General Assembly are entitled to immunity against harassment of any type of legal action against them in connection with acts done by them in a strictly official capacity. Village of N. Atlanta v. Cook, 219 Ga. 316, 133 S.E.2d 585, 1963 Ga. LEXIS 449 (1963); Saleem v. Snow, 217 Ga. App. 883, 460 S.E.2d 104, 1995 Ga. App. LEXIS 628 (1995).

Court not to concern itself with legislative action. — Judiciary cannot modify, amend, or repeal legislative action, nor concern itself with the wisdom of it. That is a field in which only the legislature may work. Sirota v. Kay Homes, Inc., 208 Ga. 113, 65 S.E.2d 597, 1951 Ga. LEXIS 304 (1951).

Political question is not within jurisdiction of the judiciary. — That the judiciary under the Constitution is wholly without jurisdiction to adjudicate a purely political question is not an open question. Also, it is the settled law of this state that actions of the General Assembly taken in virtue of a power conferred by the Constitution and in conforming with the provisions of the Constitution, are not subject to review by the courts. Thompson v. Talmadge, 201 Ga. 867, 41 S.E.2d 883, 1947 Ga. LEXIS 352 (1947).

RESEARCH REFERENCES

Am. Jur. 2d.

72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 50 et seq., 62 et seq.

CHAPTER 1

GENERAL PROVISIONS

Sec.		Sec.	
28-1-1.	Membership and apportionment of General Assembly.	28-1-11.	Maintenance of engrossed and enrolled bills and resolutions; Secretary of State to publish enrolled Acts.
28-1-2.	Time and place of meetings.		
28-1-3.	Initial organization.		
28-1-4.	Form and administration of oath of office to members.	28-1-12.	Election of state officers for whom manner and time of election not provided.
28-1-5.	Commission of members.		
28-1-6.	Powers and duties of President Pro Tempore of the Senate and Speaker Pro Tempore of the House of Representatives.	28-1-13.	Eligibility of elected county or municipal officials for membership in General Assembly.
		28-1-14.	Notice of intention to introduce local bill; copies to governing authorities.
28-1-6.1.	Method for determining permanent disability of Speaker of the House of Representatives.	28-1-14.1.	Requirements for revising or creating districts.
		28-1-15.	Population bills.
28-1-7.	Failure of officer to organize emergency session.	28-1-16.	Issuance of subpoenas on behalf of the Committees on Ethics of the Senate and House of Representatives; refusal to obey; appeals.
28-1-8.	Salary and allowances of members and officers.		
28-1-8.1.	Failure of members to file state income tax returns.		
28-1-9.	Service in General Assembly to be credited to pension plan of employee of political subdivision.	28-1-17.	Exercise of investigatory powers; conduct.
		28-1-18.	Certain records subject to public disclosure; procedure; jurisdiction; recovery of attorney's fees; penalties.
28-1-10.	Seals of the General Assembly and of each house.		

28-1-1. Membership and apportionment of General Assembly.

(a) There shall be 180 members of the House of Representatives, and such membership shall be apportioned among the representative districts provided for in Chapter 2 of this title.

(b) There shall be 56 members of the Senate, and such membership shall be apportioned among the senatorial districts provided for in Chapter 2 of this title.

History.

Ga. L. 1890-91, p. 192, § 1; Civil Code 1895, § 291; Ga. L. 1901, p. 51, § 1; Ga. L. 1906, p. 80, § 1; Civil Code 1910, §§ 333, 334; Ga. L. 1918, p. 84, §§ 1-4; Ga. L. 1921, p. 229, § 1; Ga. L. 1931, p. 48, § 1; Code 1933, §§ 47-101, 47-102; Ga. L. 1946, p. 42, § 1; Ga. L. 1962, Ex. Sess., p. 7, § 9; Ga. L. 1965, p. 127, § 1; Ga. L. 1967, p. 159, § 1; Ga. L. 1967, p. 187, § 1;

Ga. L. 1968, p. 209, § 1; Ga. L. 1971, Ex. Sess., p. 22, § 1; Ga. L. 1971, Ex. Sess., p. 69, § 1; Ga. L. 1974, p. 16, § 1.

Cross references.

Composition and apportionment of General Assembly, Ga. Const. 1983, Art. III, Sec. II, Paras. I and II.

Code 1863, § 4923
Code 1868, § 4917
Code 1873, § 5042
Code 1882, § 5040

House of Representatives

Code 1863, § 4927
Code 1868, § 4921
Code 1873, § 5046
Code 1882, § 5042

In the session of 1890-91, the first nonconstitutional provision relating to the composition of the House of Representatives was enacted by Ga. L. 1890-91, p. 192, § l, which was subsequently codified as § 291 of the Civil Code of 1895. In the session of 1906, the first nonconstitutional provision relating to the composition of the Senate was enacted by Ga. L. 1906, p. 80, § 1, which was subsequently codified as § 334 of the Civil Code of 1910.

As a result of the enactment of the nonconstitutional provisions, there appeared in the Code beginning with the Code of 1895 parallel constitutional and nonconstitutional provisions relating to the composition of the General Assembly, which were codified as follows:

Senate
Civil Code 1910
..... § 6411 (Const.)
..... § 344
Code 1933
..... § 2-1301 (1877 Const.)
..... § 2-1401 (1945 Const.)
..... § 2-801 (1976 Const.)
..... § 47-102
House of Representatives
Civil Code 1895
..... § 5747 (Const.)
..... § 291
Civil Code 1910
..... § 6413 (Const.)
..... § 333
Code 1933
..... § 2-1401 (1877 Const.)
..... § 2-1501 (1945 Const.)
..... § 2-901 (1976 Const.)
..... § 47-101

Editor's notes. Prior to the legislative session of 1890-91, the provisions of law relating to the composition of the General Assembly were solely constitutional provisions, which were codified as follows:

Law reviews.

For article, "A Call to Service: Lawyer-Legislators Needed More Than Ever," see 32 Ga. B.J. 6 (2026).

JUDICIAL DECISIONS

Senatorial districts are drawn, so far as possible, along existing county lines. Fortson v. Dorsey, 379 U.S. 433, 85 S. Ct. 498, 13 L. Ed. 2d 401, 1965 U.S. LEXIS 2005 (1965).

RESEARCH REFERENCES

Am. Jur. 2d.

25 Am. Jur. 2d, Elections, § 7 et seq. 63C Am. Jur. 2d, Public Officers and Employees, §§ 36, 40, 430, 446, 456, 458.

C.J.S.
67 C.J.S., Officers and Public Employees, § 34. 81A C.J.S., States, §§ 94 et seq., 121 et seq., 133 et seq.
ALR.
Inequality of population or lack of compactness of territory as invalidating apportionment of representatives, 2 A.L.R. 1337.

28-1-2. Time and place of meetings.

The meetings of the General Assembly shall be held as prescribed in Article III, Section IV, Paragraph I of the Constitution of Georgia. The Senate shall convene daily at 10:00 A.M. unless otherwise ordered by the Senate. The House of Representatives shall convene daily at 10:00 A.M. unless otherwise ordered by the House of Representatives. The General Assembly shall meet at the state capitol.

History.
Ga. L. 1855-56, p. 258, § 1; Code 1863, § 172; Ga. L. 1863-64, p. 30, § 1; Code 1868, § 167; Ga. L. 1870, p. 419, § 1; Code 1873, § 178; Code 1882, § 178; Ga. L. 1890-91, p. 55, § 1; Civil Code 1895, § 289; Ga. L. 1902, p. 66, §§ 1, 2; Civil Code 1910, § 331; Ga. L. 1924, p. 31, §§ 1, 2; Ga. L. 1931, p. 1053; Code 1933, § 47-103; Ga. L. 1983, p. 3, § 54; Ga. L. 1984, p. 602, § 1; Ga. L. 2026, p. 1069, § 28(1)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "House of Representatives" for "House" in two places in this Code section.
Cross references.
Convening of special sessions of General Assembly, Ga. Const. 1983, Art. V, Sec. II, Para. VII.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 28.
C.J.S.
81A C.J.S., States, §§ 85 et seq., 109 et seq.
ALR.
Power of legislature or branch thereof as to time of assembling, and length of session, 56 A.L.R. 721.
Application of constitutional "compactness requirement" to redistricting, 114 A.L.R.5th 311.
State court jurisdiction over congressional redistricting disputes, 114 A.L.R.5th 387.

28-1-3. Initial organization.

The Senate and the House of Representatives shall be organized by the Secretary of the Senate or the Clerk of the House of Representatives who shall be ex officio presiding officer until a presiding officer is elected. No question except one relating to the organization shall be entertained by such officer; and, in deciding such question, he shall be governed, as far as practicable, by the standing rules of the house over which he presides. In the absence of such officer, his assistant may officiate. In the absence of both, the body may appoint a chairperson whose powers and duties shall be the same as those of the Secretary of the Senate or the Clerk of the House of Representatives.

History.
Orig. Code 1863, § 174; Code 1868, § 169; Code 1873, § 180; Code 1882, § 180; Civil Code 1895, § 292; Civil Code 1910, § 335; Code 1933, § 47-104; Ga. L. 2026, p. 1069, § 28(2)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in the last sentence in this Code section, substituted "chairperson" for "chairman" and "Secretary of the Senate or the Clerk of the House of Representatives" for "Secretary or Clerk".

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 28.

C.J.S.
81A C.J.S., States, § 85.

28-1-4. Form and administration of oath of office to members.

(a) In addition to any other oath prescribed by law, each Senator and Representative, before taking the seat to which elected, shall take the following oath:

"I do hereby solemnly swear or affirm that I will support the Constitution of this state and of the United States and, on all questions and measures which may come before me, I will so conduct myself, as will, in my judgment, be most conducive to the interests and prosperity of this state."

(b) The oath of office prescribed by subsection (a) of this Code section may be administered to the members of the General Assembly by any Justice of the Supreme Court, Judge of the Court of Appeals, judge of the superior courts, or judge of the state courts. Such Justice or judge shall be procured by the person organizing each branch.

History.
Orig. Code 1863, § 175; Code 1868, § 170; Code 1873, § 181; Code 1882, § 181; Civil Code 1895, § 293; Civil Code 1910, § 336; Code 1933, § 47-105; Ga. L. 1945, p. 141, § 1; Ga. L. 1983, p. 936, § 2; Ga. L. 1991, p. 746, § 1.
Cross references.
Oath of General Assembly members, Ga. Const. 1983, Art. III, Sec. IV, Para. II.
Enumeration of oaths required for holders of public office, § 45-3-1.
Loyalty oath — elected officers, § 45-3-12.
Editor's notes.
Ga. L. 1983, p. 936, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to implement the provisions of Article III, Section IV, Paragraph II of the Constitution of the State of Georgia."

RESEARCH REFERENCES

Am. Jur. 2d.
58 Am. Jur. 2d, Oath and Affirmation, § 14 et seq. 63C Am. Jur. 2d, Public Officers and Employees, § 131. 72 Am. Jur. 2d,

States, Territories, and Dependencies, § 63.

C.J.S.

67 C.J.S., Oaths and Affirmations, §§ 5, 6. 67 C.J.S., Officers and Public Employees, §§ 4, 5, 69 et seq., 199. 81A C.J.S., States, §§ 94 et seq., 154, 156, 157.

28-1-5. Commission of members.

It shall be the duty of the Secretary of State to prepare and furnish to each member of the General Assembly, after the member has taken his oath of office, a commission under the signature of the Secretary of State, containing the great seal of the state, showing that the member is a duly elected member of the General Assembly of Georgia, and showing any prior serving in either house of the General Assembly.

History.

Ga. L. 1951, p. 480, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.

63C Am. Jur. 2d, Public Officers and Employees, § 119 et seq. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 64.

C.J.S.

67 C.J.S., Officers and Public Employees, § 60. 81A C.J.S., States, § 259.

28-1-6. Powers and duties of President Pro Tempore of the Senate and Speaker Pro Tempore of the House of Representatives.

While presiding or in the absence of the President of the Senate, the President Pro Tempore of the Senate shall have the same powers and duties as the President of the Senate. While presiding or in the absence of the Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives shall have the same powers and duties as the Speaker of the House of Representatives.

History.

Orig. Code 1863, § 176; Code 1868, § 171; Code 1873, § 182; Code 1882, § 182; Civil Code 1895, § 294; Civil Code 1910, § 337; Code 1933, § 47-106; Ga. L. 1983, p. 689, § 2; Ga. L. 2026, p. 1069, § 28(3)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of the Senate" following "Tempore" in the first sentence and "of the House of Representatives" following "Tempore" in the second sentence of this Code section.

Cross references.

President Pro Tempore of the Senate, Ga. Const. 1983, Art. III, Sec. III, Para. I.

Speaker Pro Tempore of the House of Representatives, Ga. Const. 1983, Art. III, Sec. III, Para. II.

Editor's notes.

Ga. L. 1983, p. 689, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to implement the provisions of Article III, Section III of the Constitution of the State of Georgia."

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 38.

C.J.S.
81A C.J.S., States, §§ 85, 92, 93.

28-1-6.1. Method for determining permanent disability of Speaker of the House of Representatives.

Upon a petition of 20 members of the majority caucus of the House of Representatives being filed with the Clerk of the House of Representatives that the Speaker of the House of Representatives is unable to perform the duties of that office because of physical or mental disability, the Clerk of the House of Representatives shall make a copy of the petition for the records of his office and shall transmit, within three days, the original to the chairperson of the majority caucus along with his certificate as to the date and time on which the petition was filed with him. The chairperson shall call a meeting of the caucus to be held within five days from the date he receives the petition and certificate from the Clerk of the House of Representatives. Such meeting shall be for the purpose of holding a hearing on the petition and the caucus shall adopt rules for the conduct of the hearing. After the hearing the members of the caucus shall vote and if a majority of the membership of the caucus votes that there is a disability and that such disability is permanent the office shall be declared vacant and the Speaker Pro Tempore of the House of Representatives shall become Speaker of the House of Representatives and serve until a Speaker of the House of Representatives is elected.

History.
Code 1981, § 28-1-6.1, enacted by Ga. L. 1983, p. 681, § 2; Ga. L. 2026, p. 1069, § 28(4)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in this Code section, inserted "of Representatives" following the second and third occurrences of "House" in the first sentence; inserted "of the House of Representatives" following the second occurrence of "Clerk" in the first sentence and in the second sentence; substituted "chairperson" for "chairman" in the first and second sentences; and, in the last sentence, inserted "of the House of Representatives" following "Pro Tempore" and following the second and third occurrences of "Speaker".

Editor's notes.
Ga. L. 1983, p. 681, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to implement certain changes required by Article III, Section III, Paragraph II of the Constitution of the State of Georgia."

28-1-7. Failure of officer to organize emergency session.

If any officer of either branch of the General Assembly shall fail or refuse to perform any of his duties in completing the organization of an emergency session, as provided for in Article V, Section II, Paragraph VII(b) of the Constitution of Georgia, his office may, upon the majority

vote of the membership of the branch, be declared vacant, as often as may be necessary, and his successor elected as provided by the rules of the General Assembly.

History.
Ga. L. 1937-38, Ex. Sess., p. 190, § 4; Ga. L. 1983, p. 3, § 54.

Cross references.
Expulsion of members, Ga. Const. 1983, Art. III, Sec. IV, Para. VII.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, §§ 227, 229, 240 et seq. 72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 43, 44.

C.J.S.
81A C.J.S., States, §§ 96, 102, 103, 192 et seq.

ALR.
Conclusiveness of official determination of existence of emergency within the contemplation of constitutional or statutory provisions permitting excess of maximum limit of tax or indebtedness in an "emergency," 90 A.L.R. 328.

Statutes: conclusiveness of legislative declaration of emergency, 110 A.L.R. 1435.

28-1-8. Salary and allowances of members and officers.

(a) Each member of the General Assembly shall receive an annual salary, as provided for in Code Section 45-7-4, to be paid in equal monthly installments. Upon complying with the requirements of paragraph (22) of subsection (a) of Code Section 45-7-4, each member shall also be reimbursed for those actual expenses incurred in the performance of duties for which reimbursement is provided in paragraph (22) of subsection (a) of Code Section 45-7-4. The Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives, and the President Pro Tempore of the Senate shall receive an additional amount per annum as provided for in Code Section 45-7-4. The majority leader, the minority leader, the administration floor leader, and the assistant administration floor leaders of the House of Representatives and the majority leader, the minority leader, the administration floor leader, and the assistant administration floor leaders of the Senate shall each receive such additional amount per annum as shall be provided by resolution of the respective houses; but such amount for each shall not be greater than the additional amount provided by law for the Speaker Pro Tempore of the House of Representatives. All of such additional amounts shall also be paid in equal monthly installments.

(b)(1) During regular and extraordinary sessions of the General Assembly, each member shall also receive a daily expense allowance. Each member shall also receive the mileage allowance for the use of a personal car when devoted to official business as provided for in Code Section 50-19-7, for not more than one round trip to and from

the member's residence and the state capitol by the most practical route, per calendar week, or portion thereof, during each regular and extraordinary session. In the event a member travels by public carrier for any part of a round trip as provided above, such member shall receive a travel allowance of actual transportation costs for each such part in lieu of the mileage allowance. For each day's service within the state as a member of a standing committee or of an interim committee created by or pursuant to a resolution of either or both houses or as a member of a committee, board, bureau, commission, or other agency created by or pursuant to statute or the Constitution of Georgia, such member shall receive a daily expense allowance and the mileage allowance for the use of a personal car when devoted to official business as provided for in Code Section 50-19-7 or a travel allowance of actual transportation costs if traveling by public carrier. Any such member shall also be reimbursed for any conference or meeting registration fee incurred in the performance of his or her official duties as a member of any committee, board, bureau, commission, or other agency. In the event it becomes necessary for a committee to rent a meeting room in the performance of the duties of the committee, the committee chairperson shall have prior written approval of the President of the Senate or the Speaker of the House of Representatives, or both, as the case may be, depending on the composition of the committee. The expense of such rental shall be billed to the committee. For each day's service out of state as a member of any committee, board, bureau, commission, or other agency, such member shall receive actual expenses as an expense allowance, plus the mileage allowance for the use of a personal car when devoted to official business as provided for in Code Section 50-19-7 or a travel allowance of actual transportation costs if traveling by public carrier or by rental motor vehicle. The amount of the daily expense allowances provided for in this paragraph shall be fixed by the Legislative Services Committee; provided, however, that the amount of the daily expense allowance shall remain at $75.00 until changed by the Legislative Services Committee. The Legislative Services Committee shall periodically review, and when appropriate revise, the amount of the daily expense allowance. The amount of the daily expense allowance shall be fixed by the Legislative Services Committee in an amount which reasonably corresponds to the housing and meal expenses typically incurred by members in the performance of their duties; provided, however, that the amount so fixed shall not exceed the federal per diem rate in effect for the state capital as specified by the General Services Administration at the time that the committee acts.

(2) Transportation costs incurred by a member of the Senate for air travel within or without the state during the interim as a member of

a committee, board, bureau, commission, or other agency shall be reimbursed only if the incurring of such costs is approved under procedures established by the Senate Administrative Affairs Committee. Transportation costs incurred by a member of the House of Representatives for air travel within or without the state during the interim as a member of a committee, board, bureau, commission, or other agency shall be reimbursed only if the incurring of such costs is approved under procedures established by the Speaker of the House of Representatives.

(3) Notwithstanding any other provision of this subsection to the contrary, reimbursement of authorized transportation costs incurred by a member of the General Assembly for air travel inside or outside the state at any time shall be limited to the amounts provided for in the state-wide contract. As used in this paragraph, the term "state-wide contract" means the state-wide contract for airline travel incorporated in the state travel regulations established by the State Accounting Office. This limitation shall not apply, however, if the air travel is between pairs of cities not covered in the state-wide contract, if no state-wide contract is in effect, if the contracted flight is other than a nonstop flight, the contracted flight would cause the member undue hardship or would conflict with the member's schedule, or if passage under a state-wide contract is otherwise not reasonably available. When reimbursement is requested for an amount in excess of the amount provided in the state-wide contract, the member shall sign a statement indicating which of the foregoing exceptions applies.

(4) All allowances provided for in this subsection shall be paid upon the submission of proper vouchers.

(c) No member shall receive any expense allowance, mileage allowance, or travel allowance for service as a member of any committee, board, bureau, commission, or other agency, as provided for in this Code section, unless such member has personally performed the service and has personally incurred the expense for mileage or travel. Each member of the General Assembly submitting a voucher shall certify that such member personally performed the service and personally incurred the expense for mileage or travel covered by the voucher and that the information contained on the voucher is true and correct. The voucher shall contain such a certificate which the member shall sign.

(d) It shall be unlawful for any member willfully to make a certificate, as provided for in subsection (c) of this Code section, knowing it to be false; and any member convicted of making such a false certificate shall be punished by a fine of not more than $1,000.00, or by imprisonment of not less than one nor more than five years, or both. No member of the General Assembly shall receive any compensation, salary, per diem, expenses, allowances, mileage, costs, or any other

remuneration whatsoever for service as a member of the General Assembly other than as provided for in this Code section.

(e) The Senate Rules Committee shall designate an audit subcommittee to examine and review, not less than once every two months, legislative expenditures, including all vouchers submitted by members of the Senate, as provided for in this Code section, for which the members have received payment. The subcommittee is authorized to issue reports of its examination and review. The House Information and Audits Committee shall examine and review, not less than once every two months, legislative expenditures, including all vouchers submitted by members of the House of Representatives, as provided for in this Code section, for which the members have received payment. The committee is authorized to issue reports of its examination and review.

(f) If sickness prevents any member from attending the house of which he or she is a member during any session of the General Assembly, he or she shall be entitled to the same daily expense allowance as an attending member. No member shall receive a daily expense allowance for absent time except on account of sickness of himself or herself or his or her family or by express leave of the house of which he or she is a member.

(g) Prior to January 10, 1983, if any member of the General Assembly dies during or after a regular or extraordinary session without having received all or any portion of his or her daily expense allowance for such session, the amount due for the whole session shall be paid to the surviving spouse of the deceased; and if there is no surviving spouse, in like manner to the children; and if there are no children, in like manner to the mother; and if there is no mother, in like manner to the father; and if there is no father, in like manner to the estate of the deceased member.

(h) From and after January 10, 1983, if any member of the General Assembly dies during or after a regular or extraordinary session without having received all or any portion of the member's daily expense allowance for such session, the amount due for the whole session shall be paid to the surviving spouse of the deceased; and if there is no surviving spouse, in like manner to the children; and if there are no children, in like manner to the estate of the deceased member. The member's salary for the full calendar month during which the member dies shall be paid in the same manner.

History.

Orig. Code 1863, §§ 184, 185, 186; Code 1868, §§ 178, 179, 180; Ga. L. 1871-72, p. 18, § 1; Code 1873, §§ 189, 190, 191; Code 1882, §§ 189, 190, 191; Civil Code 1895, §§ 309, 310, 311; Civil Code 1910, §§ 351, 352, 353; Ga. L. 1918, p. 89, § 1; Ga. L. 1919, p. 76, § 1; Code 1933, §§ 47-107, 47-108, 47-109; Ga. L. 1960, p. 141, § 1; Ga. L. 1966, p. 544, § 1; Ga. L. 1967, p. 39, § 1; Ga. L. 1970, p. 647, § 1; Ga. L. 1971, p. 207, § 1; Ga. L. 1972, p. 248, § 1; Ga. L.

1975, p. 155, § 1; Ga. L. 1976, p. 763, § 1; Ga. L. 1981, p. 699, § 1; Ga. L. 1982, p. 3, § 28; Ga. L. 1985, p. 1055, § 1; Ga. L. 1986, p. 10, § 28; Ga. L. 1986, p. 311, § 1; Ga. L. 1986, p. 314, § 1; Ga. L. 1992, p. 3041, § 1; Ga. L. 1996, p. 1302, § 1; Ga. L. 1999, p. 1242, § 1; Ga. L. 2001, p. 865, § 1; Ga. L. 2005, p. 694, § 30/HB 293; Ga. L. 2009, p. 303, § 17/HB 117; Ga. L. 2017, p. 774, § 28/HB 323; Ga. L. 2026, p. 1069, § 28(5)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in the sixth sentence in paragraph (b)(1), substituted "shall" for "must" and inserted "of Representatives"; inserted "of Representatives" in the last sentence in paragraph (b)(2); and substituted "shall" for "must" near the end of the second sentence in subsection (c).

Cross references.

Salaries, Ga. Const. 1983, Art III, Sec. IV, Para. VI.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1996, "nonstop" was substituted for "non-stop" near the middle of the third sentence of paragraph (b)(3).

Pursuant to Code Section 28-9-5, in 2009, Code Section 28-1-8, as enacted by Ga. L. 2009, p. 620, § 7/SB 168, was redesignated as Code Section 28-1-8.1.

Editor's notes.

Ga. L. 1981, p. 699, § 2, not codified by the General Assembly, provides that Section 1 of that Act, regarding payment of salary and expense allowance of a member who has died, shall become effective when members of the General Assembly take office on the convening day of the regular session in 1983.

Ga. L. 1996, p. 1302, § 3, not codified by the General Assembly, provides, in part, that the amount of daily expense allowance shall remain $59.00 until the convening date of the 1997 regular session of the General Assembly and that on and after such date the allowance shall be $75.00.

Ga. L. 2009, p. 303, § 20/HB 117, not codified by the General Assembly, provides: "This Act is intended to reflect the current internal organization of the Georgia Senate and House of Representatives and is not otherwise intended to change substantive law. In the event of a conflict with any other Act of the 2009 General Assembly, such other Act shall control over this Act."

Law reviews.

For article, "A Call to Service: Lawyer-Legislators Needed More Than Ever," see 32 Ga. B.J. 6 (2026).

RESEARCH REFERENCES

Am. Jur. 2d.

63C Am. Jur. 2d, Public Officers and Employees, §§ 3, 448, 458, 468. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 53 et seq.

C.J.S.

67 C.J.S., Officers and Public Employees, §§ 365 et seq., 405, 406, 410. 81A C.J.S., States, §§ 92 et seq., 104 et seq., 206 et seq.

ALR.

Power to appropriate public money for expenses of legislators not covered by constitutional compensation, 60 A.L.R. 416.

28-1-8.1. Failure of members to file state income tax returns.

(a) The state revenue commissioner shall be required to report to the chairperson of the Senate Ethics Committee the name of any Senator who has not filed a Georgia personal income tax return required by law to be filed by the Senator or is a defaulter for state income taxes in violation of Article II, Section II, Paragraph III of the Constitution. The state revenue commissioner shall be required to report to the chairperson of the House Committee on Ethics the name of any

Representative who has not filed a Georgia personal income tax return required by law to be filed by the Representative or is a defaulter for state income taxes in violation of Article II, Section II, Paragraph III of the Constitution.

(b) The state revenue commissioner shall give written notice by registered or certified mail, return receipt requested, or statutory overnight delivery of any report under this Code section to the member of the General Assembly who is to be named at least 30 days prior to making such report.

(c) Upon receipt of a report under this Code section, the chairperson of the committee to whom the report is made shall undertake an appropriate investigation of the matter and report the findings of the investigation to the presiding officer of his or her chamber.

(d) Nothing in this Code section shall apply with respect to a tax return for which the taxpayer has timely applied for and received an unexpired extension of time to file.

(e) The provisions of this Code section shall control over the provisions of Code Section 48-7-60 or any other law relating to confidential treatment of state income tax return information.

History.
Code 1981, § 28-1-8.1, enacted by Ga. L. 2009, p. 620, § 7/SB 168.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2009, Code Section 28-1-8, as enacted by Ga. L. 2009, p. 620, § 7/SB 168, was redesignated as Code Section 28-1-8.1.

28-1-9. Service in General Assembly to be credited to pension plan of employee of political subdivision.

Any person employed by any political subdivision or elected to an office therein on or after March 6, 1962, who, by reason of such office or employment, is eligible for pension benefits under any local system and who, prior to such employment, was a member of the General Assembly of Georgia shall receive credit for time served in the General Assembly in the computation of the service required to become eligible to retire and receive a pension. In computing such credit, such person shall be credited for a full year for each year's membership in the General Assembly of Georgia.

History.
Ga. L. 1962, p. 595, § 1.
Cross references.
Restrictions on ability of members of the General Assembly to receive pension plan credit for service in the General Assembly, § 47-1-8.

JUDICIAL DECISIONS

Employee held subject to provisions of local act. — Plaintiff, an Atlanta city employee, was entitled to credit for plaintiff's General Assembly service, but was bound by the provisions of a local act (Ga. L. 1969, p. 2625) requiring those eligible for service credit to make certain contributions to the pension fund in order to obtain credit for prior service. Board of Trustees v. Alexander, 181 Ga. App. 360, 352 S.E.2d 228, 1986 Ga. App. LEXIS 2395 (1986).

OPINIONS OF THE ATTORNEY GENERAL

Judge emeritus of the Civil Court of Bibb County is entitled to receive credit for prior service in the General Assembly toward pension benefits from the Bibb County treasury. 1982 Op. Att'y Gen. No. U82-11.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 55 et seq.

C.J.S.
81A C.J.S., States, § 104 et seq.

28-1-10. Seals of the General Assembly and of each house.

Authority is granted for the General Assembly, the House of Representatives, and the Senate each to have a seal. The Lieutenant Governor, the Speaker of the House of Representatives, the Secretary of the Senate, and the Clerk of the House of Representatives are authorized to use the seal of the General Assembly. The Lieutenant Governor and the Secretary of the Senate are authorized to use the seal of the Senate. The Speaker of the House of Representatives and the Clerk of the House of Representatives are authorized to use the seal of the House of Representatives. The Secretary of State is authorized and directed to provide three seals of the General Assembly, placing one in the custody of the Secretary of the Senate, placing one in the custody of the Clerk of the House of Representatives, and retaining custody of one. He shall provide two seals of the Senate, placing one in the custody of the Secretary of the Senate and retaining custody of one. He shall provide two seals of the House of Representatives, placing one in the custody of the Clerk of the House of Representatives and retaining custody of one.

History.
Ga. L. 1963, p. 17; Ga. L. 2026, p. 1069, § 28(6)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in this Code section, inserted "of Representatives" in six places in this Code section.

Cross references.
Great seal of the state, § 50-3-30 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 62 et seq.

C.J.S.
81A C.J.S., States, § 79.

28-1-11. Maintenance of engrossed and enrolled bills and resolutions; Secretary of State to publish enrolled Acts.

The engrossed copies of all bills and of all resolutions intended to have the effect of law passed by either house of the General Assembly shall be preserved by the Secretary of the Senate and the Clerk of the House of Representatives and deposited in the office of the Secretary of State. The enrolled copies of all bills and of all resolutions intended to have the effect of law, which, when signed by the Governor, become enrolled Acts, shall be deposited in the office of the Secretary of State. The Secretary of State shall provide for the publication of such Acts.

History.
Orig. Code 1863, § 182; Code 1868, § 177; Code 1873, § 188; Code 1882, § 188; Civil Code 1895, § 308; Civil Code 1910, § 350; Code 1933, § 47-901; Ga. L. 1983, p. 688, § 2.

Cross references.
Preservation of journals and publication of laws, Ga. Const. 1983, Art. III, Sec. V, Para. I.

Duty of Secretary of State to provide Acts requiring referendums to local election officials, § 45-13-24.

State records management, § 50-18-90 et seq.

Editor's notes.
Ga. L. 1983, p. 688, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to implement the provisions of Article III, Section V, Paragraph I of the Constitution of the State of Georgia."

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 61.

C.J.S.
81A C.J.S., States, § 259.

28-1-12. Election of state officers for whom manner and time of election not provided.

Every state officer whose election is not otherwise provided for shall be elected by the General Assembly in the same manner and at the same time as other officers are elected by the General Assembly.

History.
Orig. Code 1863, § 1284; Code 1868, § 1365; Code 1873, § 1340; Code 1882, § 1340; Civil Code 1895, § 329; Civil Code 1910, § 372; Code 1933, § 47-401.

Cross references.
Open Meetings of General Assembly, Ga. Const. 1983, Art. III, Sec. IV, Para. XI.

State Election Board, § 21-2-30 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, §§ 92, 94, 96, 97. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 38.
C.J.S.
81A C.J.S., States, §§ 92, 93, 171 et seq.

ALR.
Formalities and requisites of the creation of legislative committees, 28 A.L.R. 1154.

28-1-13. Eligibility of elected county or municipal officials for membership in General Assembly.

No elected county or municipal official shall be eligible to serve as a member of the General Assembly.

History.
Ga. L. 1977, p. 683, § 1.

OPINIONS OF THE ATTORNEY GENERAL

The General Assembly's intent in enacting Ga. L. 1977, p. 683 (see now O.C.G.A. § 28-1-13) was to prohibit a person from serving simultaneously as a member of the General Assembly and as an elected county or municipal official, without regard to which office the person held first. 1977 Op. Att'y Gen. No. U77-40.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, § 76.
C.J.S.
67 C.J.S., Officers and Public Employees, § 32.

ALR.
Incompatibility, under common-law doctrine, of office of state legislator and position or post in local political subdivision, 89 A.L.R.2d 632.

28-1-14. Notice of intention to introduce local bill; copies to governing authorities.

(a) No local bill shall become law unless notice of the intention to introduce such bill shall have been advertised in the newspaper in which the sheriff's advertisements for the locality affected are published one time before the bill is introduced. Such advertisement must be not more than 60 days prior to the convening date of the session at which the bill is introduced. After the advertisement has been published the bill may be introduced at any time during that session unless the advertisement is published during the session, in which event the bill may not be introduced before Monday of the calendar week following the week in which the advertisement is published.

(b) No local bill amending the charter of a municipality or the enabling Act of the governing authority of a county or a consolidated

government shall become law unless a copy of the notice of the intention to introduce local legislation required by subsection (a) of this Code section is mailed, transmitted by facsimile, or otherwise provided to the governing authority of any county, municipality, or consolidated government referred to in the bill during the calendar week in which such notice is published as provided in subsection (a) of this Code section or during the seven days immediately following the date of publication of such notice. A single notice sent by United States mail, postage prepaid, addressed to the governing authority of the county, municipality, or consolidated government at the official address of such governing authority shall satisfy the requirement of this subsection. If such notice is mailed, the notice requirement of this subsection shall be presumed to have been met by depositing the copy of the required notice in the United States mail. For purposes of this subsection, the copy of the notice provided to such governing authority may consist of an actual or photostatic copy of the published notice or a typed restatement of the contents of such notice.

(c) A copy of the notice as it was advertised and an affidavit stating that the notice has been published as provided by this Code section and that the notice requirements of this Code section have been met shall be attached to the bill and shall become a part of the bill. Such affidavit shall be made by the author of the bill.

History.

Code 1981, § 28-1-14, enacted by Ga. L. 1983, p. 646, § 2; Ga. L. 1991, p. 747, § 1; Ga. L. 1996, p. 1198, § 1; Ga. L. 1997, p. 11, § 2; Ga. L. 2002, p. 985, § 1.

Cross references.

Advertisement of notice to introduce local legislation, Ga. Const. 1983, Art. III, Sec. V, Para. IX.

Editor's notes.

Ga. L. 1983, p. 646, § 2 and Ga. L. 1983, p. 1205, § 2, both enacted Code sections designated as "28-1-14." The "28-1-14" enacted by Ga. L. 1983, p. 1205, § 2 was redesignated as "28-1-15" by Ga. L. 1984, p. 22, § 28.

Ga. L. 1983, p. 646, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to provide the law required by Article III, Section V, Paragraph IX of the Constitution of the State of Georgia."

Ga. L. 1991, p. 747, § 2, not codified by the General Assembly, provides: "This Act shall become effective July 1, 1991, and shall apply with respect to bills introduced at sessions of the General Assembly convening on or after that date. Any bill introduced at any prior session of the General Assembly shall be subject to prior law, notwithstanding the fact that it may be carried over to a later session of the General Assembly."

JUDICIAL DECISIONS

Applicability. — Ga. L. 2007, p. 598, § 1 et seq. (H.B. 264), which amends the Homestead Option Sales and Use Tax (HOST) Act, O.C.G.A. § 48-8-100 et seq., is not local legislation subject to the notice requirements of O.C.G.A. § 28-1-14 because H.B. 264, in amending the HOST Act, is a general law as it applies in precisely the same way and without exception to every special tax district in the state that currently meets or may, in the future, meet its criteria; therefore, no compliance with the notice requirements of O.C.G.A. § 28-1-4 was required.

DeKalb County v. Perdue, 286 Ga. 793, 692 S.E.2d 331, 2010 Ga. LEXIS 267 (2010).

Notice of intent to continue constitutional amendment. — Notice of intention to introduce legislation continuing a constitutional amendment allowing establishment of a joint board of tax assessors in a population category applying only to Fulton County and the City of Atlanta was sufficient, notwithstanding that it did not specifically refer to either Fulton County or the City of Atlanta. Lomax v. Lee, 261 Ga. 575, 408 S.E.2d 788, 1991 Ga. LEXIS 434 (1991).

Sufficient notice found. — Where the corporate limits of a municipality include portions of two counties, and the notice of intention to apply for passage of a local bill is published as required by law in the newspaper in which the sheriff's advertisements for the county of the legal situs of the municipality are published, and the local act in its enrolled form contains proof of such publication in the county of the legal situs of the municipality, this is a sufficient compliance with the requirements of article 3, section 7, paragraph 14 of the Constitution of 1945 (see now Ga. Const. 1983, Art. III, Sec. V, Para. IX). Robertson v. Temple, 207 Ga. 311, 61 S.E.2d 285, 1950 Ga. LEXIS 460 (1950).

Public hearing not required. — Because the legislature, at the request of a city council, passed legislation authorizing the city to change its form of government from a strong mayor/weak council system to a weak mayor/strong council system employing a city manager, no public hearing was required, as O.C.G.A. § 28-1-14 did not require one. Griffin v. City Council, 279 Ga. 835, 621 S.E.2d 734, 2005 Ga. LEXIS 761 (2005).

28-1-14.1. Requirements for revising or creating districts.

(a) Except as provided in subsection (e) of this Code section, a local bill for revising the districts of county boards of commissioners, county boards of education, independent boards of education, or municipal governing authorities, or creating districts for such offices, shall not be considered by the General Assembly unless such bill meets the requirements of this Code section.

(b)(1) A plan to revise districts or to create districts for existing offices contained in a local bill described in subsection (a) of this Code section shall either:

(A) Be drawn by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly; or

(B) Be submitted to and certified by the Legislative and Congressional Reapportionment Office of the General Assembly prior to being adopted by the local governmental entity for whom such districts are to be revised or created in accordance with this Code section.

(2) If a districting plan is to be drawn by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly, the local governmental entity whose districts are to be revised or created shall contact a member of the General Assembly who represents such area in which such local governmental entity is located, either in whole or in part, and request that the member provide a

letter of sponsorship, either in written or electronic format, directed to the Legislative and Congressional Reapportionment Office of the General Assembly, authorizing its staff to work with the representatives of such local governmental entity to prepare the districting plan. In lieu of authorizing representatives of the local governmental entity to work with such office, the member may work directly with the office in preparing the plan.

(3)(A) If the local governmental entity chooses a source other than the staff of the Legislative and Congressional Reapportionment Office of the General Assembly to prepare a plan to revise its districts or to create districts, such local governmental entity shall, prior to voting to accept such plan, submit the plan to the Legislative and Congressional Reapportionment Office of the General Assembly for review. The local governmental entity shall obtain a sponsorship letter from a member of the General Assembly who represents that entity as provided in paragraph (2) of this subsection, authorizing the staff of the Legislative and Congressional Reapportionment Office of the General Assembly to review such plan. Upon receipt of such letter and the associated plan, the staff of the Legislative and Congressional Reapportionment Office of the General Assembly shall perform a technical review of the proposed plan to determine if the plan complies with federal and state constitutional requirements for such plans and the federal Voting Rights Act of 1965, as amended. Such office shall also review the plan to determine if such plan divides current voting precincts in a manner that could potentially compromise voter anonymity, leaves any geographic unassigned areas, maintains continuous geographic features, and any other concerns that such office may deem legally significant.

(B) If the staff of the Legislative and Congressional Reapportionment Office of the General Assembly finds such plan to be technically sound, that office shall issue a certification form to the local governmental entity, which may then proceed to adopt the proposed plan for submission to the General Assembly for enactment. The staff of the Legislative and Congressional Reapportionment Office of the General Assembly shall prepare a legal description based on such plan for submission to the Office of Legislative Counsel for drafting the necessary legislation.

(C) If the staff of the Legislative and Congressional Reapportionment Office of the General Assembly uncovers technical concerns in its review of the proposed plan, the staff shall notify the local governmental entity and the member who sponsored the review of the concerns. In light of the technical concerns uncovered in the review, the local governmental entity shall then have the option of

either having the staff of the Legislative and Congressional Reapportionment Office of the General Assembly make the necessary corrections to the proposed plan and return it to the local governmental entity for approval for submission for legislation to be prepared by a member of the General Assembly who represents, in whole or in part, the area in which the local governmental entity is located, or it may have the original preparer revise it. If the original preparer is chosen to revise the plan, such plan shall be resubmitted for review by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly in accordance with this Code section.

(c)(1) A plan to create districts for a new municipality contained in a local bill described in subsection (a) of this Code section shall either:

(A) Be drawn by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly; or

(B) Be submitted to and certified by the Legislative and Congressional Reapportionment Office of the General Assembly prior to being submitted to the Office of Legislative Counsel for drafting.

(2) If a districting plan is to be drawn by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly, the entity seeking to create the new municipality shall contact a member of the General Assembly and request that the member provide a letter of sponsorship, either in written or electronic format, directed to the Legislative and Congressional Reapportionment Office of the General Assembly, authorizing its staff to work with the representatives of such entity to prepare the districting plan. In lieu of authorizing representatives of the entity to work with such office, the member may work directly with the office in preparing the plan.

(3)(A) If the entity seeking to create the new municipality chooses a source other than the staff of the Legislative and Congressional Reapportionment Office of the General Assembly to prepare a districting plan, such entity shall submit such plan to the Legislative and Congressional Reapportionment Office of the General Assembly for review. Such entity shall obtain a sponsorship letter from a member of the General Assembly as provided in paragraph (2) of this subsection, authorizing the staff of the Legislative and Congressional Reapportionment Office of the General Assembly to review such plan. Upon receipt of such letter and the associated plan, the staff of the Legislative and Congressional Reapportionment Office of the General Assembly shall perform a technical review of the proposed plan to determine if the plan complies with federal and state constitutional requirements for such plans and the federal Voting Rights Act of 1965, as amended. Such office shall

also review the plan to determine if such plan divides current voting precincts in a manner that could potentially compromise voter anonymity, leaves any geographic unassigned areas, maintains continuous geographic features, and any other concerns that such office may deem legally significant.

(B) If the staff of the Legislative and Congressional Reapportionment Office of the General Assembly finds such plan to be technically sound, that office shall issue a certification form to the entity seeking to create a new municipality, which may then proceed to submit such plan to the General Assembly for enactment. The staff of the Legislative and Congressional Reapportionment Office of the General Assembly shall prepare a legal description based on such plan for submission to the Office of Legislative Counsel for drafting the necessary legislation.

(C) If the staff of the Legislative and Congressional Reapportionment Office of the General Assembly uncovers technical concerns in its review of the proposed plan, the staff shall notify the entity and the member who sponsored the review of the concerns. In light of the technical concerns uncovered in the review, the entity shall then have the option of either having the staff of the Legislative and Congressional Reapportionment Office of the General Assembly make the necessary corrections to the proposed plan and return it to the entity for submission to a member of the General Assembly for legislation to be prepared by the Office of Legislative Counsel, or it may have the original preparer revise it. If the original preparer is chosen to revise the plan, such plan shall be resubmitted for review by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly in accordance with this Code section.

(d) Proposed districting plans from a source other than the staff of the Legislative and Congressional Reapportionment Office of the General Assembly shall be submitted for review by such office in electronic format. Such submission shall contain:

(1) Information regarding the contact person for the proposed plan, including email and telephone number;

(2) The name of the submitter and the name of the local governmental entity that is the subject of the plan, if different;

(3) An electronic map image that clearly depicts defined boundaries, utilizing the most recent United States census geographic boundaries, and a block equivalency file containing two columns. The first column shall list the 15-digit census block identification numbers, and the second column shall list the three-digit district identification number. Both block and district numbers shall be zero-filled text files.

Such files shall be submitted in .xls, .xlsx, .dbf, .txt, or .csv file formats;

(4) Statistical information on the plan which shall include, but not be limited to, the total population in each district and the population deviations of each district; and

(5) Such other information as required by the staff of the Legislative and Congressional Reapportionment Office of the General Assembly.

(e) If a member of the General Assembly desires to proceed with a local bill containing a districting plan which the Legislative and Congressional Reapportionment Office of the General Assembly has not certified, the member may do so only if a letter from such office is attached to the local bill when it is introduced in the General Assembly, stating that the bill cannot be certified by such office under this Code section and the reasons why.

History.
Code 1981, § 28-1-14.1, enacted by Ga. L. 2019, p. 804, § 1/SB 177; Ga. L. 2020, p. 493, § 28/SB 429.

Editor's notes.
The former Code section, relating to local bills proposing annexation by municipalities and providing copies to county governing authority, was based on Ga. L. 1992, p. 2592, § 1; Ga. L. 1993, p. 91, § 28, and was repealed by Ga. L. 2002, p. 985, § 1, effective May 14, 2002.

28-1-15. Population bills.

(a) This Code section is passed pursuant to the authority of Article III, Section VI, Paragraph IV, subparagraph (b) of the Constitution, and no population bill shall be passed and no bill using classification by population as a means of determining the applicability of any bill or law to any political subdivision or group of political subdivisions may expressly or impliedly amend, modify, supersede, or repeal this Code section.

(b) As used in this Code section, the term "political subdivision" means any county, municipality, county school district, independent school district, judicial circuit, militia district, or any other geographical area of the state which does not include the entire area of the state.

(c) Except as provided in this subsection, the term "population bill" means any bill using classification by population as a means of determining the applicability of any bill or law to any political subdivision or group of political subdivisions of the state. Such term shall not include the following:

(1) A bill applicable to one specified type of political subdivision and containing a combination of population classifications which includes the population of and affects all political subdivisions of the

type specified, including but not limited to state-wide minimum salary bills for county officers;

(2) A bill classifying political subdivisions having less than a specified population and affecting three or more such political subdivisions; provided, however, that this paragraph shall not apply to or affect the legality of any bills classifying political subdivisions having less than a specified population enacted prior to July 1, 1988, or which become effective July 1, 1988;

(3) A bill classifying political subdivisions having more than a specified population and affecting three or more such political subdivisions; provided, however, that this paragraph shall not apply to or affect:

(A) The legality of any bills classifying political subdivisions having more than a specified population enacted prior to July 1, 1988, or which become effective July 1, 1988; or

(B) The passage or legality of any bills amending bills referred to in subparagraph (A) of this paragraph with respect to specific subject matter contained in such bills on July 1, 1988;

(4) A bill classifying political subdivisions on the basis of the population of standard metropolitan statistical areas and affecting three or more such political subdivisions; provided, however, that this paragraph shall not apply to or affect the legality of any bills classifying on the basis of the population of standard metropolitan statistical areas enacted prior to July 1, 1988, or which become effective July 1, 1988;

(5) A bill amending a law which classifies political subdivisions on the basis of population if that amendment merely changes the population classification of such law so as to permit that law to remain applicable to those political subdivisions to which that law was applicable immediately prior to the time the most recent census figures became applicable to those political subdivisions; or

(6) A bill repealing a law which classifies on the basis of population.

In order to be permissible under the foregoing exceptions, a bill shall fit within only one of the foregoing exceptions; and any bill which uses two or more of the foregoing classification devices shall be a prohibited population bill.

(c.1)(1) A population bill shall also mean any bill using classification by population as a means of determining the applicability of any bill or law to any political subdivision or group of political subdivisions of the state with respect to the following:

(A) The salary of any officer, official, or employee of a county, municipality, or other political subdivision; provided, however, that the limitation provided for in this subparagraph shall not apply to state-wide minimum salary bills for county officers which are authorized under paragraph (1) of subsection (c) of this Code section; or

(B) The property, affairs, or operation of the governing authority of a county or municipality, including, but not limited to, any matters pertaining to municipal annexation, deannexation, incorporation, or dissolution.

(2) Except as provided in subparagraph (A) of paragraph (1) of this subsection, any population bill which meets any of the classification criteria of this subsection shall be a prohibited population bill even if such bill is described in paragraphs (1) through (4) of subsection (c) of this Code section. Any such bill enacted prior to July 1, 1997, or which became effective July 1, 1997, may thereafter be repealed as authorized under paragraph (6) of subsection (c) of this Code section or may only be amended as authorized under paragraph (5) of subsection (c) of this Code section.

(d) Nothing in this Code section shall be construed to invalidate any judicially imposed requirements for Acts classifying on the basis of population.

History.

Code 1981, § 28-1-14, enacted by Ga. L. 1983, p. 1205, § 2; Code 1981, § 28-1-15, as redesignated by Ga. L. 1984, p. 22, § 28; Ga. L. 1988, p. 1547, § 1; Ga. L. 1997, p. 1308, §§ 1, 2; Ga. L. 2026, p. 1069, § 28(7)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "the term" in subsection (b); in subsection (c), inserted "the term" in the first sentence and substituted "Such term" for "'Population bill'" at the beginning of the second sentence; and in the undesignated paragraph following paragraph (c)(6), substituted "shall" for "must" and removed the quotation marks surrounding "population bill." at the end.

Cross references.

Prohibition of population bills, Ga. Const. 1983, Art. III, Sec. VI, Para. IV.

Editor's notes.

Ga. L. 1983, p. 646, § 2 and Ga. L. 1983, p. 1205, § 2 both enacted Code sections designated as "28-1-14." The Code section enacted by the latter Act was redesignated as "28-1-15" by Ga. L. 1984, p. 22, § 28, effective February 3, 1984.

Ga. L. 1983, p. 1205, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to implement certain changes required by Article III, Section VI, Paragraph IV, subparagraph (b) of the Constitution of the State of Georgia."

28-1-16. Issuance of subpoenas on behalf of the Committees on Ethics of the Senate and House of Representatives; refusal to obey; appeals.

(a) If the Committee on Ethics of the Senate or House of Represen-

tatives determines that the effective functioning of the committee requires the issuance of compulsory process to secure the attendance of a witness or the production of documents and materials, or if a person whose conduct is called into question in an investigation or other proceeding requests the issuance of such compulsory process, the chairperson or acting chairperson shall make application in writing to the presiding judge of the Superior Court of Fulton County for the issuance of an appropriate subpoena. Such application shall:

(1) Describe in general terms the investigation or other proceeding for which the issuance of subpoena is sought and identify the provisions of the Senate or House of Representatives rules authorizing the committee to conduct such investigation or proceeding;

(2) In the case of process to secure the attendance of a witness, identify the witness; the general nature of the questions to be propounded to the witness; and the reasons for believing that the testimony of the witness is likely to be relevant to the authorized scope of the investigation or proceeding;

(3) In the case of process to secure the production of documents and materials, identify the person to whom the subpoena is to be directed; the general nature of the documents and materials in question; and the reasons for believing that such documents and materials are likely to be relevant to the authorized scope of the investigation or proceeding;

(4) State whether confidential treatment of the application for and issuance of the subpoena is requested;

(5) If the application is submitted on behalf of a person whose conduct is called into question, be accompanied by any materials in support of the application which such person desires to have transmitted to the court with the application; and

(6) If the application is submitted on motion of the committee, be sought by the chairperson or acting chairperson only after notification to the person whose conduct is in issue that the subpoena will be sought.

(b) The presiding judge shall act on such application within 48 hours after it is presented to the judge. If the judge finds that the committee is acting within the scope of the authority granted to it by the rules of the Senate or House of Representatives and that the testimony or documents or materials sought to be elicited appear to be likely to be relevant to the authorized scope of the investigation or proceeding, the judge may cause an appropriate subpoena to be issued and transmitted to the chairperson or acting chairperson. If the judge deems it necessary or appropriate, the judge may hold a closed or open hearing with respect to his or her determination of this matter.

(c) When authorized by the rules of the Senate and House of Representatives, the confidential treatment of material and information in the course of investigations and other proceedings of the Committees on Ethics shall be recognized by law. Such confidential treatment shall be preserved in proceedings under this Code section as provided in this subsection. If the application for a subpoena requests confidential treatment, the court shall in any event take any and all steps necessary or appropriate to preserve the confidentiality of the application. The court may, but shall not be required to, issue the subpoena in such a manner as to preserve its confidentiality. If the court determines that a subpoena may be issued but confidential treatment is not warranted under the rules of the Senate or House of Representatives, the judge shall so notify the chairperson or acting chairperson; and the chairperson or acting chairperson shall then have the option to:

(1) Abandon the request for a subpoena, in which case the application shall remain confidential; or

(2) Accept the determination of the court, in which case the subpoena shall issue, but the application and the issuance shall not be treated as confidential.

(d) In case of refusal to obey a subpoena issued under this Code section to any person, the Superior Court of Fulton County, upon application by the chairperson or acting chairperson, may issue to the person an order requiring him or her to appear before the court to show cause why he or she should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court as contempt of court.

(e) A subpoena issued under this Code section may be served at any place in this state and in any manner authorized in Code Section 24-13-24. Fees and mileage shall be paid and tendered as provided in Code Section 24-13-25, notwithstanding the general exemption of the state from tender of fees and mileage, and shall be in the form of a check issued by the Legislative Fiscal Office upon the written request of the chairperson or acting chairperson.

(f) Any decision of the court under this Code section shall be appealable in the same manner as provided by law for the appeal of a final judgment in a civil action.

History.

Code 1981, § 28-1-16, enacted by Ga. L. 1993, p. 1390, § 1; Ga. L. 2003, p. 140, § 28; Ga. L. 2011, p. 99, § 40/HB 24; Ga. L. 2026, p. 1069, § 28(8)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of Representatives" in paragraph (a)(1), in the second sentence in subsection (b), and

in the first and fifth sentences in subsection (c).

Cross references.

General Assembly authorized to make investigations, § 45-15-19.

Editor's notes.

Ga. L. 2011, p. 99, § 101/HB 24, not codified by the General Assembly, provides that this Act shall apply to any motion made or hearing or trial commenced on or after January 1, 2013.

Law reviews.

For article, "Evidence," see 27 Ga. St. U.L. Rev. 1 (2011).

For article on the 2011 amendment of this Code section, see 28 Ga. St. U.L. Rev. 1 (2011).

JUDICIAL DECISIONS

Separation of power does not preclude legislative investigation of other branch of government. — Constitutional provision for separation of powers between the three branches of government does not prohibit a person in the legislative branch from investigating the official conduct of any person performing duties in any other branch of the government. Dean v. Bolton, 235 Ga. 544, 221 S.E.2d 20, 1975 Ga. LEXIS 928 (1975).

RESEARCH REFERENCES

Am. Jur. 2d.

72 Am. Jur. 2d, States, Territories, and Dependencies, § 50 et seq.

28-1-17. Exercise of investigatory powers; conduct.

(a) The Senate or the House of Representatives may, through rules of procedure or resolution, authorize one or more committees of such chamber to exercise the investigatory powers provided for in Code Section 45-15-19. The Senate and the House of Representatives may, through joint resolution or joint rules of procedure, authorize one or more joint committees to exercise the investigatory powers provided for in Code Section 45-15-19.

(b) For the purpose of conducting any investigation, a committee that has been authorized to exercise investigatory powers pursuant to subsection (a) of this Code section shall have the power to administer oaths; to call any party to testify under oath at such investigation; to require the attendance of witnesses and the production of books, records, and papers; and to take the depositions of witnesses. For such purposes, the committee is authorized to issue a subpoena for any witness or a subpoena to compel the production of any books, records, or papers consistent with the rules of procedure or resolution enabling such committee. A subpoena issued under this Code section may be served at any place in this state and in any manner authorized in Code Section 24-13-24.

(c) When authorized by the rules of procedure or resolution enabling such committee, the confidential treatment of material and information in the course of investigations and other proceedings of such committee

shall be recognized by law. Such confidential treatment shall be preserved in proceedings under this Code section and as provided in paragraph (2) of subsection (d) of this Code section.

(d)(1) In case of refusal to obey a subpoena issued under this Code section to any person and upon application by the committee that has been authorized to exercise investigatory powers pursuant to subsection (a) of this Code section, the superior court in whose jurisdiction the witness is to appear or in which the books, records, or papers are to be produced may issue to that person an order requiring him or her to appear before the court to show cause why he or she should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court as contempt of court.

(2) If the application for a subpoena requests confidential treatment, the court shall take any and all steps necessary or appropriate to preserve the confidentiality of the application. The court may, but shall not be required to, issue the subpoena in such a manner as to preserve its confidentiality. If the court determines that a subpoena may be issued but confidential treatment is not warranted under the rules of procedure or resolution enabling such committee, the judge shall so notify the chairperson or acting chairperson; and the chairperson or acting chairperson shall then have the option to:

(A) Abandon the request for a subpoena, in which case the application shall remain confidential; or

(B) Accept the determination of the court, in which case the subpoena shall issue, but the application and the issuance shall not be treated as confidential.

(e) Nothing in this Code section, Code Section 28-1-16, Code Section 45-15-17, or Code Section 45-15-19, or in any other section of this Code, is intended to, or shall be interpreted as, abrogating, modifying, superseding, or in any other way limiting any authority, immunity, privilege, or power granted to or possessed by the General Assembly, the Senate, the House of Representatives, any committee of either chamber, any joint committee, and the members thereof, whether explicitly or implicitly, by the Constitution, the rules of procedure of either chamber, statutory law, decisional law, or common law, and the General Assembly expressly intends to preserve all such authority, immunity, privilege, and power. Nor is this Code section in any way intended to, or shall be interpreted as, abrogating, modifying, superseding, or in any other way limiting any investigations by, or powers of, any committees of the Senate or the House of Representatives that were authorized, or to any subpoenas issued by or other actions taken by any such committee, prior to May 14, 2025.

History.

Code 1981, § 28-1-17, enacted by Ga. L. 2025, p. 880, § 1/SB 255, effective May 14, 2025; Ga. L. 2026, p. 1069, § 28(9)/HB 1268, effective July 1, 2026.

Effective date.

This Code section became effective May 14, 2025.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in subsection (e), inserted a comma following "common law" in the first sentence and substituted "any other way limiting" for "any limiting" in the second sentence.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2025, "May 14, 2025" was substituted for "the effective date of this Code section" at the end of subsection (e).

Editor's notes.

The former Code section, relating to prefiling of proposed bills and resolutions prior to each legislative session, was based on Ga. L. 1994, p. 1146, § 1, and was repealed by Ga. L. 2024, p. 922, § 4-1/SB 341, effective May 6, 2024.

28-1-18. Certain records subject to public disclosure; procedure; jurisdiction; recovery of attorney's fees; penalties.

(a) If any claim of an unlawful employment practice made against a member of the General Assembly, including, but not limited to, a claim of sexual harassment, discriminatory harassment, discrimination, or retaliation, is resolved, in whole or in part, by a settlement agreement, a memorandum of agreement or understanding, or other similar document, however denominated, such agreement shall be subject to public disclosure with the identity of the claimant and any other party thereto redacted, except for the identity of the member. This subsection shall be applicable to any claims made on or after January 1, 2019. The provisions of Code Section 28-4-3.1 shall not be construed to prohibit the disclosure of such documents.

(b) Requests for public disclosure of documents described by subsection (a) of this Code section shall be made to the Office of the Speaker of the House of Representatives, if such request relates to a member of the House of Representatives, or shall be made to the Office of the Lieutenant Governor and the Office of the President Pro Tempore of the Senate, if such request relates to a member of the Senate. All documents responsive to a request made pursuant to this Code section shall be produced within three business days of receipt of a request.

(c)(1) The superior courts of this state shall have jurisdiction to hear actions against the Speaker of the House of Representatives, for documents related to members of the House of Representatives, and against the President of the Senate or the President Pro Tempore of the Senate, for documents relating to members of the Senate, to enforce compliance with the provisions of subsections (a) and (b) of this Code section. Such actions may be brought by any person, firm, corporation, or other entity. The Attorney General shall also have authority to bring such actions as may be necessary to enforce

compliance with subsections (a) and (b) of this Code section to seek civil penalties or criminal penalties or both.

(2) Either party may move to recover reasonable attorney's fees and costs in any action brought pursuant to this subsection in which the court finds that the nonmoving party acted without substantial justification for complying with subsections (a) or (b) of this Code section or in instituting the litigation. Whether the position of the moving party was substantially justified shall be determined on the basis of the record of the proceeding before the court.

(3) Any officer of the General Assembly listed in paragraph (1) of this subsection that knowingly and willfully violates the provisions of subsections (a) and (b) of this Code section by failing or refusing to provide access to records requested pursuant to such subsections within three days of receiving the request or by frustrating or attempting to frustrate access to the records by intentionally making records difficult to obtain shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed $1,000.00 for the first violation. Negligent violation of subsections (a) and (b) of this subsection shall result in a penalty not to exceed $1,000.00. A second or subsequent willful violation within a 12 month period shall be a felony with a maximum fine of $2,500.00. It shall be a defense to any criminal action made pursuant to this Code section that an officer has acted in good faith. Any persons, officers, or entities that destroy records for the purpose of preventing their disclosure pursuant to this Code section may be subject to additional criminal penalties pursuant to Code Section 45-11-1.

(d) The General Assembly and its members, officers, staff, committees, commissions, and offices are not subject to the provisions of Code Sections 50-18-70 through 50-18-78 or Chapter 14 of Title 50 and nothing in this Code section shall be construed or applied to the contrary.

History.

Code 1981, § 28-1-18, enacted by Ga. L. 2026, p. 1014, § 2-1/HB 1247, effective May 12, 2026.

Effective date.

This Code section became effective May 12, 2026.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2026, in paragraph (c)(2), "attorney's" was substituted for "attorneys" and a period was added between "litigation" and "Whether"; and "Sections" was substituted for "Section" in subsection (d).

CHAPTER 2

APPORTIONMENT AND MEMBER QUALIFICATIONS

Sec.
28-2-1. Apportionment and qualifications for the House of Representatives.
Sec.
28-2-2. Apportionment and qualifications for the Senate.

Cross references.

Composition of General Assembly, Ga. Const. 1983, Art. III, Sec. II.

Designation of congressional districts, § 21-1-2.

Law reviews.

For article, "Walking the Line: Modern Gerrymandering and Partisanship," see 52 Ga. L. Rev. 1011 (2018).

For article, "The First Amendment Case Against Partisan Gerrymandering," see 52 Ga. L. Rev. 1042 (2018).

For article, "The History of Redistricting in Georgia," see 52 Ga. L. Rev. 1060 (2018).

For article, "Constitutional Preservation and the Judicial Review of Partisan Gerrymanders," see 52 Ga. L. Rev. 1108 (2018).

For article, "Partisan Gerrymandering and the Constitutionalization of Statistics," see 68 Emory L.J. 979 (2019).

For article, "*Rucho* for Minimalists," see 71 Mercer L. Rev. 695 (2020).

JUDICIAL DECISIONS

Permissible variance in apportionment. — A mathematical formula fixing a maximum variance by which the population of a district may differ from the average district population is not possible, but a variance of more than 15 percent would be difficult, if not impossible, to justify. The court will base any test as to the reasonableness of variances on the departure figure of 15 percent. This does not mean a deliberate built-in variance of this degree but a good faith effort to meet the average with departure only where necessary to afford individual representation to as many counties as possible. Toombs v. Fortson, 241 F. Supp. 65, 1965 U.S. Dist. LEXIS 6316 (N.D. Ga. 1965), aff'd, 384 U.S. 210, 86 S. Ct. 1464, 16 L. Ed. 2d 482, 1966 U.S. LEXIS 1649 (1966).

Judicial review of legislative apportionment. — The proper judicial approach is to ascertain whether, under the particular circumstances existing in the individual state whose legislative apportionment is at issue, there has been a faithful adherence to a plan of population-based representation, with such minor deviations only as may occur in recognizing certain factors that are free from any taint of arbitrariness or discrimination. Toombs v. Fortson, 241 F. Supp. 65, 1965 U.S. Dist. LEXIS 6316 (N.D. Ga. 1965), aff'd, 384 U.S. 210, 86 S. Ct. 1464, 16 L. Ed. 2d 482, 1966 U.S. LEXIS 1649 (1966).

RESEARCH REFERENCES

ALR.

What Compelling Interests Will Justify Racial Gerrymandering, 66 A.L.R. Fed. 3d 3.

28-2-1. Apportionment and qualifications for the House of Representatives.

(a)(1) There shall be 180 members of the House of Representatives.

(2) The General Assembly by general law shall divide the state into 180 representative districts which shall consist of either a portion of a county or a county or counties or any combination thereof and shall be represented by one Representative elected only by the electors of such district.

(b) A member of the House of Representatives shall be a resident of the district which such member represents and at the time of such member's election shall have been a resident of the territory embraced within such district for at least one year preceding such time.

History.

Code 1981, § 28-2-1, enacted by Ga. L. 2011, Ex. Sess., p. 3, § 3/HB 1EX; Ga. L. 2012, p. 21, § 1/HB 829; Ga. L. 2015, p. 1413 § 1/HB 566; Ga. L. 2021, Ex. Sess., p. 5, § 2/HB 1EX.

Editor's notes.

The former Code section, relating to apportionment and qualifications for the House of Representatives, was based on Ga. L. 1890-91, p. 192, § 1; Civil Code 1895, § 291; Ga. L. 1901, p. 51, § 1; Civil Code 1910, § 333; Ga. L. 1921, p. 229, § 1; Ga. L. 1931, p. 48, § 1; Code 1933, § 47-101; Ga. L. 1941, p. 348, § 1; Ga. L. 1951, p. 26, § 1; Ga. L. 1953, p. 10, § 1; Ga. L. 1961, p. 111, § 1; Ga. L. 1965, p. 127, § 1; Ga. L. 1967, p. 187, § 1; Ga. L. 1968, p. 209, § 1; Ga. L. 1971, Ex. Sess., p. 22, § 1; Ga. L. 1972, p. 250, § 1; Ga. L. 1974, p. 16, § 1; Ga. L. 1978, p. 1043, § 1; Ga. L. 1981, Ex. Sess., p. 12, § 1; Ga. L. 1982, p. 452, §§ 1, 2; Ga. L. 1983, p. 1123, §§ 1, 2; Ga. L. 1984, p. 1071, § 1; Ga. L. 1985, p. 1472, § 1; Ga. L. 1986, p. 466, § 1; Ga. L. 1991, Ex. Sess., p. 186, § 1; Ga. L. 1992, p. 133, § 1; Ga. L. 1992, p. 492, § 1; Ga. L. 1992, p. 827, § 1; Ga. L. 1993, p. 813, §§ 1, 2; Ga. L. 1994, p. 133, § 1; Ga. L. 1994, p. 174, § 1; Ga. L. 1995, p. 795, § 1; Ga. L. 1995, Ex. Sess., p. 72, §§ 1-3; Ga. L. 1997, p. 229, §§ 1-3; Ga. L. 1998, p. 11, § 1; Ga. L. 2001, Ex. Sess., p. 425, §§ 1-3, and was repealed by Ga. L. 2011, Ex. Sess., p. 3, § 3/HB 1EX, effective August 24, 2011.

The 2001 House reapportionment plan provided by O.C.G.A. § 28-2-1, as amended by Ga. L. 2001, Ex. Sess. p. 425, §§ 1-3, was held unconstitutional in Larios v. Cox, 300 F. Supp. 2d 1320 (N.D. Ga. 2004); aff'd, 542 U.S. 947 (2004). For adoption of 2004 court-ordered remedial plan for House reapportionment, see Larios v. Cox, 314 F. Supp. 2d 1357 (N.D. Ga. 2004).

Ga. L. 2006, p. 12, § 1/HB 1137, not codified by the General Assembly, provides: "(a) The General Assembly recognizes that the apportionment of the house districts for the 2004 elections was governed by the interim reapportionment plan entered by order of the United States District Court for the Northern District of Georgia in the case of Larios v. Cox, 314 F. Supp. 2d 1357 (N.D. Ga. 2004).

"(b) Except as otherwise provided in this subsection, the districts for House Districts 1 through 180 shall continue to be those districts as provided in the order of the United States District Court in the case of Larios v. Cox. On and after January 1, 2007, House Districts 5, 12, 46, 48, 50, 51, 167, and 179 shall be as described in a report which is attached to this Act and is made a part of this Act.

"(c) The first members of the House of Representatives from House Districts 5, 12, 46, 48, 50, 51, 167, and 179 elected pursuant to subsection (b) of this section shall be those who are elected to take office on the convening date of the regular session of the General Assembly in 2007. Until that time the members of the House of Representatives elected from House

Districts 5, 12, 46, 48, 50, 51, 167, and 179 under the interim court order in the case of Larios v. Cox shall continue to serve and shall represent the districts from which elected; and until that time the composition of the districts from which such members were elected shall remain the same. The provisions of subsection (b) of this section shall be effective, however, for the primary and general elections of 2006 for the purpose of electing members of the House of Representatives from House Districts 5, 12, 46, 48, 50, 51, 167, and 179 in 2006 who are to take office in 2007. Successors to those members shall likewise be elected under the provisions of this Act."

Ga. L. 2021, Ex. Sess., p. 5, § 1/HB 1EX, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Georgia House of Representatives Redistricting Act of 2021.'"

Ga. L. 2021, Ex. Sess., p. 5, § 2/HB 1EX, not codified by the General Assembly, provides: "(a) For the purpose of electing members of the House of Representatives, the State of Georgia is divided into 180 representative districts. Such representative districts shall be and correspond to those 180 numbered districts described in Appendix A, incorporated into and made a part of this Act and further identified as 'User: H097 Plan Name: House-prop1-2021 Plan Type: House.'

"(b) For the purposes of such plan:

"(1) The term 'VTD' shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia. The separate numeric designations in a district description which are underneath a 'VTD' heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia; and

"(2) Whenever the description of any representative district refers to a named county without any additional VTD, it shall mean the geographical boundaries of that county as shown on the census maps for the United States decennial census of 2020 for the State of Georgia.

"(c) Any part of the State of Georgia which is not included in any representative district described in subsection (a) of this section shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2020 for the State of Georgia.

"(d) Any part of the State of Georgia which is described in subsection (a) of this section as being included in a particular representative district shall nevertheless not be included within such representative district if such part is not contiguous to such representative district. Such noncontiguous part shall instead be included within that representative district contiguous to such part which contains the least population according to the United States decennial census of 2020 for the State of Georgia.

"(e) The first members of the House of Representatives elected pursuant to this Act shall be those who are elected to take office on the convening date of the regular session of the General Assembly in 2023. Until that time:

"(1) The members of the House of Representatives elected in 2020 shall continue to serve and shall represent the districts from which elected;

"(2) The composition of the districts from which such members were elected shall remain the same; and

"(3) Any special election to fill a vacancy in the 156th General Assembly shall use the composition of districts used for the 2020 general election for members of the House of Representatives.

"(f) The provisions of this Act shall be effective for the primary and general elections of 2022 for the purpose of electing members of the House of Representatives who are to take office in 2023. Successors to those members shall likewise be elected under the provisions of this Act."

Ga. L. 2021, Ex. Sess., p. 5, § 3/HB 1EX, not codified by the General Assembly, provides: "The redistricting of the House of Representatives and the description of House Districts 1 through 180 provided for pursuant to this Act shall supersede and replace the redistricting of the House of Representatives and the description of House Districts 1 through 180 provided in an Act approved August 24, 2011 (Ga. L. 2011, Ex. Sess., p. 3), as amended, particu-

larly by an Act approved February 23, 2012 (Ga. L. 2012, p. 21), and by an Act approved May 12, 2015 (Ga. L. 2015, p. 1413)."

Ga. L. 2021, Ex. Sess., p. 5, § 5/HB 1EX, not codified by the General Assembly, provides for the repeal of Ga. L. 2011, Ex. Sess., p. 3, and all amendatory acts thereto, including but not limited to Ga. L. 2012, p. 21 [HB 829], and Ga. L. 2015, p. 1413 [HB 566], effective December 30, 2021.

Law reviews.

For comment, "Pinpoint Redistricting and the Minimization of Partisan Gerrymandering," see 59 Emory L.J. 211 (2009).

For note, "Partisan Gerrymandering and Georgia: Red, White, and Blue or Just Red and Blue?," see 35 Ga. St. U. L. Rev. 487 (2019).

For article, "A Call to Service: Lawyer-Legislators Needed More Than Ever," see 32 Ga. B.J. 6 (2026).

JUDICIAL DECISIONS

Unconstitutionality of 2001 House Reapportionment Plan and 2002 Senate Reapportionment Plan. — Georgia's state legislative reapportionment plans (House plan provided by O.C.G.A. § 28-2-1 as amended by Ga. L. 2001, Ex. Sess. p. 425, §§ 1-3; and Senate plan provided by Ga. L. 2002, p. 148, § 2) plainly violated the one person, one vote principle embodied in the Equal Protection Clause because each deviated from population equality by a total of 9.98% of the ideal district population and there were no legitimate, consistently applied state policies which justify these population deviations. Instead, the plans arbitrarily and discriminatorily diluted and debased the weight of certain citizens' votes by intentionally and systematically underpopulating districts in rural south Georgia and inner-city Atlanta, correspondingly overpopulating the districts in suburban areas surrounding Atlanta, and by underpopulating the districts held by incumbent Democrats. Larios v. Cox, 300 F. Supp. 2d 1320, 2004 U.S. Dist. LEXIS 2057 (N.D. Ga.), aff'd, 542 U.S. 947, 124 S. Ct. 2806, 159 L. Ed. 2d 831, 2004 U.S. LEXIS 4765 (2004).

Criteria for 2004 Court-Ordered House and Senate Reapportionment Plans. — Special Master appointed to prepare state legislative reapportionment plans pursuant to court order was required to consider three principal criteria in drafting such plans: the U.S. Constitution; the federal Voting Rights Act, 42 U.S.C. § 1973 et seq.; and neutral principles of redistricting such as compactness, contiguity, minimizing the splits of counties and municipalities, recognizing communities of interest, maintaining the cores of existing districts, and using well-defined boundaries as district lines, insofar as those policies did not conflict with the primary considerations of compliance with the one person, one vote principle and the Voting Rights Act. Special Master was also required to prefer single-member districts over multi-member districts. Larios v. Cox, 306 F. Supp. 2d 1214, 2004 U.S. Dist. LEXIS 3446 (N.D. Ga. 2004).

Adoption of 2004 Court-Ordered House and Senate Reapportionment Plans. — Special Master's state legislative reapportionment plans ("Special Master's 1-B Plans") were adopted as the court's plans, since those plans complied fully with the Constitution and the principle of one person, one vote, the Voting Rights Act, 42 U.S.C. § 1973 et seq., and the traditional redistricting guidelines of compactness, contiguity, minimizing the splits of counties, municipalities, and precincts, recognizing communities of interest, and avoiding multi-member districts. The court also was completely satisfied that the Special Master considered comments and objections concerning political incumbency as only a subordinated and secondary consideration. Larios v. Cox, 314 F. Supp. 2d 1357, 2004 U.S. Dist. LEXIS 7088 (N.D. Ga. 2004).

RESEARCH REFERENCES

ALR.
Propriety of using census data as basis for governmental regulations or activities - state cases, 56 A.L.R.5th 171.

28-2-2. Apportionment and qualifications for the Senate.

(a) There shall be 56 members of the Senate. The General Assembly shall by general law divide the state into 56 Senate districts which shall be composed of a portion of a county or a county or counties or a combination thereof and shall be represented by one Senator elected only by the electors of such district.

(b) A member of the Senate shall be a resident of the district which such member represents and at the time of such member's election shall have been a resident of the territory embraced within such district for at least one year preceding such time.

History.
Code 1981, § 28-2-2, enacted by Ga. L. 2011, Ex. Sess., p. 139, § 3/SB 1EX; Ga. L. 2012, p. 62, § 1/SB 430; Ga. L. 2021, Ex. Sess., p. 173, § 2/SB 1EX.

Editor's notes.
The former Code section, relating to apportionment and qualifications for the Senate, was based on Ga. L. 1906, p. 80, § 1; Civil Code 1910, § 334; Ga. L. 1918, p. 84, §§ 1-4; Code 1933, § 47-102; Ga. L. 1945, p. 1042, §§ 1, 2; Ga. L. 1946, p. 42, § 1; Ga. L. 1962, Ex. Sess., p. 7, § 9; Ga. L. 1964, p. 127, § 2; Ga. L. 1964, p. 691, §§ 1, 2; Ga. L. 1966, p. 245, §§ 1, 2; Ga. L. 1966, p. 561, § 1; Ga. L. 1967, p. 159, § 1; Ga. L. 1968, p. 36, § 1; Ga. L. 1968, p. 560, § 1; Ga. L. 1970, p. 557, § 1; Ga. L. 1971, Ex. Sess., p. 69, § 1; Ga. L. 1972, p. 237, § 2; Ga. L. 1974, p. 1233, § 1; Ga. L. 1981, Ex. Sess., p. 103, § 1; Ga. L. 1982, p. 444, §§ 1, 2; Ga. L. 1984, p. 394, § 1; Ga. L. 1988, p. 1465, § 1; Ga. L. 1991, Ex. Sess., p. 124, § 1; Ga. L. 1992, p. 59, § 1; Ga. L. 1992, p. 693, § 1; Ga. L. 1993, p. 863, § 2; Ga. L. 1994, p. 174, § 2; Ga. L. 1995, Ex. Sess., p. 6, §§ 1-3; Ga. L. 1997, p. 163, §§ 1-3; Ga. L. 1998, p. 21, § 1; Ga. L. 1999, p. 42, § 1; Ga. L. 2000, p. 1676, § 1; Ga. L. 2001, Ex. Sess., p. 2, §§ 1, 2; Ga. L. 2006, p. 23, § 1/SB 386, and was repealed by Ga. L. 2011, Ex. Sess., p. 139, § 3/SB 1EX, effective August 24, 2011.

Ga. L. 2021, Ex. Sess., p. 173, § 1/SB 1EX, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Georgia Senate Redistricting Act of 2021.'"

Ga. L. 2021, Ex. Sess., p. 173 § 2/SB 1EX, not codified by the General Assembly, provides: "(a) For the purpose of electing members of the Senate, the State of Georgia is divided into 56 senatorial districts. Such senatorial districts shall be and correspond to those 56 numbered districts described in Appendix A, incorporated into and made a part of this Act and further identified as 'User: S018 Plan Name: Senate-prop1-2021 Plan Type: Senate.'

"(b) For the purposes of such plan:

"(1) The term 'VTD' shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia. The separate numeric designations in a district description which are underneath a 'VTD' heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia; and

"(2) Whenever the description of any senatorial district refers to a named county without any additional VTD, it shall mean the geographical boundaries of that county as shown on the census maps for the United States decennial census of 2020 for the State of Georgia.

"(c) Any part of the State of Georgia which is not included in any senatorial district described in subsection (a) of this section shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2020 for the State of Georgia.

"(d) Any part of the State of Georgia which is described in subsection (a) of this section as being included in a particular senatorial district shall nevertheless not be included within such senatorial district if such part is not contiguous to such senatorial district. Such noncontiguous part shall instead be included within that senatorial district contiguous to such part which contains the least population according to the United States decennial census of 2020 for the State of Georgia.

"(e) The first members of the Senate elected pursuant to this Act shall be those who are elected to take office on the convening date of the regular session of the General Assembly in 2023. Until that time:

"(1) The members of the Senate elected in 2020 shall continue to serve and shall represent the districts from which elected;

"(2) The composition of the districts from which such members were elected shall remain the same; and

"(3) Any special election to fill a vacancy in the 156th General Assembly shall use the composition of districts used for the 2020 general election for members of the Senate.

"(f) The provisions of this Act shall be effective for the primary and general elections of 2022 for the purpose of electing members of the Senate who are to take office in 2023. Successors to those members shall likewise be elected under the provisions of this Act."

Ga. L. 2021, Ex. Sess., p. 173, § 3/SB 1EX, not codified by the General Assembly, provides: "The redistricting of the Senate and the description of Senate Districts 1 through 56 provided for pursuant to this Act shall supersede and replace the redistricting of the Senate and the description of Senate Districts 1 through 56 provided in an Act approved August 24, 2011 (Ga. L. 2011, Ex. Sess., p. 139), as amended, particularly by an Act approved April 13, 2012 (Ga. L. 2012, p. 62)."

Ga. L. 2021, Ex. Sess., p. 173, § 5/SB 1EX, not codified by the General Assembly, provides for the repeal of Ga. L. 2011, Ex. Sess., p. 139, and all amendatory acts thereto, including but not limited to Ga. L. 2012, p. 62 [SB 430], effective December 30, 2021.

Law reviews.

For note, "Perdue v. Baker: Who Has the Ultimate Power over Litigation on Behalf of the State of Georgia — the Governor or the Attorney General?," see 21 Ga. St. U.L. Rev. 751 (2005).

For comment, "Pinpoint Redistricting and the Minimization of Partisan Gerrymandering," see 59 Emory L.J. 211 (2009).

For note, "Partisan Gerrymandering and Georgia: Red, White, and Blue or Just Red and Blue?," see 35 Ga. St. U. L. Rev. 487 (2019).

JUDICIAL DECISIONS

Senatorial districts are drawn, so far as possible, along existing county lines. Fortson v. Dorsey, 379 U.S. 433, 85 S. Ct. 498, 13 L. Ed. 2d 401, 1965 U.S. LEXIS 2005 (1965).

Unconstitutionality of 2001 House Reapportionment Plan and 2002 Senate Reapportionment Plan. — Georgia's state legislative reapportionment plans (House plan provided by O.C.G.A. § 28-2-1 as amended by Ga. L. 2001, Ex. Sess. p. 425, §§ 1-3; and Senate plan provided by Ga. L. 2002, p. 148, § 2) plainly violated the one person, one vote principle embodied in the Equal Protection Clause because each deviated from population equality by a total of 9.98% of the ideal district population and there were no legitimate, consistently applied state policies which justify these population deviations. Instead, the plans arbitrarily and discriminatorily diluted and debased the weight of certain citizens' votes by intentionally and systematically underpopulating districts in rural south Georgia and inner-city Atlanta, correspondingly overpopulating the

districts in suburban areas surrounding Atlanta, and by underpopulating the districts held by incumbent Democrats. Larios v. Cox, 300 F. Supp. 2d 1320, 2004 U.S. Dist. LEXIS 2057 (N.D. Ga.), aff'd, 542 U.S. 947, 124 S. Ct. 2806, 159 L. Ed. 2d 831, 2004 U.S. LEXIS 4765 (2004).

Criteria for 2004 Court-Ordered House and Senate Reapportionment Plans. — Special Master appointed to prepare state legislative reapportionment plans pursuant to court order was required to consider three principal criteria in drafting such plans: the U.S. Constitution; the federal Voting Rights Act, 42 U.S.C. § 1973 et seq., and neutral principles of redistricting such as compactness, contiguity, minimizing the splits of counties and municipalities, recognizing communities of interest, maintaining the cores of existing districts, and using well-defined boundaries as district lines, insofar as those policies did not conflict with the primary considerations of compliance with the one person, one vote principle and the Voting Rights Act. Special Master was also required to prefer single-member districts over multi-member districts. Larios v. Cox, 306 F. Supp. 2d 1214, 2004 U.S. Dist. LEXIS 3446 (N.D. Ga. 2004).

Adoption of 2004 Court-Ordered House and Senate Reapportionment Plans. — Special Master's state legislative reapportionment plans ("Special Master's 1-B Plans") were adopted as the court's plans, since those plans complied fully with the Constitution and the principle of one person, one vote, the Voting Rights Act, 42 U.S.C. § 1973 et seq., and the traditional redistricting guidelines of compactness, contiguity, minimizing the splits of counties, municipalities, and precincts, recognizing communities of interest, and avoiding multi-member districts. The court also was completely satisfied that the Special Master considered comments and objections concerning political incumbency as only a subordinated and secondary consideration. Larios v. Cox, 314 F. Supp. 2d 1357, 2004 U.S. Dist. LEXIS 7088 (N.D. Ga. 2004).

RESEARCH REFERENCES

Am. Jur. 2d.

25 Am. Jur. 2d, Elections, §§ 11 et seq., 31 et seq. 63C Am. Jur. 2d, Public Officers and Employees, §§ 36 et seq., 430, 446 et seq., 456, 458.

C.J.S.

67 C.J.S., Officers and Public Employees, § 34. 81A C.J.S., States, §§ 94 et seq., 121 et seq., 133 et seq.

ALR.

Inequality of population or lack of compactness of territory as invalidating apportionment of representatives, 2 A.L.R. 1337.

CHAPTER 3

ADMINISTRATIVE PERSONNEL

Article 1

General Provisions

Sec.

28-3-1. Doorkeeper and messenger in House of Representatives; sergeant-at-arms in Senate.

Article 2

Secretary of the Senate and Clerk of the House of Representatives

28-3-20. Election and term of office; procedure for filling vacancies.

28-3-21. [Reserved] Bond for discharge of duties.

Sec.

28-3-22. Duties when both branches of the General Assembly meet in single chamber.

28-3-23. Compensation, expenses, and allowances; travel expenses.

28-3-24. Procedure for distributing bills, resolutions, and other documents; fees.

28-3-24.1. Public distribution of legislative information in electronic format.

28-3-24.2. Official written communications.

28-3-25. Oath of office.

ARTICLE 1

GENERAL PROVISIONS

28-3-1. Doorkeeper and messenger in House of Representatives; sergeant-at-arms in Senate.

The House of Representatives is entitled to a doorkeeper and a messenger who shall perform such duties as may be required of them, who shall be elected as provided for the election of the Clerk of the House of Representatives, and who shall be compensated as provided by resolution of the House of Representatives. The Senate is entitled to a sergeant-at-arms who shall perform such duties as may be required of him, who shall be elected by the Senate, and who shall be compensated as provided by resolution of the Senate.

History.

Ga. L. 1862-63, p. 139, § 2; Code 1863, § 178; Code 1868, § 173; Code 1873, § 184; Code 1882, § 184; Civil Code 1895, § 296; Civil Code 1910, § 338; Code 1933, § 47-301; Ga. L. 1966, p. 544, § 2; Ga. L. 1983, p. 385, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.

63C Am. Jur. 2d, Public Officers and Employees, § 425 et seq. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 38.

C.J.S.

67 C.J.S., Officers and Public Employees, §§ 365 et seq., 370 et seq. 81A C.J.S., States, §§ 92 et seq., 207 et seq.

ARTICLE 2

SECRETARY OF THE SENATE AND CLERK OF THE HOUSE OF REPRESENTATIVES

Cross references.
Legislative employees, Ga. Const. 1983, Art. III, Sec. IV, Para. IV.

28-3-20. Election and term of office; procedure for filling vacancies.

(a) There shall be a Secretary of the Senate and a Clerk of the House of Representatives, elected by the members of each house respectively by recorded vote; and a majority of votes cast is necessary to elect. Their terms of office shall be the time for which the members of the General Assembly are elected and until their successors are elected.

(b) In the event of a vacancy in the office of Clerk of the House of Representatives or the permanent disability of the Clerk of the House of Representatives, the Speaker of the House of Representatives shall appoint a duly qualified person to succeed to the office of Clerk of the House of Representatives. Any question concerning the existence of permanent disability of the Clerk of the House of Representatives shall be determined by the Speaker of the House of Representatives with the concurrence of a majority of the chairpersons of the standing committees of the House of Representatives. Any person succeeding to the office of Clerk of the House of Representatives pursuant to this subsection shall serve for the remainder of the unexpired term.

(c)(1) In the event of a vacancy in the office of Secretary of the Senate while the Senate is not in session or the permanent disability of the Secretary of the Senate while the Senate is not in session, the President Pro Tempore of the Senate shall appoint a duly qualified person to succeed to the office of Secretary of the Senate. Any person succeeding to the office of Secretary of the Senate pursuant to this paragraph shall serve until the next session of the General Assembly, at which time the Senate shall elect a duly qualified person to serve for the remainder of the unexpired term, if any.

(2) In the event of a vacancy in the office of the Secretary of the Senate while the Senate is in session or the permanent disability of the Secretary of the Senate while the Senate is in session, the Senate shall elect a duly qualified person to serve for the remainder of the unexpired term.

(3) Any question concerning the existence of permanent disability of the Secretary of the Senate shall be determined by the President of the Senate with the concurrence of a majority of the chairpersons of the standing committees of the Senate.

History.
Orig. Code 1863, § 188; Code 1868, § 182; Code 1873, § 194; Code 1882, § 194; Civil Code 1895, § 315; Civil Code 1910, § 358; Code 1933, § 47-201; Ga. L. 1983, p. 494, § 2; Ga. L. 1984, p. 656, § 1; Ga. L. 1991, p. 622, § 1; Ga. L. 2026, p. 1069, § 28(10)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in subsection (b), inserted "of the House of Representatives" following "Speaker" in the first and second sentences and substituted "House of Representatives" for "House" in three places in the first sentence, in two places in the second sentence, and in the third sentence; and substituted "chairpersons" for "chairmen" in the second sentence in subsection (b) and in paragraph (c)(3).

Cross references.
Recorded vote required in General Assembly elections, Ga. Const. 1983, Art. III, Sec. IV, Para. X.

Editor's notes.
Ga. L. 1983, p. 494, § 1, not codified by the General Assembly, provides: "It is the intent of this Act to implement certain changes required by Article III, Section IV, Paragraph X of the Constitution of the State of Georgia."

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, § 154 et seq. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 38.

C.J.S.
81A C.J.S., States, §§ 92, 93.

28-3-21. [Reserved] Bond for discharge of duties.

History.
Ga. L. 1878-79, p. 185, § 3; Code 1882, § 198; Civil Code 1895, § 320; Civil Code 1910, § 363; Code 1933, § 47-204; repealed by Ga. L. 2006, p. 177, § 1, effective July 1, 2006.

Editor's notes.
Ga. L. 2006, p. 177, § 1, reserved the designation of this Code section, effective July 1, 2006.

28-3-22. Duties when both branches of the General Assembly meet in single chamber.

When there is a meeting of both branches of the General Assembly in one chamber, the Secretary of the Senate and the Clerk of the House of Representatives shall be present and join in the discharge of the duties required, and each shall enter the proceedings in the journal of his respective house.

History.
Orig. Code 1863, § 196; Code 1868, § 190; Code 1873, § 202; Code 1882, § 202; Civil Code 1895, § 324; Civil Code 1910, § 367; Code 1933, § 47-205.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 44.

C.J.S.
81A C.J.S., States, §§ 89, 90.

28-3-23. Compensation, expenses, and allowances; travel expenses.

(a) The Secretary of the Senate shall receive such compensation, expenses, and allowances as shall be provided by resolution of the Senate; and the Clerk of the House of Representatives shall receive such compensation, expenses, and allowances as shall be provided by resolution of the House of Representatives.

(b) The Secretary of the Senate and the Clerk of the House of Representatives shall receive traveling expenses when traveling in the service of the state by motor vehicle as provided for in Code Section 50-19-7.

History.
Ga. L. 1974, p. 458, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, §§ 447, 456 et seq. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 57.

C.J.S.
67 C.J.S., Officers and Public Employees, §§ 370 et seq., 405, 406, 410. 81A C.J.S., States, §§ 92 et seq., 104 et seq., 207 et seq.

28-3-24. Procedure for distributing bills, resolutions, and other documents; fees.

The Legislative Services Committee shall provide a procedure for the distribution by the Secretary of the Senate and the Clerk of the House of Representatives of bills, resolutions, calendars, status sheets, and other documents. Such procedure may be changed from time to time by the committee and may include a schedule or schedules of fees to be charged for such documents. All funds received as a result of such fees by the Secretary and the Clerk of the House of Representatives shall be paid into the general fund of the state treasury.

History.
Orig. Code 1863, § 1577; Code 1868, § 1639; Code 1873, § 1645; Ga. L. 1878-79, p. 185, § 1; Code 1882, § 1645; Civil Code 1895, § 286; Civil Code 1910, § 321; Code 1933, § 47-210; Ga. L. 1967, p. 268, § 1; Ga. L. 1982, p. 3, § 28; Ga. L. 1985, p. 511, § 1; Ga. L. 2026, p. 1069, § 28(11)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modern-

ize, and correct the Code, inserted "of the House of Representatives" in the third sentence in this Code section.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, § 446 et seq. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 55.

C.J.S.
67 C.J.S., Officers and Public Employees, §§ 370 et seq., 405, 406, 410. 81A C.J.S., States, §§ 92 et seq., 104 et seq., 207 et seq.

28-3-24.1. Public distribution of legislative information in electronic format.

(a) It is the policy of the General Assembly that legislative information concerning the activities of the General Assembly may be made readily and widely available in electronic format on a timely basis.

(b) The Secretary of the Senate and the Clerk of the House of Representatives may provide legislative information in electronic format to the GeorgiaNet Division of the Georgia Technology Authority for purposes of public distribution as provided in Code Section 50-25-14. The information may be provided on at least a daily basis in the most current format available. The information provided may include at a minimum: available schedules and agenda for committee meetings; available bill and resolution status information; and full text of all available introduced versions of bills and resolutions, including amendments and substitutes. The information provided may include such other matters as will in the determination of the Secretary and the Clerk of the House of Representatives contribute to the purposes of this Code section. The Georgia Technology Authority shall work with the General Assembly to develop a single public website for the Georgia General Assembly. The content and the format of the General Assembly public website shall be determined by the Legislative Services Committee.

History.
Code 1981, § 28-3-24.1, enacted by Ga. L. 1995, p. 720, § 1; Ga. L. 2000, p. 249, § 1; Ga. L. 2024, p. 922, § 4-2/SB 341, effective May 6, 2024; Ga. L. 2026, p. 1069, § 28(12)/HB 1268, effective July 1, 2026.

Amendments.
The 2024 amendment, effective May 6, 2024, in subsection (b), deleted "prefiled and" preceding "introduced" in the third sentence, and substituted "public website" for "Internet site" in the fifth and sixth sentences.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of the House of Representatives" in the fourth sentence in subsection (b).

Law reviews.
For note on 2000 amendment of this Code section, see 17 Ga. St. U.L. Rev. 280 (2000).

28-3-24.2. Official written communications.

(a) As used in this Code section, the term "official written communication" means any report, notice, or other written correspondence required by the Official Code of Georgia Annotated, as now or hereafter amended, to be provided to officers, members, or employees of the General Assembly.

(b) It is the policy of the General Assembly that whenever an official written communication is sent to officers, members, or employees of the General Assembly such communication shall be in an electronic format that creates a record that may be retained, retrieved, and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient.

History.
Code 1981, § 28-3-24.2, enacted by Ga. L. 2014, p. 346, § 1/SB 60.

28-3-25. Oath of office.

The Secretary of the Senate and the Clerk of the House of Representatives, before entering on the discharge of their duties, shall take an oath before the respective presiding officers of the two houses to discharge their duties faithfully and to the best of their skill and knowledge. Said oath should be entered in the journals of the respective houses.

History.
Orig. Code 1863, § 189; Code 1868, § 183; Code 1873, § 195; Code 1882, § 195; Civil Code 1895, § 316; Civil Code 1910, § 359; Code 1933, § 47-202.

RESEARCH REFERENCES

Am. Jur. 2d.
58 Am. Jur. 2d, Oath and Affirmation, § 14 et seq. 63C Am. Jur. 2d, Public Officers and Employees, §§ 6, 36, 39. 72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 38 et seq., 63.

C.J.S.
67 C.J.S., Officers and Public Employees, § 69 et seq. 81A C.J.S., States, § 154 et seq.

CHAPTER 4

LEGISLATIVE SERVICES

Sec.		Sec.	
28-4-1.	Legislative Services Committee; creation; membership; compensation; meetings.	28-4-5.1.	Representation in litigation matters.
28-4-2.	General powers and duties of the Legislative Services Committee.	28-4-6.	Employment, powers, and duties of legislative fiscal officer.
28-4-3.	Office of Legislative Counsel; creation; qualifications; powers and duties.	28-4-7.	Personnel to assist legislative counsel and legislative fiscal officer; offices and supplies.
28-4-3.1.	Confidential communications.	28-4-8.	[Reserved] Merit system for and retirement for personnel; payment of contributions.
28-4-4.	Election of legislative counsel.	28-4-9.	Source of funds for operation of chapter.
28-4-5.	Role of Attorney General and the Department of Administrative Services; privilege from disclosure.		

28-4-1. Legislative Services Committee; creation; membership; compensation; meetings.

(a) There is created the Legislative Services Committee, hereinafter called the committee, to be composed of the:

(1) Speaker of the House of Representatives;

(2) President of the Senate;

(3) Chairperson of the Appropriations Committee of the Senate;

(4) Chairperson of the Appropriations Committee of the House of Representatives;

(5) Chairperson of the Judiciary Committee of the Senate;

(6) Chairperson of the Judiciary Committee of the House of Representatives;

(7) Chairperson of the Banking and Financial Institutions Committee of the Senate;

(8) Chairperson of the Ways and Means Committee of the House of Representatives;

(9) President Pro Tempore of the Senate;

(10) Speaker Pro Tempore of the House of Representatives;

(11) Majority leader of the Senate;

(12) Majority leader of the House of Representatives;

(13) Minority leader of the Senate;

(14) Minority leader of the House of Representatives;

(15) Secretary of the Senate; and

(16) Clerk of the House of Representatives.

(b) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall be cochairpersons; provided, however, that the Speaker of the House of Representatives shall be the presiding chairperson of the committee each odd-numbered year, and the President Pro Tempore of the Senate shall be the presiding chairperson of the committee each even-numbered year. The President of the Senate shall at all times serve as the vice chairperson.

(c) The Secretary of the Senate shall be secretary of the committee each odd-numbered year and the Clerk of the House of Representatives shall be the secretary of the committee each even-numbered year.

(d) The members of the committee shall receive no additional allowances for service on the committee while the General Assembly is in session; but, for each day spent in the performance of their duties under this chapter between sessions, the members shall receive the allowances authorized by law for legislative members of interim legislative committees.

(e) The committee shall meet at least twice during each calendar year. Additional meetings may be held upon the call of the presiding chairperson or upon the call of a majority of the members of the committee. Nine members of the committee shall constitute a quorum and the affirmative vote of a majority of those members present at a meeting of the committee, provided such members present constitute a quorum, shall be necessary to transact business of the committee. Every member of the committee including the presiding chairperson shall be entitled to vote on all matters requiring a vote of the committee. In the event that the presiding chairperson for the then-current year is unable to chair a called meeting of the committee, the committee shall be chaired by the other cochairperson.

History.

Ga. L. 1959, p. 152, § 1; Ga. L. 1961, p. 230, § 1; Ga. L. 1976, p. 176, § 1; Ga. L. 1979, p. 795, § 1; Ga. L. 1983, p. 722, § 1; Ga. L. 1984, p. 359, §§ 1, 2; Ga. L. 1990, p. 366, § 1; Ga. L. 1991, p. 5, § 1; Ga. L. 1995, p. 933, § 1; Ga. L. 2001, p. 865, § 2; Ga. L. 2024, p. 922, § 5-1/SB 341, effective January 1, 2025.

Amendments.

The 2024 amendment, effective January 1, 2025, rewrote subsection (a); added subsections (b) and (c); redesignated former subsection (b) and (c) as present subsections (d) and (e); and in subsection (e), inserted "presiding" in the second sentence, substituted "Every member of the committee including the presiding" for

"The" at the beginning of the fourth sentence, and added the last sentence.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 49 et seq., 55.

C.J.S.
81A C.J.S., States, §§ 91, 106 et seq.

28-4-2. General powers and duties of the Legislative Services Committee.

(a) The committee is empowered to:

(1) Study and adopt methods and procedures to operate more efficiently the General Assembly and each house thereof;

(2) Study and adopt methods and procedures to make more uniform the operations of the Senate and the House of Representatives;

(3) Exercise general supervision of the operation of the legislative branch of government and act for and enter into contracts on behalf of agencies of the legislative branch, the General Assembly, and each house thereof;

(4) Provide for services for the legislative branch of government; and

(5) Delegate such of its powers and authority as it deems advisable.

(b) The committee shall have complete control, authority, and jurisdiction over the rooms, chambers, offices, and other areas on the third and fourth floors of the state capitol building and on the mezzanine between the third and fourth floors. All assignments for the use of such rooms, chambers, offices, and other areas by the General Assembly, the Senate, the House of Representatives, committees of the Senate and the House of Representatives, members of the Senate and the House of Representatives, and agencies, officials, and employees of the legislative branch of government shall be made by the committee or under such procedure as the committee shall provide. Any assignment shall be subject to change by the committee. Use of any such room, chamber, office, or other area, other than as provided above, shall be under such procedure as the committee shall provide.

(c) The committee is authorized to provide for the maintenance, repair, construction, renovation, refurbishing, and furnishing of the rooms, offices, and other areas which are under the control, authority, and jurisdiction of the committee or which have been assigned jointly to the Senate and House of Representatives. The Senate is authorized to provide for the maintenance, repair, construction, renovation, refur-

bishing, and furnishing of the rooms, chamber, offices, and other areas which are under the control, authority, and jurisdiction of the Senate and the House of Representatives is authorized to provide for the maintenance, repair, construction, renovation, refurbishing, and furnishing of the rooms, chamber, offices, and other areas which are under the control, authority, and jurisdiction of the House of Representatives. Any repair, construction, or renovation by the committee, the Senate, or the House of Representatives in an amount exceeding $5,000.00 shall be accomplished on a competitive bid basis unless such repair, construction, or renovation is accomplished by a state agency or authority. The committee, the Senate, and the House of Representatives shall provide for competitive bids. The committee, the Senate, and the House of Representatives may provide for emergency repairs other than by competitive bids.

(d) The committee shall provide for the procurement of supplies, materials, and equipment which are required jointly for the Senate and House of Representatives. The Senate shall provide for the procurement of supplies, materials, and equipment for the Senate and the House of Representatives shall provide for the procurement of supplies, materials, and equipment for the House of Representatives. Such procurement by the committee, the Senate, and the House of Representatives may be accomplished through a state-wide contract which has been approved by the Department of Administrative Services — Purchasing Division and which was entered into as a result of competitive bids. Procurement may also be accomplished through the Department of Administrative Services — Central Supply. All other procurement of supplies, materials, and equipment in an amount exceeding $3,000.00 on any single order shall be accomplished by competitive bids. The committee, the Senate, and the House of Representatives shall provide for competitive bids. The committee, the Senate, and the House of Representatives may provide for emergency procurement of supplies, materials, and equipment without competitive bids. The committee, the Senate, and the House of Representatives may provide for the emergency repair of equipment without competitive bids.

(e) The committee shall contract with a licensed certified public accountant or certified public accounting firm to conduct annually in accordance with accepted accounting principles a financial audit of legislative funds and expenditures. Such audit shall detail the expenditures of the following offices of the legislative branch: Lieutenant Governor, Secretary of the Senate, Senate, Speaker of the House of Representatives, Clerk of the House of Representatives, House of Representatives, Office of Legislative Counsel, Office of Legislative Budget Analyst, and Office of Legislative Fiscal Officer.

(f) The committee is authorized to contract with a licensed certified public accountant or certified public accounting firm to perform a

management audit of the financial practices and operations of the legislative branch of government and, if the committee deems it advisable, to conduct a performance audit of one or more of the legislative offices listed in subsection (e) of this Code section.

(g) A copy of the minutes of the meetings of the committee and of the audits provided for in this Code section shall be made available for public inspection in the office of the Speaker of the House of Representatives, in the office of the President of the Senate, in the office of the Clerk of the House of Representatives, and in the office of the Secretary of the Senate. Upon the request of a member of the General Assembly, a copy of the minutes of a meeting of the committee shall be sent to such member.

(h) The committee is authorized to provide for such other procedures as it deems advisable for the purpose of carrying out this Code section.

History.

Ga. L. 1959, p. 152, § 2; Ga. L. 1964, p. 459, § 1; Ga. L. 1976, p. 176, § 2; Ga. L. 1984, p. 359, §§ 3, 4; Ga. L. 1985, p. 669, § 1; Ga. L. 1987, p. 1046, §§ 1, 2; Ga. L. 2026, p. 1069, § 28(13)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted the second and third occurrences of "of Representatives" in the second sentence of subsection (b).

Cross references.

Authority of Governor with regard to assignment of space in state capitol, § 50-16-61.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1988, the spelling of "audit" was corrected near the end of subsection (f).

RESEARCH REFERENCES

Am. Jur. 2d.

72 Am. Jur. 2d, States, Territories, and Dependencies, § 48 et seq.

C.J.S.

81A C.J.S., States, §§ 91, 235, 236.

28-4-3. Office of Legislative Counsel; creation; qualifications; powers and duties.

(a) There is created the Office of Legislative Counsel. The legislative counsel shall be an attorney skilled and experienced in legislative matters and bill drafting.

(b) It shall be the duty of the legislative counsel to:

(1) Provide bill-drafting services which shall be equally available to every member of the General Assembly; and

(2) Advise and counsel members of the General Assembly on legislative matters.

(c) The legislative counsel is authorized to:

(1) Provide for statutory and Code revision, render opinions, assist

standing and interim committees, and perform similar legislative functions;

(2) Perform research, issue reports, and make recommendations as a result thereof;

(3) Exchange information, data, and material with similar agencies in other states;

(4) Provide legal services for the legislative branch of government and, with the approval of the committee or the presiding chairperson of such committee, to represent the interests of the legislative branch in matters involving litigation; and

(5) With the approval of the committee, provide for advisory committees relative to statutory and Code revision. He or she is authorized to seek the advice and assistance of the State Bar of Georgia, law schools, and individuals and organizations knowledgeable in this field.

(d) Any other provisions of law to the contrary notwithstanding, he or she is authorized to engage the services of others, including private counsel, by contract or otherwise, to assist him or her in the performance of his or her duties and is authorized to provide for the payment of fees, compensation, and expenses therefor from legislative funds.

(e) The legislative counsel shall provide for the compiling, indexing, editing, and publication of the Georgia Laws containing the Acts and resolutions of the General Assembly and other appropriate materials. Except as otherwise authorized in Code Section 50-18-2, such Acts and resolutions shall be published electronically or in hardbound volumes in a manner which is suitable for retention as permanent records. In the case of any special session of the General Assembly, however, the separate publication and distribution of the Acts and resolutions enacted at that special session may be omitted, and in such case the Acts and resolutions enacted at the special session shall be published electronically or in print and distributed together with those enacted at the subsequent regular session. Distribution of the Georgia Laws shall be carried out by the Secretary of State as provided for in Code Section 45-13-22; and the Secretary of State shall notify the legislative counsel of the numbers of volumes required to carry out such distribution.

(f) The legislative counsel shall have such other authority and duties as the committee may provide.

History.

Ga. L. 1959, p. 152, § 3; Ga. L. 1965, p. 270, § 1; Ga. L. 1966, p. 586, § 1; Ga. L. 1969, p. 635, § 1; Ga. L. 1976, p. 176, §§ 3, 5; Ga. L. 1988, p. 7, § 1; Ga. L. 1990, p. 782, § 1; Ga. L. 1993, p. 91, § 28; Ga. L. 2010, p. 838, § 1/SB 388; Ga. L. 2017, p. 774, § 28/HB 323; Ga. L. 2024, p. 922, §

5-2/SB 341, effective January 1, 2025; Ga. L. 2025, p. 150, § 1/HB 484, effective July 1, 2025.

Amendments.

The 2024 amendment, effective January 1, 2025, substituted "presiding chairperson of such committee" for "chairman" in paragraph (c)(4).

The 2025 amendment, effective July 1, 2025, in subsection (e), inserted "electronically or" and "in a manner which is" in the second sentence and "electronically or in print" in the third sentence.

Cross references.

Grounds for continuance of case for legislative staff serving as lead counsel, § 9-10-150.

Preparation, publicizing, and distributing of summary of constitutional amendments, § 21-2-4.

Service as staff for Code Revision Commission, § 28-9-4.

Law reviews.

For discussion of history, staffing, procedures, and duties of the Office of Legislative Counsel, see 23 Ga. St. B.J. 114 (1987).

JUDICIAL DECISIONS

Representation by Attorney General. — Ga. L. 1965, pp. 270, 271 (see now O.C.G.A. § 28-4-3) neither authorizes nor prohibits representation of legislators by a Deputy Assistant Attorney General. Coggin v. Davey, 233 Ga. 407, 211 S.E.2d 708, 1975 Ga. LEXIS 1323 (1975).

RESEARCH REFERENCES

Am. Jur. 2d.

63C Am. Jur. 2d, Public Officers and Employees, §§ 292, 293. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.

81A C.J.S., States, §§ 91 et seq., 235, 236.

28-4-3.1. Confidential communications.

Communications between the Office of Legislative Counsel or any individual or office provided for in Code Section 28-4-5.1 and the following persons shall be privileged and confidential: members, officers, and staff of the General Assembly, including the President of the Senate, and persons acting on their behalf; and such communications, and records and work product relating to such communications, shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50 or any other law or under judicial process; provided, however, that this privilege shall not apply where it is waived by the affected public officer or officers. The privilege established under this Code section is in addition to any other constitutional, statutory, or common law privilege.

History.

Code 1981, § 50-18-75, enacted by Ga. L. 1988, p. 243, § 5; Ga. L. 2012, p. 218, § 2/HB 397; Code 1981, § 28-4-3.1, as redesignated by Ga. L. 2017, p. 774, § 50/HB 323; Ga. L. 2024, p. 922, § 4-3/SB 341, effective May 6, 2024.

Amendments.

The 2024 amendment, effective May 6, 2024, inserted "or any individual or

office provided for in Code Section 28-4-5.1" near the beginning and substituted "members, officers, and staff of the General Assembly, including the President of the Senate, and persons acting on their behalf;" for "members of the General Assembly, the Lieutenant Governor and persons acting on behalf of such public officers;".

Editor's notes.

Ga. L. 2017, p. 774, § 50(5)/HB 323, redesignated former Code Section 50-18-75 as present Code Section 28-4-3.1.

RESEARCH REFERENCES

Am. Jur. 2d.

66 Am. Jur. 2d, Records and Recording Laws, § 31 et seq.

C.J.S.

76 C.J.S., Records, § 135.

28-4-4. Election of legislative counsel.

The Legislative Services Committee shall elect the legislative counsel and a majority vote of the total membership of the committee shall be necessary for such election.

History.

Ga. L. 1959, p. 152, § 4; Ga. L. 1965, p. 270, § 2; Ga. L. 1987, p. 360, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.

72 Am. Jur. 2d, States, Territories, and Dependencies, § 55.

C.J.S.

67 C.J.S., Officers and Public Employees, § 370 et seq. 81A C.J.S., States, §§ 92 et seq., 106 et seq., 207 et seq.

28-4-5. Role of Attorney General and the Department of Administrative Services; privilege from disclosure.

(a) The Attorney General shall serve as an advisor to the legislative counsel and any individual provided for in Code Section 28-4-5.1 and shall represent the General Assembly and its members, officers, or staff upon request of the legislative counsel or any individual provided for in Code Section 28-4-5.1 unless there is a legal conflict.

(b) The Department of Administrative Services may provide contract review and drafting services and other services to the General Assembly upon request by the Office of Legislative Counsel or any individual provided for in Code Section 28-4-5.1.

(c) Any communications, records, and work product relating to such advice, communications, and services provided pursuant to this Code section shall not be subject to inspection or disclosure under Article 4 of Chapter 18 of Title 50 or any other law or under any judicial process. Such privilege from disclosure shall be in addition to any other constitutional, statutory, or common law privilege.

History.
Ga. L. 1959, p. 152, § 10; Ga. L. 2024, p. 922, § 4-4/SB 341, effective May 6, 2024.

Amendments.
The 2024 amendment, effective May 6, 2024, rewrote this Code section.

28-4-5.1. Representation in litigation matters.

(a) The Legislative Services Committee may assign to one or more legislative staff members or to an office the duty to provide and oversee the provision of legal services for the legislative branch of government and, with the approval of the committee or the chairperson, to represent the interests of the legislative branch in matters involving litigation and as to legislation that may affect the legislative branch and to perform any other assigned duties.

(b) The provisions of this Code section shall not be construed to impair or limit the duties or authority of the legislative counsel or the Office of Legislative Counsel as provided by law.

History.
Code 1981, § 28-4-5.1, enacted by Ga. L. 2024, p. 922, § 4-5/SB 341, effective May 6, 2024.

Effective date.
This Code section became effective May 6, 2024.

28-4-6. Employment, powers, and duties of legislative fiscal officer.

(a) The Legislative Services Committee is authorized to employ a legislative fiscal officer for the legislative branch of government. The fiscal officer shall act as the bookkeeper-comptroller for the legislative branch of government and shall maintain an account of legislative expenditures and commitments. Such fiscal officer shall maintain an inventory of the equipment, furnishings, and nonexpendable items belonging to the legislative branch. Such fiscal officer shall prepare and sign vouchers pertaining to the expenditure of legislative funds. Such fiscal officer shall prepare and sign all warrants for the expenditure of funds appropriated to and available to the legislative branch of government. Such warrants shall be paid by the fiscal officer, and it shall not be necessary that they be countersigned by the comptroller general. All payments from funds appropriated to the legislative branch of government shall be made by the fiscal officer, and reference in any other law to any other official or person in connection with any duties pertaining to such payments shall be deemed to refer to the fiscal officer; all duties of any such other official or person in connection therewith are transferred to the fiscal officer. The fiscal officer shall be under such bond as the Legislative Services Committee shall prescribe, and the premium thereon shall be paid from funds appropriated to the legislative branch of government. The fiscal officer shall have such other duties as shall be prescribed by the committee.

(b) The legislative fiscal officer is authorized on behalf of the legislative branch to pay any properly authorized invoice which does not exceed $5,000.00; provided, however, that the legislative fiscal officer shall be authorized to pay any invoice for fees incurred for legal services not to exceed $12,000.00. Any invoice which exceeds $5,000.00, or $12,000.00 for fees incurred for legal services, shall not be paid by such fiscal officer without prior approval from the committee. The committee may provide for such approval to be given at meetings of the committee, or in writing between meetings by a majority of the members of the committee, or in such other manner as the committee may establish. All invoices shall contain in detail a description of the work performed, materials used or purchased, and any other information pertinent to the obligation. Before the fiscal officer may pay any invoice, a requisition or purchase order covering such invoice and signed by the person or persons authorized by the Legislative Services Committee to do so plus evidence of delivery must have been submitted to the fiscal officer. A list of all invoices which have been paid shall be submitted by the fiscal officer to the committee on a monthly basis.

(c) A majority vote of the total membership of the Legislative Services Committee shall be necessary to employ the legislative fiscal officer.

History.

Ga. L. 1959, p. 152, § 5; Ga. L. 1961, p. 230, § 1; Ga. L. 1969, p. 232, § 1; Ga. L. 1971, p. 67, § 1; Ga. L. 1976, p. 176, § 4; Ga. L. 1984, p. 359, §§ 5, 6; Ga. L. 1990, p. 366, § 2; Ga. L. 2008, p. VO1, § 1-12/HB 529; Ga. L. 2013, p. 141, § 28/HB 79; Ga. L. 2024, p. 922, § 4-6/SB 341, effective May 6, 2024.

Amendments.

The 2024 amendment, effective May 6, 2024, in subsection (b), inserted the proviso at the end of the first sentence, and substituted ", or $12,000.00 for fees incurred for legal services, shall" for "may" in the second sentence.

RESEARCH REFERENCES

Am. Jur. 2d.

72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.

67 C.J.S., Officers and Public Employees, § 370 et seq. 81A C.J.S., States, §§ 91 et seq., 207 et seq., 235 et seq.

28-4-7. Personnel to assist legislative counsel and legislative fiscal officer; offices and supplies.

The Office of Legislative Counsel and the Office of Legislative Fiscal Officer shall be under the budgetary control of the Legislative Services Committee. The committee shall provide procedures for the employment of personnel to assist the legislative counsel and the legislative fiscal officer; and those two officials and such personnel shall be compensated under such procedure as the committee shall provide. The

two officials shall have supervision of personnel in their offices relative to the duties of their employment. The committee shall provide office space for the offices and furnish them with supplies, materials, furniture, furnishings, books, equipment, and services.

History.
Ga. L. 1959, p. 152, § 5; Ga. L. 1976, p. 176, § 4; Ga. L. 1984, p. 359, § 7; Ga. L. 2008, p. VO1, § 1-13/HB 529.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.
C.J.S.
67 C.J.S., Officers and Public Employees, § 370 et seq. 81A C.J.S., States, §§ 91 et seq., 207 et seq., 235 et seq.

28-4-8. [Reserved] Merit system for and retirement for personnel; payment of contributions.

History.
Ga. L. 1959, p. 152, § 6, and Ga. L. 1981, Ex. Sess., p. 8; repealed by Ga. L. 1985, p. 675, § 1, effective April 1, 1985.

Editor's notes.
Ga. L. 1985, p. 675, § 1, reserved the designation of this Code section, effective April 1, 1985.

28-4-9. Source of funds for operation of chapter.

The funds necessary to carry out this chapter shall be paid from the funds provided for the legislative branch of government.

History.
Ga. L. 1959, p. 152, § 8; Ga. L. 1976, p. 176, § 6.

CHAPTER 5

FINANCIAL AFFAIRS

Article 1

General Provisions

Sec.

28-5-1. Introduction of bills changing compensation for state officials.

28-5-2. Fiscal notes for bills changing compensation.

28-5-3. Recording of votes on bills or resolutions fixing compensation or allowances of officials.

28-5-4. Consideration of general appropriations bill; availability of Governor's budget report.

28-5-5. [Reserved] Budgetary Responsibility Oversight Committee; members; duties; other entities to cooperate with committee; annual report; allowances; performance audits.

28-5-6. Powers, duties, and responsibilities of the Senate Budget and Evaluation Office and the House Budget and Research Office.

Article 2

Fiscal Affairs Subcommittees

28-5-20. Creation.

28-5-21. Selection and term of service of members.

28-5-22. Meetings generally.

28-5-23. Review of budget requests.

28-5-24. Annual report to General Assembly.

28-5-25. Joint meetings to review and approve budget unit object class transfers; limitations upon transfers.

28-5-25.1. Approval of leases.

28-5-26. Allowances for members.

28-5-27. Applicability of article to authority of Office of Planning and Budget.

Article 3

Fiscal Bills

Sec.

28-5-40. Short title.

28-5-41. [Reserved] "Retirement bill" defined.

28-5-41.1. Economic analysis of certain tax benefits of law or proposed law.

28-5-42. Introduction of bills having significant impact upon anticipated revenues or expenditures; furnishing of fiscal notes.

28-5-43. [Reserved] Preparation of actuarial investigations for inclusion in fiscal notes.

28-5-44. Attachment of fiscal notes to bills; reading of notes at third reading of bills; distribution of notes relating to bills prior to final votes thereon.

28-5-45. Fiscal dedication analysis; requirements; requesting analysis; attachment to legislative bills.

Article 3A

State and Local Government Partnership

28-5-47. Short title.

28-5-47.1. Legislative intent and purpose.

28-5-48. Definitions.

28-5-48.1. Applicability to proposed laws for which full funding to affected localities has been appropriated.

28-5-49. Fiscal notes for proposed bills and joint resolutions impacting local political subdivisions; requests for copies; waiver of requirements.

28-5-50. Fiscal notes for regulations, rules, orders, or administrative laws impacting local po-

Sec.
litical subdivisions; requests for copies.
28-5-51. Contents of fiscal note.
28-5-52. Assistance of other departments and agencies in preparation of fiscal notes; required names and signatures.
28-5-53. Revisions of fiscal notes.
28-5-54. Preservation of copies of fiscal notes and waivers; availability for public inspection; publication in journals for each house of the General Assembly.
28-5-55. [Reserved] Exemptions from this article.
28-5-56. Presumption as to compliance with this article.

Article 4

Claims Advisory Board

PART 1

GENERAL PROVISIONS

28-5-60. Creation; membership; representation of members by deputies or other designated employees.
28-5-60.1. "The state or any of its departments or agencies" defined.
28-5-61. Employment of secretarial, investigatorial, and other help.
28-5-62. Unlawful compensation; penalty.
28-5-63. Statement attached to checks issued for payment of claims.

PART 2

CLAIMS AGAINST STATE OR DEPARTMENTS OR AGENCIES

28-5-80. Introduction of compensation resolutions; general requirements as to filing of notice of claim.
28-5-81. Notices of possibility of claim.
28-5-82. Board hearings.
28-5-83. Investigation of claims by board; advisory recommendations.
28-5-84. Restrictions on passage of resolutions and board powers.
28-5-85. Payment of small claims; rules and regulations.
28-5-86. Time for filing notice of claim.
28-5-87. Wrongful conviction and incarceration claims.

PART 3

COMPENSATION OF PERSONS FOR INJURIES SUSTAINED WHILE PREVENTING CRIME OR AIDING OFFICERS OF THE LAW

28-5-100. Recommendations by board as to payment of compensation; procedural rules.
28-5-101. Procedure for claims for compensation.
28-5-102. Uniform standards for compensation.
28-5-103. When compensation may be recommended; factors to be considered in making recommendations as to compensation.
28-5-104. When award of compensation not to be recommended; limitations on amounts; action by General Assembly upon recommendations.
28-5-105. Scope of compensation.
28-5-106. Limitations on claims.
28-5-107. Reports on claims transmitted to the General Assembly.
28-5-108. Subrogation of state to claims of persons compensated; damage actions against persons responsible for injuries or death.

Article 5

Fair and Open Grants

28-5-120. Short title.
28-5-121. Definitions.
28-5-122. Publication of description of grant program by agency as prerequisite to making grants.
28-5-123. Grant application; award and disbursement.

Sec.
28-5-124. Reporting of grants awarded and disbursed by agencies; registry of grants.
28-5-125. Audits of recipients of grants.
28-5-126. Grants in violation of article deemed void; effect of void grant on recipient.
28-5-127. Funding of grants in appropriations Acts.

Cross references.
Powers of General Assembly regarding appropriations, Ga. Const. 1983, Art. III, Sec. IX.

ARTICLE 1

GENERAL PROVISIONS

28-5-1. Introduction of bills changing compensation for state officials.

Any bill making a change in the amount of the compensation or allowances of any elected or appointed state official or department or agency head must be introduced in the General Assembly during the first ten days of any session thereof. Any such bill introduced after the tenth day of any session shall not be considered or acted upon in any manner by either the Senate or the House of Representatives.

History.
Ga. L. 1968, p. 1212, § 1.

28-5-2. Fiscal notes for bills changing compensation.

(a) The chairman of any committee of either house of the General Assembly shall request the state auditor to prepare and furnish a fiscal note for each bill referred to such committee which would change the compensation or allowances of any elected or appointed state official, officer, or department or agency head. This Code section shall apply only if such compensation or allowances are to be paid either wholly or in part from state funds.

(b) It shall be the duty of the state auditor to compile and furnish such fiscal notes as may be requested by the chairman of any committee of either house of the General Assembly. Such fiscal notes shall contain a statement of the present compensation and allowances of the official, officer, or department or agency head, any present longevity increments, and any personal expense allowances, other than mileage and travel expenses, and shall contain a statement of the proposed increase or change in such compensation, allowances, or increments, with the total cost of such changes. Such fiscal notes shall be printed by the Clerk of the House of Representatives or the Secretary of the Senate and shall be distributed to members of the General Assembly prior to a vote being taken on such bill in either house of the General Assembly.

History.
Ga. L. 1975, p. 770, § 1.

28-5-3. Recording of votes on bills or resolutions fixing compensation or allowances of officials.

The "ayes" and "nays" shall be recorded upon each and every vote taken by each house of the General Assembly on any bill or resolution fixing the compensation or allowances of any official except county and municipal officials.

History.
Ga. L. 1974, p. 476, § 1.
Cross references.
Manner of enactment of laws by General Assembly, Ga. Const. 1983, Art. III, Sec. IV, Para. X and Ga. Const. 1983, Art. III, Sec. V.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 46, 47.

C.J.S.
81A C.J.S., States, §§ 89, 90.

28-5-4. Consideration of general appropriations bill; availability of Governor's budget report.

(a) The general appropriations bill shall be referred by the Speaker of the House of Representatives to the Appropriations Committee of the House of Representatives. In the event such bill is reported out of the Appropriations Committee as "do pass by substitute" or "do pass as amended," neither the committee of the whole nor the House of Representatives shall consider the bill until at least 24 hours after the substitute or the amendments, as the case may be, have been printed and placed on the desk of each member.

(b) The general appropriations bill, upon its first reading in the Senate, shall be referred by the President of the Senate to the Appropriations Committee of the Senate. In the event such bill is reported out of the Appropriations Committee as "do pass by substitute" or "do pass as amended," neither the committee of the whole nor the Senate shall consider the bill until at least 24 hours after the substitute or the amendments, as the case may be, have been printed and placed on the desk of each member.

(c) Upon receipt of the Governor's budget report as provided for in Code Section 45-12-75, the House Budget and Research Office and Senate Budget and Evaluation Office shall make available to each member of such office's respective chamber the Governor's budget report, including:

(1) A list of all then-existing revenue sources;

(2) The net amount of revenue expected to be generated by each such revenue source and available for appropriation by the General Assembly in the fiscal year; and

(3) A summary of the tax expenditure review provided to the General Assembly as part of the Governor's budget report pursuant to paragraph (8) of Code Section 45-12-75. Such summary shall include, for each tax expenditure item, a brief description of the expenditure, the amount of tax revenue projected to be forgone in the fiscal year as a result of the expenditure, and a citation of the statutory or other legal authority for the expenditure.

History.
Ga. L. 1969, p. 680, § 1; Ga. L. 2024, p. 186, § 2/SB 366, effective January 1, 2025; Ga. L. 2026, p. 1069, § 28(14)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of the House of Representatives" following "Speaker" in the first sentence in subsection (a).

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Funds, § 33.

C.J.S.
81A C.J.S., States, § 418 et seq.

ALR.
Statutes: conclusiveness of legislative declaration of emergency, 110 A.L.R. 1435.

28-5-5. [Reserved] Budgetary Responsibility Oversight Committee; members; duties; other entities to cooperate with committee; annual report; allowances; performance audits.

History.
Code 1981, § 28-5-5, enacted by Ga. L. 1993, p. 1914, § 18; Ga. L. 1994, p. 97, § 28; Ga. L. 1995, p. 923, § 1; Ga. L. 2005, p. 1036, § 22/SB 49, repealed by Ga. L. 2008, p. VO1, § 2-1/HB 529, effective January 28, 2008.

Editor's notes.
Ga. L. 2008, p. 324, § 28/SB 455, reserved the designation of this Code section, effective May 12, 2008.

28-5-6. Powers, duties, and responsibilities of the Senate Budget and Evaluation Office and the House Budget and Research Office.

(a) The Senate is authorized to establish and provide for a Senate Budget and Evaluation Office. The House of Representatives is authorized to establish and provide for a House Budget and Research Office.

(b) The director of the Senate Budget and Evaluation Office is authorized to request information and material from all state depart-

ments, boards, bureaus, commissions, committees, authorities, and agencies in connection with his or her duties; and all such departments, boards, bureaus, commissions, committees, authorities, and agencies are directed to furnish such information and material as the director shall request.

(c) The director of the House Budget and Research Office is authorized to request information and material from all state departments, boards, bureaus, commissions, committees, authorities, and agencies in connection with his or her duties; and all such departments, boards, bureaus, commissions, committees, authorities, and agencies are directed to furnish such information and material as the director shall request. All information and material received by the House Budget and Research Office under this subsection shall be made available to the chairpersons of the House Committee on Appropriations, the House Committee on Budget and Fiscal Affairs Oversight, and other officers of the House of Representatives as may be designated by the Speaker of the House of Representatives; and upon direction by such chairpersons and such other officers of the House of Representatives as may be designated by the Speaker of the House of Representatives, the House Budget and Research Office shall request any needed information and material from any state department, board, bureau, commission, committee, authority, or agency.

History.
Code 1981, § 28-5-6, enacted by Ga. L. 2008, p. VO1, § 1-14/HB 529; Ga. L. 2014, p. 866, § 28/SB 340; Ga. L. 2026, p. 1069, § 28(15)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted the third occurrence of "of Representatives" in the second sentence in subsection (c).

ARTICLE 2

FISCAL AFFAIRS SUBCOMMITTEES

28-5-20. Creation.

There are created a Fiscal Affairs Subcommittee of the Senate and a Fiscal Affairs Subcommittee of the House of Representatives.

History.
Ga. L. 1966, p. 293, § 1; Ga. L. 1967, p. 722, § 1.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 1986, "are" was substituted for "is".

OPINIONS OF THE ATTORNEY GENERAL

Delegation of power to the fiscal affairs subcommittees by the General Assembly is valid. 1970 Op. Att'y Gen. No. 70-68.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, § 91.

28-5-21. Selection and term of service of members.

(a) The Fiscal Affairs Subcommittee of the Senate shall be composed of:

(1) Four incumbent members of the Senate Appropriations Committee who were reelected, to be selected by the President-Elect of the Senate, if there be one, or if not, by the President of the Senate;

(2) Five incumbent members of the Senate who were reelected, to be selected by the Governor; and

(3) The Lieutenant Governor-Elect, if there be one, or if not, the Lieutenant Governor.

(b) The Fiscal Affairs Subcommittee of the House of Representatives shall be composed of:

(1) Four incumbent members of the House Appropriations Committee who were reelected, to be selected by the Speaker-of-the-House-Nominate (that is, the member of the House of Representatives who has been nominated Speaker of the House of Representatives in the caucus of the political party having a majority of the members elected to the House of Representatives in the general election);

(2) Five incumbent members of the House of Representatives who were reelected, to be selected by the Governor; and

(3) The Speaker-of-the-House-Nominate, as defined in paragraph (1) of this subsection.

(c) The members of each of these subcommittees shall be selected within 30 days after each general election for members of the General Assembly.

(d) Each such subcommittee shall serve until the successor subcommittee is composed and appointed after each successive general election for members of the General Assembly.

History.
Ga. L. 1967, p. 722, § 2; Ga. L. 2026, p. 1069, § 28(16)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted

"House of Representatives who" for "House who" and "Speaker of the House of Representatives in" for "Speaker in" in paragraph (b)(1); and inserted "of Representatives" in paragraph (b)(2).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, § 91.

28-5-22. Meetings generally.

The Fiscal Affairs Subcommittee of the Senate shall meet from time to time at the call of the President of the Senate or the chairperson of the Senate subcommittee; and the Fiscal Affairs Subcommittee of the House of Representatives shall meet from time to time at the call of the Speaker of the House of Representatives or the chairperson of the House of Representatives subcommittee. Such subcommittees may meet jointly at the call of the Lieutenant Governor and the Speaker of the House of Representatives or of the respective subcommittee chairpersons.

History.
Ga. L. 1967, p. 722, § 3; Ga. L. 2026, p. 1069, § 28(17)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in this Code section, substituted "chairperson" for "chairman" in two places in the first sentence, inserted the first and third occurrences of "of Representatives" in that sentence and following "Speaker" in the second sentence, and substituted "chairpersons" for "chairmen" at the end of the second sentence.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, § 91.

28-5-23. Review of budget requests.

The fiscal affairs subcommittee of each house shall have the authority to review the budget requests of the various departments, bureaus, boards, commissions, institutions, and other state agencies at any time; and the Office of Planning and Budget, the state auditor, and each such department, bureau, board, commission, institute, and other state agency shall promptly furnish to such subcommittees, or either of them, all information requested by them, or by either of them.

History.
Ga. L. 1967, p. 722, § 4.

OPINIONS OF THE ATTORNEY GENERAL

Delegation of power to the fiscal affairs subcommittees by the General Assembly is valid. 1970 Op. Att'y Gen. No. 70-68.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, §§ 91, 235, 236.

28-5-24. Annual report to General Assembly.

The fiscal affairs subcommittees of the Senate and the House of Representatives jointly shall make an annual report to the General Assembly of matters coming to their attention, together with such recommendations to improve the efficiency in the operation and management of the various departments, boards, bureaus, commissions, institutions, and other agencies of state government as they see fit. The subcommittees shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the annual report in the manner which they deem to be most effective and efficient.

History.
Ga. L. 1967, p. 722, § 5; Ga. L. 2005, p. 1036, § 23/SB 49; Ga. L. 2026, p. 1069, § 28(18)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of Representatives" in this Code section.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2005, "they deem" was substituted for "it deems" near the end of the second sentence in this Code section.

OPINIONS OF THE ATTORNEY GENERAL

Delegation of power to the fiscal affairs subcommittees by the General Assembly is valid. 1970 Op. Att'y Gen. No. 70-68.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, § 91.

28-5-25. Joint meetings to review and approve budget unit object class transfers; limitations upon transfers.

The fiscal affairs subcommittees shall meet jointly as one committee at least once each quarter, or more often, at the call of the Governor, for the purpose of reviewing and approving budget unit object class transfers recommended by the Governor. Such transfers shall not be made without the approval of at least 11 members of such subcommit-

tees sitting jointly. No funds whatsoever shall be transferred for use in commencing any new program or activity which does not currently have an appropriation or which would require operating funds or capital outlay funds beyond the biennium in which such transfer is made.

History.
Ga. L. 1967, p. 722, § 6.

OPINIONS OF THE ATTORNEY GENERAL

The delegation of power to the fiscal affairs subcommittees by the General Assembly is valid. 1970 Op. Att'y Gen. No. 70-68.

Authority to transfer funds. — The fiscal affairs subcommittees have the authority to authorize the transfer of funds of the State Properties Control Commission (now State Properties Commission) from operating expenses to personal services for the purpose of creating two full-time positions and increasing the salary of the part-time coordinator. 1970 Op. Att'y Gen. No. 70-182.

Budget object transfers of the Department of Audits and Accounts must be recommended by the Governor before they can be acted upon by the fiscal affairs subcommittees. 1970 Op. Att'y Gen. No. 70-37.

A transfer of operating and personal service class funds so as to permit the Department of Agriculture to award a contract for the construction of a city farmers market, previously partially funded by capital outlay funds in an appropriation, would be a proper transfer of funds by the fiscal affairs subcommittees. 1974 Op. Att'y Gen. No. 74-9.

Prior appropriation is not new program. — If the function or activity of warehousing material currently had an appropriation in a department's budget, then the construction of the warehouse would be part of that activity and would not be a new program or activity. 1972 Op. Att'y Gen. No. 72-72.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, § 91.

28-5-25.1. Approval of leases.

(a) No lease of property owned by a state authority shall become valid until and unless the lease is approved by the fiscal affairs subcommittees meeting jointly at the call of the Governor if such lease is a lease of land for the acquisition of which state funds were appropriated, directly or indirectly, by an appropriations Act which specified that such lease must be approved by the fiscal affairs subcommittees.

(b) The approval of any such lease shall require the affirmative votes of at least 11 members of such subcommittees meeting jointly.

History.
Code 1981, § 28-5-25.1, enacted by Ga. L. 1988, p. 1865, § 1.

28-5-26. Allowances for members.

For all meetings of the subcommittees held when the General Assembly is not in session, the members of the subcommittees shall receive the expense, mileage, and travel allowances authorized by law for legislative members of interim legislative committees. The funds necessary to carry out this article shall come from funds appropriated to and available to the legislative branch of the government.

History.
Ga. L. 1967, p. 722, § 8.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, §§ 91, 106 et seq.

28-5-27. Applicability of article to authority of Office of Planning and Budget.

This article shall not be construed to supersede or supplement the authority of the Office of Planning and Budget as set forth in Code Section 45-12-90.

History.
Ga. L. 1967, p. 722, § 7.

OPINIONS OF THE ATTORNEY GENERAL

Statute designed to prevent failure of appropriation. — Ga. L. 1967, p. 722, § 7 (see now O.C.G.A. § 28-5-27) is designed in part to prevent the failure of an appropriation, the expenditure of which is otherwise lawful, because of an improper designation of the spending agency. 1975 Op. Att'y Gen. No. 75-40.

Transfer of appropriation. — A transfer of appropriations from the Art Commission to the Board of Regents so that the performing arts project may be produced for educational television under the auspices of the Center for Continuing Education of the University of Georgia. 1967 Op. Att'y Gen. No. 67-212.

Under authority granted by Ga. L. 1967, p. 722, § 7 (see now O.C.G.A. § 28-5-27), the Office of Planning and Budget may transfer an appropriation to any of the agencies of the state having comparable authority; those agencies may, in turn, pursuant to Ga. Const. 1945, Art. VII, Sec. VI, Para. I (see now Ga. Const. 1983, Art. IX, Sec. III, Para. I), contract with the Georgia Residential Finance Authority (now Georgia Department of Community Affairs) for services which are both within the scope of the authority of those agencies as well as within the scope of the powers of the Georgia Residential Finance Authority (now Georgia Department of Community Affairs). 1975 Op. Att'y Gen. No. 75-40.

ARTICLE 3

FISCAL BILLS

28-5-40. Short title.

This article shall be known and may be cited as the "Georgia Fiscal Note Act."

History.
Ga. L. 1975, p. 1568, § 1.

Law reviews.
For article, "Revenue and Taxation: Amend Titles 48, 2, 28, 33, 36, 46, and 50 of the Official Code of Georgia Annotated, Relating Respectively, to Revenue and Taxation, Agriculture, the General Assembly, Insurance, Local Government, Public Utilities, and State Government," see 28 Ga. St. U.L. Rev. 217 (2011).

28-5-41. [Reserved] "Retirement bill" defined.

History.
Ga. L. 1975, p. 1568, § 2, and Ga. L. 1981, Ex. Sess., p. 8; repealed by Ga. L. 1985, p. 1331, § 1, effective April 10, 1985.

Editor's notes.
Ga. L. 1985, p. 1331, § 1, reserved the designation of this Code section, effective April 10, 1985.

28-5-41.1. Economic analysis of certain tax benefits of law or proposed law.

(a)(1) Each year, the Department of Audits and Accounts shall cause the completion of at least 12 economic analyses pursuant to this Code section to be determined as follows:

(A) An analysis for any income tax credit or sales and use tax exemption that will sunset or be repealed by operation of law within two years from July 1 of the year during which the economic analyses are to be conducted and that have an expenditure of more than $20 million as reported in the most recent tax expenditure review, as provided for in paragraph (8) of Code Section 45-12-75. If more than 12 such credits or exemptions meet such criteria, then the first 12 that are set to sunset or be repealed shall be selected in chronological order; and

(B) If the total number of analyses required by subparagraph (A) of this paragraph is fewer than 12, the chairperson of the House Committee on Ways and Means and the chairperson of the Senate Finance Committee may each request one-half of the remaining number of economic analyses, which requests shall be transmitted to the Department of Audits and Accounts by April 15 of each year. In the event that the number of remaining economic analyses is an odd number, such number shall be increased by one, ensuring that each chairperson has an equal number of requests available.

(2) The Department of Audits and Accounts shall post on its public

website the list of analyses to be conducted each year and provide a mechanism for intended beneficiaries or representatives to provide information that may be beneficial to the analyses. The Department of Audits and Accounts shall share such information with the independent auditors conducting the relevant analysis, and the Department of Audits and Accounts and such independent auditors may use such information in such analysis.

(3) The Department of Audits and Accounts shall contract with one or more independent auditors to complete all such analyses on or before November 15 of the year in which such analysis was required or requested.

(4) Each such economic analysis shall be limited to one existing provision of law or proposed law and shall specify one particular exemption, exclusion, or deduction from the base of a tax; credit against a tax; deferral of a tax; rebate of taxes paid; tax abatement; or preferential tax rate to be analyzed.

(b) An economic analysis conducted pursuant to this Code section shall include the following:

(1) An analysis considering whether the provision is accomplishing its stated or implied purpose, intent, or goal;

(2) A good faith estimate, on an annual basis for the following five years, of the net changes to state revenue, state expenditures, and economic activity. When appropriate, the net changes shall include direct, indirect, and induced impacts;

(3) A comparison to similar provisions provided by other states;

(4) An assessment of the extent to which modifying or terminating the provision would affect the beneficiaries and the state economy;

(5) If possible, a description of the ancillary impacts of the business activity attributable to the provision, which may include, but not be limited to, those on public safety, education, and infrastructure; and

(6) Any recommendations for improving the state's return on investment from the provision being studied.

(c) Copies of each completed economic analysis shall be provided to the House Budget and Research Office and the Senate Budget and Evaluation Office.

(d) If a fiscal note is requested pursuant to Code Section 28-5-42 and a relevant economic analysis has been conducted within one year of such request, the Office of Planning and Budget may prepare a summary of such economic analysis and attach it with the requested fiscal note.

History.

Code 1981, § 28-5-41.1, enacted by Ga. L. 2021, p. 289, § 1-2/SB 6; Ga. L. 2024, p. 186, § 3/SB 366, effective January 1, 2025.

Amendments.

The 2024 amendment, effective January 1, 2025, deleted former subsections (a) and (e); redesignated former subsection (b) as present subsection (a) and rewrote subsection (a); and added present subsection (b).

Editor's notes.

Ga. L. 2021, p. 289, § 1-1/SB 6, not codified by the General Assembly, provides, in part: "Part I of this Act shall be known and may be cited as the 'Tax Credit Return on Investment Act of 2021.'"

Ga. L. 2024, p. 186, § 1/SB 366, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Tax Expenditures Transparency Act of 2024.'"

Law reviews.

For article, "SB 6: The Review, Creation, and Extension of Georgia Tax Credits and Deductions," see 38 Ga. St. U.L. Rev. 167 (2021).

28-5-42. Introduction of bills having significant impact upon anticipated revenues or expenditures; furnishing of fiscal notes.

(a)(1) Any bill having a significant impact on the anticipated revenue or expenditure level of any state department, bureau, board, council, committee, commission, or other state agency must be introduced no later than the twentieth day of any session. The sponsor of such legislation must request a fiscal note from the Office of Planning and Budget and the Department of Audits and Accounts by November 1 of the year preceding the annual convening of the General Assembly in which the bill is to be introduced, but subsequent to the preparation of such bill by the Office of Legislative Counsel. With respect to a member-elect of the General Assembly, such person must request a fiscal note from the Office of Planning and Budget and the Department of Audits and Accounts by December 1 of the year preceding the annual convening of the General Assembly in which the bill is to be introduced, but subsequent to the preparation of such bill by the Office of Legislative Counsel. The director of the Office of Planning and Budget and the state auditor shall prepare and submit the fiscal note not later than the day of convening of the General Assembly.

(2) The failure to request a fiscal note by November 1 as provided in paragraph (1) of this subsection shall preclude consideration of the measure by the Senate or the House of Representatives unless the committee to which a bill is assigned in the chamber in which it is introduced:

(A)(i) Determines that such bill will have a significant impact as described in paragraph (1) of this subsection;

(ii) Waives the applicable November 1 or December 1 deadline of paragraph (1) of this subsection;

(iii) Requests a fiscal note from the director of the Office of

Planning and Budget and the state auditor, except as otherwise provided in subsection (e) of this Code section; and

(iv) Among fiscal notes so requested, the chairperson of such committee suggests a preferred order of completion to guide the director of the Office of Planning and Budget and the state auditor; or

(B) Determines that such bill will not have a significant impact as described in paragraph (1) of this subsection.

(3) Any such determination or waiver shall be by the affirmative vote of a majority of the members of the committee, on a specific motion for waiver, and shall allow consideration of the measure by both chambers so long as the bill has been introduced not later than the twentieth day of any session.

(4) Any general bill having a significant impact on the anticipated revenue or expenditure level of counties and municipalities must be introduced no later than the twentieth day of any session.

(5) This article shall not apply to any local bill affecting a county or municipality which must be advertised in accordance with the requirements of Code Section 28-1-14, relating to the advertisement of local legislation.

(b) In the event any bill having a significant impact as described in paragraph (1) of subsection (a) of this Code section is introduced after the twentieth day of any session, it shall not be considered or acted upon in any manner by either the Senate or the House of Representatives. The President of the Senate shall decide whether a bill which is introduced in the Senate falls within this category; and the Speaker of the House of Representatives shall decide whether a bill which is introduced in the House of Representatives falls within this category. The President of the Senate shall have the same right of decision on House bills which reach the Senate; and the Speaker of the House of Representatives shall have the same right of decision on Senate bills which reach the House of Representatives.

(c)(1) In the event a bill having a significant impact as described in paragraph (1) of subsection (a) of this Code section is introduced not later than the twentieth day of any session, the chairperson of the committee to which such bill is referred shall request the director of the Office of Planning and Budget and the state auditor to submit any such fiscal note as to the fiscal effect of any such bill and to file a copy of such fiscal note with the Senate Budget and Evaluation Office and the House Budget and Research Office. The chairperson shall make such request after the bill is referred to the committee.

(2) The chairperson shall not be required to make such request with respect to any bill for which:

(A) A fiscal note has been requested by the sponsor of the bill pursuant to paragraph (1) of subsection (a) of this Code section and the chairperson has been duly notified in writing of such request by such sponsor; or

(B) The director of the Office of Planning and Budget and the state auditor have previously submitted a fiscal note pursuant to a request under paragraph (1) of subsection (a) of this Code section.

(d) In the event a determination is made under subparagraph (a)(2)(B) of this Code section that a bill will not have a significant impact, if the director of the Office of Planning and Budget or the state auditor has information or knowledge that any bill will have a significant impact as described in paragraph (1) of subsection (a) of this Code section, a fiscal note may be prepared according to the criteria outlined in subsection (g) of this Code section. Such a fiscal note may be prepared without a request by the bill's author or the committees to which it is assigned in either chamber. Any fiscal note prepared according to this subsection shall be distributed consistent with Code Section 28-5-44.

(e) During any regular session of the General Assembly, the director of the Office of Planning and Budget and the state auditor shall prepare and submit the fiscal note within five days after receipt of the request or within ten days if the director of the Office of Planning and Budget and the state auditor have made a formal request for extension of time.

(f) The principal administrative and fiscal officers of all departments, boards, councils, committees, commissions, and other agencies of the state government and, when applicable, of counties, municipalities, and other political subdivisions are authorized and directed to cooperate fully with the director of the Office of Planning and Budget and the state auditor in providing any information and assistance necessary in the preparation of fiscal notes pursuant to this Code section.

(g)(1) The fiscal note required by this Code section shall include a reliable estimate in dollars of the anticipated change in revenue or expenditures under the provisions of the bill. It shall also include a statement as to the immediate effect and, if determinable or reasonably foreseeable, the long-range effect of the measure. If, after careful investigation, it is determined that no dollar estimate is possible, the fiscal note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. In this event, the fiscal note shall contain an example based on a specific situation or reflecting the average group of persons possibly affected by the bill so as to provide an indication of the cost of such bill to the General Assembly. Assumptions used to develop these averages shall be noted in the fiscal note and the criteria included herein shall constitute a fiscal note. No comment or opinion regarding the merits of the

measure for which the statement is prepared shall be included in the fiscal note; however, technical or mechanical defects may be noted. The state auditor and the director of the Office of Planning and Budget shall jointly prepare their fiscal note; and, if there is a difference of opinion between such officials, it shall be noted in the fiscal note. In the event the director of the Office of Planning and Budget and the state auditor concur that the fiscal note on any such bill cannot be prepared within the five-day limitation in effect during any regular session of the General Assembly, they shall so inform the chairperson in writing and shall be allowed to submit said note not later than ten days after the request for it is made.

(2) For fiscal note requests for a bill having a significant impact on the anticipated revenue or expenditure level of the Department of Education which would create a new program or funding category, the fiscal note shall include a ten-year projection of the costs of such new program or funding category.

History.

Ga. L. 1975, p. 1568, § 3; Ga. L. 1976, p. 533, § 1; Ga. L. 1978, p. 907, § 1; Ga. L. 1981, p. 1809, § 11; Ga. L. 1982, p. 1116, § 1; Ga. L. 1983, p. 3, § 54; Ga. L. 1985, p. 1331, §§ 2, 3; Ga. L. 1993, p. 1914, § 19; Ga. L. 1994, p. 97, § 28; Ga. L. 1994, p. 1633, § 1; Ga. L. 1999, p. 761, § 1; Ga. L. 2008, p. VO1, § 1-15/HB 529; Ga. L. 2012, p. 859, § 1/HB 1178; Ga. L. 2014, p. 866, § 28/SB 340.

Cross references.

Fiscal note for fiscal impact on local political subdivisions, § 28-5-49.

Fiscal note for bills impacting employees' health insurance plans, § 45-18-20.

Editor's notes.

Ga. L. 1993, p. 1914, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Budget Accountability and Planning Act of 1993'".

Law reviews.

For article, "SB 6: The Review, Creation, and Extension of Georgia Tax Credits and Deductions," see 38 Ga. St. U.L. Rev. 167 (2021).

JUDICIAL DECISIONS

Fiscal note to be attached to bill but need not be attached to enrolled Act. — Although Ga. L. 1966, p. 573, as amended by Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-42) requires that the chairman of the committee to which a retirement or pension bill is referred procure a fiscal note as to the effect of such bill and Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-44) requires the committee chairman to attach the fiscal note to the bill and to furnish and read said note to the members of the respective houses of the General Assembly, neither of these laws require that the fiscal note be attached to the enrolled Act. The Supreme Court declined to construe Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-44) so as to require the fiscal note to be attached to the enrolled Act and to enforce that Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-44) as thus construed as if it were a constitutional mandate. Richmond County v. Pierce, 234 Ga. 274, 215 S.E.2d 655 (1975).

Validity of amendment passed in violation of time limit. — The 1987 amendment to O.C.G.A. § 49-4-6, relating to the computation of eligibility of persons for public assistance, was presumed valid notwithstanding a contention that it was passed in violation of the time limitation prescribed in O.C.G.A. § 28-5-42(a). Wilson v. Ledbetter, 194 Ga. App. 32, 389

S.E.2d 771, 1989 Ga. App. LEXIS 1718 (1989), rev'd, No. S90G0495, 1990 Ga. LEXIS 290 (Ga. July 12, 1990).

Judicial examination of legislative procedure. — Generally, the courts will not question the procedure used by the General Assembly in enacting legislation. Wilson v. Ledbetter, 194 Ga. App. 32, 389 S.E.2d 771, 1989 Ga. App. LEXIS 1718 (1989), rev'd, No. S90G0495, 1990 Ga. LEXIS 290 (Ga. July 12, 1990).

RESEARCH REFERENCES

Am. Jur. 2d.
73 Am. Jur. 2d, Statutes, §§ 104 et seq., 123 et seq.

C.J.S.
82 C.J.S., Statutes, § 28.

28-5-43. [Reserved] Preparation of actuarial investigations for inclusion in fiscal notes.

History.
Ga. L. 1975, p. 1568, § 4 and Ga. L. 1982, p. 1116, § 2, and Ga. L. 1981, Ex. Sess., p. 8; repealed by Ga. L. 1985, p. 1331, § 4, effective April 10, 1985.

Editor's notes.
Ga. L. 1985, p. 1331, § 4, reserved the designation of this Code section, effective April 10, 1985.

28-5-44. Attachment of fiscal notes to bills; reading of notes at third reading of bills; distribution of notes relating to bills prior to final votes thereon.

The fiscal notes required by this article shall be attached to the bill by the chairman of the committee to which the bill was referred and shall be read to the members of each respective house of the General Assembly at the third reading of the bill. In addition, a copy of each fiscal note required by this article shall be distributed to each member of the respective house of the General Assembly before which the bill is pending prior to any such bill being voted upon by such house of the General Assembly.

History.
Ga. L. 1975, p. 1568, § 5.

JUDICIAL DECISIONS

Fiscal note to be attached to bill but need not be attached to enrolled Act. — Although Ga. L. 1966, p. 573, as amended by Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-42) requires that the chairman of the committee to which a retirement or pension bill is referred procure a fiscal note as to the effect of such bill and Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-44) requires the committee chairman to attach the fiscal note to the bill and to furnish and read said note to the members of the respective houses of the General Assembly, neither of these laws require that the fiscal note be attached to the enrolled Act. The Supreme Court declined to construe Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-44) so as to require the fiscal note to be attached to the enrolled Act and to enforce that Ga. L. 1969, p. 570 (see now O.C.G.A. § 28-5-44) as thus construed as if it were a

constitutional mandate. Richmond County v. Pierce, 234 Ga. 274, 215 S.E.2d 655 (1975).

28-5-45. Fiscal dedication analysis; requirements; requesting analysis; attachment to legislative bills.

(a) Any bill that provides for the dedication of funds pursuant to Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia shall not be considered by the General Assembly without a fiscal dedication analysis attached to the bill, and in the case of a regular session, such a bill shall be introduced not later than the twentieth day of such regular session. Any such bill shall not carry over from one regular session to the next, but must be reintroduced with a new or revised fiscal dedication analysis.

(b)(1) A fiscal dedication analysis shall include a reliable estimate in dollars of the amount of revenue dedicated pursuant to the provisions of the bill, as well as a statement as to the immediate effect and, if determinable or reasonably foreseeable, the long-range effect of the measure. The fiscal dedication analysis shall also contain the total amount of funds presently dedicated pursuant to the authority granted by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, the proportion of the total 1 percent imposed by such constitutional provision that the measure at issue would constitute, and the amount and proportion of the tota1 1 percent cap that would remain if the bill becomes law. The fiscal dedication analysis shall also contain a warning regarding any probable or immediately foreseeable conditions by which the bill may cause the 1 percent cap to be exceeded at any time during the period for which the bill is effective.

(2) If, after careful investigation, it is determined that no dollar estimate is possible, the fiscal dedication analysis shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. In this event, the fiscal dedication analysis shall contain an example based on a specific situation or reflecting the average group of persons possibly affected by the bill so as to provide an indication of the cost of such bill to the General Assembly. Assumptions used to develop these averages shall be noted in the fiscal dedication analysis and the criteria included herein shall constitute a fiscal dedication analysis.

(3) No comment or opinion regarding the merits of the measure for which the statement is prepared shall be included in the fiscal dedication analysis; however, technical or mechanical defects may be noted.

(4) The state auditor and the director of the Office of Planning and

Budget shall jointly prepare their fiscal dedication analysis; and, if there is a difference of opinion between such officials, it shall be noted in the fiscal dedication analysis.

(c)(1) A member who intends to introduce a bill that requires a fiscal dedication analysis shall request a fiscal dedication analysis from the Office of Planning and Budget and the Department of Audits and Accounts by December 1 of the year preceding the annual convening of the General Assembly in which the bill is to be introduced, but subsequent to the preparation of such bill by the Office of Legislative Counsel. The director of the Office of Planning and Budget and the state auditor shall prepare and submit each such timely requested fiscal dedication analysis not later than the day of convening of the General Assembly.

(2) During any regular or special session of the General Assembly, only the chairperson of a committee to which a particular bill is assigned may request a new or revised fiscal dedication analysis for a bill. In such cases, the director of the Office of Planning and Budget and the state auditor shall prepare and submit the fiscal dedication analysis within five days after receipt of the request or within ten days if the director of the Office of Planning and Budget and the state auditor submit a jointly signed notice of a necessary extension of time so informing the requester in writing and shall be allowed to submit said analysis not later than ten days after the request for it is made.

(d) Each fiscal dedication analysis required by this Code section shall be attached to the bill by the chairperson of the committee to which the bill is assigned and shall be read to the members of each respective house of the General Assembly at the third reading of the bill. In addition, a copy of each fiscal dedication analysis or revision thereto required by this Code section shall be distributed to each member of the respective house of the General Assembly before which the bill is pending prior to any such bill being voted upon by such house of the General Assembly.

History.

Code 1981, § 28-5-45, enacted by Ga. L. 2021, p. 761, § 11/HB 511.

Editor's notes.

Ga. L. 2021, p. 761, § 23/HB 511, not codified by the General Assembly, provides: "In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, this Act shall not become law unless it receives the requisite two thirds' majority vote in both the Senate and the House of Representatives and the amount of the funds dedicated by this Act do not equal or exceed 1 percent of the previous fiscal year's state revenues subject to appropriations."

ARTICLE 3A

STATE AND LOCAL GOVERNMENT PARTNERSHIP

28-5-47. Short title.

This article shall be known and may be cited as the "State and Local Government Partnership Act of 1995."

History.
Ga. L. 1981, p. 1809, § 1; Ga. L. 1995, p. 1189, § .5.

28-5-47.1. Legislative intent and purpose.

It is the intent and purpose of the General Assembly in enacting this article:

(1) To strengthen the partnership between the State of Georgia and local political subdivisions;

(2) To assist the General Assembly in its consideration of proposed legislation and new and revised state programs containing fiscal requirements affecting local political subdivisions by:

(A) Requiring the provision of accurate estimates of the fiscal impact upon local political subdivisions of proposed legislation and new and revised state programs; and

(B) Establishing a mechanism to bring such information to the attention of the members of the General Assembly before the House of Representatives or Senate, respectively, votes on proposed legislation;

(3) To promote informed and deliberate decisions by the General Assembly on the appropriateness of proposed fiscal impact legislation in any particular instances; and

(4) To improve the quality of state regulations affecting local political subdivisions and the process by which those regulations are developed by:

(A) Providing that state agencies consult with elected and other officials of local political subdivisions; and

(B) Requiring that state agencies prepare accurate estimates of the budgetary impact of state regulatory mandates upon local political subdivisions before adopting such regulations.

History.
Code 1981, § 28-5-47.1, enacted by Ga. L. 1995, p. 1189, § .5; Ga. L. 2026, p. 1069, § 28(19)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, added "and" at the end of paragraph (3).

28-5-48. Definitions.

As used in this article, the term:

(1) "Commissioner" means the commissioner of community affairs.

(2) "Department" means the Department of Community Affairs.

(3) "Fiscal note" means a realistic statement of the estimated financial cost of implementing or complying with the proposed law, regulation, rule, order, or administrative law upon local political subdivisions to which the proposed law, regulation, rule, order, or administrative law applies.

(4) "Local political subdivision" means a county, municipality, county school district, or independent school district.

History.

Ga. L. 1981, p. 1809, § 2; Ga. L. 1995, p. 1189, § .5.

28-5-48.1. Applicability to proposed laws for which full funding to affected localities has been appropriated.

This article shall not apply to any proposed bill, resolution, regulation, rule, order, or administrative law for which an appropriation, in an amount sufficient to fund the full cost of the proposal, has been made to affected local political subdivisions.

History.

Code 1981, § 28-5-48.1, enacted by Ga. L. 1995, p. 1189, § .5.

28-5-49. Fiscal notes for proposed bills and joint resolutions impacting local political subdivisions; requests for copies; waiver of requirements.

(a) The department shall conduct any analysis to determine the cost of implementation or compliance for all bills and joint resolutions introduced in the General Assembly which have a fiscal impact on local political subdivisions. Before any vote is taken in a committee of the House of Representatives or Senate or on the floor of either house upon any bill or joint resolution determined by the department to require an expenditure which in the aggregate exceeds $5 million of public funds by local political subdivisions, a fiscal note shall be attached to such bill or resolution and shall be filed by the sponsor of the bill with the chairperson of the committee and the Clerk of the House of Represen-

tatives or the Secretary of the Senate and shall be provided to all members of the General Assembly. Any representative of any local political subdivision requesting a copy of the fiscal note shall be furnished with a copy immediately upon request to the Clerk of the House of Representatives or the Secretary of the Senate. This Code section shall not apply to a bill or joint resolution that is necessary for the state to assume the administration of regulatory programs mandated by federal statute.

(b) The requirements of this Code section may be waived by the committee to which the bill is assigned in the chamber wherein the bill is introduced. Any such waiver shall be by the affirmative vote of a majority of the members of the committee. Any such waiver by the committee shall allow consideration of the measure by both chambers.

(c) The requirements of this Code section may be waived:

(1) By a majority vote of the House of Representatives or by the Speaker of the House of Representatives with respect to a bill introduced in the House of Representatives; or

(2) By majority vote of the Senate or by the President of the Senate with respect to a bill introduced in the Senate.

Any such waiver shall allow consideration of the measure by both the House of Representatives and the Senate.

History.
Ga. L. 1981, p. 1809, § 3; Ga. L. 1995, p. 1189, § .5; Ga. L. 1996, p. 6, § 28; Ga. L. 2026, p. 1069, § 28(20)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted the second occurrence of "of Representatives" in paragraph (c)(1).

RESEARCH REFERENCES

Am. Jur. 2d.
56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 122.

28-5-50. Fiscal notes for regulations, rules, orders, or administrative laws impacting local political subdivisions; requests for copies.

Except as otherwise provided in this Code section, no regulation, rule, order, or administrative law which would have a fiscal impact which in the aggregate exceeds $5 million on local political subdivisions in this state shall be valid unless 30 days prior to its adoption by a board, commission, agency, department, officer, or other authority of the government of this state, except the General Assembly, the courts, and

the Governor, such board, commission, agency, department, officer, or other authority shall file a fiscal note with the members of the General Assembly. Any local political subdivisions that will be affected by the proposed regulation, rule, policy, order, or administrative law, upon request, shall immediately be furnished with a copy of the fiscal note by the board, commission, agency, department, officer, or other authority. This Code section shall not apply to an emergency regulation, rule, order, or administrative law as described by subsection (b) of Code Section 50-13-4, to any rule or regulation adopted or order issued pursuant to legislation exempted from Code Section 28-5-49, or to any other order issued to abate or prevent violations of specific statutory provisions enacted by the General Assembly.

History.
Ga. L. 1981, p. 1809, § 4; Ga. L. 1995, p. 1189, § .5.

Law reviews.
For article surveying developments in Georgia local government law from mid-1980 through mid-1981, see 33 Mercer L. Rev. 187 (1981).

28-5-51. Contents of fiscal note.

A fiscal note shall contain an aggregated estimate of the fiscal impact of a bill, a joint resolution, or an administrative action on local political subdivisions for the fiscal year in which it would become effective, if enacted, and for the next two succeeding fiscal years. If the fiscal impact of the bill, joint resolution, or administrative action is not expected to be totally evident within the applicable period, the estimate shall be projected beyond that period to include an estimate for the first fiscal year in which it is expected to be fully effective.

History.
Ga. L. 1981, p. 1809, § 5; Ga. L. 1995, p. 1189, § .5.

28-5-52. Assistance of other departments and agencies in preparation of fiscal notes; required names and signatures.

The other departments or agencies of the state government shall assist the department in the preparation of fiscal notes required by this article. Where appropriate, the commissioner shall seek the advice and assistance of local government officials or their representatives. The departments or agencies of state government assisting in the preparation of the fiscal note shall be clearly indicated on the fiscal note along with the signature of the commissioner or the commissioner's authorized representative indicating that the commissioner agrees with the fiscal impact estimated thereon.

History.
Ga. L. 1981, p. 1809, § 6; Ga. L. 1995, p. 1189, § .5.

28-5-53. Revisions of fiscal notes.

(a) A fiscal note that is attached to a bill or joint resolution shall be revised by the commissioner at each successive stage of the legislative process in which an amendment is adopted that changes the fiscal effect of the bill or joint resolution, unless this requirement is waived by the President of the Senate, by a majority vote of the Senate, by the Speaker of the House of Representatives, or by a majority vote of the House of Representatives. A revised fiscal note shall not be required for any amendment which either increases local revenues or decreases mandated expenditures.

(b) The revised fiscal note shall be processed by the commissioner and returned as quickly as possible to the committee or the Clerk of the House of Representatives or Secretary of the Senate if either the Clerk or the Secretary has the custody of the bill or joint resolution at that time.

(c) Except as otherwise provided by subsections (a) and (b) of this Code section, a waiver of a fiscal note shall be replaced at any time with a fiscal note if an amendment to a bill or joint resolution causes the bill or joint resolution to have an effect upon the revenues or expenditures of local political subdivisions.

History.
Ga. L. 1981, p. 1809, §§ 7, 8; Ga. L. 1995, p. 1189, § .5.

28-5-54. Preservation of copies of fiscal notes and waivers; availability for public inspection; publication in journals for each house of the General Assembly.

(a) A copy of each fiscal note or waiver of a fiscal note shall be retained by the commissioner and shall be reasonably available for public inspection for at least three years following its preparation. The fiscal note or waiver of a fiscal note shall be published in the journal of each house of the General Assembly.

(b) A fiscal note, upon being filed as provided in this article, shall be open to inspection by the general public as provided by Code Sections 50-18-70 through 50-18-72.

History.
Ga. L. 1981, p. 1809, § 9; Ga. L. 1995, p. 1189, § .5.

Law reviews.
For article surveying developments in Georgia local government law from

mid-1980 through mid-1981, see 33 Mercer L. Rev. 187 (1981).

28-5-55. [Reserved] Exemptions from this article.

History.
Ga. L. 1981, p. 1809, § 10; Ga. L. 1993, p. 91, § 28; repealed by Ga. L. 1995, p. 1189, § .5, effective April 21, 1995.

Editor's notes.
Ga. L. 1995, p. 1189, § .5, reserved the designation of this Code section, effective April 21, 1995.

28-5-56. Presumption as to compliance with this article.

Nothing in this article shall be construed to require any degree of formality of proof of compliance with any requirement of this article, and any enrolled bill shall be conclusively presumed to have been enacted in compliance with the requirements of this article.

History.
Ga. L. 1981, p. 1809, § 12; Ga. L. 1995, p. 1189, § .5.

ARTICLE 4

CLAIMS ADVISORY BOARD

Cross references.
Sovereign immunity, Ga. Const. 1983, Art. I, Sec. II, Para. IX.

Administrative rules and regulations.
Claims Advisory Board, Official Compilation of the Rules and Regulations of the State of Georgia, Rule 115-1-01 et seq.

Part 1

General Provisions

28-5-60. Creation; membership; representation of members by deputies or other designated employees.

(a) There is created the Claims Advisory Board, hereinafter called the board, to be composed of the Secretary of State, who shall be the chairman, the commissioner of human services, the commissioner of corrections, and the commissioner of transportation. Whenever the board takes any official action authorized under the law or duly promulgated rules and regulations, three of the members shall constitute a quorum; however, any of those individuals named above may be represented by a deputy or other designated employee; and any such action shall be valid if any two of the remaining three individuals are present during such action.

(b) The Claims Advisory Board is assigned to the Secretary of State for administrative purposes only as prescribed in Code Section 50-4-3.

History.
Ga. L. 1963, p. 624, § 1; Ga. L. 1972, p. 1015, § 1805; Ga. L. 1979, p. 797, § 1; Ga. L. 1986, p. 155, § 1; Ga. L. 2009, p. 453, § 2-4/HB 228.

Cross references.
Insuring and indemnification of public officers and employees, § 45-9-1 et seq.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

For article discussing sovereign immunity and the state court of claims, see 14 Ga. St. B.J. 152 (1978).

For article, "Tort Claims Against the State: Georgia's Compensation System," see 32 Ga. L. Rev. 1103 (1998).

JUDICIAL DECISIONS

Function of the board. — The function of the Claims Advisory Board is to receive notice of claims against the state, investigate them, hold hearings if necessary, and prepare statements of its findings, its determination of the merits of such claims and its recommendation as to the payment of the same for transmittal to the legislature of this state. The recommendations of this board shall be advisory only and are not binding in any way on the legislature in whose absolute discretion and good faith the ultimate determination of a claim rests. Trice v. Wilson, 113 Ga. App. 715, 149 S.E.2d 530, 1966 Ga. App. LEXIS 1185 (1966).

Construction with O.C.G.A. § 50-21-26. — Because: (1) a patron's personal injury claim filed with the claims advisory board (CAB) in no way complied with the ante litem requirements of the Georgia Tort Claims Act, O.C.G.A. § 50-21-20 et seq.; (2) the patron's claim to the CAB was made under a separate statutory scheme set up under Article 4 of Title 28 dealing with the financial affairs of the General Assembly, covered under O.C.G.A. § 28-5-60 et seq.; and (3) prior to filing suit, no notice was given to the Risk Management Division of the Department of Administrative Services or the Department of Motor Vehicle Safety, to the extent that the trial court denied the motion of the state to dismiss the patron's claim of $5,000 or less, the court erred, but the order denying the patron's claim of $5,000 or more was upheld. State of Ga. v. Haynes, 285 Ga. App. 637, 647 S.E.2d 331, 2007 Ga. App. LEXIS 610 (2007).

Guidelines for awarding compensation. — The legislature has created no statutory guidelines to insure that fair and adequate compensation is paid to injured parties; its award of compensation is absolutely discretionary, ex parte in its determination, and based upon the state's moral obligation to answer for the torts of its employees and not upon any legal duty. Trice v. Wilson, 113 Ga. App. 715, 149 S.E.2d 530, 1966 Ga. App. LEXIS 1185 (1966).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 490.

28-5-60.1. "The state or any of its departments or agencies" defined.

As used in this article, the term "the state or any of its departments or agencies" includes any department, agency, bureau, or commission of

state government but does not include state authorities or any county or municipal department, agency, bureau, commission, or authority.

History.
Code 1981, § 28-5-60.1, as enacted by Ga. L. 1985, p. 900, § 1.

28-5-61. Employment of secretarial, investigatorial, and other help.

The chairman of the board is authorized to provide secretarial and other help necessary to administer this article and is also authorized to employ independent investigators if deemed necessary or advisable to assist the board. Such help and investigators shall be paid from funds appropriated to the office of the Secretary of State for this specific purpose.

History.
Ga. L. 1963, p. 624, § 6.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For note discussing some limitations on governmental tort immunity, see 5 Ga. St. B.J. 494 (1969).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 492 et seq.

28-5-62. Unlawful compensation; penalty.

(a) It shall be unlawful for any member of the Claims Advisory Board, any member of the General Assembly, or any state official or employee to receive any fee, money, gift, or any other thing of value, other than the regular compensation and allowances which he receives from state funds, in connection with any claim presented to the Claims Advisory Board.

(b) Any person who violates any provision of this Code section shall be guilty of a misdemeanor.

History.
Ga. L. 1965, p. 655, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, § 403.

C.J.S.
67 C.J.S., Officers and Public Employees, § 437 et seq.

28-5-63. Statement attached to checks issued for payment of claims.

The check issued to any person, firm, association, or corporation as payment for any claim pursuant to this article shall have attached thereto the following statement:

> "It shall be unlawful for any member of the Claims Advisory Board, any member of the General Assembly, or any state official or employee to receive any fee, money, gift, or any other thing of value, other than the regular compensation and allowances which he receives from state funds, in connection with any claim presented to the Claims Advisory Board."

History.
Ga. L. 1965, p. 655, § 2.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For note discussing some limitations on governmental tort immunity, see 5 Ga. St. B.J. 494 (1969).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 495.

Part 2

Claims Against State or Departments or Agencies

Cross references.
Insuring and indemnification of public officers and employees generally, § 45-9-1 et seq.

Administrative rules and regulations.
Claims of Over $5,000, Official Compilation of the Rules and Regulations of the State of Georgia, Claims Advisory Board, Rule 115-2-.01 et seq.

Claims of $5,000 or Less, Official Compilation of the Rules and Regulations of the State of Georgia, Claims Advisory Board, Rule 115-3-.01 et seq.

28-5-80. Introduction of compensation resolutions; general requirements as to filing of notice of claim.

(a) Any resolution relative to a claim against the state or any of its departments or agencies must be introduced in the House of Representatives. No such resolution may be introduced unless a notice of claim has been filed with the board on or before the fifteenth day of November immediately preceding the introduction of the resolution, if the event giving rise to a claim against the state occurred on or before the fifth day of November. If said event occurred subsequent to the fifth day of November, immediately preceding the introduction of the resolution a notice of claim shall be filed as provided for in this Code section within

ten days after the occurrence of the event giving rise to the claim. No such resolution shall be introduced after the tenth day of any regular session.

(b) The board shall provide forms to be used in filing a notice of claim and shall make them available for such purpose. When the notice is filed, the board shall inform the person filing the notice, in writing, of the information it will require in order to take action on the claim. Such information may include accident reports, affidavits, statements, bills, receipts, letters, documents, and any other supporting material or data deemed necessary by the board. All such information must be filed with the board prior to the introduction of the resolution.

History.
Ga. L. 1963, p. 624, § 2; Ga. L. 1965, p. 653, § 1; Ga. L. 1974, p. 395, § 1; Ga. L. 1987, p. 3, § 28; Ga. L. 2000, p. 1243, § 1.

Cross references.
Manner of enactment of laws by General Assembly, Ga. Const. 1983, Art. III, Sec. V.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

For article, "Tort Claims Against the State: Georgia's Compensation System," see 32 Ga. L. Rev. 1103 (1998).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 486 et seq.

ALR.
Sufficiency of notice of claim against local political entity as regards time when accident occurred, 57 A.L.R.5th 689.

28-5-81. Notices of possibility of claim.

It shall be the duty of each state department and agency to file with the Claims Advisory Board a notice of possibility of claim covering any occurrence which would be the subject of a notice of claim as provided in Code Section 28-5-80. Such notice of possibility of claim shall be filed on forms provided by the Claims Advisory Board and furnished to each state department and agency upon request. It shall be the duty of each state department and agency to file a notice of possibility of claim within 30 days after the date of any such occurrence. If filed within the same time limitations provided relative to the filing of notices of claim as provided in Code Section 28-5-80, a notice of possibility of claim shall be sufficient for action to be taken thereon; and the fact that no notice of claim has been filed within the time provided shall not prevent the introduction of a resolution and action thereon as provided in this part.

History.
Ga. L. 1969, p. 824, § 1.

Law reviews.
For article, "Personal Liability of State

Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

OPINIONS OF THE ATTORNEY GENERAL

The Board of Regents of the University System of Georgia is a "state department" for the purpose of coming within the purview of Ga. L. 1969, p. 824, § 1 (see now O.C.G.A. § 28-5-81). 1969 Op. Att'y Gen. No. 69-270.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 486.

28-5-82. Board hearings.

Any resolution authorized by Code Section 28-5-80 shall be referred by the Speaker of the House of Representatives to the Appropriations Committee of the House of Representatives; and the Clerk of the House of Representatives shall transmit a certified copy of the resolution to the chairperson of the Claims Advisory Board not later than the day after its referral to the appropriations committee. Upon receipt of such copy, the chairperson, after consultation with the other members of the board, shall set a time for acting on the claim and shall set a date for a hearing if a hearing is deemed necessary. In the event a hearing is to be held, the Representative introducing the bill shall be notified of the date, time, and place thereof. Such other persons as the board deems necessary shall likewise be notified. The Representative introducing the resolution shall be notified as to the action taken by the board on the claim and the recommendation made by the board to the appropriations committee. In the event the Representative is dissatisfied with the recommendation of the board and no hearing has been held, he shall be entitled to have the board set a hearing by so requesting the chairperson in writing.

History.
Ga. L. 1963, p. 624, § 3; Ga. L. 2026, p. 1069, § 28(21)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of Representatives" in three places and substituted "chairperson" for "chairman" in three places in this Code section.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 486.

28-5-83. Investigation of claims by board; advisory recommendations.

Upon receipt of a notice of claim, the board may begin its investigation thereof; or it may wait until the supporting information provided for in Code Section 28-5-80 has been furnished. After investigation of the claim by the board, after introduction of the resolution, and after a hearing thereon, if any, the board shall prepare a statement including its findings, its determination of the merits of the claim, its recommendation as to the payment thereof, and such other information as the board deems advisable. Such statement shall be immediately transmitted to the chairperson of the House Appropriations Committee, who shall present the same to the full committee. The recommendations of the board shall be advisory in nature only and shall not be binding on the House of Representatives, the Senate, or any committee of either. The resolution shall be acted upon in the same manner as provided by law and the rules of the House of Representatives and the Senate for action upon bills.

History.
Ga. L. 1963, p. 624, § 4; Ga. L. 2026, p. 1069, § 28(22)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in this Code section, substituted "chairperson" for "chairman" in the third sentence and substituted "House of Representatives and the Senate" for "House and Senate" in the last sentence.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For note discussing some limitations on governmental tort immunity, see 5 Ga. St. B.J. 494 (1969).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

OPINIONS OF THE ATTORNEY GENERAL

The Claims Advisory Board may hear claims upon affidavits, counteraffidavits, and certified copies of court records and other documents in lieu of sworn evidence of witnesses appearing in person under oath. 1952-53 Ga. Op. Att'y Gen. 285.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 492 et seq.

28-5-84. Restrictions on passage of resolutions and board powers.

No resolution provided for in this part shall be passed without being presented to the board. The board is prohibited from considering any resolution unless notice of claim is filed within the time provided for in Code Section 28-5-80, unless the resolution is introduced within the time limitations specified in Code Section 28-5-80, and unless the information required by the board is filed within the time limitations specified in Code Section 28-5-80. The board shall make no recommendations after the fifteenth day of any regular session.

History.
Ga. L. 1963, p. 624, § 5; Ga. L. 1965, p. 653, § 2; Ga. L. 1974, p. 395, § 2; Ga. L. 2000, p. 1243, § 2.

Law reviews.
For note, "An Alternative to the Georgia Claims Advisory Board: State Tort Liability," see 2 Ga. L. Rev. 275 (1968).

For note discussing some limitations on governmental tort immunity, see 5 Ga. St. B.J. 494 (1969).

For article, "Personal Liability of State Officials Under State and Federal Law," see 9 Ga. L. Rev. 821 (1975).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, §§ 486, 487, 489, 492 et seq.

28-5-85. Payment of small claims; rules and regulations.

(a) When the total amount of a claim against the state is $5,000.00 or less, and the claim is not of a type excluded from a recommendation for compensation by subsection (a) of Code Section 28-5-104, the Claims Advisory Board shall be authorized to direct the state department or agency affected by the claim to pay the claimant such amount, not exceeding $5,000.00, as may be authorized by the Claims Advisory Board pursuant to the authority of this Code section.

(b) If a citizen has a claim against the state subject to the provisions of this Code section, such person may file such claim with the Claims Advisory Board. The Claims Advisory Board shall promulgate rules or regulations governing the submission of claims pursuant to this Code section. Such rules or regulations shall be adopted under the provisions of Chapter 13 of Title 50, known as the "Georgia Administrative Procedure Act."

(c) When a claim subject to this Code section is filed with the Claims Advisory Board, said board shall notify the department or agency of the state government affected by such claim of the basis for such claim, and such notice shall include any information submitted by the claimant in support of such claim. Within 45 days after receiving such notification, it shall be the duty of such state department or agency to submit a report to the Claims Advisory Board setting forth the findings of such state department or agency relative to such claim. Said report may make a recommendation to the Claims Advisory Board relative to the payment of such claim, but such recommendation shall not be binding upon the Claims Advisory Board.

(d) After reviewing and considering all information submitted by a claimant in support of the claim against the state and the report of the state department or agency affected by such claim, the Claims Advisory Board shall make a determination either to pay or reject such claim against the state. The Claims Advisory Board shall not be bound by the total amount claimed against the state and may authorize the payment of a lesser amount. If the Claims Advisory Board determines that the claim against the state is justified and that the amount of such claim, or a portion thereof, should be paid, it shall issue its order to the chief executive or administrative officer of the state department or agency affected by such claim ordering such officer, within 30 days after receipt of such order, to pay the claimant the amount specified by the Claims Advisory Board in its order. A copy of such order shall be mailed to the claimant. If the Claims Advisory Board determines that the claim against the state should be rejected, it shall notify the claimant of such rejection, and such notice shall explain the reasons for such rejection. A copy of such notice to the claimant shall be sent to the state department or agency affected by the claim. The decision of the Claims Advisory Board shall be final.

(e) The Claims Advisory Board shall not authorize or direct the payment of any part of any claim under this Code section which is paid or payable by insurance.

(f) Any payment made to a claimant pursuant to the authority of this Code section shall be in full and complete settlement of any claim against the state arising from the same occurrence, and each claimant, as a condition precedent to receiving payment pursuant to this Code section, shall acknowledge and agree to the requirements of this subsection pursuant to regulations adopted by the Claims Advisory Board for such purpose.

(g)(1) The provisions of this Code section shall apply to any claim against the state in the amount of $5,000.00 or less if the date of the occurrence giving rise to such claim was after July 1, 2000. After July 1, 2000, the General Assembly shall not consider any compensation

resolution for a claim against the state if the amount of the claim is $5,000.00 or less, and the provisions of this Code section shall be the exclusive method for making such claims against the state, except as provided in paragraph (2) of this subsection.

(2) If the claim against the state is timely filed with the Claims Advisory Board after July 1, 2000, for an occurrence which took place before July 1, 2000, and the amount of the claim is less than $5,000.00 but more than $500.00, the claimant shall have the option of seeking a compensation resolution from the General Assembly. All claims pending on July 1, 2000, or thereafter if such claim is based on an occurrence which took place before July 1, 2000, for $500.00 or less shall be settled exclusively through the Claims Advisory Board.

(h) The General Assembly waives the immunity of the state for the purpose of authorizing the payment of claims against the state pursuant to the authority of this Code section.

History.

Code 1981, § 28-5-85, enacted by Ga. L. 1982, p. 930, § 1; Ga. L. 1984, p. 608, § 1; Ga. L. 1993, p. 91, § 28; Ga. L. 1999, p. 798, § 1; Ga. L. 2000, p. 1243, § 3.

Code Commission notes.

Ga. L. 2000, p. 1243, § 3, amended this Code section and in so doing omitted without expressly repealing language added to subsection (a) of this Code section by Ga. L. 1999, p. 798, § 1. The two amendments were not irreconcilably conflicting and, in accordance with Reeves v. Gay, 92 Ga. 309 (1893), the amendment to this Code section made by Ga. L. 1999, p. 798, § 1, was treated as not having been repealed by Ga. L. 2000, p. 1243, § 3.

Pursuant to Code Section 28-9-5, in 2000, in paragraph (g)(2), "July 1, 2000," was substituted for "the effective date of this Code section".

JUDICIAL DECISIONS

Waiver of immunity. — In a personal injury suit filed by a patron of the Department of Motor Vehicle Safety office, the appeals court disagreed that the state was estopped from claiming sovereign immunity, and that such immunity was waived to the extent of $5,000 by O.C.G.A. § 28-5-85(h), as that subsection only waived immunity regarding claims before the claims advisory board, and the patron's claim there was denied by the trial court; further, the government may not waive or be estopped from invoking statutory notice requirements. State of Ga. v. Haynes, 285 Ga. App. 637, 647 S.E.2d 331, 2007 Ga. App. LEXIS 610 (2007).

OPINIONS OF THE ATTORNEY GENERAL

Compensation to injured inmates. — Pursuant to the 1999 amendments, O.C.G.A. §§ 28-5-85 and 28-5-104 prohibit the Claims Advisory Board from recommending compensation to an inmate injured while in the custody of the Department of Corrections. 1999 Op. Att'y Gen. No. 99-11.

RESEARCH REFERENCES

ALR.
Liability of state, in issuing automobile certificate of title, for failure to discover title defect, 28 A.L.R.4th 184.

28-5-86. Time for filing notice of claim.

No claim or resolution for the payment of compensation under this part shall be considered by the board or the General Assembly unless notice of claim has been filed with the board within two years after the date of the event giving rise to the claim.

History.
Code 1981, § 28-5-86, enacted by Ga. L. 1984, p. 608, § 2.
Law reviews.
For survey article on contracts — legislation, see 34 Mercer L. Rev. 71 (1982).

28-5-87. Wrongful conviction and incarceration claims.

The Claims Advisory Board shall not consider and no compensation shall be paid under this article concerning any claim against the state for any wrongful conviction and incarceration.

History.
Code 1981, § 28-5-87, enacted by Ga. L. 2025, p. 887, § 2-2/SB 244, effective July 1, 2025.
Effective date.
This Code section became effective July 1, 2025.
Cross references.
Wrongful Conviction and Incarceration Compensation Act, § 17-22-1 et seq.
Law reviews.
For article, "Wrongful Conviction and Incarceration Compensation Act," see 42 Ga. St. U.L. Rev. 93 (2025).

Part 3

Compensation of Persons for Injuries Sustained While Preventing Crime or Aiding Officers of the Law

Cross references.
Indemnification of law enforcement officers, firefighters, and prison guards for injury or death in line of duty, § 45-9-80 et seq.
Administrative rules and regulations.
Compensation of Persons for Injuries Sustained While Preventing Crime or Aiding Officer of the Law, Official Compilation of the Rules and Regulations of the State of Georgia, Claims Advisory Board, Rule 115-4-.01 et seq.
Law reviews.
For article, "The New Special Master Rule — Uniform Superior Court Rule 46: Life Jackets for the Courts in the Perfect Storm," see 15 (No. 4) Ga. St. B.J. 20 (2009).

28-5-100. Recommendations by board as to payment of compensation; procedural rules.

(a) The Claims Advisory Board shall have authority to consider and make recommendations to the General Assembly concerning payment

of compensation to innocent persons who sustain injury or property damage, or both, and to dependent heirs of innocent persons killed in attempting to prevent the commission of crime against the person of another or in aiding or attempting to aid officers of the law upon their request. In a particular case the board may appoint a special master to take testimony, supervise or conduct necessary investigations, and report to the board; but ultimate recommendation on any claim shall be made only by the board.

(b) The board shall provide by rules for proceedings before it; and such rules shall emphasize, to the greatest extent possible, informality of proceedings. No claimant shall be required to be represented or accompanied by an attorney.

History.
Ga. L. 1967, p. 712, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 484 et seq.

28-5-101. Procedure for claims for compensation.

(a) Any person who is eligible for compensation under this part must give notice thereof in accordance with Part 2 of Article 4 of this chapter in order to have such claim brought before the General Assembly for action.

(b) Any such claimant shall also, prior to introduction of a resolution for compensation, submit all documents called for by the board, including reports from all physicians and surgeons who have treated or examined the victim and from hospitals that have admitted the victim in relation to the injury for which compensation is claimed at the time of or subsequent to the victim's injury or death. If, in the opinion of the board, reports on the previous medical history of the victim, examination of the injured victim and a report thereon, or a report on the cause of death of the victim by an impartial medical expert would be of material aid in making its recommendation, the board shall call for the claimant to produce such reports and submit to such examination.

History.
Ga. L. 1967, p. 712, § 2.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, §§ 486 et seq., 494.

28-5-102. Uniform standards for compensation.

In making its recommendation, the board shall, insofar as practicable, formulate standards for uniform application in recommending compensation, taking into consideration rates and amounts of compensation payable for injuries or property damage and death under other laws of this state and of the United States.

History.
Ga. L. 1967, p. 712, § 3.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 484 et seq.

28-5-103. When compensation may be recommended; factors to be considered in making recommendations as to compensation.

(a) In any case in which a person is injured or sustains property damage or is killed by an incident for which compensation is authorized by this part, the board may recommend to the General Assembly payment of compensation:

(1) To or for the benefit of the injured person;

(2) In the case of personal injury of the victim, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of such injury;

(3) In the case of death of the victim, to or for the benefit of any one or more of the heirs at law of the victim, who at the time of the victim's demise were dependent upon him for over half of their support; or

(4) To or for the benefit of the owner of the damaged property.

(b) In making its recommendation to the General Assembly, the board shall:

(1) Consider a person to have intended an act, notwithstanding that by reason of age, insanity, drunkenness, or otherwise, he was legally incapable of forming a criminal intent;

(2) Consider all circumstances surrounding the claim, including,

but not limited to, provocation, consent, or any other behavior of the victim which directly or indirectly contributed to his injury or death; the prior case or social history, if any, of the victim or claimant; any need for financial aid present; and any other relevant matters; and

(3) Take into consideration any amounts received or receivable from any other source or sources by the victim or his dependents as a result of the incident or offense giving rise to the claim.

(c) Claims and recommendations may be made under this Code section regardless of whether or not any person is prosecuted or convicted of any offense arising out of such act.

History.
Ga. L. 1967, p. 712, § 4.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, §§ 229, 495.

28-5-104. When award of compensation not to be recommended; limitations on amounts; action by General Assembly upon recommendations.

(a) In no event shall the board recommend that compensation be awarded to:

(1) Any victim of a criminal act not provided for in Code Section 28-5-100;

(2) Anyone who:

(A) Is a spouse, parent, grandparent, child (natural or adopted), grandchild, brother, sister, half brother, half sister, or parent of the spouse of the offender;

(B) Was, at the time of the personal injury or death of the victim, living with the offender as a member of his or her family or household or maintaining a sexual relationship, whether illicit or not, with such person or with any member of the family of such person;

(C) Violated a penal law of this state which violation caused or contributed to his or her injuries or death; or

(D) Was injured as a result of the operation of a motor vehicle, boat, or airplane, unless the same was used as a weapon in a deliberate attempt to run the victim down;

(3) Any officer of the law injured in the performance of his or her official duties; or

(4) Any person who is or was at the time of the alleged loss an inmate in the custody of the Department of Corrections.

(b) No compensation shall be recommended by the board in an amount exceeding $5,000.00 per claim.

(c) The board shall, in an advisory way only, recommend to the General Assembly payment of compensation and the amount thereof; and the General Assembly shall act on such recommendation in accordance with law and the rules of the House of Representatives and Senate for action upon such resolutions.

History.
Ga. L. 1967, p. 712, §§ 5, 7; Ga. L. 1999, p. 798, § 2; Ga. L. 2026, p. 1069, § 28(23)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted "of Representatives" in subsection (c).

Law reviews.
For article advocating the overhaul of the doctrines of official and sovereign immunity in Georgia, see 29 Mercer L. Rev. 303 (1977).

For note analyzing sovereign immunity in this state and proposing implementation of a waiver scheme and creation of a court of claims pursuant to Ga. Const. 1945, Art. VI, Sec. V, Para. I (see now Ga. Const. 1983, Art. I, Sec. II, Para. IX), see 27 Emory L.J. 717 (1978).

OPINIONS OF THE ATTORNEY GENERAL

Compensation to injured inmates. — Pursuant to the 1999 amendments, O.C.G.A. §§ 28-5-85 and 28-5-104 prohibit the Claims Advisory Board from recommending compensation to an inmate injured while in the custody of the Department of Corrections. 1999 Op. Att'y Gen. No. 99-11.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, §§ 330, 331, 486 et seq., 492, 493, 495.

28-5-105. Scope of compensation.

The General Assembly may by resolution appropriate money for payment of a claim for compensation upon the recommendation of the board for:

(1) Expenses actually and reasonably incurred as a result of the personal injury or death of the victim; and

(2) Loss of earning power as a result of total or partial incapacity of such victim.

History.
Ga. L. 1967, p. 712, § 6.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, §§ 483, 484.

28-5-106. Limitations on claims.

No resolution for the payment of compensation under this part shall be adopted unless notice of claim has been filed with the board within 18 months after the date of the personal injury or death, the claim is otherwise presented in accordance with law, and the personal injury or death was the result of an incident or offense for which compensation is authorized by this part and which had been reported to an officer of the law within five days of its occurrence or, if the incident or offense could not reasonably have been reported within such period, within five days of the time when a report could reasonably have been made.

History.
Ga. L. 1967, p. 712, § 7.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 486 et seq.

28-5-107. Reports on claims transmitted to the General Assembly.

The board shall prepare and transmit to the General Assembly, along with its recommendation on each claim, a report of its activities in connection therewith, including the name of the claimant, a brief description of the facts surrounding the claim, the amount of compensation recommended, and the board's reasons therefor.

History.
Ga. L. 1967, p. 712, § 8.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 78 et seq.

C.J.S.
81A C.J.S., States, § 494.

28-5-108. Subrogation of state to claims of persons compensated; damage actions against persons responsible for injuries or death.

Whenever an order for the payment of indemnification for personal injury or death or for damages to property is or has been made under

this part, the State of Georgia shall, upon payment of the amount of the order, be subrogated to the cause of action of the person receiving indemnification under the order against the person or persons responsible for the injury or death or damages to property; and the Attorney General shall be authorized to bring an action against such person or persons for the amount of the damages sustained by the applicant. If an amount greater than that paid pursuant to the order for payment of indemnification is recovered and collected in any such action, the state, after deducting the expenses incurred, shall pay the balance to the person receiving indemnification under the order.

History.
Ga. L. 1967, p. 712, § 9.

ARTICLE 5

FAIR AND OPEN GRANTS

Editor's notes.
Ga. L. 1993, p. 1914, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Budget Accountability and Planning Act of 1993'".

Administrative rules and regulations.
Office of Grant Administration, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Community Affairs, Rule 110-8-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Board of Corrections, Administration, Rule 125-1-3-.01 et seq.

Grants of Council of Juvenile Court Judges of Georgia, Official Compilation of the Rules and Regulations of the State of Georgia, Rule 132-1-.01 et seq.

Notice of Grants Administered by Council, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Criminal Justice Coordinating Council, Rule 144-5-.01 et seq.

Grants, Official Compilation of the Rules and Regulations of the State of Georgia, Office of Energy Resources, Rule 187-4-1-.01 et seq.

Grant Program Description for Georgia Environmental Facilities Authority, Official Compilation of the Rules and Regulations of the State of Georgia, Rule 267-1-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Grant Program Description for Georgia Council for the Arts, Rule 269-1-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Grant Program Description for Georgia Humanities Council, Rule 271-1-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Grant Program Description for Governor's Office of Highway Safety, Rule 279-1-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Grants of Georgia Indigent Defense Council, Rule 294-1-.01 et seq.

Coastal Incentive Grant Program Description, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Coastal Resources, Rule 391-2-5-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Georgia Department of Natural Resources, Environmental Protection, Rule 391-3-21-.01 et seq.

Grants Program, Official Compilation of the Rules and Regulations of the State of Georgia, Professional Standards Commission, Rule 505-5-.01 et seq.

Grant Descriptions, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Bright from the

Start Georgia Department of Early Care and Learning, Rule 591-2-1-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, Grants of Georgia Department of Technical and Adult Education, Rule 668-1-.01 et seq.

Grant Programs, Official Compilation of the Rules and Regulations of the State of Georgia, State Department of Transportation, Rule 672-12-.01 et seq.

28-5-120. Short title.

This article shall be known and may be cited as the "Fair and Open Grants Act of 1993."

History.
Code 1981, § 28-5-120, enacted by Ga. L. 1993, p. 1914, § 20.

OPINIONS OF THE ATTORNEY GENERAL

Applicability of Act to funds expended from the State Public Transportation Fund. — The Fair and Open Grants Act, O.C.G.A. § 28-5-120 et seq., does not apply to contracts entered into with private entities, nor to intergovernmental contracts with counties for harbor maintenance; but the Act does apply where funds are disbursed by the department on an unrestricted basis to, or for the benefit of, local governments for public road and other transportation purposes. 1994 Op. Att'y Gen. No. 94-1.

Applicability to HOPE Scholarship and grant. — It was not the intent of the General Assembly that the Georgia Student Finance Commission comply with the Fair and Open Grants Act, O.C.G.A. § 28-5-120 et seq., in administering the HOPE Scholarship, Hope Grant, and other state scholarship and grant programs. 2002 Op. Att'y Gen. No. 2002-2.

28-5-121. Definitions.

As used in this article, the term:

(1) "Grant" means any line item appropriation of funds that will be disbursed for a public purpose of which such amount, purpose, and recipient is not identified in the appropriations Act. As used in this Code section, such term shall not include:

(A) Disbursements made pursuant to the Quality Basic Education formula;

(B) Disbursements made pursuant to the board of regents funding formula;

(C) Any grant, by law, which is apportioned entirely by formula;

(D) Common object classes excluding per diem, fees, and contracts;

(E) Disbursements made through the Governor's Emergency Fund; or

(F) Any disbursements made pursuant to an emergency.

(2) "State agency" means any department, agency, bureau, commission, or like unit of organization of state government and any state authority.

History.

Code 1981, § 28-5-121, enacted by Ga. L. 1993, p. 1914, § 20; Ga. L. 2026, p. 1069, § 28(24)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this Code section, such term" for "For the purposes of this Code section, 'grant'" at the beginning of the second sentence in paragraph (1).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1993, "appropriations Act" was substituted for "Appropriation Act" in the first sentence in paragraph (1).

OPINIONS OF THE ATTORNEY GENERAL

Applicability. — Statute does not apply to all expenditures from appropriations for "per diem, fees, and contracts" but only applies to disbursements for "grants" to local governments. 1993 Op. Att'y Gen. No. 93-13.

The exemption provided by O.C.G.A. § 28-5-121(1)(D) does not apply to grants made to local governments by the Department of Transportation for the construction, maintenance, or improvement of public roads within their jurisdiction merely because the funds used by the Department for such grants are appropriated in the "capital outlay" object class. 1994 Op. Att'y Gen. No. 94-1.

Language required to be in appropriations Act. — A listing in the "Comparative Summary" or "Track Sheet" published by the Legislative Budget Office does not suffice to satisfy the exclusion of grant appropriations which list recipient, amount, and purpose since the "Comparative Summary" is an administrative document only and does not have the force of law or a binding expression of legislative intent and in any event, statute requires that the language be in the appropriations Act and does not mention the "Track Sheet". 1993 Op. Att'y Gen. No. 93-13.

28-5-122. Publication of description of grant program by agency as prerequisite to making grants.

Before any state agency may make any grant of public funds or of funds otherwise within its power of disposition, the state agency must publish in print or electronically a description of the grant program in the Official Compilation of the Rules and Regulations of the State of Georgia and the Secretary of State shall make such descriptions available for convenient public inspection. The description must contain at least the following:

(1) The name of the grant program;

(2) The citation to the statutory basis for the grant program in the Official Code of Georgia Annotated or other general law of the State of Georgia;

(3) The general scope and purpose of the grant program;

(4) General terms and conditions of the grant;

(5) Eligible recipients of the grant;

(6) The criteria for the award of the grant; and

(7) Directions and deadlines for applying for such grant.

History.
Code 1981, § 28-5-122, enacted by Ga. L. 1993, p. 1914, § 20; Ga. L. 2010, p. 838, § 10/SB 388.

OPINIONS OF THE ATTORNEY GENERAL

Applicability of Administrative Procedure Act. — The Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., does not apply to statutory requirement of submitting a description of a program to the Secretary of State and, while the Secretary of State must publish the program descriptions in the rules, a state agency has complied sufficiently when it has filed the description with the Secretary. 1993 Op. Att'y Gen. No. 93-13.

Applicability to federal funds. — Statute makes clear that O.C.G.A. Title 28, Chapter 5, Article 5 applies to grants from federal funds, with the possible exception, hypothetically, of federal funds granted to the state under terms and conditions which preclude application of that article under the Supremacy Clause of the United States Constitution, but where state participation in the federal program is otherwise clearly authorized. 1993 Op. Att'y Gen. No. 93-13.

28-5-123. Grant application; award and disbursement.

(a) No grant shall be awarded except upon written application which demonstrates in specific terms how the applicant is eligible and satisfies the criteria. All grants shall be disbursed pursuant to grant agreements which state in specific terms the amount and purposes of the grant and the other terms and conditions of the grant.

(b) No grant by the executive branch of state government shall be awarded or disbursed solely upon the recommendation, request, or direction of an officer, member, or employee of the legislative or judicial branch of state government. The award and disbursement of any grant shall be determined independently by the state agency.

History.
Code 1981, § 28-5-123, enacted by Ga. L. 1993, p. 1914, § 20.

OPINIONS OF THE ATTORNEY GENERAL

Independent determination of eligibility. — A state agency making grants to local governments must independently exercise its statutory discretion in determining eligible applicants and may not limit eligibility solely on the basis of an administrative document of the General Assembly. 1993 Op. Att'y Gen. No. 93-19.

28-5-124. Reporting of grants awarded and disbursed by agencies; registry of grants.

Before December 31 of each calendar year, each state agency shall compile and file with the Secretary of State a list of grants awarded and disbursed in the prior fiscal year, reporting the recipient, grant program by name, specific purpose, and amount. The Secretary of State shall maintain a register of such lists and make them available for convenient public inspection.

History.
Code 1981, § 28-5-124, enacted by Ga. L. 1993, p. 1914, § 20.

28-5-125. Audits of recipients of grants.

Any recipient of a grant made by a state agency shall be subject to audit by the state auditor for the purpose of confirming compliance with state law and the performance of the terms of the grant.

History.
Code 1981, § 28-5-125, enacted by Ga. L. 1993, p. 1914, § 20.

28-5-126. Grants in violation of article deemed void; effect of void grant on recipient.

Any grant made in violation of this article shall be void. In addition to any other remedy provided by law, no recipient of a void grant shall be eligible for the award or disbursement of any other grant by a state agency until the full amount of the void grant is refunded to the state agency.

History.
Code 1981, § 28-5-126, enacted by Ga. L. 1993, p. 1914, § 20.

28-5-127. Funding of grants in appropriations Acts.

Any funding for grants in an appropriations Act by the General Assembly shall be separately appropriated, and the appropriation shall contain the word "grant" in its description of the purpose of the appropriation. All appropriations for grants by a particular state agency shall be listed together under a heading that contains the word "grant" or "grants."

History.
Code 1981, § 28-5-127, enacted by Ga. L. 1993, p. 1914, § 20.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1993, "'grants.'" was substituted for "'grants'." at the end of this Code section.

OPINIONS OF THE ATTORNEY GENERAL

Applicability to present appropriations. — When the General Appropriations Act for Fiscal Year 1993-94 was enacted, statutory requirement that appropriations intended for "grants" be identified as such by use of the word "grant" was not in effect, and that requirement may not be applied to present appropriations. 1993 Op. Att'y Gen. No. 93-13.

The provision regulating the executive expenditure of appropriations may be applied to expenditures of appropriations which took effect on the same day as O.C.G.A. § 28-5-120 et seq. (the first day of the fiscal year). 1993 Op. Att'y Gen. No. 93-13.

CHAPTER 6

INTERSTATE COOPERATION

Sec.
28-6-1. Creation of Senate, House of Representatives, and Governor's committees; membership.
28-6-1.1. "Nonpartisan legislative organization" defined.
28-6-2. Creation of Georgia Commission on Interstate Cooperation; membership.
28-6-3. Functions of commission.
28-6-4. Establishment of delegations, committees, and advisory boards by commission.
28-6-5. Reports by commission; compensation of members of commission, delegations, and committees.
28-6-6. Informal names of committees and commission.
28-6-7. Certain nonpartisan legislative organizations declared joint governmental agencies of the state.
28-6-8. Appointments of delegates to Article V conventions; recalls; filling of vacancies; terms of service.

Cross references.
Military relations with other states, § 38-2-90 et seq.

28-6-1. Creation of Senate, House of Representatives, and Governor's committees; membership.

(a) There is established a standing committee of the Senate of this state to be known officially as the Senate Committee on Interstate Cooperation and to consist of five Senators. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the Senate. In addition to the regular members, the President of the Senate shall be ex officio an honorary nonvoting member of this committee.

(b) There is established a standing committee of the House of Representatives of this state to be known officially as the House Committee on Interstate Cooperation and to consist of five members of the House of Representatives. The members and the chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the House of Representatives. In addition to the regular members, the Speaker of the House of Representatives shall be ex officio an honorary nonvoting member of this committee.

(c) There is established a committee of administrative officials and employees of this state to be known officially as the Governor's Committee on Interstate Cooperation and to consist of five members. Its

members shall be: the Commissioner of Insurance, ex officio; the Secretary of State, ex officio; and three other administrative officials or employees to be designated by the Governor none of whom shall be the Attorney General. The Governor shall appoint one of the five members of this committee as its chairman. In addition to the regular members, the Governor shall be ex officio an honorary nonvoting member of this committee.

History.
Ga. L. 1937, p. 708, §§ 1-3; Ga. L. 1986, p. 855, § 11; Ga. L. 1988, p. 426, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
38 Am. Jur. 2d, Governor, § 5. 72 Am. Jur. 2d, States, Territories, and Dependencies, § 49.

C.J.S.
81A C.J.S., States, §§ 13 et seq., 91, 254 et seq.

ALR.
Formalities and requisites of the creation of legislative committees, 28 A.L.R. 1154.

28-6-1.1. "Nonpartisan legislative organization" defined.

As used in this chapter, the term "nonpartisan legislative organization" means an organization whose membership is limited to legislators and which does not align itself with and is not funded by a political party.

History.
Code 1981, § 28-6-1.1, enacted by Ga. L. 2006, p. 689, § 2/HB 1067.

28-6-2. Creation of Georgia Commission on Interstate Cooperation; membership.

(a) There is established the Georgia Commission on Interstate Cooperation. The commission shall be composed of 15 regular members:

(1) The five members of the Senate Committee on Interstate Cooperation;

(2) The five members of the House Committee on Interstate Cooperation; and

(3) The five members of the Governor's Committee on Interstate Cooperation.

(b) The chairperson of the Senate Committee on Interstate Cooperation and the chairperson of the House Committee on Interstate Cooperation shall be cochairpersons of the commission.

(c) The Governor, the President of the Senate, and the Speaker of the

House of Representatives shall be ex officio honorary nonvoting members of this commission.

History.
Ga. L. 1937, p. 708, § 4; Ga. L. 2006, p. 689, § 1/HB 1067.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, § 91.

28-6-3. Functions of commission.

It shall be the function of the commission to:

(1) Carry forward the participation of this state as a member of any regional, national, or international nonpartisan legislative organization that promotes interstate or international cooperation;

(2) Encourage and assist the legislative, executive, administrative, and judicial officials and employees of this state to develop and maintain friendly contact by correspondence, by conference, and otherwise with officials and employees of the other states, of the federal government, and of local units of government;

(3) Endeavor to advance cooperation between this state and other units of government whenever it seems advisable to do so by formulating proposals for and by facilitating:

(A) The adoption of compacts;

(B) The enactment of uniform or reciprocal statutes;

(C) The adoption of uniform or reciprocal administrative rules and regulations;

(D) The informal cooperation of governmental offices with one another;

(E) The personal cooperation of governmental officials and employees with one another;

(F) The interchange and clearance of research and information; and

(G) Any other suitable process; and

(4) Do all such acts as will, in the opinion of the commission, enable this state to do its part or more in forming a more perfect union among the various governments in the United States and in promoting international relations by developing nonpartisan legislative organizations for such purposes.

History.
Ga. L. 1937, p. 708, § 6; Ga. L. 2004, p. 69, § 2; Ga. L. 2006, p. 689, § 3/HB 1067.
Editor's notes.
Ga. L. 2004, p. 69, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'State and Local Taxation, Financing, and Service Delivery Revision Act of 2004'."
Law reviews.
For article on 2004 amendment of this Code section, see 21 Ga. St. U.L. Rev. 226 (2004).

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S., States, §§ 71 et seq., 235, 236.

28-6-4. Establishment of delegations, committees, and advisory boards by commission.

(a) The commission shall establish such delegations and committees as it deems advisable in order that they may confer and formulate proposals concerning effective means to secure intergovernmental harmony and may perform other functions for the commission pursuant to its decisions. Subject to the approval of the commission, the member or members of each delegation or committee shall be appointed by the chairman of the commission. State officials or employees who are not members of the Commission on Interstate Cooperation may be appointed as members of any delegation or committee, but private citizens holding no governmental position in this state shall not be eligible. The commission may provide such other rules as it considers appropriate concerning the membership and the functioning of any delegation or committee.

(b) The commission may provide for advisory boards for itself and for its various delegations and committees and may authorize private citizens to serve on such boards.

History.
Ga. L. 1937, p. 708, § 7.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, § 49 et seq.

C.J.S.
81A C.J.S, States, § 55.

28-6-5. Reports by commission; compensation of members of commission, delegations, and committees.

The commission shall report to the Governor and to the General Assembly within 15 days after the convening of each regular legislative session and at such other times as it deems appropriate. Its members

and the members of all delegations and committees which it establishes shall serve without compensation for such service.

History.
Ga. L. 1937, p. 708, § 8.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, § 427.

C.J.S.
81A C.J.S., States, §§ 92, 93.

28-6-6. Informal names of committees and commission.

The committees and the commission established by this chapter shall be informally known, respectively, as the Senate Cooperation Committee, the House Cooperation Committee, the Governor's Cooperation Committee, and the Georgia Cooperation Commission.

History.
Ga. L. 1937, p. 708, § 9.

28-6-7. Certain nonpartisan legislative organizations declared joint governmental agencies of the state.

Any nonpartisan legislative organization in which this state is a participant pursuant to paragraph (1) of Code Section 28-6-3 and which has its regional or national headquarters located in this state is declared to be a joint governmental agency of this state and of the other states which cooperate through it.

History.
Ga. L. 1937, p. 708, § 10; Ga. L. 2004, p. 69, § 3; Ga. L. 2005, p. 60, § 28/HB 95; Ga. L. 2006, p. 689, § 4/HB 1067.
Editor's notes.
Ga. L. 2004, p. 69, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'State and Local Taxation, Financing, and Service Delivery Revision Act of 2004'."

OPINIONS OF THE ATTORNEY GENERAL

Purchases and property public in nature. — Ga. L. 1937, p. 708, § 10 (see now O.C.G.A. § 28-6-7) and the obvious relationship of the Council of State Governments to the Georgia Commission on Interstate Cooperation and its work indicate a legislative intent that the council's work be viewed as governmental at the state level; accordingly, its property is in the nature of public property and its purchases of tangible personal property and services under the sales and use tax are the equivalent of purchases by the state. 1972 Op. Att'y Gen. No. 72-20.

RESEARCH REFERENCES

Am. Jur. 2d.
72 Am. Jur. 2d, States, Territories, and Dependencies, §§ 4, 5.

C.J.S.
81A C.J.S., States, §§ 75, 209, 210.

28-6-8. Appointments of delegates to Article V conventions; recalls; filling of vacancies; terms of service.

(a) As used in this Code section, the term:

(1) "Article V application" means a resolution adopted by the General Assembly on the same subject or containing the same proposed amendment text as not less than two-thirds of the several states of the United States applying to the Congress of the United States for said Congress to call an Article V convention by setting the time and place of such convention.

(2) "Article V convention" means a convention called by the Congress of the United States upon application of the legislatures of not less than two-thirds of the several states of the United States for the purpose of proposing amendments to the Constitution of the United States as expressly provided in Article V of said Constitution.

(3) "Delegate" means a person appointed as provided in this Code section to represent the State of Georgia at an Article V convention.

(4) "Delegation" means the entire group of delegates serving as such, collectively, pursuant to this Code section.

(5) "Legislative instructions" means any instructions given by resolution of the General Assembly to delegates before or during an Article V convention.

(6) "Unauthorized amendment" means a proposed amendment to the Constitution of the United States that is outside the subject matter of the Article V application, the call of the Article V convention by the Congress of the United States, or any legislative instructions.

(b) Upon a call by the Congress of the United States for an Article V convention at which each state of the United States is to have one equal vote, seven delegates shall be appointed forthwith to represent the State of Georgia at such particular Article V convention as follows:

(1) The Speaker of the House of Representatives shall appoint two delegates;

(2) The President of the Senate shall appoint two delegates;

(3) The Governor shall appoint two delegates; and

(4) One delegate shall be appointed upon the affirmative vote of

not less than four of those six delegates who were appointed pursuant to paragraphs (1), (2), and (3) of this subsection.

(c) Any vacancy in the delegation due to death, resignation, ineligibility, recall, or other reason shall be filled in the same manner as the original appointment.

(d) No delegate shall have the authority to vote to allow consideration of or vote to approve an unauthorized proposed amendment to the Constitution of the United States.

(e) Any delegate casting a vote to allow consideration or approval of an unauthorized proposed amendment may be immediately recalled by a majority vote of the Speaker of the House of Representatives, the President of the Senate, and the Governor; the position of such recalled delegate shall thereby be vacated; and such unauthorized vote shall be nullified.

(f)(1) Each delegate shall be subject to the eligibility requirements of Code Section 45-2-1 and, upon qualification, shall be required to take the following oath:

"I do solemnly swear or affirm that to the best of my abilities, I will, as a delegate to an Article V convention, uphold the Constitution and laws of the United States and the State of Georgia. I will not vote to allow consideration of or to approve any unauthorized proposed amendment to the United States Constitution."

(2) Violation of the oath or affirmation provided in paragraph (1) of this subsection shall be subject to the provisions of Code Section 16-10-1.

(g) The Secretary of State shall certify in writing to the Article V convention the appointment of delegates, the recall of any delegate, the filling of any vacancy in the delegation, and the nullification of any unauthorized votes cast by any delegate.

(h) No delegate shall be appointed pursuant to this Code section to an Article V convention unless each state of the United States has one equal vote at such convention.

(i) Except upon the resignation, death, ineligibility, recall, or other vacation of office by a delegate, the term of each delegate shall be for the duration of the particular Article V convention for which purpose the delegate was appointed, and the delegation shall be dissolved and disbanded upon the adjournment sine die of such convention.

History.

Code 1981, § 28-6-8, enacted by Ga. L. 2014, p. 815, § 1/SB 206.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2014, the enactment of Article 2 of

Chapter 1 of Title 50 by Ga. L. 2014, p. 237, § 1/HB 930, was treated as impliedly repealed and superseded by Ga. L. 2014, p. 815, § 1/SB 206, due to irreconcilable conflict.

In 2014, the Georgia General Assembly passed HB 794 and SB 206, both relating to Article V Conventions. HB 794, codified at § 50-38-1, was signed by the Governor on April 12, 2014 (Act No. 475, Ga. L. 2014, p. 20/HB 794). SB 206, codified at § 28-6-8, was signed by the Governor on April 29, 2014 (Act. No. 641, Ga. L. 2014, p. 815, § 1/SB 206). The Code Revision Commission on May 15, 2014, directed that both Acts be published, although the effect of codifying both is unclear.

Editor's notes.

Ga. L. 2014, p. 815, § 2/SB 206, not codified by the General Assembly, provides: "This Act shall become effective upon the date of the adoption by the General Assembly during the 2013-2014 biennium of a resolution applying to the Congress of the United States to call for a convention for the purpose of proposing one or more amendments to the Constitution of the United States as expressly provided in Article V of said Constitution. If such a resolution is not adopted by the General Assembly during the 2013-2014 biennium, this Act shall not become effective and shall stand repealed on January 1, 2015." SR 763 was adopted by the General Assembly on March 6, 2014. See Op. Att'y Gen. No. 76-76 for construction of effective date provisions that precede the date of approval by the Governor.

CHAPTER 7

PROHIBITED LOBBYING PRACTICES

Sec.
28-7-1 and 28-7-2. [Reserved].
28-7-3. Contingent compensation for lobbyists.
28-7-4. Presence of certain persons on floor of House of Representatives or Senate for purpose of privately discussing pending measures.
28-7-5. Penalty for violation of Code Section 28-7-3 or 28-7-4.

Cross references.

Bribery, § 16-10-2.

Georgia Government Transparency and Campaign Finance Act, § 21-5-1 et seq.

Public officials' conduct and lobbyist disclosure, § 21-5-70 et seq.

Ethics and Efficiency in Government Act, § 28-11-1 et seq.

Law reviews.

For article, "Lobbying in the Shadows: Religious Interest Groups in the Legislative Process," see 64 Emory L.J. 1041 (2015).

28-7-1 and 28-7-2. [Reserved].

History.

Ga. L. 1878-79, p. 29, §§ 1, 2; Code 1882, §§ 4486a, 4486b; Penal Code 1895, §§ 319, 320; Penal Code 1910, §§ 324, 325; Ga. L. 1911, p. 151, § 1; Code 1933, §§ 47-1001, 47-1002; Ga. L. 1970, p. 695, § 1; Ga. L. 1981, Ex. Sess., p. 8 (Code Enactment Act); Ga. L. 1991, p. 1687, § 1; Ga. L. 1992, p. 6, § 28; repealed by Ga. L. 1992, p. 1075, § 18, effective April 6, 1992.

Editor's notes.

Ga. L. 1992, p. 1075, § 18, reserved the designation of these Code sections, effective April 6, 1992.

The former Code sections, relating to definitions and penalties, consisted of Code Sections 28-7-1 and 28-7-2. For present comparable provisions, see Code Section 21-5-70 et seq.

28-7-3. Contingent compensation for lobbyists.

No person, firm, corporation, or association shall retain or employ an attorney at law or an agent to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislative measure. No attorney at law or agent shall be employed to aid or oppose legislation for compensation contingent, in whole or in part, upon the passage or defeat of any legislation.

History.

Ga. L. 1911, p. 151, § 2; Code 1933, § 47-1003; Ga. L. 1992, p. 1075, § 18.

RESEARCH REFERENCES

Am. Jur. 2d.
51 Am. Jur. 2d, Lobbying, §§ 1, 4, 13.
C.J.S.
7A C.J.S., Attorney and Client, § 256 et seq.
ALR.
Validity of lobbying contracts, 67 A.L.R. 684.

28-7-4. Presence of certain persons on floor of House of Representatives or Senate for purpose of privately discussing pending measures.

It shall be unlawful for any person registered pursuant to the requirements of Article 4 of Chapter 5 of Title 21 or for any other person, except as authorized by the rules of the House of Representatives or the Senate, to be on the floor of either house of the General Assembly while the same is in session to discuss privately measures then pending in the General Assembly.

History.
Ga. L. 1911, p. 151, § 4; Code 1933, § 47-1004; Ga. L. 1970, p. 695, § 2; Ga. L. 1992, p. 1075, § 18; Ga. L. 2026, p. 1069, § 28(25)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "House of Representatives or the Senate" for "House or Senate".
Law reviews.
For note on 1992 amendment of this Code section, see 9 Ga. St. U. L. Rev. 247 (1992).

RESEARCH REFERENCES

Am. Jur. 2d.
51 Am. Jur. 2d, Lobbying, §§ 1, 13.
C.J.S.
16D C.J.S., Constitutional Law, § 2241.

28-7-5. Penalty for violation of Code Section 28-7-3 or 28-7-4.

Any person failing to comply with or violating any of the provisions of Code Section 28-7-3 or 28-7-4 shall be guilty of a misdemeanor.

History.
Ga. L. 1911, p. 151, § 5; Code 1933, § 47-1005; Ga. L. 1970, p. 695, § 3; Ga. L. 1992, p. 1075, § 18.
Law reviews.
For note on 1992 amendment of this Code section, see 9 Ga. St. U. L. Rev. 247 (1992).

RESEARCH REFERENCES

Am. Jur. 2d.
51 Am. Jur. 2d, Lobbying, §§ 1, 2, 10, 13.

CHAPTER 8

GEORGIA CRIMINAL JUSTICE IMPROVEMENT COUNCIL

Sec.
28-8-1 through 28-8-3. [Reserved].

28-8-1 through 28-8-3. [Reserved].

History.

Ga. L. 1981, p. 819, §§ 1-3; Ga. L. 1984, p. 431, § 1; Ga. L. 1985, p. 283, § 1; Ga. L. 1988, p. 13, § 28; Ga. L. 1995, p. 10, § 28; repealed by Ga. L. 2007, p. 681, § 1/HB 220, effective July 1, 2007.

Editor's notes.

Ga. L. 2007, p. 681, § 1/HB 220, reserved the designation of this chapter, effective July 1, 2007.

The former chapter, relating to the Georgia Criminal Justice Improvement Council, consisted of Code Sections 28-8-1 through 28-8-3.

CHAPTER 9

CODE REVISION COMMISSION

Sec.		Sec.	
28-9-1.	Definitions.	28-9-4.	Commission staff.
28-9-2.	Creation of Code Revision Commission; membership, term of office, and vacancies; expenses and allowances; ratification of previous actions and contracts.	28-9-5.	Publication of Code; treatment of conflicting legislation amending same statutory text; bills reenacting and correcting Code.
28-9-3.	Powers and duties of commission.		

Cross references.

Provisions regarding enactment of Official Code of Georgia Annotated, § 1-1-1 et seq.

Code Commission notes.

Code sections comprising a new Chapter 9 of this title were added by Ga. L. 1985, p. 197, § 1 (§§ 28-9-1 through 28-9-4), Ga. L. 1985, p. 202, § 1 (§ 28-9-5), and Ga. L. 1985, p. 1283, § 2 (§§ 28-9-1 through 28-9-7). Because Ga. L. 1985, p. 1283, § 2 is the latest of the three Acts, in 1985 the chapter enacted by that Act was redesignated as Chapter 10 (now repealed) pursuant to Code Section 28-9-5, and the Code sections enacted by that Act were redesignated as Code Sections 28-10-1 through 28-10-7 (now repealed).

Editor's notes.

Code Section 28-9-5 was enacted by an Act other than the Act which enacted Code Sections 28-9-1 through 28-9-4. See the Editor's notes to Code Section 28-9-5.

28-9-1. Definitions.

As used in this chapter, the term:

(1) "Code" means the Official Code of Georgia Annotated, any unannotated version thereof, or any codification of the laws of the State of Georgia which is a successor to or replacement of such Code, and such term shall include all statutory provisions, annotations, research references, notes, indexes, tables, constitutions, cross-references, pocket parts, and other material related to or included in such Code.

(2) "Commission" means the Code Revision Commission originally created pursuant to H.R. No. 217-838 adopted by the General Assembly at the 1977 regular session, as amended, and as re-created by Code Section 28-9-2.

History.

Code 1981, § 28-9-1, enacted by Ga. L. 1985, p. 197, § 1.

Law reviews.

For article, "A Call to Service: Lawyer-Legislators Needed More Than Ever," see 32 Ga. B.J. 6 (2026).

28-9-2. Creation of Code Revision Commission; membership, term of office, and vacancies; expenses and allowances; ratification of previous actions and contracts.

(a) There is created the Code Revision Commission, to be composed of 15 members as follows:

(1) The Speaker of the House of Representatives;

(2) Four members of the House of Representatives to be appointed by the Speaker of the House of Representatives for terms of office coinciding with their terms as members of the House of Representatives;

(3) The President of the Senate;

(4) Four members of the Senate to be appointed by the President of the Senate for terms of office coinciding with their terms as members of the Senate; and

(5) Five members of the State Bar of Georgia to be appointed by the president of the State Bar of Georgia for terms of office of one year each and until their successors are appointed, with such terms beginning on the second Monday of January of each year, provided that one such member shall be a judge or senior judge of the superior courts and one such member shall be a district attorney. Notwithstanding any other provision of law, the president of the State Bar of Georgia is authorized to appoint an official or employee of any branch of the state government, a county, municipality, board of education, or other political subdivision if such person is a member of the State Bar of Georgia; and any person so appointed is authorized to serve as a member of the Code Revision Commission.

(b) Any vacancy occurring in the membership of the commission, whether by the death, resignation, or failure of a member to hold office or membership in the State Bar of Georgia, shall be filled by appointment in the same manner as the appointment of the member whose seat is vacant. A person appointed to fill a vacancy shall be appointed for the remainder of the unexpired term.

(c) While engaged in the duties of the commission, all members shall receive the expenses and allowances authorized by law for legislative members of interim legislative committees. The judge or senior judge of the superior courts, the district attorney, and any member of the State Bar of Georgia who is also an official or employee of the executive or judicial branch of state government shall receive such expenses and allowances from state funds from which they are otherwise compensated. Any other funds necessary to carry out the provisions of this chapter and any contract executed pursuant to this chapter or any prior

resolution of the General Assembly shall come from the funds provided for the legislative branch of state government.

(d) The members of the Code Revision Commission created pursuant to H.R. No. 217-838 adopted by the General Assembly at the 1977 regular session and as amended by H.R. No. 447-1274 adopted by the General Assembly at the 1978 regular session who are serving as members of the commission on April 1, 1985, shall continue in office as members until the second Monday in January, 1987, in the case of legislative members or until the second Monday in January, 1986, in the case of members appointed by the president of the State Bar of Georgia, at which time their terms shall expire and their successors shall be appointed as provided in subsection (a) of this Code section. All actions taken by such commission and all contracts entered into by such commission are ratified and confirmed. The commission created by this Code section shall be deemed to be a continuation of the commission created pursuant to such resolutions.

History.

Code 1981, § 28-9-2, enacted by Ga. L. 1985, p. 197, § 1.

Law reviews.

For article, "Does Georgia's Code Have the Force of Law? Early Codification Practices and Constitutional Questions," see 77 Mercer L. Rev. 53 (2025).

For article, "A Call to Service: Lawyer-Legislators Needed More Than Ever," see 32 Ga. B.J. 6 (2026).

JUDICIAL DECISIONS

Code Revision Commission within legislative authority. — Composition of Code Revision Commission did not violate separation of powers under the Constitution, as the work of the commission, composed of ten legislators and five members of the state bar, was within the sphere of legislative authority. Harrison Co. v. Code Revision Com., 244 Ga. 325, 260 S.E.2d 30, 1979 Ga. LEXIS 1225 (1979).

28-9-3. Powers and duties of commission.

The commission is authorized:

(1) To select and contract with a publisher to conduct a revision, codification, or recodification of the Code and laws of Georgia, provided that any such contract requiring the expenditure of state funds shall be contingent upon the General Assembly appropriating the necessary funds therefor;

(2) To formulate with the publisher all the details associated with the codification or recodification of the Code and laws of Georgia;

(3) To take such action as is necessary to effectuate Code revision;

(4) To carry out the functions required of it in any contract entered into between the commission and the publisher;

(5) To negotiate and establish the price at which the Code or any volume, replacement volume, pocket part, index, or related material may be sold to governmental or private purchasers, or both;

(6) To determine when volumes of the Code may be revised and republished;

(7) To adopt and implement a system for arranging, numbering, and designating material within the Code;

(8) To adopt rules of style and grammar for use in the Code;

(9) To prepare, or provide for the preparation of, and to include in the Code such annotations, historical notes, research references, notes on law review articles, cross-references, summaries of the opinions of the Attorney General of Georgia, editor's notes, Code Revision Commission notes, comments, commentaries, rules and regulations, indexes, tables, and other material as the commission determines to be useful to users of the Code; provided, however, that such supplementary matter included in the Code shall bear no additional weight or effect and shall not be construed to have the imprimatur of the General Assembly by virtue of its inclusion in the Code;

(10) To provide for the publication of annotated or unannotated versions of the Code, or both;

(11) To provide for the publication of volumes containing the Constitution of the United States, the Constitution of the State of Georgia, and an index of local and special laws, general laws of local application, and home rule ordinances;

(12) To review, approve, or disapprove the work of the publisher in preparing, supplementing, indexing, or revising state content included in the Code or any volume, pocket part, or portion thereof; provided, however, that the commission shall have no oversight of the work of the publisher in preparing, supplementing, indexing, or revising supplementary content included by the publisher in accordance with the contract between the publisher and the commission;

(13) To grant exclusive or nonexclusive publication and sales rights to the Code or portions thereof to the publisher;

(14) To grant rights to governmental agencies and others to reprint and distribute portions or excerpts of the Code;

(15) To negotiate and grant licenses or rights, on behalf of the state, to use such material upon such terms and conditions as the commission shall determine to be in the best interest of the state;

(16) To seek the advice and assistance of members and committees of the State Bar of Georgia, the law schools of the state, the Attorney

General or members of his staff, state and local public officials and employees, and others with expertise or interest in the laws of Georgia;

(17) To provide for the preparation and introduction of one or more bills to revise, modernize, and correct errors or omissions in the Code or the laws of Georgia or to repeal portions of the Code or laws which have become obsolete, have been declared to be unconstitutional, or have been preempted or superseded by subsequent state or federal laws;

(17.1) To provide assistance and oversight for the digitization and electronic publication of the Georgia Laws so as to create a permanent digital repository of the session laws of Georgia and to provide single-point public access to the local and general Acts and the resolutions of the General Assembly;

(18) To provide for procedures for the implementation or execution of its powers and duties; and

(19) To take such other action or exercise such additional powers as may be necessary or convenient to carry out the purposes of this chapter, the duties and powers of the commission, or any contract entered into under this chapter.

History.

Code 1981, § 28-9-3, enacted by Ga. L. 1985, p. 197, § 1; Ga. L. 2021, p. 916, § 4/SB 238; Ga. L. 2025, p. 150, § 2/HB 484, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added paragraph (17.1).

Editor's notes.

Ga. L. 2013, p. 141, § 54(d)/HB 79, not codified by the General Assembly, provides: "For purposes of publishing volumes, replacement volumes, and supplements to the Official Code of Georgia Annotated pursuant to Chapter 9 of Title 28: legislation enacted at the same session of the General Assembly and amending the same statutory provision shall be considered in pari materia, and full effect shall be given to each if that is possible; Acts enacted during the same session shall be treated as conflicting with each other only to the extent that they cannot be given effect simultaneously; in the event of such a conflict, the latest enactment, as determined by the order in which bills became law with or without the approval of the Governor, shall control to the extent of the conflict unless the latest enactment contains a provision expressly ceding control in such an event; and language carried forward unchanged in one amendatory Act shall not be read as conflicting with changed language contained in another Act passed during the same session." This provision was later codified by Ga. L. 2014, p. 866, § 28/SB 340, as subsection (b) of Code Section 28-9-5.

For Acts reenacting the Official Code of Georgia Annotated, see the Editor's notes to Code Section 1-1-1.

Law reviews.

For discussion of the work of the Code Revision Commission in making the Code, see 18 Ga. St. B.J. 102 (1982).

For article, "*Code Revision Commission v. Public.Resource.Org* and the Fight Over Copyright Protection for Annotations and Commentary," see 54 Ga. L. Rev. 111 (2019).

For article, "Does Georgia's Code Have the Force of Law? Early Codification Practices and Constitutional Questions," see 77 Mercer L. Rev. 53 (2025).

JUDICIAL DECISIONS

Purchasing procedures. — Code Revision Commission is not subject to procedures for state purchasing under O.C.G.A. § 50-5-50 et seq. Harrison Co. v. Code Revision Com., 244 Ga. 325, 260 S.E.2d 30, 1979 Ga. LEXIS 1225 (1979).

Effect of adoption of Code by General Assembly. — Adoption of a Code by the General Assembly, which was prepared for the legislature by a Code commission, was a legislative act which gave force and effect of law to the entire contents of such Code and cured any alleged defect in such content. Central of Ga. Ry. v. State, 104 Ga. 831, 31 S.E. 531, 1898 Ga. LEXIS 434 (1898).

Whether Code sections are taken from statutes of the state or otherwise, when they are incorporated in a Code adopted by the legislature of this State, they have the effect of statute law. Lumpkin v. Patterson, 170 Ga. 94, 152 S.E. 448, 1930 Ga. LEXIS 406 (1930).

Substantive amendment not related to object of Code reviser bill unconstitutional. — 1989 amendment to O.C.G.A. § 34-9-13(e), which greatly limited availability of workers' compensation benefits to surviving spouses but was enacted in Code reviser bill that had the object and title reflecting a purpose of correcting only grammatical errors and to modernize language in various statutes, violated Ga. Const. 1983, Art. III, Sec. V, Para. III. Sherman Concrete Pipe Co. v. Chinn, 283 Ga. 468, 660 S.E.2d 368, 2008 Ga. LEXIS 348 (2008).

Non-profit association lacked standing to pursue quo warranto against Commission members. — Non-profit association with the purpose of focusing on public interest matters of self-defense and gun laws of the State of Georgia was not a "person" which could claim to have an interest in the offices held by the Georgia Code Revision Commission members for purposes of pursuing a writ of quo warranto under O.C.G.A. § 9-6-60. No association standing was shown because the interests the association sought to protect were not shown to be germane to its purpose. Georgiacarry.org, Inc. v. Allen, 299 Ga. 716, 791 S.E.2d 800, 2016 Ga. LEXIS 611 (2016).

OPINIONS OF THE ATTORNEY GENERAL

Authority to license statutory publications. — The Code Revision Commission is authorized to grant an exclusive or nonexclusive license to the publisher, other than the book publisher, to publish the Official Code of Georgia Annotated on CD-ROM, which includes use of the annotations, indexes, notes, and other material written and typeset by the book publisher. 1994 Op. Att'y Gen. No. U94-16.

The effect of sales by multiple licensees of the CD-ROM edition of the Official Code of Georgia Annotated on the book edition is an appropriate matter for the Commission to consider in negotiating and granting licenses on behalf of the state. 1994 Op. Att'y Gen. No. U94-16.

The decision to limit the number of licenses to be issued for publication of the Official Code of Georgia Annotated is a matter within the sound discretion of the Code Revision Commission guided by its duty to negotiate and grant licenses in Code materials "upon such terms and conditions as the commission shall determine to be in the best interest of the state." 1994 Op. Att'y Gen. No. U94-16.

RESEARCH REFERENCES

Am. Jur. 2d.

16A Am. Jur. 2d, Constitutional Law, §§ 371, 374, 377. 73 Am. Jur. 2d, Statutes, §§ 104 et seq., 123 et seq., 207 et seq.

C.J.S.

82 C.J.S., Statutes, § 312 et seq.

28-9-4. Commission staff.

The Office of Legislative Counsel shall serve as staff for the commission.

History.
Code 1981, § 28-9-4, enacted by Ga. L. 1985, p. 197, § 1.

Law reviews.
For discussion of history, staffing, procedures, and duties of the Office of Legislative Counsel, see 23 Ga. St. B.J. 114 (1987).

28-9-5. Publication of Code; treatment of conflicting legislation amending same statutory text; bills reenacting and correcting Code.

(a) The Code Revision Commission shall provide for the publication of the Official Code of Georgia Annotated and any pocket parts, supplements, revised volumes, or recodifications thereof. In compiling, editing, arranging, and preparing the Acts and resolutions of the General Assembly for such publication and without altering the sense, meaning, or effect of such Acts and resolutions, the commission is authorized to take any of the following actions with respect to statutory text, arrangement, and numbering:

(1) Correct the spelling of words;

(2) Change capitalization for the purpose of uniformity;

(3) Correct manifest typographical and grammatical errors;

(4) Substitute the proper Code section number, chapter number, or other number or designation for the terms "this Act," "the preceding Code section," and similar words or phrases;

(5) Renumber, redesignate, and rearrange chapters, articles, parts, subparts, Code sections, or any combination or portion thereof;

(6) Change cross-reference numbers to agree with renumbered chapters, Code sections, or portions of the Code;

(7) Substitute the proper calendar date for "the effective date of this chapter" and other phrases of similar import;

(8) Strike out figures if they are merely a repetition of written words or vice versa, or substitute figures for written words or vice versa for the purpose of uniformity;

(9) Correct manifest errors in references to laws;

(10) Correct inaccurate references to the titles of officers, the names of departments or other agencies of the state, local governments, or the federal government, and the short titles of other laws and make such other name changes as are necessary to be consistent with the laws currently in effect;

(11) Rearrange definitions in alphabetical order;

(12) Insert or delete hyphens in words so as to follow correct grammatical usage;

(13) Change numerals or symbols to words or vice versa for purposes of uniformity and style;

(14) Change nouns from the singular to the plural or vice versa for purposes of style and grammar; and

(15) Change punctuation for purposes of uniformity and consistency of style.

Any change or correction made by the Code Revision Commission pursuant to its authority under this subsection shall not become the law of the State of Georgia if such change or correction results in an alteration of the meaning, sense, or effect of the Acts and resolutions of the General Assembly, even though such change or correction may have been included in a pocket part, supplement, or revised volume of the Official Code of Georgia Annotated which has been reenacted by a bill authorized by subsection (c) of this Code section.

(b) For purposes of publishing volumes, replacement volumes, and supplements to the Official Code of Georgia Annotated pursuant to this chapter: legislation enacted at the same session of the General Assembly and amending the same statutory provision shall be considered in pari materia, and full effect shall be given to each if that is possible; Acts enacted during the same session shall be treated as conflicting with each other only to the extent that they cannot be given effect simultaneously; in the event of such a conflict, the latest enactment, as determined by the order in which bills became Acts with or without the approval of the Governor, shall control to the extent of the conflict unless the latest enactment contains a provision expressly ceding control in such an event; and language carried forward unchanged in one amendatory Act shall not be read as conflicting with changed language contained in another Act passed during the same session.

(c) The Code Revision Commission shall prepare and have introduced at each regular session of the General Assembly one or more bills to reenact and make corrections in the Official Code of Georgia Annotated, portions thereof, and the laws as contained in the Code and any pocket part, supplements, and revised volumes thereof. Except as otherwise provided by general law, such reenactment of the Official Code of Georgia Annotated shall have the effect of adopting and giving force and effect of law to all the statutory text and numbering as contained in such volumes, pocket parts, and supplements, including but not limited to provisions as published therein in accordance with subsections (a) and (b) of this Code section.

History.

Code 1981, § 28-9-5, enacted by Ga. L. 1985, p. 202, § 1; Ga. L. 1986, p. 10, § 28; Ga. L. 2014, p. 866, § 28/SB 340; Ga. L. 2015, p. 5, § 28/HB 90; Ga. L. 2021, p. 916, § 5/SB 238.

Code Commission notes.

The last sentence of current subsection (c) of this Code section regarding the effect of reenactment of the Code was added by Ga. L. 2014, p. 866, § 28/SB 340, in immediate response to (and in rejection of) footnote 3 of the majority opinion in Rutter v. Rutter, 294 Ga. 1, 749 S.E. 2d 657 (2013).

Editor's notes.

The Act which enacted this Code section was signed on the same day as, but subsequent to, the Act which enacted Code Sections 28-9-1 through 28-9-4. Section 2 of the Act which enacted this Code section provided that this Code section would be designated "§ 28-1-16" in the event that Ga. L. 1985, p. 197 (enacting §§ 28-9-1 through 28-9-4) was not enacted at the 1985 session. Ga. L. 1985, p. 197 was signed into law effective February 12, 1985.

For Acts reenacting the Official Code of Georgia Annotated, see the Editor's notes to Code Section 1-1-1.

JUDICIAL DECISIONS

Effect of adoption of Code by General Assembly. — Adoption of a Code by the General Assembly, which was prepared for the legislature by a Code commission, was a legislative act which gave force and effect of law to the entire contents of such Code and cured any alleged defect in such content. Central of Ga. Ry. v. State, 104 Ga. 831, 31 S.E. 531, 1898 Ga. LEXIS 434 (1898).

Whether Code sections are taken from statutes of the state or otherwise, when they are incorporated in a Code adopted by the legislature of this State, they have the effect of statute law. Lumpkin v. Patterson, 170 Ga. 94, 152 S.E. 448, 1930 Ga. LEXIS 406 (1930).

Substantive amendment not related to object of Code reviser bill unconstitutional. — 1989 amendment to O.C.G.A. § 34-9-13(e), which greatly limited availability of workers' compensation benefits to surviving spouses but was enacted in Code reviser bill that had the object and title reflecting a purpose of correcting only grammatical errors and to modernize language in various statutes, violated Ga. Const. 1983, Art. III, Sec. V, Para. III. Sherman Concrete Pipe Co. v. Chinn, 283 Ga. 468, 660 S.E.2d 368, 2008 Ga. LEXIS 348 (2008).

Non-profit association lacked standing to pursue quo warranto against Commission members. — Non-profit association with the purpose of focusing on public interest matters of self-defense and gun laws of the State of Georgia was not a "person" which could claim to have an interest in the offices held by the Georgia Code Revision Commission members for purposes of pursuing a writ of quo warranto under O.C.G.A. § 9-6-60. No association standing was shown because the interests the association sought to protect were not shown to be germane to its purpose. Georgiacarry.org, Inc. v. Allen, 299 Ga. 716, 791 S.E.2d 800, 2016 Ga. LEXIS 611 (2016).

RESEARCH REFERENCES

Am. Jur. 2d.

73 Am. Jur. 2d, Statutes, §§ 104 et seq., 123 et seq.

C.J.S.

82 C.J.S., Statutes, §§ 308, 318.

CHAPTER 10

GEORGIA RAIL PASSENGER AUTHORITY OVERVIEW COMMITTEE

Sec.
28-10-1 through 28-10-7. [Reserved].

28-10-1 through 28-10-7. [Reserved].

History.

Code 1981, § 28-10-1 through 28-10-7, enacted by Ga. L. 1985, p. 1283, § 2; Ga. L. 1993, p. 91, § 28; Ga. L. 2000, p. 1180, § 1; Ga. L. 2005, p. 694, § 31/HB 293; repealed by Ga. L. 2024, p. 922, § 6-1/SB 341, effective May 6, 2024.

Editor's notes.

Ga. L. 2024, p. 922, § 6-1/SB 341, reserved the designation of this chapter, effective May 6, 2024.

Ga. L. 2024, p. 922, § 6-2/SB 341, not codified by the General Assembly, provides: "Any assets of the Georgia Rail Passenger Authority Overview Committee existing as of June 30, 2024, shall devolve by operation of law and without further action to the State of Georgia on July 1, 2024. Any liabilities and obligations of the Georgia Rail Passenger Authority Overview Committee existing as of June 30, 2024, shall be transferred and assumed by the State of Georgia, by such instruments as may be required to maintain the same."

The former chapter, relating to the Georgia Rail Passenger Authority Overview Committee, consisted of Code Sections 28-10-1 through 28-10-7.

CHAPTER 11

ETHICS AND EFFICIENCY IN GOVERNMENT ACT

Sec.		Sec.	
28-11-1.	Short title.	28-11-6.	Board powers and duties; membership.
28-11-2.	Legislative findings.	28-11-7.	Authority of board to make contracts, leases, or agreements.
28-11-3.	Definitions.	28-11-8.	Report on accomplishments of institute.
28-11-4.	Availability of instructional classes and courses; payment of and reimbursement of expenses.		
28-11-5.	Georgia General Assembly Training Institute.		

28-11-1. Short title.

This chapter shall be known and may be cited as the "Ethics and Efficiency in Government Act."

History.
Code 1981, § 28-11-1, enacted by Ga. L. 1998, p. 874, § 1.

28-11-2. Legislative findings.

The General Assembly finds and declares that it is in the fundamental interests of the citizens of Georgia and of the legislature as an equal branch of state government to foster the knowledge, professionalism, and standards of its membership.

History.
Code 1981, § 28-11-2, enacted by Ga. L. 1998, p. 874, § 1.

28-11-3. Definitions.

As used in this chapter, the term:

(1) "Board" means the board of the Georgia General Assembly Training Institute.

(2) "Institute" means the Georgia General Assembly Training Institute.

(3) "Member of the General Assembly" means either an incumbent member or member-elect of the House of Representatives or Senate.

(4) "Vinson Institute" means the Carl Vinson Institute of Government of the University of Georgia.

History.
Code 1981, § 28-11-3, enacted by Ga. L. 1998, p. 874, § 1.

28-11-4. Availability of instructional classes and courses; payment of and reimbursement of expenses.

(a) All members of the General Assembly shall be authorized and encouraged to attend and complete a series of instructional classes or courses relating to the organization and operation of state government in general, and the role and powers of the General Assembly in particular. Such courses or classes shall include, but not be limited to, such general topics as the Georgia Constitution, the role of each branch of state government, the organization of state government, the role of state government in the U.S. federal system, the relationship of state and local government, sources of state and local revenue, and the state budgeting process. Additionally, such courses or classes shall include, but not be limited to, topics specifically related to the General Assembly, such as constitutional and statutory law, bill drafting, the legislative process, committee operations, parliamentary rules of procedure, the appropriation process, legislative customs and traditions, duties and responsibilities of members, ethics and rules of conduct, legislative oversight of the executive branch, local legislation, constituent service, legislative use of computers, the internet, distance learning, public policy issues on the legislative agenda, and such other matters as deemed necessary and appropriate by the board.

(b) All expenses incurred by an incumbent member of the General Assembly related to the course of training and education authorized by subsection (a) of this Code section, including the reasonable costs of housing, travel, meals, instructors, and instructional materials, may be paid from state funds appropriated to the legislative branch for such purposes or from other such funds as become available. In addition, all such expenses shall constitute ordinary and necessary expenses for purposes of subsection (a) of Code Section 21-5-33 and may be reimbursed to members-elect of the General Assembly from campaign contributions.

History.
Code 1981, § 28-11-4, enacted by Ga. L. 1998, p. 874, § 1; Ga. L. 2026, p. 1069, § 28(26)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised capitalization in the last sentence in subsection (a).

28-11-5. Georgia General Assembly Training Institute.

(a) There is created and established in the legislative branch of

government the Georgia General Assembly Training Institute. All costs of operating and conducting the institute shall be paid for from state funds appropriated for such purposes or from other such funds as become available.

(b) With professional staff assistance from the Vinson Institute, the board shall have the power, duty, and authority to design, implement, and administer the course of training and education authorized by Code Section 28-11-4.

(c) The courses of training and education authorized by Code Section 28-11-4 shall be conducted by the institute under such rules, regulations, procedures, policies, requirements, and standards as prescribed from time to time by the board. The initial course each biennium shall be the current Biennial Institute for Georgia Legislators at the University of Georgia's Center for Continuing Education in Athens. Participation in the Biennial Institute shall be required to participate in other courses conducted by the institute, except as provided in subsection (d) of this Code section.

(d) The board shall establish guidelines and procedures to permit any member of the General Assembly who is unable to attend or complete one or more of the courses of training and education offered by the institute due to medical disability, providential cause, or any other reason deemed sufficient by the board to participate in the remaining courses of education and training provided for under Code Section 28-11-4 for the biennium.

(e) The board shall perform such other duties and have such other powers and authority as may be necessary and proper or as prescribed by general law.

History.
Code 1981, § 28-11-5, enacted by Ga. L. 1998, p. 874, § 1.

28-11-6. Board powers and duties; membership.

(a) The institute shall be under the direction and supervision of the board. The board shall have the power and duty to organize and advise the institute so that the institute is operated in accordance with the provisions of this chapter.

(b) The board shall consist of seven members and shall be composed of six members appointed by the Legislative Services Committee and the director of the Vinson Institute who shall serve as an ex officio, nonvoting member. In appointing members of the board, the Legislative Services Committee shall select three members from each house and shall attempt to broadly reflect the composition of the General Assembly.

History.
Code 1981, § 28-11-6, enacted by Ga. L. 1998, p. 874, § 1; Ga. L. 2026, p. 1069, § 28(27)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, deleted "of the Georgia General Assembly Training Institute" from the end of the first sentence in subsection (a).

28-11-7. Authority of board to make contracts, leases, or agreements.

The board is authorized to make such contracts, leases, or agreements as may be necessary and convenient to carry out the duties and purposes for which the board is created. The board is authorized to enter into contracts, leases, or agreements with any person, firm, corporation, agency, or educational institution upon such terms and for such purposes as may be deemed advisable by the board.

History.
Code 1981, § 28-11-7, enacted by Ga. L. 1998, p. 874, § 1.

28-11-8. Report on accomplishments of institute.

On or before February 1 of each year, the board shall file a report to the members of the Legislative Services Committee. The report shall include a summary of the accomplishments of the institute during the preceding calendar year, including, but not limited to, the total number of members of the General Assembly who attended the course of training and education offered by the institute; an outline of the institute's programs for the current calendar year; an evaluation of the programs and services offered by the institute; and recommendations, if any, for legislation as may be necessary to improve the programs and services offered by the institute.

History.
Code 1981, § 28-11-8, enacted by Ga. L. 1998, p. 874, § 1.

CHAPTER 12

LEGISLATIVE REVIEW OF TAXATION

Sec.
28-12-1. Review of economic analyses completed in the prior year.

Editor's notes.

A former chapter, relating to the 2010 Special Council and Committee on Tax Reform and Revenue, consisted of Code Sections 28-12-1 through 28-12-4. That chapter was based on Ga. L. 2010, p. 729, § 1/HB 1405, and was repealed by Ga. L. 2010, p. 729, § 1/HB 1405, effective July 1, 2012.

Another former chapter, relating to the Special Joint Committee on Georgia Revenue Structure, consisted of Code Sections 28-12-1 through 28-12-3. That chapter was based on Ga. L. 2015, p. 236, § 1-1/HB 170, and was repealed by Ga. L. 2015, p. 236, § 1-1/HB 170, effective July 1, 2016.

28-12-1. Review of economic analyses completed in the prior year.

On or before January 31 of each year, the House Ways and Means Committee and the Senate Finance Committee shall meet to review all economic analyses completed pursuant to Code Section 28-5-41.1 in the prior year.

History.

Code 1981, § 28-12-1, enacted by Ga. L. 2022, p. 114, § 3-1/HB 1437; Ga. L. 2024, p. 186, § 4/SB 366, effective January 1, 2025.

Amendments.

The 2024 amendment, effective January 1, 2025, substituted the present provisions of this Code section for the former provisions, which read: "On or before May 1, 2023, the House Ways and Means Committee and the Senate Committee on Finance shall jointly undertake a thorough review of any and all state tax credits, deductions, and exemptions. No later than December 1, 2023, said committees shall submit a report of their findings and recommendations to the presiding officers of their respective chambers."

Editor's notes.

Ga. L. 2022, p. 114, § 1-1/HB 1437, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Tax Reduction and Reform Act of 2022.'"

Ga. L. 2022, p. 114, § 5-1(b)/HB 1437, not codified by the General Assembly, provides: provides: "Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not be affected by the passage of this Act and shall continue to be governed by the provisions of Title 48 of the Official Code of Georgia Annotated as they existed for such prior taxable years."

Ga. L. 2024, p. 186, § 1/SB 366, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Tax Expenditures Transparency Act of 2024.'"

Law reviews.

For article surveying state and local tax law, see 76 Mercer L. Rev. 363 (2024).

TITLE 29

GUARDIAN AND WARD

Chap.

1. General Provisions, 29-1-1.
2. Guardians of Minors, 29-2-1 through 29-2-77.
3. Conservators of Minors, 29-3-1 through 29-3-120.
4. Guardians of Adults, 29-4-1 through 29-4-98.
5. Conservators of Adults, 29-5-1 through 29-5-140.
6. Probate Court Judges as Custodians, 29-6-1 through 29-6-9.
7. Veterans Affairs Guardians, 29-7-1 through 29-7-18.
8. County Guardians, 29-8-1 through 29-8-6.
9. Court Proceedings, 29-9-1 through 29-9-19.
10. Public Guardians, 29-10-1 through 29-10-11.
11. Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction, 29-11-1 through 29-11-42.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

Law reviews.

For annual survey of law of wills, trusts, guardianships, and fiduciary administration, see 56 Mercer L. Rev. 457 (2004).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 61 Mercer L. Rev. 385 (2009).

For article with annual survey on wills, trusts, guardianships, and fiduciary administration, see 73 Mercer L. Rev. 281 (2021).

CHAPTER 1

GENERAL PROVISIONS

Sec.
29-1-1. Definitions.

Editor's notes.
Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 1 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 1 et seq.

Am. Jur. Trials.
138 Am. Jur. Trials, Guardianships, §§ 1 et seq., 59.

29-1-1. Definitions.

Except as otherwise provided, as used in this title, the term:

(1) "Adult" means an individual who is either 18 years of age or older or an emancipated minor.

(2) "Conservator" includes a guardian of the property appointed prior to July 1, 2005, but shall not include a conservator of the estate of an individual who is missing or believed to be dead, as defined in Article 2 of Chapter 9 of Title 53 or a foreign conservator as defined in Part 4 of Article 10 of Chapter 3 and Part 4 of Article 13 of Chapter 5 of this title.

(2.1) "County conservator" means an individual described as such in Chapter 8 of this title.

(3) "County guardian" means an individual described as such in Chapter 8 of this title.

(4) "Court" means the probate court.

(5) "Emergency conservator" means an individual appointed pursuant to the provisions of Code Section 29-5-15.

(6) "Emergency guardian" means an individual appointed pursuant to the provisions of Code Section 29-4-14.

(7) "Guardian" means an individual appointed pursuant to the provisions of this title and includes a guardian of the person ap-

pointed prior to July 1, 2005, but shall not include a guardian ad litem.

(8) "Guardian ad litem" means an individual appointed pursuant to the provisions of Code Section 29-9-2.

(9) "Interested person" means any person who has an interest in the welfare of a minor, ward, or proposed ward, or in the management of that individual's assets and may include a governmental agency paying or planning to pay benefits to that individual.

(10) "Licensed clinical social worker" means a social worker who is licensed as such in accordance with the provisions of Chapter 10A of Title 43.

(11) "Minor" means an individual who is under 18 years of age and who is not emancipated.

(12) "Natural guardian" means an individual defined by the provisions of Code Section 29-2-3.

(13) "Parent" means a biological or adoptive father or mother whose parental rights have not been surrendered or terminated and, in the case of a child born out of wedlock, the individual or individuals who are entitled to have custody of and exercise parental power over the child pursuant to Code Section 19-7-25.

(14) "Permanent guardian" means an individual appointed as guardian of a minor pursuant to Part 5 of Article 1 of Chapter 2 of this title.

(15) "Personal representative" means an executor, administrator, successor, personal representative, or the duly qualified and acting personal representative of the estate of a decedent.

(16) "Proposed ward" means an adult for whom a petition for the appointment of a guardian or a conservator has been filed.

(16.1) "Public guardian" means an individual or private entity, including a nonprofit entity, appointed pursuant to Chapter 10 of this title.

(17) "Standby guardian" means an individual appointed pursuant to Part 4 of Article 1 of Chapter 2 of this title.

(18) "Successor conservator" means an individual who has been appointed as conservator pursuant to Code Section 29-3-91 or 29-5-101.

(19) "Successor guardian" means an individual who has been appointed as guardian pursuant to Code Section 29-2-51 or 29-4-61.

(20) "Sui juris" means an adult who is not suffering from any legal disability.

(21) "Temporary guardian" means an individual who is appointed as a guardian for a minor in accordance with the provisions of Part 3 of Article 1 of Chapter 2 of this title.

(22) "Temporary substitute conservator" means an individual who has been appointed as conservator pursuant to Code Section 29-3-90 or 29-5-100.

(23) "Temporary substitute guardian" means an individual who has been appointed as guardian pursuant to Code Section 29-2-50 or 29-4-60.

(24) "Testamentary conservator" means a person who has been issued letters of conservatorship pursuant to Code Section 29-3-5.

(25) "Testamentary guardian" means a person who has been issued letters of guardianship pursuant to Code Section 29-2-4.

(26) "VA guardian" means a person appointed pursuant to the provisions of Chapter 7 of this title.

(27) "Ward" means an adult for whom a guardian or conservator has been appointed.

History.

Code 1981, § 29-1-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2005, p. 509, § 1/HB 394; Ga. L. 2019, p. 1056, § 29/SB 52; Ga. L. 2025, p. 402, § 1/HB 36, effective July 1, 2025; Ga. L. 2025, p. 713, § 1/SB 98, effective July 1, 2025.

Amendments.

The first 2025 amendment, effective July 1, 2025, inserted "as such" in paragraph (10).

The second 2025 amendment, effective July 1, 2025, inserted "as such" in paragraph (3) and added paragraph (2.1).

Editor's notes.

Ga. L. 2005, p. 509, § 9/HB 394, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2005, and all appointments of guardians of the person made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

JUDICIAL DECISIONS

Constitutionality. — Because a petition to terminate a guardianship filed in the probate court did not include any constitutional challenge, an order declaring two provisions in the recently revised guardianship code, O.C.G.A. § 29-1-1 et seq., as unconstitutional was reversed, given that a constitutional question was not raised by the pleadings or in any portion of the record; therefore, absent a proper attack, the probate court lacked the authority to strike the provisions down. In the Interest of J.R.R., 281 Ga. 662, 641 S.E.2d 526, 2007 Ga. LEXIS 170 (2007).

RESEARCH REFERENCES

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 1 et seq.

CHAPTER 2

GUARDIANS OF MINORS

Article 1

Minors

Part 1

General Provisions

Sec.
29-2-1. Categories of guardians for minors.
29-2-2. Qualified individuals to serve as guardian of minor.

Part 2

Parental Rights in Guardian Selection

29-2-3. Natural guardian of minor.
29-2-4. Nomination of testamentary guardian; no bond or security required.

Part 3

Temporary Guardianship of Minors

29-2-5. Petitions for temporary guardianship; requirements of petition.
29-2-6. Parental consent to temporary guardianship; failure to consent; minor's preference; transfer to juvenile court.
29-2-7. Powers of temporary guardians; medical insurance coverage for minors.
29-2-8. Termination of temporary guardianship; petition for termination of guardianship.

Part 4

Standby Guardians

29-2-9. Definitions.
29-2-10. Designation of standby guardian pending health issue; required probate court filing; no bond required; parental obligation to support continues.
29-2-11. Requirements for designation.
29-2-12. Revocation of standby guardianship prior to and subsequent to health determination.
29-2-13. Petition seeking temporary guardianship; automatic termination of standby guardianship.

Part 5

Permanent Guardianship

29-2-14. Power of probate court to appoint guardian.
29-2-15. Notice of petition for appointment of permanent guardian; objection of father; petition to legitimate.
29-2-16. Individuals with preference for permanent guardianship of minor; preference not controlling.
29-2-17. Petition for appointment of permanent guardian; requirements of petition; notice.
29-2-18. Hearing; best interest of the child standard.
29-2-19. Requirements of order granting permanent guardianship.

Article 2

Protection of Minor

29-2-20. Rights of minor; impact on testamentary capacity.
29-2-21. Power of guardian over minor; obligations and liabilities of guardian.
29-2-22. Authority of guardian; appointment of guardian ad litem.
29-2-23. Conflicts of interest.
29-2-24. Oath required of guardian.
29-2-25. Bond requirements.

Article 3

Termination of Guardianship

Sec.
29-2-30. Circumstances when guardianship terminates; delivery of property.
29-2-31. Petition for order dismissing guardian upon termination or resignation.

Article 4

Successor Guardians

29-2-40. Resignation of guardian; required showing; alternative guardian; notice; hearing; other requirements; order.
29-2-41. Appointment of successor guardian.
29-2-42. Requirement of guardian to answer charges affecting obligations as guardian; revocation of guardianship; impact on other proceedings.
29-2-43. Minor's cause of action for breach of guardian's fiduciary duties.
29-2-44. Statute of limitations.

Article 5

Temporary Substitute Guardians

29-2-50. Appointment of temporary substitute guardian; length of service; powers; notice; revocation; applicability of chapter.
29-2-51. Appointment of successor guardian; notice; preference to selected individuals; order of appointment.
29-2-52. Delivery of property to successor guardian; reporting requirements.

Article 6

Jurisdiction

Part 1

General Provisions

29-2-60. Petition for jurisdiction change; retention of jurisdiction for limited matters.

Part 2

Guardianship Appointed

29-2-65. Petition for receipt and acceptance of foreign guardianship.
29-2-66. Notice requirements; waiver.
29-2-67. Hearing; stay of proceedings.
29-2-68. Required findings of court prior to acceptance of foreign guardianship; orderly transfer; effect of denial of petition.

Part 3

Transfer of Guardianship

29-2-69. Minor's move to a foreign jurisdiction; presumption of permanent move.
29-2-70. Petition to transfer guardianship.
29-2-71. Notice requirements.
29-2-72. Hearing.
29-2-73. Required findings of court prior to transfer of guardianship; orderly transfer.

Part 4

Foreign Guardian

29-2-74. Sale of minor's property by foreign guardian.
29-2-75. Right of foreign guardian to bring action to enforce rights of minor.
29-2-76. Filing of authenticated copy of letters of guardianship.
29-2-77. Submission to jurisdiction by foreign guardian.

Cross references.

Appointment of guardian of a child, § 15-11-13.

Permanent guardianship of dependent child, § 15-11-240 et seq.

Appointment of guardian ad litem, § 15-11-476.

Child custody proceedings, § 19-9-1 et seq.

Workers' compensation benefits claim by guardian or trustee of mental incompetent or minor, § 34-9-85.

Appointment of guardian for minor or incompetent workers' compensation benefit claimant, § 34-9-226.

Patient rights and privileges, § 37-3-140 et seq.

Provision that surviving spouse under 18 years may take share of estate without intervention of guardian, § 53-1-7.

Appointment, representation, and authority of guardians in probate court proceedings, § 53-11-2.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

Law reviews.

For article, "The Georgia Law of Insanity," see 3 Ga. B. J. 28 (1941).

For note on 1995 amendments of sections in this chapter, see 12 Ga. St. U.L. Rev. 216 (1995).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former law are included in the annotations for this Code section.

Persons dealing with guardian should examine guardian's authority. — A guardian is in effect a special agent of the law to manage the estate of a person non sui juris, and it is incumbent upon all persons dealing with the guardian to examine the guardian's authority. Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former law).

Guardian cannot use funds to pay third party's debt. — Guardian cannot, with or without court order, use minor ward's funds to pay third party's debt; nor is the guardian authorized without such an order to invest the funds of the ward in bonds issued by a private corporation. Where the guardian attempts to do either, and tenders to the opposite party in the transaction, as payee, a check bearing the signature of the ward by the guardian, these facts without more are sufficient to put the payee on inquiry as to the validity of the transaction. Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former law).

Office of guardian of minor expires by operation of law when ward attains majority. Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former law).

Person cannot obliterate acts incident to former guardianship. — Person of normal mental faculties cannot, after attaining majority, obliterate all transactions incident to former guardianship, and disregard all impressions received therefrom, merely because they related to events which occurred during minority. Brinsfield v. Robbins, 183 Ga. 258, 188 S.E. 7, 1936 Ga. LEXIS 212 (1936) (decided under former law).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former law is included in the annotations for this Code section.

The age of majority as to guardianships created prior to July 1, 1972 is 21. 1972 Op. Att'y Gen. No. U72-37 (decided under former law).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 5 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, §§ 3, 5, 42 et seq., 59.

ALR.

Validity of appointment of guardian or curator for infant without service of process upon, or notice to, latter, 1 A.L.R. 919.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Constitutionality of statute authorizing guardian to sell or lease land of ward, 4 A.L.R. 1552.

Minority of parent as affecting right to guardianship or custody of person or estate of child, 19 A.L.R. 1043.

Surchargeability of trustee, executor, administrator, or guardian, in respect of mortgage investment, as affected by matters relating to value of property, 117 A.L.R. 871.

Right of trustee or guardian to invest trust funds in stock of private corporation, 122 A.L.R. 657.

Right of trustee or guardian to retain unauthorized securities held by testator or creator of trust, 122 A.L.R. 801; 135 A.L.R. 1528.

Right of guardian of infant or incompetent to appointment as executor or administrator as representative or substitute for infant or incompetent, 135 A.L.R. 585.

Power of guardian or committee to compromise liquidated contact claim or money judgment, and of courts to authorize or approve such a compromise, 155 A.L.R. 196.

Ownership by trustee, executor, or guardian in his own right of stock in a corporation in which he also holds stock in his fiduciary capacity, 161 A.L.R. 1038.

Power of guardian of incompetent to change beneficiary in ward's life insurance policy, 21 A.L.R.2d 1191.

Liability of incompetent's estate for torts committed by guardian, committee, or trustee in managing estate, 40 A.L.R.2d 1103.

Right of foreign personal representative or guardian to vote stock owned by estate or ward, 41 A.L.R.2d 1082.

Power of court to confirm sale of ward's property over objection of guardian, 43 A.L.R.2d 1445.

Construction and effect of instrument authorizing or directing trustee or executor to retain investments received under such instrument, 47 A.L.R.2d 187.

Authorization by trust instrument of investment of trust funds in nonlegal investments, 78 A.L.R.2d 7.

Mental incompetency of defendant at time of action as precluding annulment of marriage, 97 A.L.R.2d 483.

Power to make charitable gifts from estate of incompetent, 99 A.L.R.2d 946.

Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

Judgment in guardian's final accounting proceedings as res judicata in ward's subsequent action against guardian, 34 A.L.R.4th 1121.

Guardian's authority, without seeking court approval, to exercise ward's right to revoke trust, 53 A.L.R.4th 1297.

Validity of inter vivos gift by ward to guardian or conservator, 70 A.L.R.4th 499.

Involuntary disclosure or surrender of will prior to testator's death, 75 A.L.R.4th 1144.

ARTICLE 1

MINORS

PART 1

GENERAL PROVISIONS

29-2-1. Categories of guardians for minors.

Guardians of minors may be categorized as follows:

(1) Natural guardians;

(2) Testamentary guardians;

(3) Temporary guardians;

(4) Standby guardians; and

(5) Permanent guardians.

History.
Code 1981, § 29-2-1, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.
For survey article citing developments in Georgia juvenile court practice and procedure from mid-1980 through mid-1981, see 33 Mercer L. Rev. 167 (1981).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2571, and former Code 1933, §§ 49-101 and 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, are included in the annotations for this Code section.

Definition of "guardian of the person." — A guardian of the person is defined to be one who has been lawfully invested with the care of the person of an infant whose natural guardian is dead, and is considered as standing in the place of the natural guardian. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former Code 1933, § 49-101).

Construction of "natural guardianship." — Natural guardianship, pure and simple, is of the person only, and is incident to the relation of parent. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former Code 1933, § 49-101).

Circumstances under which probate judge has power to appoint guardian. — The ordinary (now probate judge) is without power to appoint a guardian for the person or for the property of a child unless the child has no guardian as to the one or the other of these things for which the guardianship is asked. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former Code 1933, § 49-101).

There cannot be two guardianships at same time as to either person or property of infant, though one person may be guardian of infant's person and another may be guardian of infant's property. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095

(1981) (decided under former Code 1933, § 49-101).

Mother is natural guardian automatically. — Ordinary (now probate judge) has nothing to do with constituting mother natural guardian; the mother is natural guardian by operation of law, and without any action whatever by the ordinary (now probate judge) — no appointment, no letters of guardianship are contemplated and nothing is said of any authority of the ordinary (now probate judge) to displace the parent as guardian of the person. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former Code 1933, § 49-101).

Appointment limited to guardianship of property where natural guardian. — For a minor having no guardian, the ordinary (now probate judge) may appoint a guardian of person and property, or of either, but if the minor has a natural guardian, it certainly cannot be said in a broad sense that the person has no guardian; in such case the range of appointment is limited to guardianship of the property, for it is only as to property that there is no guardian. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former Code 1933, § 49-101).

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 5 et seq, 40, 89, 90.

Am. Jur. Pleading and Practice Forms.

13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 9 et seq., 99 et seq., 208 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, §§ 3, 4 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 5 et seq.

57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Power of parent to appoint testamentary guardian for adult imbecile child, 24 A.L.R. 1458.

Attempt to bastardize child as affecting right to custody of the child, 37 A.L.R. 531.

Guardian de facto or de son tort of minor, 25 A.L.R.2d 752.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make

expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-2-2. Qualified individuals to serve as guardian of minor.

(a) Only an individual may serve as guardian of a minor.

(b) No individual may be appointed as guardian of a minor who:

(1) Is a minor, a ward, or a protected person; or

(2) Has a conflict of interest with the minor unless the court determines that the conflict of interest is insubstantial or that the appointment would be in the minor's best interest.

History.
Code 1981, § 29-2-2, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Attorney's fees. — Because a lawyer failed to present any evidence of the value of the lawyer's services at a probate hearing, the trial court was left to determine that value based on its own experience; since the lawyer failed to prove that the contingency agreement with the beneficiaries of an estate provided for a reasonable fee, the trial court was authorized to determine that $15,000 was a reasonable fee. Rowen v. Estate of Hughley, 272 Ga. App. 55, 611 S.E.2d 735, 2005 Ga. App. LEXIS 215 (2005).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 38 et seq., 46 et seq.
Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, § 116 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 24 et seq.

Part 2

Parental Rights in Guardian Selection

29-2-3. Natural guardian of minor.

(a) As used in this Code section, the terms "joint legal custody" and "sole custody" shall have the meanings as provided in Code Section 19-9-6.

(b) Except as otherwise provided in this chapter, each parent shall be the natural guardian of any minor of the parent, except that, if the parents are divorced and one parent has sole custody of the minor, that parent is the sole natural guardian of that minor. If the parents have

joint legal custody, both parents are the natural guardians of that minor.

(c) If one parent of a minor dies, the surviving parent is the sole natural guardian of the minor, even if the parents were divorced and the deceased parent had sole custody of the minor.

History.

Code 1981, § 29-2-3, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 29(1)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" at the beginning of subsection (a); and deleted "child" following "any minor" in the first sentence in subsection (b).

Cross references.

Parent and child relationship generally, § 19-7-1 et seq.

Criteria for loss of parental custody, § 19-7-4.

Law reviews.

For article, "Trusts for Dependents: Effect of Georgia's Support Obligation on Federal Income Taxation," see 8 Ga. St. B.J. 323 (1972).

JUDICIAL DECISIONS

Analysis

General Consideration
Rights of Natural Guardian
Bond

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1868, § 1794, former Code 1895, § 2513, former Civil Code 1910, § 3032, former Code 1933, § 49-102, and former O.C.G.A. §§ 29-4-2 and 29-4-4.1 are included in the annotations for this Code section.

O.C.G.A. § 19-7-1 and former O.C.G.A. § 29-4-2 must be construed together. — See McCallum v. Bryant, 212 Ga. 348, 92 S.E.2d 531, 1956 Ga. LEXIS 366 (1956) (decided under former Code 1933, § 49-102).

Necessity for appointing guardian ad litem. — Whenever a minor appears as a petitioner in instituting litigation by a next friend, there would seem to be no legal necessity to appoint a guardian ad litem, unless, for some reason, it should be made to appear to the court that the next friend is not a suitable person or for some other reason interests of minor would not be properly protected. Sanders v. Hinton, 171 Ga. 702, 156 S.E. 812, 1931 Ga. LEXIS 448 (1931) (decided under former Civil Code 1910, § 3032).

Binding in courts of law and equity. — Former Code 1868, § 1794 (former O.C.G.A. § 29-4-2) was for protection of rights of minor children and was as imperative and binding in courts of equity as in courts of law. Southwestern R.R. v. Chapman, 46 Ga. 538, 1872 Ga. LEXIS 114 (1872) (decided under former Code 1868, § 1794).

For discussion of scope of natural guardianship, see Jordan v. Smith, 5 Ga. App. 559, 63 S.E. 595, 1909 Ga. App. LEXIS 62 (1909) (decided under former Code 1895, § 2513).

Imbecile minor presents no exception to this rule. Brown v. Gibson, 203 Ga. 213, 46 S.E.2d 68, 1948 Ga. LEXIS 569 (1948) (decided under former Code 1933, § 49-102).

Ward without recourse cannot be bound. — When child has no recourse against representative, then authority to bind child cannot exist. Lynn v. Wagstaff Motor Co., 126 Ga. App. 516, 191 S.E.2d 324, 1972 Ga. App. LEXIS 1198 (1972)

(decided under former Code 1933, § 49-102).

Rights of Natural Guardian

Cannot appoint guardian of person unless natural guardian lost status. — The probate court has no authority to appoint another as guardian of the person of a child with a living natural guardian unless the loss of that status has been ascertained and declared in some regular proceeding authorized by law, after due notice is given. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former O.C.G.A. § 29-4-2).

When natural mother of illegitimate child showed that she was the child's mother, that her parental rights had not been relinquished or forfeited in some regular proceeding authorized by law, and that she was, therefore, the natural guardian of the child, the probate court was without jurisdiction to appoint someone else as the guardian of the child's person. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former O.C.G.A. § 29-4-2).

Mother of illegitimate child is the child's natural guardian with prima-facie right to custody. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former O.C.G.A. § 29-4-2); Brown v. King, 193 Ga. App. 495, 388 S.E.2d 400, 1989 Ga. App. LEXIS 1558 (1989) (decided under former O.C.G.A. § 29-4-2).

Surviving parent's right to custody of child cannot be divested by will of deceased parent. Girtman v. Girtman, 191 Ga. 173, 11 S.E.2d 782, 1940 Ga. LEXIS 621 (1940) (decided under former Code 1933, § 49-102).

Parent may forfeit rights as guardian by cruel treatment. — Father has right to be guardian of his minor children, but he may forfeit such right by cruel treatment or neglect of them. McCallum v. Bryant, 212 Ga. 348, 92 S.E.2d 531, 1956 Ga. LEXIS 366 (1956) (decided under former Code 1933, § 49-102).

Parental rights not relinquished by custody agreement. — Although the petitioner argued the appointment of guardianship was proper because the mother, the natural guardian of the minor children involved, had voluntarily waived her parental rights and consented to the award of guardianship by sworn affidavit, the affidavit clearly conferred only temporary custody, and made no reference to permanent guardianship. Parental rights are not relinquished by an agreement granting mere custody. Hill v. Loren, 187 Ga. App. 71, 369 S.E.2d 260, 1988 Ga. App. LEXIS 597 (1988) (decided under former O.C.G.A. § 29-4-2).

Custody right under divorce decree inures to surviving parent. — Upon death of parent who has held custody under divorce decree, the right to custody automatically inures to surviving parent, and divorce proceeding fails so far as concerns any further right to custody of children. Girtman v. Girtman, 191 Ga. 173, 11 S.E.2d 782, 1940 Ga. LEXIS 621 (1940) (decided under former Code 1933, § 49-102).

Natural guardian may not sign away child's chose of action. — A chose in action is property and a natural guardian has no more authority to sign it away than the guardian would have to sell tangible property of child. Lynn v. Wagstaff Motor Co., 126 Ga. App. 516, 191 S.E.2d 324, 1972 Ga. App. LEXIS 1198 (1972) (decided under former Code 1933, § 49-102).

Bond

Requirement of bond applies to income of property and corpus. — Provision of former Code 1868, § 1794 (former O.C.G.A. § 29-4-2), requiring that guardian give bond before the guardian can demand and receive property of child, applied to income of property as well as to corpus thereof. Southwestern R.R. v. Chapman, 46 Ga. 538, 1872 Ga. LEXIS 114 (1872) (decided under former Code 1868, § 1794).

Effect of giving bond by natural guardian. — The only effect of giving bond by natural guardian is to empower the guardian to demand and receive any property belonging to the child. Drake v. Drake, 187 Ga. 423, 1 S.E.2d 573, 1939 Ga. LEXIS 430 (1939) (decided under former Code 1933, § 49-102).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former Code 1933, § 49-102 and former O.C.G.A. §§ 29-4-2 and 29-4-4.1 are included in the annotations for this Code section.

Probate court without authority to appoint guardian if living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. §§ 29-4-2 and 29-4-4.1).

Child support transfer not benefitting child improper. — Transfer by parent of child support judgment without benefitting child is inconsistent with parent's duties as natural guardian of child and child's property. 1972 Op. Att'y Gen. No. 72-147 (decided under former Code 1933, § 49-102).

Parents responsible for locating child absent from school without authorization. — Whereabouts of minor child would clearly seem to fall within area of parental or guardianship responsibility, and therefore, primary responsibility for locating a child who is absent from an educational center or school on an unauthorized basis would fall upon parents or other guardians or custodians. 1978 Op. Att'y Gen. No. 78-48 (decided under former Code 1933, § 49-102).

Domicile of minor is that of parents, but this can be altered where usual parental authority and control over the minor is ended by voluntary or involuntary relinquishment. 1981 Op. Att'y Gen. No. U81-5 (decided under former O.C.G.A. § 29-4-2).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 5 et seq., 89, 90.

Am. Jur. Pleading and Practice Forms.

13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 2 et seq., 18 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 12, 16.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Minority of parent as affecting right to guardianship or custody of person or estate of child, 19 A.L.R. 1043.

Attempt to bastardize child as affecting right to custody of the child, 37 A.L.R. 531.

29-2-4. Nomination of testamentary guardian; no bond or security required.

(a) Every parent, by will, may nominate a testamentary guardian for the parent's minor child.

(b)(1) Unless the minor has another living parent, upon probate of the minor's parent's will, letters of guardianship shall be issued to the individual nominated in the will who shall serve as testamentary guardian without a hearing provided that the individual is willing to serve and no objection is filed. If a timely objection is filed, letters of guardianship shall only be issued after a hearing held pursuant to paragraph (4) of this subsection.

(2) At the time such will is offered for probate, notice of the testamentary guardianship shall be served by certified mail or statutory overnight delivery, return receipt requested, to the minor child's adult siblings and grandparents. If such child does not have adult siblings or grandparents, such notice shall be served on such child's great-grandparents, aunts, uncles, great aunts, or great uncles, insofar as any such relative exists.

(3) Any person who receives a notice pursuant to this subsection and objects to the appointment of the nominated testamentary guardian shall file an objection with the court within ten days of being served with notice. Such objection shall include allegations and facts with reasonable specificity stating why the nominated testamentary guardian is unfit to serve.

(4) If a timely objection is filed, the court shall conduct an expedited hearing within 30 days of the date of the filing of the last objection. The hearing shall be conducted in accordance with Code Section 29-2-14. The court shall award the letters of guardianship to the nominated testamentary guardian unless the objecting party establishes by clear and convincing evidence that the nominated testamentary guardian is unfit to serve as testamentary guardian.

(5) Any proceeding relating to the appointment of a testamentary guardian shall not affect or delay the probating of a will.

(c) A testamentary guardian shall not be required to give bond or security. In all other respects a testamentary guardian shall have the same rights, powers, and duties as a permanent guardian appointed by the court.

History.

Code 1981, § 29-2-4, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2014, p. 780, § 4-1/SB 364.

Amendments.

The 2014 amendment, effective January 1, 2015, designated the existing provisions of subsection (b) as paragraph (b)(1), and, in paragraph (b)(1), inserted "minor's" near the beginning, substituted "without a hearing" for "without notice or hearing", and added "and no objection is filed" at the end of the first sentence and added the second sentence; and added paragraphs (b)(2) through (b)(5).

Cross references.

Rights of minors, § 1-2-8.

Law reviews.

For annual survey of law of wills, trusts, and administration of estates, see 38 Mercer L. Rev. 417 (1986).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 66 Mercer L. Rev. 231 (2014).

JUDICIAL DECISIONS

Analysis

General Consideration
Bond

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1851-52, p. 101, § 1, former Code 1882, § 1804, former Civil Code 1895, § 2514, former Civil Code 1910, § 3033, former Code 1933, § 49-103, and former O.C.G.A. § 29-4-4.1 are included in the annotations for this Code section.

Statutes providing for appointment of guardians for minor children. — The general assembly by inclusion of word "minor" at one place and its exclusion at another did not intend that a parent might, by will, appoint a guardian for property of children who had reached their majority. Therefore, former Code 1933, § 49-103 (former O.C.G.A. § 29-4-3) only provided for appointment of guardians for persons and/or property of minor children. Adams v. Lay, 218 Ga. 451, 128 S.E.2d 502, 1962 Ga. LEXIS 528 (1962) (decided under former Code 1933, § 49-103).

Citation unnecessary in appointing guardian already appointed testamentary guardian. — In appointing one as guardian of minors, who has already been appointed as testamentary guardian in their father's will, citation, as ordinarily required by law, is unnecessary. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Parental power does not include power to appoint testamentary guardian. — One awarded parental power over minor has no power to appoint testamentary guardian for such minor. Lamar v. Harris, 117 Ga. 993, 44 S.E. 866, 1903 Ga. LEXIS 405 (1903) (decided under former Civil Code 1895, § 2514).

Only surviving parent may appoint guardian of person of minor. Adams v. Lay, 218 Ga. 451, 128 S.E.2d 502, 1962 Ga. LEXIS 528 (1962) (decided under former Code 1933, § 49-103).

Surviving parent's right to custody of child cannot be divested by will of deceased parent. Girtman v. Girtman, 191 Ga. 173, 11 S.E.2d 782, 1940 Ga. LEXIS 621 (1940) (decided under former Code 1933, § 49-103).

Custody does not include power to appoint testamentary guardian. — Judgment or decree of divorce which gives custody and education of child of marriage to wife, does not empower her to appoint a testamentary guardian for that child while the father survives. Taylor v. Jeter, 33 Ga. 195, 1862 Ga. LEXIS 13 (1862) (decided under Ga. L. 1851-52, p. 101, § 1).

Testamentary guardian cannot, by will, transfer custody of the ward to another. Taylor v. Jeter, 33 Ga. 195, 1862 Ga. LEXIS 13 (1862) (decided under Ga. L. 1851-52, p. 101, § 1).

Testamentary guardian is still guardian of the person though dismissed for waste or failure to give bond. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Guardians appointed by will remain in place. — Probate court did not err in issuing letters of testamentary guardianship to the brother of a father's children because O.C.G.A. § 29-2-4(b) mandated the issuance of letters of testamentary guardianship to the brother without notice and a hearing and without consideration of the best interests of the children; both the mother and father nominated the brother as the children's testamentary guardian in their respective wills, the brother consented to serve as the guardian, the wills were admitted in solemn form, no petition was filed to set aside the probate court order admitting their wills, and the probate court did not revoke the court's letters of testamentary guardianship to the brother. Zinkhan v. Bruce, 305 Ga. App. 510, 699 S.E.2d 833, 2010 Ga. App. LEXIS 745 (2010), cert. denied, No. S10C2049, 2011 Ga. LEXIS 138 (Ga. Feb. 7, 2011).

Grandparent named as testamentary guardian should prevail. — When both parents of infant child are deceased, father having survived mother and by will having provided that his mother should be testamentary guardian of the person of such child, and

when in contest between paternal and maternal grandmothers of the child it appears that both are fit and proper persons to have custody of the child, the testamentary guardian is entitled to custody. Shanks v. Ross, 173 Ga. 55, 159 S.E. 700, 1931 Ga. LEXIS 260 (1931) (decided under former Civil Code 1910, § 3033).

Bond

When bond required. — Bond and security is required from all general guardians appointed by the ordinary (now judge of probate court) and the ordinary has discretionary power to require additional bond and security when the estate of the ward is enlarged by subsequent acquisition. Huson v. Green, 88 Ga. 722, 16 S.E. 255, 1892 Ga. LEXIS 90 (1892) (decided under former Code 1882, § 1804).

Probate court may authorize testamentary guardian to take charge of minor's estate without requiring bond. — Nothing in the law indicates that court of ordinary (now probate court) is without jurisdiction to authorize testamentary guardian to take charge of minor's estate without requiring bond. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Probate court failing to require bond can, nonetheless, issue letters of guardianship. — Failure to require bond when property comes to ward from sources other than parent's will does not deprive probate court of original jurisdiction to issue letters of guardianship which cannot be collaterally attacked. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Letters of guardianship not null and void due to failure to require bond. — Issuance of letters of guardianship was not null and void because of failure of probate court to require bond from guardian as required by former Code 1910, § 3033 (former O.C.G.A. § 29-4-3(c)) where property came to ward from sources other than parent's will. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 11 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 5 et seq., 10 et seq., 20 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Power of parent to appoint testamentary guardian for adult imbecile child, 24 A.L.R. 1458.

Validity of statute precluding alien from acting as guardian, 39 A.L.R. 943.

Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

Function, power, and discretion of court where there is testamentary appointment of guardian of minor, 67 A.L.R.2d 803.

Part 3

Temporary Guardianship of Minors

29-2-5. Petitions for temporary guardianship; requirements of petition.

(a) A petition to be appointed the temporary guardian of a minor may be filed by an individual who has physical custody of the minor.

(b) The petition shall be filed in the probate court of the county of

domicile of the petitioner; however, if the petitioner is not a domiciliary of this state, the petition may be filed in the probate court of the county where the minor is found.

(c) A petition for the appointment of a temporary guardian shall include the following:

(1) The name, address, and date of birth of the minor;

(2) The name and address of the petitioner and the petitioner's relationship to the minor, if any;

(3) A statement that the petitioner has physical custody of the minor and:

(A) Is domiciled in the county in which the petition is being filed; or

(B) Is not a domiciliary of this state and the petition is being filed in the county where the minor is found;

(4) The name, address, and county of domicile of any living parent of the minor and a statement of whether one or both of the parents is the minor's natural guardian;

(5) A statement of whether one or both of the parents have consented in a notarized writing to the appointment of the petitioner as temporary guardian and, if so, that the consents are attached to the petition;

(6) If the sole parent or both parents have not consented to the appointment of the temporary guardian, a statement of the circumstances that give rise to the need for the appointment of a temporary guardian; and

(7) The reason for any omission in the petition for temporary guardianship in the event full particulars are lacking.

History.

Code 1981, § 29-2-5, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 3/SB 534.

Law reviews.

For annual survey article discussing wills, trusts and administration of estates, see 52 Mercer L. Rev. 481 (2000).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

For annual survey of wills, trusts, guardianships, and fiduciary administration, see 58 Mercer L. Rev. 423 (2006).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-4-4.1 are included in the annotations for this Code section.

Temporary guardianship dissolved. — Under former O.C.G.A. § 29-4-4.1(c), trial court correctly dissolved guardianship under former O.C.G.A. § 29-4-4.1 where guardianship at time of its creation was intended to be or was represented to be temporary in nature. Hays v. Jeng, 184 Ga. App. 157, 360 S.E.2d 913, 1987 Ga. App. LEXIS 2157 (1987) (decided under former O.C.G.A. § 29-4-4.1).

Appointment to provide health insurance denied. — Where the child was living with the mother, who was not alleged to be incompetent or under any duress or difficulty with respect to her parental responsibilities, the court properly refused to appoint a temporary guardian solely for the provision of health insurance. In re Roscoe, 242 Ga. App. 440, 529 S.E.2d 897, 2000 Ga. App. LEXIS 213 (2000) (decided under former O.C.G.A. § 29-4-4.1).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-4-4.1 is included in the annotations for this Code section.

Cannot appoint permanent guardian if child has living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. § 29-4-4.1).

29-2-6. Parental consent to temporary guardianship; failure to consent; minor's preference; transfer to juvenile court.

(a) Except as otherwise provided in subsection (f) of this Code section, if the sole parent or both parents of the minor have consented to the appointment of the temporary guardian, as evidenced by notarized written consents attached to the petition, the court shall grant the petition without further notice or hearing and shall issue letters of guardianship to the petitioner.

(b)(1) If one or both of the parents of the minor have not consented to the appointment of the temporary guardian, notice of the petition shall be given to any parent who has not consented.

(2) The notice shall be by personal service if the parent resides in this state at a known address; by first-class mail if the parent resides outside this state at a known address; or by publication for two weeks in the official county legal organ for the county in which the petition is filed if no address is known.

(3) The notice shall state that the parent is entitled to object either to the establishment of a temporary guardianship or to the selection of the petitioner as temporary guardian, or both.

(4) The notice shall require that any objection be filed in writing with the court within ten days of the personal service, within 14 days of the mailing of the notice, or within ten days of the date of the second publication of the notice.

(c) Except as otherwise provided in subsection (f) of this Code section, if no parent who is entitled to notice under subsection (b) of this Code section files a timely objection to the petition, the court shall grant the petition without further notice or hearing and shall issue letters of guardianship to the petitioner.

(d) If a natural guardian of the minor files a timely objection to the establishment of the temporary guardianship, the court shall dismiss the petition. If a natural guardian files a timely objection to the selection of the petitioner as temporary guardian, the court shall hold a hearing to determine who shall serve as temporary guardian.

(e) If a parent who is not a natural guardian files a timely objection to the establishment of the temporary guardianship or to the selection of the petitioner as temporary guardian, the court shall hold a hearing to determine all matters at issue.

(f)(1) In all hearings held pursuant to this Code section, the standard for determination for all matters at issue shall be the best interests of the minor, as determined in accordance with Code Section 15-11-26 and other applicable Georgia law. As to the selection of the temporary guardian, the preference of the minor may be heard.

(2) In all proceedings under this Code section, the court may, in its discretion, enter an order transferring the petition to the juvenile court, which shall, after notice and hearing, determine whether the temporary guardianship is in the best interests of the minor.

(3) Notwithstanding subsection (a) of this Code section, an order by the court transferring the petition to the juvenile court pursuant to paragraph (2) of this subsection shall be a proper order of the court under paragraph (4) of Code Section 15-11-11.

History.

Code 1981, § 29-2-6, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2022, p. 198, § 1/HB 464.

Law reviews.

For annual survey article discussing wills, trusts and administration of estates, see 52 Mercer L. Rev. 481 (2000).

For annual survey of wills, trusts, guardianships, and fiduciary administration, see 58 Mercer L. Rev. 423 (2006).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-4-4.1 are included in the annotations for this Code section.

Temporary guardianship dissolved. — Under former O.C.G.A. § 29-4-4.1(c), trial court correctly dissolved guardianship under former O.C.G.A. § 29-4-4.1 when guardianship at time of its creation was intended to be or was represented to be temporary in nature. Hays v. Jeng, 184 Ga. App. 157, 360 S.E.2d 913, 1987 Ga. App. LEXIS 2157 (1987) (decided under former O.C.G.A. § 29-4-4.1).

Appointment to provide health insurance denied. — When the child was living with the mother, who was not alleged to be incompetent or under any duress or difficulty with respect to her parental responsibilities, the court properly refused to appoint a temporary guardian solely for the provision of health insurance. In re Roscoe, 242 Ga. App. 440, 529 S.E.2d 897, 2000 Ga. App. LEXIS 213 (2000) (decided under former O.C.G.A. § 29-4-4.1).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-4-4.1 is included in the annotations for this Code section.

Cannot appoint permanent guardian if child has living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. § 29-4-4.1).

29-2-7. Powers of temporary guardians; medical insurance coverage for minors.

(a) Except as otherwise provided by law, a temporary guardian shall be entitled to exercise any of the powers of a natural guardian. The court in its discretion may waive the requirement that a temporary guardian file the personal status reports that are required by paragraph (8) of subsection (b) of Code Section 29-2-21.

(b) If a temporary guardian, in writing, assumes the obligation to support the minor while the temporary guardianship is in effect, to the extent that no other sources of support are available, then for purposes of obtaining medical insurance coverage for the minor the temporary guardianship shall be deemed to be a permanent guardianship.

History.

Code 1981, § 29-2-7, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For annual survey article discussing wills, trusts and administration of estates, see 52 Mercer L. Rev. 481 (2000).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-4-4.1 are included in the annotations for this Code section.

Temporary guardianship dissolved. — Under former O.C.G.A. § 29-4-4.1(c), the trial court correctly dissolved guardianship under former O.C.G.A. § 29-4-4.1 since guardianship at time of its creation was intended to be or was represented to be temporary in nature. Hays v. Jeng, 184 Ga. App. 157, 360 S.E.2d 913, 1987 Ga. App. LEXIS 2157 (1987) (decided under former O.C.G.A. § 29-4-4.1).

Appointment to provide health insurance denied. — Since the child was living with the mother, who was not alleged to be incompetent or under any duress or difficulty with respect to her parental responsibilities, the court properly refused to appoint a temporary guardian solely for the provision of health insurance. In re Roscoe, 242 Ga. App. 440, 529 S.E.2d 897, 2000 Ga. App. LEXIS 213 (2000) (decided under former O.C.G.A. § 29-4-4.1).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-4-4.1 is included in the annotations for this Code section.

Cannot appoint permanent guardian where child has living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. § 29-4-4.1).

29-2-8. Termination of temporary guardianship; petition for termination of guardianship.

(a) A temporary guardianship shall terminate on the date upon which the earliest of the following occurs: the minor reaches age 18, the minor is adopted, the minor is emancipated, the minor dies, the temporary guardian dies, letters of guardianship are issued to a permanent or testamentary guardian, or a court order terminating the temporary guardianship is entered. Proof of adoption, death, or emancipation shall be filed with the court and the court may order a hearing in an appropriate case.

(b) Either natural guardian of the minor may at any time petition the court to terminate a temporary guardianship; provided, however, that notice of such petition shall be provided to the temporary guardian. If no objection to the termination is filed by the temporary guardian within ten days of the notice, the court shall order the termination of the temporary guardianship. If the temporary guardian objects to the termination of the temporary guardianship within ten days of the notice, the court shall have the option to hear the objection or transfer the records relating to the temporary guardianship to the juvenile court, which shall determine, after notice and hearing, whether a

continuation or termination of the temporary guardianship is in the best interest of the minor.

History.

Code 1981, § 29-2-8, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For annual survey article discussing wills, trusts and administration of estates, see 52 Mercer L. Rev. 481 (2000).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-4-4.1 are included in the annotations for this Code section.

Best interest standard requires clear and convincing evidence of harm to the child. — Best interests of the child standard in O.C.G.A. § 29-2-8(b) required a guardian to prove by clear and convincing evidence that the child would suffer physical or emotional harm if custody were awarded to the biological parent and that continuation of the guardianship would promote the child's welfare and happiness. With this narrowing construction, the best interest of the child standard in O.C.G.A. § 29-2-8(b) was constitutional. Boddie v. Daniels, 288 Ga. 143, 702 S.E.2d 172, 2010 Ga. LEXIS 832 (2010).

In a mother's petition to terminate her parents' temporary guardianship over her child under O.C.G.A. § 15-11-14, the trial court erred in failing to consider whether the grandparents proved by clear and convincing evidence that termination would cause the child physical or long-term emotional harm; therefore, remand was required for further consideration. In the Interest of K. M., 344 Ga. App. 838, 811 S.E.2d 505, 2018 Ga. App. LEXIS 147 (2018).

Petition to terminate temporary guardianship denied. — Mother's petition to terminate the temporary guardianship was properly denied because the temporary guardian and the temporary guardian's wife had been the caretakers of the child for the vast majority of the child's life, since the mother gave the child up; the child had formed a psychological bond with the temporary guardian and the wife, calling them "mommy" and "daddy," while referring to the mother by the mother's first name; the mother had emotionally, physically, and financially neglected the child for the vast majority of the child's life; and continuation of the temporary guardianship would best promote the child's welfare and happiness given that the child had bonded with, and thrived in the care of, the temporary guardian. In the Interest of J. L., 352 Ga. App. 125, 834 S.E.2d 141, 2019 Ga. App. LEXIS 541 (2019).

Temporary guardianship dissolved. — Under former O.C.G.A. § 29-4-4.1(c), the trial court correctly dissolved guardianship under former O.C.G.A. § 29-4-4.1 since guardianship at time of its creation was intended to be or was represented to be temporary in nature. Hays v. Jeng, 184 Ga. App. 157, 360 S.E.2d 913, 1987 Ga. App. LEXIS 2157 (1987) (decided under former O.C.G.A. § 29-4-4.1).

Appointment to provide health insurance denied. — Since the child was living with the mother, who was not alleged to be incompetent or under any duress or difficulty with respect to her parental responsibilities, the court properly refused to appoint a temporary guardian solely for the provision of health insurance. In re Roscoe, 242 Ga. App. 440, 529 S.E.2d 897, 2000 Ga. App. LEXIS 213 (2000) (decided under former O.C.G.A. § 29-4-4.1).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-4-4.1 is included in the annotations for this Code section.

Cannot appoint permanent guardian where child has living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. § 29-4-4.1).

Part 4

Standby Guardians

29-2-9. Definitions.

As used in this part, the term:

(1) "Designating individual" means a parent or guardian who appoints a standby guardian. A designating individual may only be:

(A) A parent of a minor, provided that he or she has physical custody of the minor and his or her parental rights have not terminated; and provided, further, that the other parent of the minor is deceased, has had his or her parental rights terminated, cannot be found after a diligent search has been made, or has consented to the designation of and service by the standby guardian; or

(B) A guardian of the minor who is duly appointed and serving pursuant to court order.

(2) "Health care professional" means a person licensed to practice medicine under Chapter 34 of Title 43 or a person licensed as a registered professional nurse under Chapter 26 of Title 43 and authorized by the Georgia Board of Nursing to practice as a nurse practitioner.

(3) "Health determination" means the dated, written determination by a health care professional that a designating individual is unable to care for a minor due to the designating individual's physical or mental condition or health including a condition created by medical treatment.

(4) "Standby guardian" means an adult who is named by a designating individual to serve as standby guardian of the minor.

History.
Code 1981, § 29-2-9, enacted by Ga. L. 2004, p. 161, § 1.

29-2-10. Designation of standby guardian pending health issue; required probate court filing; no bond required; parental obligation to support continues.

(a) A designating individual may designate an individual to serve as standby guardian of a minor upon the health determination being made.

(b) Upon the health determination being made and without the necessity of any judicial intervention, the standby guardian shall assume all the rights, duties, and responsibilities of guardianship of the person of the minor. Consistent with the designating individual's physical or mental condition or health, the designating individual may confer with the standby guardian in decision making concerning the care and welfare of the minor.

(c) Upon the health determination being made, the standby guardian shall file with the probate court of the county of domicile of the minor a notice of the standby guardianship with a copy of the standby guardianship designation and the health determination attached thereto.

(d) No bond shall be required of a standby guardian.

(e) No proceedings under this part shall relieve any parent, custodial or noncustodial, of a duty to support the minor under the provisions of Chapter 6 of Title 19.

History.
Code 1981, § 29-2-10, enacted by Ga. L. 2004, p. 161, § 1.

29-2-11. Requirements for designation.

(a) A designation of a standby guardian shall be in writing and shall be signed by the designating individual or by some other individual in the designating individual's presence and at the designating individual's express direction. The designation shall be attested to and subscribed by two or more competent witnesses. Neither the witness nor an individual signing on behalf of the designating individual may be named the standby guardian.

(b) A standby guardian designation shall set forth the name, address, and county of domicile of the designating individual and of the standby guardian; the name, address, county of domicile, and date of birth of the minor; and the circumstances which define the parent or guardian as a designating individual. With regard to a parent of the minor who is not the designating individual, the designation shall state, to the extent known, that parent's name and address and if that parent is deceased, has his or her parental rights terminated, and whether that parent cannot be located. The designation shall include a

statement of consent, signed by the standby guardian, to serve in such capacity.

(c) A standby guardian designation shall be in substantially the following form and contain the following information:

"DESIGNATION OF STANDBY GUARDIAN

(1) IDENTIFICATION OF DESIGNATING INDIVIDUAL: I, _____ (insert name of person designating the standby guardian), whose address is _____ (insert address) and whose county and state of domicile are _____ (insert name of county and state), am:

(Check and complete the ones which apply)

(A) _____ The parent with physical custody of the minor child or children listed below and my parental rights are not terminated; and the other parent, whose name is _____ (insert name of other parent) and whose address is _____ (insert address of other parent), of the minor child or children listed below:

_____ (A-1) Is deceased;

_____ (A-2) Has his or her parental rights to the minor or minors terminated;

_____ (A-3) Cannot be found after a diligent search has been made; or

_____ (A-4) Has consented to the designation of and service by the standby guardian as set forth below; or

(B) _____ The guardian of the minor child or children listed below, who is duly appointed and serving pursuant to court order.

(2) IDENTIFICATION OF MINOR(S): The minor or minors for whom I am designating a standby guardian are:

NAME	ADDRESS (include county of domicile)	DATE OF BIRTH
_____	_____	_____
_____	_____	_____

(3) DESIGNATION AND IDENTIFICATION OF STANDBY GUARDIAN: Pursuant to Part 4 of Article 1 of Chapter 2 of Title 29 of the Official Code of Georgia Annotated, I hereby designate _____ (insert name of standby guardian), whose address is _____ (insert address) and whose county and state of domicile are _____ (insert name of county and state), to serve as the standby guardian of the minor(s) whom I have identified above.

(4) POWERS OF STANDBY GUARDIAN: The standby guardian whom I have designated above shall have all the rights, duties, and responsibilities under Georgia law of a guardian of a minor who has been appointed by a court.

(5) DURATION OF STANDBY GUARDIANSHIP: I understand that upon a health care professional determining in writing that, due to my physical or mental health condition, I am not able to care for the minor(s) identified above, this standby guardianship shall become effective and the person whom I have designated above shall become the standby guardian of the person of the minor(s).

I understand that I can revoke this standby guardianship by destroying this document, obliterating it, or by revoking it in writing with proper witnesses. I understand that if I wish to revoke the standby guardianship after the health determination has been made I must file a notice of the revocation of the standby guardianship with the probate court and mail a copy of the notice of revocation to the standby guardian.

Finally, I understand that this standby guardianship will automatically end 120 days after the health care professional makes the determination that I am unable to care for the minor(s), unless the standby guardian has filed a petition for guardianship of the minor. If the standby guardian files such a petition, the standby guardianship will remain in effect, unless otherwise revoked, until the judge rules on the petition. In considering such a petition for guardianship, I understand that the judge will give preference for the appointment to the individual whom I name as the standby guardian in this document.

(6) SIGNATURE: I certify that the statements contained herein are true and correct, this _____ day of _____, _____.

_____

(Designating individual signs here)

(Print name of designating individual)

We, the undersigned witnesses, are at least 18 years of age, are not designated as the standby guardian, and state that the designating individual signed this designation in our presence.

_____ _____

(Signature of first witness) (Print first witness's address)

_____ _____

(Signature of second witness) (Print second witness's address)

(7) CONSENT OF PARENT (To be completed only if line A-4 in paragraph (1) above has been checked):

I, _____ (insert name of parent other than the one designating the standby guardian), whose address is _____ (insert address), am the parent of the above named minor(s). I understand that by this form, an individual is being designated to serve as a standby guardian of my child (or children). I understand that this standby guardian will have all the rights, duties, and responsibilities under Georgia law of a guardian of the person of a minor who has been appointed by a court.

I further understand that I may object to this designation. Knowing this, I consent to the designation of _____ (insert name of standby guardian).

This _____ day of _____, _____.

_____

(Other parent signs here)

(Print name of other parent)

We, the undersigned witnesses, are at least 18 years of age, are not designated as the standby guardian in this document, and state that the above-named parent signed this consent in our presence.

_____ _____

(Signature of first witness) (Print first witness's address)

_____ _____

(Signature of second witness) (Print second witness's address)

(8) ACCEPTANCE OF DESIGNATION BY STANDBY GUARDIAN:

I, _____ (insert name of designated standby guardian), am the individual designated as the standby guardian in this document. I hereby accept this designation with full knowledge that upon a health care professional making a written determination that the parent of the minor(s) is not able to care for the minor(s) due to his or her physical or mental health or condition, I automatically take on this guardianship.

Further, I understand that I must file a notice of my becoming a standby guardian, a copy of this designation, and a copy of the health determination with the probate court as soon as the health determination has been made. I understand that within 120 days of the health determination being made I must petition the probate court to name me as guardian of the minor(s).

This _____ day of _____, _____.

_____

(Standby guardian signs here)

(Print name of standby guardian)

We, the undersigned witnesses, are at least 18 years of age, are not designated as the standby guardian in this document, and state that the standby guardian signed this document in our presence.

(Signature of first witness)	(Print first witness's address)
(Signature of second witness)	(Print second witness's address)"

History.
Code 1981, § 29-2-11, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 29(2)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, inserted quotation marks at the beginning and end of the form in subsection (c).

29-2-12. Revocation of standby guardianship prior to and subsequent to health determination.

(a) At any time before the health determination is made, a standby guardianship may be revoked without notice to anyone by destruction or obliteration of the designation done by the designating individual with an intent to revoke or by a written revocation signed by the designating individual or by some other individual in the designating person's presence and at the designating individual's express direction and attested to and subscribed by two or more competent witnesses.

(b) After the health determination has been made, the standby guardianship may be revoked by the designating individual by filing a notice of such revocation with the court in which the standby guardianship was filed as required by Code Section 29-2-10 and by mailing a copy of the notice of revocation by first-class mail to the standby guardian.

History.
Code 1981, § 29-2-12, enacted by Ga. L. 2004, p. 161, § 1.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2004, in subsection (b), "made, the" was substituted for "made the" near the beginning and "filed as required" was substituted for "filed the notice as required" near the middle.

29-2-13. Petition seeking temporary guardianship; automatic termination of standby guardianship.

(a) Within 120 days of the health determination being made, the standby guardian shall file with the probate court in the county of

domicile of the minor a petition seeking temporary guardianship of the minor.

(b) Except as otherwise provided, a standby guardianship shall automatically terminate 120 days after the making of the health determination unless the standby guardian has filed a petition for temporary guardianship of the minor, in which case the standby guardianship shall remain in effect, unless otherwise revoked, until the petition is ruled upon.

(c) If the designating individual dies prior to the entering of an order on a petition for guardianship of the minor, as contemplated by subsection (a) of this Code section, the standby guardianship shall be terminated. If the designating individual dies subsequent to the entering of an order on such a petition, the guardianship created pursuant to that order shall terminate in favor of any testamentary designation of a guardian of the minor or, if there is no testamentary designation, to an order on a petition for guardianship brought thereafter and subject to Code Section 29-2-17.

History.
Code 1981, § 29-2-13, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 58, 170.

Part 5

Permanent Guardianship

Cross references.
Appointment of guardian of a child, § 15-11-13.
Permanent guardianship of dependent child, § 15-11-240 et seq.
Appointment of guardian ad litem, § 15-11-476.
Provision that surviving spouse under 18 years may take share of estate without intervention of guardian, § 53-1-7.
Appointment, representation, and authority of guardians in probate court proceedings, § 53-11-2.

29-2-14. Power of probate court to appoint guardian.

The probate court of the county in which a minor is found or in which the proposed permanent guardian is domiciled shall have the power to appoint a permanent guardian for a minor who has no natural guardian, testamentary guardian, or permanent guardian. In its discretion, the probate court of the county in which the petition for appointment of a permanent guardian is filed may transfer the case to the probate court

of any other county in this state if such transfer would serve the best interest of the minor.

History.

Code 1981, § 29-2-14, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For article recommending more consistency in age requirements of laws pertaining to the welfare of minors, see 6 Ga. St. B.J. 189 (1969).

For article, "Trusts for Dependents: Effect of Georgia's Support Obligation on Federal Income Taxation," see 8 Ga. St. B.J. 323 (1972).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

JUDICIAL DECISIONS

Analysis

General Consideration
Ward's Right to Select
Jurisdiction

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. Laws 1850, Cobb's 1851 Digest, p. 338, former Code 1868, § 1797, former Code 1882, § 1806, former Civil Code 1895, § 2516, former Code 1933, § 49-105, and former O.C.G.A. § 29-4-4 are included in the annotations for this Code section.

Probate judge has appointment power for benefit of child. — Power of appointment is vested in ordinary (now judge of probate court), for benefit of child, not of applicant. Watson v. Warnock, 31 Ga. 716, 1861 Ga. LEXIS 266 (1861) (decided under Ga. Laws 1850, Cobb's 1851 Digest, p. 338).

Guardian of the property. — Former O.C.G.A. § 29-4-4 authorized a probate court to appoint a guardian of the property, over the natural guardian's objection, of a minor over the age of 14, whose sole property was a personal injury action. In re Ray, 248 Ga. App. 45, 545 S.E.2d 617, 2001 Ga. App. LEXIS 347 (2001) (decided under former O.C.G.A. § 29-4-4).

Discussion of former Civil Code 1895, § 2516 (former O.C.G.A. § 29-4-4) application when child had natural guardian. — See Jordan v. Smith, 5 Ga. App. 559, 63 S.E. 595, 1909 Ga. App. LEXIS 62 (1909) (decided under former Civil Code 1895, § 2516).

Generally cannot appoint guardian of person when parent is living. — The ordinary (now judge of probate court) had no power under former Civil Code 1895, § 2516 (former O.C.G.A. § 29-4-4) to appoint guardian of person of child whose father was living, unless parental rights of latter have been forfeited and the forfeiture had been ascertained and declared in some regular proceeding authorized by law, after due notice to him. Jordan v. Smith, 5 Ga. App. 559, 63 S.E. 595, 1909 Ga. App. LEXIS 62 (1909) (decided under former Civil Code 1895, § 2516).

Acting guardian estopped from arguing lack of venue regarding appointment. — One appointed and acting as guardian estopped from claiming court of wrong county made appointment. Hines v. Mullins ex rel. Smith, 25 Ga. 696, 1858 Ga. LEXIS 145 (1858) (decided under Ga. Laws 1850, Cobb's 1851 Digest, p. 338).

Effect of guardian's death upon guardianship. — Relation of guardian and ward is necessarily terminated by death of either, and if terminated by death of guardian, it is the duty of guardian's personal representative to render an account and turn over property in the

General Consideration (Cont'd)

guardian's hands to proper person, and the guardianship continues, in a sense, to exist for that purpose only. Harrison v. Tonge, 67 Ga. App. 54, 19 S.E.2d 535, 1942 Ga. App. LEXIS 335 (1942) (decided under former Code 1933, § 49-105).

Ward's Right to Select

At age of 14 ward may choose new guardian. — Pursuant to former Code 1868, § 1797 (former O.C.G.A. § 29-4-4), a ward, after attaining an age of 14 years, has right to choose a guardian, and for that purpose to have letters of guardianship issued under appointment of ordinary (now judge of probate court) to former guardian, revoked. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1868, § 1797).

Proceeding for ward to select new guardian. — The first step which ward must take to remove guardian appointed by the ordinary (now judge of probate court), and substitute therefor one of the ward's own selection, after the ward has arrived at age to make such selection, is to institute a proceeding to revoke letters of guardian. The ward can only do this by petition filed in court of ordinary (now probate court) of county of guardian's appointment. Dickerson v. Bowen, 128 Ga. 122, 57 S.E. 326, 1907 Ga. LEXIS 45 (1907) (decided under former Civil Code 1895, § 2516).

Ward may appeal when denied right to select guardian. — If legal right of ward is adversely affected by order of ordinary (now judge of probate court) appointing new guardian not selected by ward, the ward has right of appeal to superior court. Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-105).

On appeal the whole case is tried anew, and discretion of ordinary (now judge of probate court) vests in superior court for that trial. Watson v. Warnock, 31 Ga. 716, 1861 Ga. LEXIS 266 (1861) (decided under Ga. Laws 1850, Cobb's 1851 Digest, p. 338).

Jurisdiction

Guardianship letters granted only at regular term of court were without jurisdiction. Where proceedings show on their face that letters were granted by ordinary (now probate judge) at chambers, the appointment was made without jurisdiction, and is void. Bell v. Love, 72 Ga. 125, 1883 Ga. LEXIS 30 (1883) (decided under former Code 1882, § 1806).

Infant's residence at time guardian appointed determines jurisdiction. — Infant's place of residence at time guardian is to be appointed determines jurisdiction; hence the ordinary (now judge of probate court) who appointed the first guardian of a ward may not always appoint the guardian's successor. Harrison v. Tonge, 67 Ga. App. 54, 19 S.E.2d 535, 1942 Ga. App. LEXIS 335 (1942) (decided under former Code 1933, § 49-105).

No jurisdiction to appoint guardian for infant residing outside county. — Ordinary (now judge of probate court) has no jurisdiction to appoint guardian for infant whose residence is out of the county. Rives v. Sneed, 25 Ga. 612, 1858 Ga. LEXIS 119 (1858) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 338).

Judge of residence approves guardian selection. — It is for probate judge of ward's county of residence to approve or disapprove selection. Dickerson v. Bowen, 128 Ga. 122, 57 S.E. 326, 1907 Ga. LEXIS 45 (1907) (decided under former Civil Code 1895, § 2516).

Letters of guardian must be revoked to appoint new guardian. — After jurisdiction to appoint guardian has been exercised, a new guardian cannot be appointed until letters of former guardian have been revoked. Harrison v. Tonge, 67 Ga. App. 54, 19 S.E.2d 535, 1942 Ga. App. LEXIS 335 (1942) (decided under former Code 1933, § 49-105).

Jurisdiction over removal and new appointments where guardian and ward leave county without removing trust, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-105).

Cannot collaterally attack right of guardianship. — Judgments rendered

under court's jurisdiction over controversies concerning right of guardianship cannot be collaterally attacked. Beavers v. Williams, 194 Ga. 875, 23 S.E.2d 171, 1942 Ga. LEXIS 701 (1942) (decided under former Code 1933, § 49-105).

Cannot collaterally attack appointment unless want of jurisdiction. — Judgment of court of ordinary (now probate court) appointing guardian cannot be collaterally attacked, unless want of jurisdiction appears on face of record. Sturtevant v. Robinson, 133 Ga. 564, 66 S.E. 890, 1909 Ga. LEXIS 277 (1909) (decided under former Civil Code 1895, § 2516).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. §§ 29-4-4 and 29-4-4.1 is included in the annotations for this Code section.

Cannot appoint guardian of person where child has living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. §§ 29-4-4 and 29-4-4.1).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 19 et seq., 31 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 10 et seq.

ALR.

Right of attorney, parent, guardian ad litem, or next friend to remit from verdict or judgment in favor of infant, 30 A.L.R. 1111.

Consideration and weight of religious affiliations in appointment or removal of guardian for minor child, 22 A.L.R.2d 696.

Right of infant to select his own guardian, 85 A.L.R.2d 921.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-2-15. Notice of petition for appointment of permanent guardian; objection of father; petition to legitimate.

(a) As used in this part, the term "biological father" means a father of a minor born out of wedlock whose rights regarding the minor have not been surrendered or terminated but who is not entitled to have custody of and exercise parental power over the child pursuant to Code Section 19-7-25.

(b)(1) Notice of a petition for appointment of a permanent guardian of a minor shall be given to the minor's biological father, if any, in the following circumstances:

(A) If the identity of the biological father is known to the petitioner;

(B) If the biological father is a registrant on the putative father

registry who has acknowledged paternity of the minor in accordance with subparagraph (d)(2)(A) of Code Section 19-11-9;

(C) If the biological father is a registrant on the putative father registry who has indicated possible paternity of a child of the minor's mother during a period beginning two years immediately prior to the minor's date of birth in accordance with subparagraph (d)(2)(B) of Code Section 19-11-9; or

(D) If the biological father has lived with the minor; contributed to the minor's support; made any attempt to legitimate the minor; or provided support or medical care for the mother either during her pregnancy or during her hospitalization for the birth of the minor.

(2) The notice shall advise the biological father that he will lose all rights to object to the appointment of a permanent guardian for the minor if he does not file an objection with the court within 14 days of the notice and file a petition to legitimate the minor within 30 days of the hearing on his objection. The notice shall include the name of the individual who will be the minor's permanent guardian if the petition is granted.

(c) If the biological father files a timely objection to the petition, the court shall hear the objection and, if the biological father makes a request, shall continue the hearing for 30 days to allow the father to file a petition to legitimate the minor pursuant to Code Section 19-7-22. If the biological father's petition for legitimation of the minor is granted, the petition for the appointment of a permanent guardian for the minor shall be dismissed.

(d) If the biological father does not file a petition for legitimation within 30 days or files a petition that is subsequently dismissed for failure to prosecute or files a petition and the action is subsequently concluded without a court order declaring that he is the father of the minor, the biological father shall have no further rights to receive notice of or object to the appointment of a permanent guardian for the minor.

History.

Code 1981, § 29-2-15, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(2)(M)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

Law reviews.

For annual survey of wills, trusts, guardianships, and fiduciary administration, see 57 Mercer L. Rev. 403 (2005).

29-2-16. Individuals with preference for permanent guardianship of minor; preference not controlling.

(a) The court shall appoint as permanent guardian that individual who will serve the best interest of the minor, considering the following order of preferences:

(1) The adult who is the preference of the minor if the minor is 14 years of age or older;

(2) The nearest adult relative of the minor determined according to Code Section 53-2-1;

(3) Other adult relatives of the minor;

(4) Other adults who are related to the minor by marriage;

(5) An adult who was designated in writing by either of the minor's natural guardians in a notarized document or document witnessed by two or more persons; or

(6) An adult who has provided care or support for the minor or with whom the minor has lived.

(b) The court may disregard an individual who has preference and appoint an individual who has a lower preference or no preference. In determining what is in the best interest of the minor, the court may take into account any facts and circumstances presented to it, including the statement of a minor who is under 14 years of age.

History.
Code 1981, § 29-2-16, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142.

Cross references.
County administrators as ex officio county guardians, § 29-3-1.

Law reviews.
For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2518, former Civil Code 1910, § 3039, Ga. L. 1922, p. 46, § 1, former Code 1933, § 49-107, and former O.C.G.A. § 29-4-8 are included in the annotations for this Code section.

Contest for guardianship of person and property of one adjudged incompetent. — Former Civil Code 1895, § 2518 (former O.C.G.A. § 29-4-8) was applicable to a contest for guardianship of the person and property of one who has been adjudged incapable of managing one's estate and therefore liable to have a guardian appointed for that person. Armor v. Moore, 104 Ga. 579, 30 S.E. 821, 1898 Ga. LEXIS 368 (1898) (decided under former Civil Code 1895, § 2518).

Nearest relative has absolute right to appointment if unobjectionable. See Kelley v. Kelley, 129 Ga. App. 257, 199 S.E.2d 399, 1973 Ga. App. LEXIS 966 (1973) (decided under former Code 1933,

§ 49-107); Abrams v. Daffron, 155 Ga. App. 182, 270 S.E.2d 278, 1980 Ga. App. LEXIS 2512 (1980) (decided under former Code 1933, § 49-107).

Meaning of word "objectionable". — The word "objectionable" in former Code 1933, § 49-107 referred not to moral qualities exclusively but to any position or course of dealing which led to the conclusion that the interest of a person selected was adverse to that of the estate. Kelley v. Kelley, 129 Ga. App. 257, 199 S.E.2d 399, 1973 Ga. App. LEXIS 966 (1973) (decided under former Code 1933, § 49-107).

A court has wide discretion in determining whether an applicant was entitled to the absolute preference set forth in former O.C.G.A. § 29-4-8, and it was apparent that "objectionability" in a guardianship dispute was not the same as "parental unfitness," which must generally be shown before a court can interfere with a parent's right to custody over a child. An inquiry into a guardianship applicant's "unobjectionability" may broadly consider the applicant's suitability, habits, responsibility, sense, and morality, as well as the financial interests of the child. A person may be "objectionable," and not entitled to guardianship as a matter of right, even though the objections would not authorize interfering with the person's right to custody of the person's own child. Huval v. Jacobs, 248 Ga. App. 696, 548 S.E.2d 437, 2001 Ga. App. LEXIS 379 (2001) (decided under former O.C.G.A. § 29-4-8).

Grandparent named as testamentary guardian should prevail. — Where both parents of an infant child are deceased, the father having survived the mother and by will having provided that his mother should be testamentary guardian of the person of such child, and where in a contest between the paternal and the maternal grandmothers of the child it appears that both are fit and proper persons to have custody of the child, the testamentary guardian is entitled to the custody. Shanks v. Ross, 173 Ga. 55, 159 S.E. 700, 1931 Ga. LEXIS 260 (1931) (decided under Ga. L. 1922, p. 46, § 1).

Child's grandmother was not entitled to the absolute preference provided for in the statute, and custody of the child was properly awarded to the child's aunt and uncle since: (1) the trial court noted that the grandmother had not exhibited good parenting skills in regard to her own children and had led an inappropriate life style in the presence of minors in the past; (2) the court noted that she divorced the children's father when they were young and then had two long term live in relationships while the minor children lived in her house; (3) one of the children went to live with her father for a year when she was 13 because of difficulties in her relationship with her mother and subsequently left home before finishing high school; and (4) the court found that the grandmother had time and again made poor moral decisions and that educational success had not been a priority for her or her children. Huval v. Jacobs, 248 Ga. App. 696, 548 S.E.2d 437, 2001 Ga. App. LEXIS 379 (2001) (decided under former O.C.G.A. § 29-4-8).

Preference of remaindermen is immaterial. — Under the provisions of former Civil Code 1895, § 2518 (former O.C.G.A. § 29-4-8), the ward's nearest of kin by blood, if unobjectionable, was, in such a contest, entitled to the appointment; and the preference of remaindermen, to whom the ward's estate may eventually belong was not, in legal contemplation, material. Armor v. Moore, 104 Ga. 579, 30 S.E. 821, 1898 Ga. LEXIS 368 (1898) See also Johnson v. Kelly, 44 Ga. 485, 1871 Ga. LEXIS 408 (1871); Chalker v. Thornton, 31 Ga. App. 791, 122 S.E. 244, 1924 Ga. App. LEXIS 198 (1924) (decided under former Civil Code 1895, § 2518).

Sureties on bond of clerk not liable for clerk's default. — Sureties upon official bond of clerk of superior court are not liable thereon for sureties' default as guardian appointed by the ordinary (now judge of probate court) under provisions of former Civil Code 1910, § 3039 (former O.C.G.A. § 29-4-11). Hardwick v. Fidelity & Deposit Co., 29 Ga. App. 567, 116 S.E. 220, 1922 Ga. App. LEXIS 290 (1922) (decided under former Civil Code 1910, § 3039).

Attorney's fees. — Because the attorney failed to present any evidence of

the value of the lawyer's services at a probate hearing, the trial court was left to determine that value based on its own experience and, since the lawyer failed to prove that the contingency agreement with the beneficiaries of an estate provided for a reasonable fee, the trial court was authorized to determine that $15,000 was a reasonable fee. Rowen v. Estate of Hughley, 272 Ga. App. 55, 611 S.E.2d 735, 2005 Ga. App. LEXIS 215 (2005).

Purported settlement agreement involving the ward not enforceable. — Trial court did not err in denying a driver's motions to enforce a settlement with the driver's injured passenger, and dismiss the passenger's action, as: (1) the attorney, who purported to agree to the settlement of the passenger's claim, lacked the authority to do so; and (2) the undisputed evidence revealed that at the time of the purported settlement no guardian had been appointed for the passenger. Anaya v. Coello, 279 Ga. App. 578, 632 S.E.2d 425, 2006 Ga. App. LEXIS 644 (2006), cert. denied, No. S06C1724, 2006 Ga. LEXIS 699 (Ga. Sept. 8, 2006).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 40 et seq.

Am. Jur. Pleading and Practice Forms.

7 Am. Jur. Pleading and Practice Forms, Compromise and Settlement, § 39 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 24 et seq.

ALR.

Necessity and sufficiency of notice to alleged incompetent of application for appointment of guardian or committee, 23 A.L.R. 594.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-2-17. Petition for appointment of permanent guardian; requirements of petition; notice.

(a) Any interested person may file a petition for the appointment of a permanent guardian of a minor.

(b) The petition for appointment of a permanent guardian shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and date of birth of the minor;

(3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to the minor, if any, and, if different from the petitioner, the name, address, and county of domicile of the individual nominated by the petitioner to serve as guardian and that individual's relationship to the minor, if any;

(4) A statement that the minor has no natural guardian, testamentary guardian, or permanent guardian;

(5) A statement of whether the child was born out of wedlock and, if so, the name and address of the biological father, if known;

(6) Whether, to the petitioner's knowledge, there exists any notarized or witnessed document made by a parent of the minor that deals with the guardianship of the minor and the name and address of any designee named in the document;

(7) In addition to the petitioner and the nominated guardian, the names and addresses of the following relatives of the minor whose whereabouts are known:

(A) The adult siblings of the minor; provided, however, that not more than three adult siblings need to be listed;

(B) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need to be listed; or

(C) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1;

(8) Whether a temporary guardian has been appointed for the minor or a petition for the appointment of a temporary guardian has been filed or is being filed; and

(9) The reason for any omission in the petition for appointment of a permanent guardian for a minor in the event full particulars are lacking.

(c) In addition to the notice required by Code Section 29-2-15, notice of the petition for appointment of a permanent guardian for a minor shall be given to any designee named in paragraph (6) of subsection (b) of this Code section and the individuals named in paragraph (7) of subsection (b) of this Code section. The notice shall be by personal service if the individual resides in this state at a known address; by first-class mail if the individual resides outside this state at a known address; or by publication for two weeks in the official county legal organ for the county in which the petition is filed if no address is known. The notice shall state that the individual is entitled to object either to the establishment of a permanent guardianship or to the selection of the petitioner as permanent guardian, or both. The notice shall require that any objection be filed in writing with the court within ten days of the personal service, within 14 days of the mailing of the notice, or within ten days of the date of the second publication of the notice.

(d) If the judge deems it necessary, a temporary guardian may be appointed under the same rules that apply to the appointment of a temporary administrator.

History.

Code 1981, § 29-2-17, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2011, p. 752, § 29/HB 142.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1910, §§ 3033 and 3046, and former Code 1933, § 49-112 are included in the annotations for this Code section.

For purpose of notice, see New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided prior to amendment of former Civil Code 1810, § 3046 by Ga. L. 1958, p. 673, § 2, which changed notice requirement).

Citation unnecessary to appoint mother as guardian of daughter's property. — In order for a mother, the natural guardian, to also be appointed guardian of her daughter's property, citation is unnecessary. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-112).

Citation necessary for appointment for one not child of applicant. — Where application is for appointment of guardian of a minor child under 14 years of age, other than child of applicant, it is necessary for citation to issue. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-112).

Second citation unnecessary. — It is not necessary to issue a second citation when the first citation of application for letters of administration is for the appointment of one person even though the court issues letters of administration to an entirely different person, as to whose appointment no previous notice had been given to any one. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3046).

No citation is necessary for appointment of testamentary guardian and a testamentary guardian might be authorized by probate court to take charge of property coming to the guardian's ward from sources other than parent's will, without necessity of citation. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Further notice unnecessary for testamentary guardian over property from other sources. — Where applicant has already, by will, been made testamentary guardian, it is a matter of testamentary disposition, and there would seem to be no necessity for further notice. Moreover, the law raises implication that there could be no better selection for guardianship of property of minors coming from outside sources than that already provided by the father in his own will as to their persons and property devised by the will. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3046).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 60, 61.

C.J.S.

39 C.J.S., Guardian and Ward, § 34 et seq.

ALR.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Necessity and sufficiency of notice to alleged incompetent of application for ap-

pointment of guardian or committee, 23 A.L.R. 594.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-2-18. Hearing; best interest of the child standard.

Upon the filing of a petition for the appointment of a permanent guardian of a minor and the giving of notice, the court shall hold a hearing and the standard for determination for all matters at issue shall be the best interest of the minor.

History.

Code 1981, § 29-2-18, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Civil Code 1910, §§ 3033, 3046, former Code 1933, §§ 49-112 and 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

For purpose of notice, see New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided prior to amendment of former Civil Code 1810, § 3046 by Ga. L. 1958, p. 673, § 2, which changed notice requirement).

Notice and hearing requirements of Juvenile Code mandatory. — Juvenile court committed reversible error in granting the children's paternal grandparents custody and guardianship of the children because the court failed to follow the statutory mandates outlined in the Juvenile Code as the mother did not consent to transfer of permanent guardianship and no guardianship petition was filed and provided to the mother with the notice of proceedings. In the Interest of J. C., 350 Ga. App. 34, 827 S.E.2d 717, 2019 Ga. App. LEXIS 237 (2019).

Citation unnecessary to appoint mother as guardian of daughter's property. — In order for a mother, the natural guardian, to also be appointed guardian of her daughter's property, citation is unnecessary. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-112).

Citation necessary for appointment for one not child of applicant. — Where application is for appointment of guardian of a minor child under 14 years of age, other than child of applicant, it is necessary for citation to issue. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-112).

Second citation unnecessary. — It is not necessary to issue a second citation when the first citation of application for letters of administration is for the appointment of one person even though the court issues letters of administration to an entirely different person, as to whose appointment no previous notice had been given to any one. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3046).

No citation is necessary for appointment of testamentary guardian and a testamentary guardian might be authorized by probate court to take charge of property coming to the guardian's ward from sources other than parent's will, without necessity of citation. New York

Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Further notice unnecessary for testamentary guardian over property from other sources. — When an applicant has already, by will, been made testamentary guardian, it is a matter of testamentary disposition, and there would seem to be no necessity for further notice. Moreover, the law raises implication that there could be no better selection for guardianship of property of minors coming from outside sources than that already provided by the father in his own will as to their persons and property devised by the will. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3046).

Requiring notice is to protect public and alleged incompetent. — The object of former Code 1933, § 49-604 in requiring notice to relatives was not to confer any right upon them, but was solely for the purpose of protecting public and interest of alleged incompetent. Phillips v. Phillips, 202 Ga. 776, 44 S.E.2d 767, 1947 Ga. LEXIS 528 (1947) (decided under former Code 1933, § 49-604).

Relations notified are not parties in their own behalf but are notified for benefit of person to be considered and given an opportunity to be heard in that person's behalf. They are not summoned by process; no judgment can be rendered against them merely because of such notice; and there is no provision for taxing costs against them. Slaughter v. Heath, 127 Ga. 747, 57 S.E. 69, 1907 Ga. LEXIS 473 (1907) (decided under former Code 1895, § 2573).

Proceedings in probate court only governed by recording requirement in former O.C.G.A. § 29-5-6(e)(2) and on de novo appeal from probate court decision on guardianship petition, superior court may, but was not required to, have the hearing reported. Snider v. Lavender, 164 Ga. App. 591, 298 S.E.2d 582, 1982 Ga. App. LEXIS 2879 (1982) (decided under former O.C.G.A. § 29-5-6).

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Stepchildren are not included in "children." — A ward's stepchildren are not children under the guardianship statute, nor are they next of kin, and because there were individuals in this case related to the ward by blood, who were not notified of the guardianship proceedings, the appointment of the guardian was void. Wilson v. James, 260 Ga. 234, 392 S.E.2d 5, 1990 Ga. LEXIS 222 (1990) (decided under former O.C.G.A. § 29-5-6).

Guardian appointment for person of nonresident insane person within county. — Probate courts of this state have jurisdiction to appoint a guardian for person of nonresident insane person if nonresident is found within limits of county of probate court's jurisdiction. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Probate court of Cobb County did not lack jurisdiction over proceedings involving ward who was a Stephens County resident but had been transferred to a convalescent center in Cobb County, where it was uncontroverted that no plea to the court's jurisdiction was filed and that ward was at the time of the proceeding "found" in Cobb County. Smith v. Young, 187 Ga. App. 191, 369 S.E.2d 798, 1988 Ga. App. LEXIS 672 (1988) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children

for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga. Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Requirements for petition at trial. — Former O.C.G.A. § 29-5-6(a)(3), which required a guardianship petition to be sworn to by at least two petitioners, did not result in a similar requirement that a petitioner present two witnesses in support of the petition at the actual trial. Cummings v. Stanford, 193 Ga. App. 695, 388 S.E.2d 729, 1989 Ga. App. LEXIS 1588 (1989) (decided under former O.C.G.A. § 29-5-6).

Mental capacity to petition for appointment of guardian. — A person receiving social security disability benefits based on a mental disability, who had not been adjudicated to be incapacitated, was not disqualified to petition for appointment of a guardian for parent. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Notice to nearest relatives of alleged mental incompetent is insufficient. Edwards v. Lampkin, 221 Ga. 486,

145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice, all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Failure to have hearing recorded impacts appeal. — Absent a record of the hearing, the appellate could not determine whether the probate court's finding that appellant was incapable of managing appellant's estate was supported by clear and convincing evidence; accordingly, because the probate court failed to have the hearing recorded or reported, appellant was effectively denied appellant's right to appeal the probate court's decision. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-6).

Standing to appeal from grant of petition. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-6).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 64 et seq.

Am. Jur. Pleading and Practice Forms.

7 Am. Jur. Pleading and Practice Forms, Compromise and Settlement, § 39 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 9, 17 et seq., 266 et seq. 56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 112 et seq.

ALR.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Necessity and sufficiency of notice to alleged incompetent of application for appointment of guardian or committee, 23 A.L.R. 594.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-2-19. Requirements of order granting permanent guardianship.

An order granting permanent guardianship shall specify:

(1) The name of the permanent guardian and the basis for the selection of the guardian;

(2) A specific listing of any of the additional powers which are granted to the permanent guardian as provided in subsection (b) of Code Section 29-2-22;

(3) If only a guardian is appointed or if the guardian and the conservator appointed are not the same person, the reasonable sums of property to be provided the guardian to provide adequately for the minor's support, care, education, health, and welfare are subject to modification by subsequent order of the court; and

(4) Such other and further provisions of the guardianship as the court shall determine to be in the best interest of the minor.

History.

Code 1981, § 29-2-19, enacted by Ga. L. 2004, p. 161, § 1.

ARTICLE 2

PROTECTION OF MINOR

29-2-20. Rights of minor; impact on testamentary capacity.

(a) In every guardianship, the minor has the right to:

(1) A qualified guardian who acts in the best interest of the minor;

(2) A guardian who is reasonably accessible to the minor;

(3) Have his or her property utilized as necessary for his or her support, care, education, health, and welfare; and

(4) Individually or through the minor's representative or legal counsel, bring an action relating to the guardianship.

(b) The appointment of a guardian is not a determination that a minor who is 14 years of age or older lacks testamentary capacity.

History.
Code 1981, § 29-2-20, enacted by Ga. L. 2004, p. 161, § 1.

Cross references.
Rights of minor, § 1-2-8.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-7 is included in the annotations for this Code section.

Ward's right to make will. — The appointment of a guardian for adults who are incapacitated does not destroy the ward's right or ability to make a will. Pope v. Fields, 273 Ga. 6, 536 S.E.2d 740, 2000 Ga. LEXIS 674 (2000) (decided under former O.C.G.A. § 29-5-7).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 140.

29-2-21. Power of guardian over minor; obligations and liabilities of guardian.

(a) The power of a guardian over the minor shall be the same as that of a parent over a child; the guardian standing in place of the parent. A guardian shall at all times act as a fiduciary in the minor's best interest and exercise reasonable care, diligence, and prudence.

(b) A guardian shall:

(1) Respect the rights and dignity of the minor;

(2) Arrange for the support, care, education, health, and welfare of the minor considering the minor's available resources;

(3) Take reasonable care of the minor's personal effects;

(4) Expend money of the minor that has been received by the guardian for the minor's current needs for support, care, education, health, and welfare;

(5) Conserve for the minor's future needs any excess money of the minor received by the guardian; provided, however, that, if a conservator has been appointed for the minor, the guardian shall pay to the conservator, at least quarterly, money to be conserved for the minor's future needs;

(6) If necessary, petition to have a conservator appointed;

(7) Endeavor to cooperate with the conservator, if any;

(8) Within 60 days after appointment and within 60 days after each anniversary date of appointment, file with the court and provide to the conservator, if any, a personal status report concerning the minor, which shall include:

(A) A description of the minor's general condition, changes since the last report, and the minor's needs;

(B) All addresses of the minor during the reporting period and the living arrangements of the minor for all addresses; and

(C) Recommendations for any alteration in the guardianship order;

(9) Promptly notify the court of any conflict of interest between the minor and the guardian when the conflict arises or becomes known to the guardian and take such action as is required by Code Section 29-2-23;

(10) Keep the court informed of the guardian's current address; and

(11) Act promptly to terminate the guardianship when the minor dies, reaches age 18, is adopted, or is emancipated.

(c) A guardian, solely by reason of the guardian-minor relationship, is not personally liable for:

(1) The minor's expenses;

(2) Contracts entered into in the guardian's fiduciary capacity;

(3) The acts or omissions of the minor;

(4) Obligations arising from ownership or control of property of the minor; or

(5) Other acts or omissions occurring in the course of the guardianship.

History.

Code 1981, § 29-2-21, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(1)(J)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in paragraph (b)(5).

Cross references.

Permanent guardianship of dependent child, § 15-11-240 et seq.

Parent and child relationship generally, § 19-7-1 et seq.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1822 and former Code 1933, § 49-201 are included in the annotations for this Code section.

Guardian stands in loco parentis to child, with duty to provide for the child's welfare. Where parental duty and control are lost to a third person by any of the ways recognized by law, such person stands in loco parentis to the child, with the duty and obligation to provide for the child's welfare. Hale v. Henderson, 210 Ga. 273, 79 S.E.2d 804, 1954 Ga. LEXIS 285 (1954) (decided under former Code 1933, § 49-201).

When there is no father or mother, the guardian becomes head of the family. Rountree v. Dennard, 59 Ga. 629, 1877 Ga. LEXIS 434 (1877) (decided under former Code 1873, § 1822).

Guardian of minor child has same claim to custody. — Former Code 1933, § 49-201 (former O.C.G.A. § 29-2-1) clearly indicated that guardian of person and property of minor child had same claim to custody of the child as the child's father would have had. Beavers v. Williams, 194 Ga. 875, 23 S.E.2d 171, 1942 Ga. LEXIS 701 (1942) (decided prior to revision of former Code 1933, § 49-201 by Ga. L. 1976, p. 688, § 4, at which time statute employed term "father" rather than "parent").

Guardian's duty to maintain. — Court cannot derive from the duty to protect and maintain, required by former Code 1933, § 49-201 (former O.C.G.A. § 29-2-1), a guardian's duty to visit the guardian's ward in the state hospital. Tucker v. Lea, 83 Ga. App. 207, 63 S.E.2d 252, 1951 Ga. App. LEXIS 834 (1951) (decided under former Code 1933, § 49-201).

Upon marriage between adult and underage ward, rights and powers of the guardian cease, both as respects her person and her estate, and the husband acquires the same right and incurs the same obligations which he acquires and incurs in case his wife is of age. Nicholson v. Wilborn & McWhorter, 13 Ga. 467, 1853 Ga. LEXIS 113 (1853) (decided under prior law).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-201 is included in the annotations for this Code section.

Whereabouts of minor child would seem to fall within area of parental or guardianship responsibility and therefore the primary responsibility for locating a child who is absent from an educational center or school on an unauthorized basis would fall upon parents or other guardians or custodians. 1978 Op. Att'y Gen. No. 78-48 (decided under former Code 1933, § 49-201).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 1 et seq., 86 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 57 et seq., 76 et seq., 284 et seq.

ALR.

Right of natural guardian to custody or control of infant's property, 6 A.L.R. 115.

Right of attorney, parent, guardian ad litem, or next friend to remit from verdict or judgment in favor of infant, 30 A.L.R. 1111.

Appointment of guardian for infant as affecting rights and duties of parents, 63 A.L.R. 1147.

Right and obligation of guardian other than parent in respect of services rendered by, or board or services furnished to, ward, 64 A.L.R. 692.

Care required of trustee or guardian with respect to retaining securities coming into his hands as assets of the estate, 77 A.L.R. 505.

Right of trustee, executor, administrator, or guardian to purchase property of estate or trust at sale brought about by third person, 77 A.L.R. 1513.

Power of guardian or committee of incompetent in respect of insurance on ward's life, or of policy under which he has interest, 84 A.L.R. 366.

Power and duty of trustee, executor, administrator, or guardian as regards protection of investment in stocks by submitting to voluntary assessment, 104 A.L.R. 979.

Ownership by trustee, executor, or guardian in his own right of stock in a corporation in which he also holds stock in his fiduciary capacity, 106 A.L.R. 220; 161 A.L.R. 1039.

Authority of next friend or guardian ad litem, or of attorney employed by him, to receive payment or acknowledge satisfaction of judgment in favor of infant, 111 A.L.R. 686.

Improper handling of funds, investments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

Guardian's contract employing attorney as binding on ward or his estate, 171 A.L.R. 468.

Power of guardian of incompetent to change beneficiary in ward's life insurance policy, 21 A.L.R.2d 1191.

Power of guardian representing unborn future interest holders to consent to invasion of trust corpus, 49 A.L.R.2d 1095.

Power to make charitable gifts from estate of incompetent, 99 A.L.R.2d 946.

Power of court or guardian to make noncharitable gifts or allowances out of funds of incompetent ward, 24 A.L.R.3d 863.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

Judicial power to order discontinuance of life-sustaining treatment, 48 A.L.R.4th 67.

Power of incompetent spouse's guardian or representative to sue for granting or vacation of divorce or annulment of marriage, or to make compromise or settlement in such suit, 32 A.L.R.5th 673.

29-2-22. Authority of guardian; appointment of guardian ad litem.

(a) The appointment of a guardian shall vest in the guardian the exclusive power, without court order, to:

(1) Take custody of the person of the minor and establish the minor's place of dwelling within this state;

(2) Subject to Chapters 9, 20, and 36 of Title 31 and any other pertinent law, give any consent or approval that may be necessary for medical or other professional care, counsel, treatment, or services for the minor;

(3) Bring, defend, or participate in legal, equitable, or administrative proceedings, including alternative dispute resolution, as are

appropriate for the support, care, education, health, or welfare of the minor in the name of or on behalf of the minor;

(4) Execute a surrender of rights to enable the adoption of the minor pursuant to the provisions of Article 1 of Chapter 8 of Title 19 or the adoption laws of any other state; and

(5) Exercise those other powers reasonably necessary to provide adequately for the support, care, education, health, and welfare of the minor.

(b) At the time of the appointment of the guardian or at any time thereafter, any of the following powers may be specifically granted by the court to the guardian upon such notice, if any, as the court shall determine, provided that no disposition of the minor's property shall be made without the involvement of a conservator, if any:

(1) To establish the minor's place of dwelling outside this state;

(2) To change the jurisdiction of the guardianship to another county in this state that is the county of the minor's place of dwelling, pursuant to Code Section 29-2-60;

(3) To change the domicile of the minor to the minor's or the guardian's place of dwelling, in the determination of which the court shall consider the tax ramifications and the succession and inheritance rights of the minor and other parties;

(4) To consent to the marriage of the minor;

(5) To receive reasonable compensation from the estate of the minor for services rendered to the minor; and

(6) If there is no conservator, to disclaim or renounce any property or interest in property of the minor in accordance with the provisions of Code Section 53-1-20.

(c) Before granting any of the powers described in subsection (b) of this Code section, the court shall appoint a guardian ad litem for the minor and shall give notice to any natural guardian of the minor.

(d) In granting any of the powers described in subsection (b) of this Code section, the court shall consider the property rights of the minor and the views of the conservator, if available, or, if there is no conservator, of others who have custody of the minor's property.

(e) In performing any of the acts described in this Code section, the guardian shall act in coordination and cooperation with the conservator or, if there is no conservator, with others who have custody of the minor's property.

History.

Code 1981, § 29-2-22, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2009, p. 800, § 5/HB 388; Ga. L. 2011, p. 752, § 29/HB 142.

Cross references.

Permanent guardianship of dependent child, § 15-11-240 et seq.

Appointment of guardian ad litem, § 15-11-476.

Editor's notes.

Ga. L. 2009, p. 800, § 1/HB 388, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Option of Adoption Act.'"

Law reviews.

For article, "The Child as a Party in Interest in Custody Proceedings," see 10 Ga. St. B.J. 577 (1974).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1838 are included in the annotations for this Code section.

Jurisdiction of juvenile court in transferred custody proceeding. — Georgia Supreme Court affirmed the transfer of a father's petition for custody from Gwinnett County, Georgia, to Douglas County, Georgia, because the "complaint for custody" that the father filed in Gwinnett County fairly was read as a petition to modify, vacate, or revoke the permanent guardianship, a petition over which the Juvenile Court of Douglas County had exclusive jurisdiction under the circumstances. In the Interest of M. F., 298 Ga. 138, 780 S.E.2d 291, 2015 Ga. LEXIS 907 (2015).

Guardian empowered to appoint agent. — Guardian had power to appoint agent to act for guardian during absence in confederate army, and any act of agent within scope of agent's authority would be as valid as that of guardian. Tarpley v. McWhorter, 56 Ga. 410, 1876 Ga. LEXIS 308 (1876) (decided under former Code 1873, § 1838).

Letters of testamentary guardianship. — Superior court erred in granting an aunt and uncle custody of minor children because the court lacked subject matter jurisdiction to consider the petition for custody since a probate court had exclusive jurisdiction to issue and revoke letters of testamentary guardianship, and O.C.G.A. § 29-2-4(b) mandated the issuance of letters of testamentary guardianship to the brother of the children's father without notice and a hearing and without consideration of the children's best interests; equity afforded no valid basis for the superior court's exercise of jurisdiction because the aunt and uncle had an appropriate remedy in the probate court to challenge the testamentary guardianship: a petition for revocation or suspension of the brother's letters of testamentary guardianship. Zinkhan v. Bruce, 305 Ga. App. 510, 699 S.E.2d 833, 2010 Ga. App. LEXIS 745 (2010), cert. denied, No. S10C2049, 2011 Ga. LEXIS 138 (Ga. Feb. 7, 2011).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Attorney's fees. — Because a lawyer failed to present any evidence of the value of the lawyer's services at a probate hearing, the trial court was left to determine that value based on its own experience; since the lawyer failed to prove that the contingency agreement with the beneficiaries of an estate provided for a reasonable fee, the trial court was authorized to determine that $15,000 was a reasonable fee. Rowen v. Estate of Hughley, 272 Ga. App. 55, 611 S.E.2d 735, 2005 Ga. App. LEXIS 215 (2005).

Guardian had not sought change of domicile. — In a wrongful death action, a decedent's minor children remained domiciled in Georgia because the guardian had not applied to a probate

court to change the children's domicile to Alabama as required by O.C.G.A. § 29-2-22(b). D.R. v. Grant, No., 770 F. Supp. 2d 1337, 2011 U.S. Dist. LEXIS 32797 (M.D. Ga. 2011).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 70 et seq., 86 et seq.

C.J.S.

43 C.J.S., Infants, § 417 et seq. 57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Amount of attorneys' compensation in matters involving guardianship and trusts, 57 A.L.R.3d 550.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-2-23. Conflicts of interest.

The guardian must disclose promptly any conflict of interest between the guardian and the minor when it arises or becomes known to the guardian and seek the court's determination as to whether the conflict is insubstantial or if it is in the best interest of the minor for the guardian to continue to serve.

History.

Code 1981, § 29-2-23, enacted by Ga. L. 2004, p. 161, § 1.

Cross references.

Permanent guardianship of dependent child, § 15-11-240 et seq.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 99 et seq., 201 et seq.

C.J.S.

57 C.J.S., Mental Health, § 123 et seq.

29-2-24. Oath required of guardian.

Before entering upon the duties of the appointment, every guardian appointed pursuant to the terms of this chapter shall take an oath or affirmation before the court to perform well and truly the duties

required of a guardian and to account faithfully for the estate. The oath or affirmation of a guardian may be subscribed before the judge or clerk of any probate court of this state. The judge of the probate court who appoints the guardian shall have the authority to grant a commission to a judge or clerk of any court of record of any other state to administer the oath or affirmation.

History.
Code 1981, § 29-2-24, enacted by Ga. L. 2004, p. 161, § 1.

Cross references.
Permanent guardianship of dependent child, § 15-11-240 et seq.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2528, former Code 1873, § 1812, and former Code 1933, §§ 49-113 and 113-1402 are included in the annotations for this Code section.

Inventory as admission. — Inventory required by law to be made and returned by an administrator is an admission, though not a conclusive one, of possession of such assets of an intestate as are therein described. Ellis v. McWilliams, 70 Ga. App. 195, 27 S.E.2d 886, 1943 Ga. App. LEXIS 280 (1943) (decided under former Code 1933, § 113-1402).

Administrator may explain any mistake or error in the inventory, or may show that the administrator's intestate had no title to the property inventoried. The administrator's inventory of assets as belonging to the administrator's intestate puts the burden on the administrator to show its incorrectness. Ellis v. McWilliams, 70 Ga. App. 195, 27 S.E.2d 886, 1943 Ga. App. LEXIS 280 (1943) (decided under former Code 1933, § 113-1402).

Prima facie proof of ownership by estate. — Inventory and appraisement, when properly filed and recorded in the office of the court of ordinary (now probate court), is prima facie proof as to the property owned by the deceased at the time of death, and an estimate of the value thereof. If not a true inventory and appraisal, the burden is upon the removed administrator to prove that it is not correct, and account to the ordinary (now probate judge) for the items which the administrator listed and submitted to the appraisers, and which the administrator verified as correct. Ellis v. McWilliams, 70 Ga. App. 195, 27 S.E.2d 886, 1943 Ga. App. LEXIS 280 (1943) (decided under former Code 1933, § 113-1402).

RESEARCH REFERENCES

Am. Jur. 2d.
31 Am. Jur. 2d, Executors and Administrators, § 441 et seq. 39 Am. Jur. 2d, Guardian and Ward, §§ 67, 86 et seq.

C.J.S.
33 C.J.S., Executors and Administrators, § 88. 34 C.J.S., Executors and Administrators, §§ 1051, 1173. 39 C.J.S., Guardian and Ward, §§ 36, 37, 142.

ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Renewal of copyright where author is dead, 19 A.L.R. 295.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

29-2-25. Bond requirements.

(a) A guardian may be required to give bond with good and sufficient security in such amount as the court may determine from time to time.

(b) The clerk of the court shall record bonds in books kept for that purpose and shall retain custody of the bonds.

(c) If a guardian is required to give bond and has given as security one or more licensed commercial sureties authorized to transact business in this state, the bond premium shall, upon the request of the guardian, be paid from the estate of the minor.

History.

Code 1981, § 29-2-25, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2019, p. 693, § 1/HB 70.

Cross references.

Time limitation on bringing of actions against guardians, § 9-3-27.

Statute of limitations for prosecution of guardian for theft by conversion of property of ward, § 17-3-2.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2528, former Code 1873, § 1812, former Code 1933, § 49-113, and former Code 1933, § 113-1401 are included in the annotations for this Code section.

Only substantial compliance with statutes in execution of bonds required. — Policy of the law as to all bonds required by statute, and especially as to bonds of guardians, administrators, and like trustees, is to disregard mere formalities, and to require only substantial compliance to secure all statutory remedies to persons injured by their breach. United States Fid. & Guar. Co. v. Davis, 2 Ga. App. 525, 58 S.E. 777, 1907 Ga. App. LEXIS 445 (1907) (decided under former Civil Code 1895, § 2528).

Grant of letters without bond not void without notice. — In all cases of appointment by ordinary (now judge of probate court) of guardian of a minor — whether the clerk of the superior court or some other proper person — bond should be required; but the grant of letters without taking bond would not be void as against a bona fide purchaser under the guardian, without notice of want of a bond. Cuyler v. Wayne, 64 Ga. 78, 1879 Ga. LEXIS 11 (1879) (decided under former Code 1873, § 1812).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se a breach of bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

Void sale does not amount to breach. — Where sale of realty conducted by guardian is illegal and void, title to property sold does not pass, and heirs and distributees may assert their title to property so sold, so that there is no such loss to them as would amount to breach of bond of administrator and render surety thereon liable. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

RESEARCH REFERENCES

Am. Jur. 2d.

31 Am. Jur. 2d, Executors and Administrators, § 442. 39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.

C.J.S.

33 C.J.S., Executors and Administrators, § 90 et seq. 39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Liability of guardian for loss of funds deposited in bank in form which discloses trust or fiduciary character, 90 A.L.R. 641.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

Time as of which value of property is to be computed for purpose of inheritance, succession, or estate tax, 160 A.L.R. 1059.

Valuation of United States Treasury bonds for state inheritance or estate tax purposes, 62 A.L.R.3d 1272.

ARTICLE 3

TERMINATION OF GUARDIANSHIP

29-2-30. Circumstances when guardianship terminates; delivery of property.

(a) The guardianship of a minor shall terminate on the date upon which the earliest of the following occurs: the minor reaches age 18, the minor is adopted, the minor is emancipated, the minor dies, or a court order terminating the guardianship is entered. Proof of adoption, death, or emancipation shall be filed with the court and the court in its discretion may order a hearing.

(b) Within six months prior to the date the minor reaches 18 years of age, the guardian or any other interested person may file a petition for the appointment of a guardian for the minor when that minor becomes an adult, in accordance with the provisions of Article 2 of Chapter 4 of this title, to take effect on or after the date the minor reaches 18 years of age.

(c) The death of the minor automatically terminates the guardianship, except as otherwise provided in Code Section 29-2-31.

(d) Upon termination of the guardianship, the guardian shall deliver any money or property to the former minor or, if a guardian or conservator has been appointed for the former minor, to that guardian or conservator or, if the minor is deceased, to the minor's personal representative.

History.

Code 1981, § 29-2-30, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 4/SB 534.

JUDICIAL DECISIONS

Termination of testamentary guardianship. — Superior court erred in granting an aunt and uncle custody of minor children because the court lacked subject matter jurisdiction to consider the petition for custody since a probate court

had exclusive jurisdiction to issue and revoke letters of testamentary guardianship, and O.C.G.A. § 29-2-4(b) mandated the issuance of letters of testamentary guardianship to the brother of the children's father without notice and a hearing and without consideration of the children's best interests; under O.C.G.A. § 29-2-30(a), termination of the brother's guardianship would not occur until the earliest of the following events: the minors reached age 18, the minors were adopted, the minors were emancipated, the minors died, or a court order terminating the guardianship was entered, and none of those conditions were met. Zinkhan v. Bruce, 305 Ga. App. 510, 699 S.E.2d 833, 2010 Ga. App. LEXIS 745 (2010), cert. denied, No. S10C2049, 2011 Ga. LEXIS 138 (Ga. Feb. 7, 2011).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 74 et seq., 162 et seq., 209.

C.J.S.
39 C.J.S., Guardian and Ward, § 42 et seq. 43 C.J.S., Infants, § 446 et seq.

29-2-31. Petition for order dismissing guardian upon termination or resignation.

(a) Upon the termination of the guardianship or the resignation of the guardian, the guardian may petition the court for an order dismissing the guardian from office. The petition shall include a final status report to the court which covers the period of time from the latest annual status report filed by the guardian. The final status report shall contain the information required for annual status reports and shall otherwise comply with the provisions of paragraph (8) of subsection (b) of Code Section 29-2-21. Notice shall be published one time in the newspaper in which sheriff's advertisements are published in the county in which the petition is filed and shall state that any objection must be made in writing and shall designate the date on or before which objections must be filed in the court, which shall not be less than 30 days from the date of publication. The court shall examine any objections filed.

(b) If no objection is filed or if, upon hearing any objection, the court is satisfied that the order dismissing the guardian from office is appropriate, the court shall enter an order dismissing the guardian from office. Such order shall not bar an action against the guardian.

History.
Code 1981, § 29-2-31, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1850, Cobb's 1851 Digest, p. 340, former Code 1882, § 1849, former Civil Code 1895, §§ 2567, 2568, former Code 1933, § 49-314, and former O.C.G.A. § 29-2-84 are included in the annotations for this Code section.

Letters of dismission act as bar to matters they cured. — Letters of

dismission granted to guardian, like other judgments of courts of competent jurisdiction, are a bar as to matters cured by them, unless set aside for fraud in their procurement or for other sufficient cause. Mobley v. Mobley, 9 Ga. 247, 1851 Ga. LEXIS 4 (1851) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 340); Poullain v. Poullain, 72 Ga. 412, 1884 Ga. LEXIS 271 (1884) (decided under former Code 1882, § 1849); Poullain v. Poullain, 76 Ga. 420, 4 S.E. 92, 1886 Ga. LEXIS 47 (1886) (decided under former Code 1882, § 1849).

Dismissal presupposes a validly appointed guardian. Gay v. Gay, 121 Ga. App. 287, 173 S.E.2d 712, 1970 Ga. App. LEXIS 1200 (1970) (decided under former Code 1933, § 49-314).

Dismissal amounts to adjudication that guardian has fully and completely performed all duties of trust. Gay v. Gay, 121 Ga. App. 287, 173 S.E.2d 712, 1970 Ga. App. LEXIS 1200 (1970) (decided under former Code 1933, § 49-314).

Discharge without notice publication does not bar suit. — Discharge granted without compliance with notice publication requirement does not bar suit on guardian's bond. Griffin v. Collins, 122 Ga. 102, 49 S.E. 827, 1905 Ga. LEXIS 121 (1905) (decided under former Civil Code 1895, § 2567).

Discharge without notice does not bar personal jurisdiction. — Since an application for dismission of a guardian was published as required by former O.C.G.A. § 29-2-84(a), the probate court did not lack personal jurisdiction even though the ward was never served with notice of the dismission. Utica Mut. Ins. Co. v. Mitchell, 227 Ga. App. 830, 490 S.E.2d 489 (decided under former O.C.G.A. § 29-2-84).

Possibility of conflict of interest does not require refusal of dismission. — Mere possibility of conflict between personal interest of guardian who is salaried officer and director in corporation in which ward owns stock and interest of guardian's ward will not require refusal of letters of dismission to guardian. Gay v. Gay, 226 Ga. 90, 172 S.E.2d 690, 1970 Ga. LEXIS 441 (1970) (decided under former Code 1933, § 49-314).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 128 et seq.

ALR.

Rate of interest chargeable against guardians, executors or administrators, and trustees, 112 A.L.R. 833; 156 A.L.R. 936.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

Guardian's position as joint tenant of or successor to property in ward's estate as raising conflict of interest, 69 A.L.R.3d 1198.

ARTICLE 4

SUCCESSOR GUARDIANS

29-2-40. Resignation of guardian; required showing; alternative guardian; notice; hearing; other requirements; order.

(a) A guardian or the duly authorized guardian, conservator, or attorney in fact of a guardian, acting on behalf of the guardian, may resign upon petition to the court, showing to the satisfaction of the court that:

(1) The guardian is unable to continue to serve due to age, illness, infirmity, or other good cause;

(2) Greater burdens have devolved upon the office of guardian than those that were originally contemplated or should have been contemplated when the guardian was qualified and the additional burdens work a hardship upon the guardian;

(3) Disagreement exists between the minor and the guardian or between the guardian and the conservator in respect of the guardian's care of the minor, which disagreement and conflict appear to be detrimental to the minor;

(4) The resignation of the guardian will result in or permit substantial financial benefit to the minor; or

(5) The resignation would not be disadvantageous to the minor.

(b) The petition for resignation shall include the name of a suitable person who is willing to accept the guardianship.

(c) Personal service of the petition for resignation shall be made upon the minor and a guardian ad litem appointed by the court for the minor. Service shall be made by first-class mail to the parents of the minor in the event of the resignation of a temporary guardian, to the conservator of the minor, if any, and, in the following order of preference, to the following relatives of the minor whose whereabouts are known and who must be persons other than the resigning guardian or the proposed successor guardian:

(1) The adult siblings of the minor; provided, however, that not more than three adult siblings need be served;

(2) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need be served; or

(3) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1.

(d) If after such hearing as the court deems appropriate, the court is satisfied that the petition for the resignation of the guardian and the appointment of the successor guardian should be granted, the court shall enter an order appointing the successor guardian in accordance with the provisions of Code Section 29-2-51 and accept the resignation, subject to the resigning guardian turning over to the successor guardian or conservator all property of the minor held by the guardian.

History.
Code 1981, § 29-2-40, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2011, p. 752, § 29/HB 142.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 and former Code 1882, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 79 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 42 et seq., 51 et seq., 282.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-2-41. Appointment of successor guardian.

(a) In the event of the death of a guardian, and upon the petition of an interested person or upon the court's own motion, the court shall appoint a successor guardian. The court shall notify the minor and any guardian ad litem appointed for the minor by personal service. Notice shall be given by first-class mail to the conservator of the minor, if any, to the personal representative of the deceased guardian, if any, and, in the following order of preference, to the following relatives of the minor whose whereabouts are known and who must be persons other than the proposed successor guardian:

(1) The adult siblings of the minor; provided, however, that not more than three adult siblings need be served;

(2) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need be served; or

(3) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1.

(b) After such hearing as the court deems appropriate, the court shall enter an order appointing a successor guardian in accordance with

the provisions of Code Section 29-2-51 requiring the personal representative of the deceased guardian to turn over to the successor guardian all property of the minor held by the guardian.

History.
Code 1981, § 29-2-41, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142.

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 85.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 49, 50, 282.
ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

29-2-42. Requirement of guardian to answer charges affecting obligations as guardian; revocation of guardianship; impact on other proceedings.

(a) Upon the petition of any interested person or whenever it appears to the court that good cause may exist to revoke or suspend the letters of guardianship or to impose sanctions, the court shall cite the guardian to answer the charge. The court shall investigate the allegations and may require such accounting as the court deems appropriate. The court may appoint a temporary substitute guardian for the minor during the investigation.

(b) Upon investigation the court may in its discretion:

(1) Revoke or suspend the letters of guardianship;

(2) Require additional security;

(3) Reduce or deny compensation to the guardian or impose such other sanction or sanctions as the court deems appropriate; and

(4) Issue any other order as in the court's judgment is appropriate under the circumstances of the case.

(c) The revocation or suspension of letters of guardianship shall not abate any action pending for or against the guardian. The successor guardian shall be made a party to the action in the manner provided in Code Section 9-11-25.

History.
Code 1981, § 29-2-42, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

Law reviews.
For article on the problems and benefits of multiple fiduciaries in estate planning, see 33 Mercer L. Rev. 355 (1981).

For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 53-6-144 are included in the annotations for this Code section.

Letters of testamentary guardianship. — Superior court erred in granting an aunt and uncle custody of minor children because the court lacked subject matter jurisdiction to consider the petition for custody since a probate court had exclusive jurisdiction to issue and revoke letters of testamentary guardianship, and O.C.G.A. § 29-2-4(b) mandated the issuance of letters of testamentary guardianship to the brother of the children's father without notice and a hearing and without consideration of the children's best interests; equity afforded no valid basis for the superior court's exercise of jurisdiction because the aunt and uncle had an appropriate remedy in the probate court to challenge the testamentary guardianship: a petition for revocation or suspension of the brother's letters of testamentary guardianship. Zinkhan v. Bruce, 305 Ga. App. 510, 699 S.E.2d 833, 2010 Ga. App. LEXIS 745 (2010), cert. denied, No. S10C2049, 2011 Ga. LEXIS 138 (Ga. Feb. 7, 2011).

Commission on extra compensation authorized. — An administrator was entitled to a commission on a sum disbursed to the administrator as extra compensation. Sams v. Leskanic, 220 Ga. App. 202, 469 S.E.2d 703 (decided under former O.C.G.A. § 53-6-144).

Commission on prior commission not authorized. — An administrator was not entitled to the payment of a commission on a previously paid commission. Sams v. Leskanic, 220 Ga. App. 202, 469 S.E.2d 703 (decided under former O.C.G.A. § 53-6-144).

29-2-43. Minor's cause of action for breach of guardian's fiduciary duties.

(a) If a guardian commits a breach of fiduciary duty or threatens to commit a breach of fiduciary duty, a minor or an interested person on behalf of the minor shall have a cause of action as appropriate:

(1) To recover damages;

(2) To compel performance of the guardian's duties;

(3) To enjoin the commission of a breach of fiduciary duty; or

(4) To compel the redress of a breach of fiduciary duty by payment of money or otherwise.

(b) When the minor's assets are misapplied and can be traced into the hands of persons who have notice of the misapplication, a trust shall attach to the assets.

(c) The provision of remedies for breach of fiduciary duty by this Code section does not prevent resort to any other appropriate remedy provided by statute or common law.

History.
Code 1981, § 29-2-43, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1868, § 1807, former Code 1882, § 1816, former Civil Code 1910, § 3051, former Code 1933, § 49-232, and former O.C.G.A. § 29-2-45 are included in the annotations for this Code section.

Religious belief of guardian does not render guardian unfit to discharge guardianship. Maxey v. Bell, 41 Ga. 183, 1870 Ga. LEXIS 57 (1870) (decided under former Civil Code 1910, § 3051).

Suit against guardian for waste permitted if regarding revocation of guardianship. — Suit by next friend in behalf of ward for waste committed by guardian, or recovery of money in guardian's hands, can be brought only in connection with a proceeding to remove guardian and revoke guardian's letters. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Proceedings are against guardian as an individual, not against estate. — Proceedings to remove guardian and revoke guardian's letters, under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), were proceedings against guardian as an individual, and not against the estate or trust guardian represents; and where guardian was removed as guardian and guardian's letters revoked, it was proper that guardian appeal therefrom as an individual. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

On question of removal, interest of ward governs, rather than that of guardian. Morse v. Caldwell, 55 Ga. App. 804, 191 S.E. 479, 1937 Ga. App. LEXIS 511 (1937) (decided under former Code 1933, § 49-232).

Burden of proof rests upon party attacking guardian's conduct. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Guardian who has been removed may appeal to superior court. — When guardian was removed and guardian's letters revoked, upon rule issued by the ordinary (now judge of probate court), under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), after hearing on guardian's answer to such rule, guardian may appeal to superior court. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

Revocation of letters of guardianship. — Where court of ordinary (now probate court) rendered decision revoking letters of guardianship, an appeal will lie from such decision to superior court, though no issue of fact be involved. Teasley v. Vickery, 133 Ga. 721, 66 S.E. 918, 1910 Ga. LEXIS 34 (1910) (decided under former Civil Code 1910, § 3051).

For jurisdiction over removal proceedings where guardian and ward have moved from county of original appointment, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-232).

Guardian's failure to file annual returns was evidence that the guardian's fiduciary duties were breached and such evidence supported removal. Gary v. Weiner, 233 Ga. App. 284, 503 S.E.2d 898 (decided under former O.C.G.A. § 29-2-45).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-232 is included in the annotations for this Code section.

Use of estate funds should accompany petition to revoke guardianship. — One who has been adjudged insane and confined to state mental hospital and who desires to use funds in estate for purpose of proving that sanity has been restored, should properly proceed by making application to ordinary (now judge of probate court) for revocation of letters of guardianship. 1952-53 Ga. Op. Att'y Gen. 373 (decided under former Code 1933, § 49-232).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 160 et seq., 175.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 4, 79 et seq., 256, 257.

ALR.

Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

Liability of guardian, or his surety, as affected by agreement by which he limits his control over funds or investments, 102 A.L.R. 1108.

Improper handling of funds, investments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

29-2-44. Statute of limitations.

All actions against a guardian, except on the guardian's bond, shall be brought within six years of the termination of the guardianship of the minor, except as provided in Code Section 9-3-90.

History.

Code 1981, § 29-2-44, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For article, "Some Problems in Providing for Nonjudicial Settlement of the Trustee's Accounts," see 3 Ga. St. B.J. 417 (1967).

For article, "Fiduciary Problems of the Executor and Trustee: Conflicts of Interest, Violations of Fiduciary Duties, Surcharge, and Other Remedies of Beneficiaries," see 9 Ga. St. B.J. 187 (1972).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1910, § 3994, former Code 1933, § 113-1411 and Ga. L. 1943, p. 409, § 1 are included in the annotations for this Code section.

Annual returns which do not substantially comply with the law are not prima facie proof in favor of the administrator. If they are allowed by the ordinary (now probate judge) and recorded, under the terms of the statute, anyone challenging their correctness must carry the burden of proving their incorrectness. But when the returns are not allowed by the ordinary (now probate judge), the burden is upon the administrator to prove the returns' correctness in a proceeding in the court of ordinary (now probate court) for an accounting and settlement. Ellis v. McWilliams, 70 Ga. App. 195, 27 S.E.2d 886, 1943 Ga. App. LEXIS 280 (1943) (decided under Ga. L. 1943, p. 409, § 1).

Mere failure to attach vouchers to returns, standing alone, would not constitute a fraud upon the court of ordinary

(now probate court). The total failure to file any returns at all would not, within itself, constitute fraud, nor afford a good reason for the interference of equity. While under the law it is the duty of an administrator to file annual returns accompanied by original vouchers, the duty is placed upon the ordinary (now probate court) to examine the returns to determine their correctness and interested parties are given 30 days in which to file objections to the returns. Hoffman v. Chester, 240 Ga. 296, 49 S.E.2d 760 (1948) (decided under former Code 1933, § 113-1411).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 53-7-180 is included in the annotations for this Code section.

Filing originals or copies of vouchers. — Banks, acting as guardians and administrators of estates, need not file originals or copies of vouchers with their returns if the banks file an affidavit stating that the original vouchers have been compared to each item on the return and that the return is correct. 1983 Op. Att'y Gen. No. U83-34 (decided under former O.C.G.A. § 53-7-180).

RESEARCH REFERENCES

Am. Jur. 2d.
31 Am. Jur. 2d, Executors and Administrators, §§ 441 et seq., 854 et seq., 861 et seq., 867.

C.J.S.
34 C.J.S., Executors and Administrators, § 865 et seq.

ARTICLE 5

TEMPORARY SUBSTITUTE GUARDIANS

29-2-50. Appointment of temporary substitute guardian; length of service; powers; notice; revocation; applicability of chapter.

(a) Upon its own motion or on the petition of any interested party, including the minor, the court may appoint a temporary substitute guardian for a minor if it appears to the court that the best interest of the minor requires immediate action.

(b) The temporary substitute guardian shall be appointed for a specified period not to exceed 120 days.

(c) The court shall appoint as temporary substitute guardian an appropriate individual who shall serve the best interest of the minor.

(d) Except as otherwise ordered by the court, a temporary substitute guardian has the powers set forth in the order of appointment. The authority of the previously appointed guardian is suspended for as long as the temporary substitute guardian has authority to act on behalf of the minor.

(e) Notice of the appointment of a temporary substitute guardian

shall be served personally on the minor. Notice of the appointment shall be served personally on the previously appointed guardian at the last address provided by that guardian to the court. Notice of the appointment shall be mailed by first-class mail to the minor's conservator, if any.

(f) The court may remove the temporary substitute guardian at any time. A temporary substitute guardian shall make any report the court requires. In all other respects, the provisions of this chapter apply to the temporary substitute guardian.

History.
Code 1981, § 29-2-50, enacted by Ga. L. 2004, p. 161, § 1.

29-2-51. Appointment of successor guardian; notice; preference to selected individuals; order of appointment.

(a) The court shall appoint a successor guardian upon the resignation, death, or revocation of the letters of the guardian if the appointment of a successor guardian is in the best interest of the minor. The court shall select the successor guardian in the manner provided in Code Section 29-2-16.

(b) In the event of the resignation or death of the guardian, notice of the proceeding for appointment of a successor guardian shall be given as provided in Code Sections 29-2-40 and 29-2-41. In all other cases, notice of the proceeding for appointment of a successor guardian shall be served personally on the minor and a guardian ad litem appointed for the minor. Notice shall be given by first-class mail to the conservator of the minor, if any, and, in the following order of preference, to the following relatives of the minor whose whereabouts are known and who must be persons other than the proposed successor guardian:

(1) The adult siblings of the minor; provided, however, that not more than three adult siblings need be served;

(2) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need be served; or

(3) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1.

(c) After such hearing as the court deems appropriate, the court shall enter an order appointing the successor guardian.

History.
Code 1981, § 29-2-51, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2019, p. 693, § 2/HB 70.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 and former Code 1882, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 10, 40 et seq., 52 et seq., 85.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 20 et seq., 24 et seq., 36, 37, 49, 50, 282.
ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-2-52. Delivery of property to successor guardian; reporting requirements.

Upon the appointment of a successor guardian, the predecessor guardian or the personal representative of a deceased predecessor guardian shall deliver to the successor guardian all property of the minor held by the guardian and shall submit a final status report covering the period since the guardian's last status report.

History.
Code 1981, § 29-2-52, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 and former Code 1882, § 1848 are

included in the annotations for this Code section.

Debts due to guardian individually cannot be left to successor. — Guardian cannot discharge trust by turning over to successor debts due to the guardian individually from successor. Such is the rule, though successor be solvent at time, if, owing to the successor's subsequent insolvency, the ward is injured by settlement. Manning v. Manning, 61 Ga. 137, 1878 Ga. LEXIS 49 (1878) (decided under former Code 1873, § 1848); Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 10, 56, 85, 88.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 42 et seq., 76 et seq., 211 et seq., 282 et seq.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

ARTICLE 6

JURISDICTION

RESEARCH REFERENCES

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 15 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 17 et seq., 262 et seq.

Part 1

General Provisions

29-2-60. Petition for jurisdiction change; retention of jurisdiction for limited matters.

(a) A guardian may petition to remove the guardianship to the jurisdiction of the court of the county in this state in which the minor resides.

(b) Upon the filing of a petition to remove the guardianship to another county in this state, the court shall appoint a guardian ad litem for the minor. The court of the county in which the guardian was appointed shall grant the petition for removal only if the court determines that the removal is in the best interest of the minor.

(c) Before the removal of the guardianship to another county in this state, the guardian shall file with the court of the county to which the

guardianship is to be removed certified copies of all the records pertaining to the guardianship.

(d) Following removal of a guardianship to another county in this state, the court of that county shall have the same jurisdiction over the guardian as if the guardian had been first appointed in that county, and every case growing out of or affecting the guardianship shall be heard and tried only in the county to which the guardianship has been removed.

(e) The court in which an action or proceeding is pending or which has issued an order for a settlement of accounts, removal, or sanction of a guardian shall retain jurisdiction of such matters even when the guardianship has been removed to another county.

History.
Code 1981, § 29-2-60, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Code 1933, § 49-239 is included in the annotations for this Code section.

For jurisdiction over removal and new appointments where guardian moves from county without removing trust, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-239).

RESEARCH REFERENCES

ALR.
Guardianship of incompetent or infant as affecting venue of action, 11 A.L.R. 167.

PART 2

GUARDIANSHIP APPOINTED

29-2-65. Petition for receipt and acceptance of foreign guardianship.

(a) As used in this part and Part 3 of this article, the term "guardianship" refers to a legal relationship in which a person is given responsibility by a foreign court for the care of a minor, thereby becoming a guardian.

(b) A guardian who has been appointed by a foreign court of competent jurisdiction may petition to have the guardianship transferred to and accepted in this state by filing a petition for receipt and acceptance of the foreign guardianship in the court of the county in this state where the minor resides or may reside.

(c) The petition shall include the following:

(1) An authenticated copy of the foreign guardianship order including:

(A) All attachments describing the duties and powers of the guardian; and

(B) All amendments or modifications to the foreign guardianship order entered subsequent to the original order, including any order to transfer the guardianship;

(2) The address of the foreign court which issued the guardianship order;

(3) A listing of any other guardianship petitions that are pending in any jurisdiction and the names and addresses of the courts where the petitions have been filed;

(4) The petitioner's name, address, and county of domicile;

(5) The name, age, and current address of the minor and the new or proposed address of the minor;

(6) The names and current addresses of the adult siblings of the minor, if any;

(7) The name and address of the person responsible for the care and custody of the minor, if other than the petitioner, and of any other person currently serving as guardian;

(8) The name and address of any person currently acting as legal representative, other than the petitioner, including any legal counsel, guardian ad litem, or court visitor appointed by the foreign court for the minor;

(9) The name and address of the minor's conservator, if any; and

(10) The reason the transfer is in the minor's best interest.

(d) The petition may be combined with other petitions related to the guardianship, including a petition to modify the terms of the guardianship.

History.

Code 1981, § 29-2-65, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(2)(N)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2004, the second subsection (c), as enacted by Ga. L. 2004, p. 161, was redesignated as subsection (d).

29-2-66. Notice requirements; waiver.

(a) Notice and a copy of the petition for receipt and acceptance of a foreign guardianship shall be served personally on the minor. The notice shall:

(1) State that the minor has a right to a hearing on the petition;

(2) Inform the minor of the procedure to exercise the minor's right to a hearing; and

(3) State that the minor has the right to independent legal counsel and that the court shall appoint legal counsel for the minor unless the minor has retained counsel or legal counsel has been appointed by the foreign court to represent the minor in the transfer of the guardianship.

(b) Notice and a copy of the petition for receipt and acceptance of a foreign guardianship shall be provided to the foreign court from which the guardianship is to be transferred. Notice to the foreign court shall include a request that the foreign court:

(1) Certify whether:

(A) The foreign court has any record that the guardian has engaged in malfeasance, misfeasance, or nonfeasance during the guardian's appointment;

(B) Periodic status reports have been filed in a satisfactory manner; and

(C) All bond or other security requirements imposed under the guardianship have been performed; and

(2) Forward copies of all documents filed with the foreign court relating to the guardianship including but not limited to:

(A) The initial petition for guardianship and other filings relevant to the appointment of the guardian;

(B) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the foreign court to evaluate the appropriateness of the guardianship;

(C) Reports of physical and mental health practitioners describing the condition of the minor;

(D) Periodic status reports on the condition of the minor; and

(E) The order to transfer the guardianship.

(c) Notice and a copy of the petition for receipt and acceptance of the guardianship shall be mailed to all other persons named in the petition

by first-class mail. The notice shall inform these persons of their right to object to the receipt and acceptance of the guardianship by this state.

(d) The minor shall have 30 days from the date of service to request a hearing on the petition. All other persons to whom notice is given under this Code section shall have 30 days from the date of the mailing of the notice to request a hearing on the petition.

(e) The court may waive the notice requirements of subsections (a) through (c) of this Code section if it finds that:

(1) The guardian has filed a petition in the foreign court for transfer and release of the guardianship to this state;

(2) Notice was given to the minor and all interested persons in conjunction with the petition for transfer and release of the guardianship;

(3) The petitioner provides the court with an authenticated copy of the petition for transfer and release of the guardianship filed with the foreign court and proof that service was made on the minor not more than 90 days from the date the petition for receipt and acceptance of the guardianship is filed in the court; and

(4) The minor is represented by legal counsel with respect to the petition in the foreign court.

History.
Code 1981, § 29-2-66, enacted by Ga. L. 2004, p. 161, § 1.

29-2-67. Hearing; stay of proceedings.

(a) On the court's own motion or upon timely motion by the minor or by any interested person, the court shall hold a hearing to consider the petition for receipt and acceptance of the foreign guardian.

(b) If any interested person challenges the validity of the foreign guardianship or the authority of the foreign court to appoint the guardian, the court may stay its proceeding while the petitioner is afforded the opportunity to have the foreign court hear the challenge and determine its merits.

History.
Code 1981, § 29-2-67, enacted by Ga. L. 2004, p. 161, § 1.

29-2-68. Required findings of court prior to acceptance of foreign guardianship; orderly transfer; effect of denial of petition.

(a) The court may grant a petition for receipt and acceptance of a foreign guardianship provided the court finds that:

(1) The guardian is presently in good standing with the foreign court; and

(2) The transfer of the guardianship from the foreign jurisdiction is in the best interest of the minor.

(b) Subject to subsection (c) of this Code section, at all times following the entry of the order accepting the guardianship the laws of the State of Georgia shall apply to the guardianship.

(c) In order to coordinate efforts with the foreign court to facilitate the orderly transfer of the guardianship, the court is authorized to:

(1) Delay the effective date of the receipt and acceptance for a reasonable period of time;

(2) Make the receipt and acceptance contingent upon the release of the guardianship or the termination of the guardianship and the discharge of the guardian in the foreign jurisdiction;

(3) Recognize concurrent jurisdiction over the guardianship for a reasonable period of time to permit the foreign court to release the guardianship or to terminate the guardianship and discharge the guardian in the foreign jurisdiction; or

(4) Make other arrangements the court deems necessary to effectuate the receipt and acceptance of the guardianship.

(d) The denial of a petition for receipt and acceptance of the foreign guardianship does not affect the right of a guardian appointed by a foreign court of competent jurisdiction to petition for guardianship under Code Section 29-2-16.

History.
Code 1981, § 29-2-68, enacted by Ga. L. 2004, p. 161, § 1.

Part 3

Transfer of Guardianship

29-2-69. Minor's move to a foreign jurisdiction; presumption of permanent move.

(a) A guardian may petition a court of this state which has jurisdic-

tion over the guardianship to transfer the guardianship to a foreign court of competent jurisdiction if the minor has moved permanently to the foreign jurisdiction.

(b) The minor may be presumed to have moved permanently to the foreign jurisdiction if:

(1) The minor has resided in the foreign jurisdiction for more than 12 consecutive months;

(2) The guardian notifies the court that the minor will move or has moved permanently to the foreign jurisdiction; or

(3) A foreign court of competent jurisdiction notifies the court of the filing of a petition for guardianship for the minor in the foreign jurisdiction.

(c) To facilitate the transfer the court may order the guardian to file a petition for receipt and acceptance of the guardianship in the foreign jurisdiction.

(d) If the foreign jurisdiction does not have a procedure for receiving and accepting a foreign guardianship, the court may order the guardian to file a petition for guardianship in the foreign jurisdiction.

History.
Code 1981, § 29-2-69, enacted by Ga. L. 2004, p. 161, § 1.

29-2-70. Petition to transfer guardianship.

The petition to transfer a guardianship to a foreign jurisdiction shall include the following:

(1) The name and address of the foreign court to which the guardianship shall be transferred and an authenticated copy of the petition for receipt and acceptance of a foreign guardianship if previously filed in the foreign court;

(2) A listing of any other guardianship petitions that are pending in any jurisdiction and the names and addresses of the courts where the petitions have been filed;

(3) The petitioner's name, address, and county of domicile;

(4) The name, age, and current address of the minor and the new or proposed address of the minor;

(5) The names and current addresses of the adult siblings of the minor, if any;

(6) The name and address of the person responsible for the care and custody of the minor, if other than the petitioner, and of any other individual currently serving as guardian;

(7) The name and address of any legal representative, other than the petitioner, including any legal counsel, guardian ad litem, or court visitor appointed by the foreign court for the minor;

(8) The name and address of the minor's conservator, if any;

(9) The reason for moving the minor; and

(10) The reason the transfer of the guardianship is in the minor's best interest.

History.
Code 1981, § 29-2-70, enacted by Ga. L. 2004, p. 161, § 1.

29-2-71. Notice requirements.

(a) Notice and a copy of the petition to transfer a guardianship to a foreign jurisdiction shall be served personally on the minor not less than ten days prior to the date set for the hearing. The notice shall state:

(1) The date that the hearing shall be held; and

(2) That the minor has the right to independent legal counsel and that the court shall appoint legal counsel for the minor unless the minor has retained counsel or legal counsel has been appointed by the foreign court to represent the minor in the receipt and acceptance of the guardianship.

(b) Notice and a copy of the petition to transfer the guardianship shall be provided to the foreign court to which the guardianship is to be transferred.

(c) Notice and a copy of the petition shall be mailed to all other persons named in the petition by first-class mail. The notice shall inform these persons of the date of the hearing and of their right to file objections to the transfer of the guardianship by this state.

History.
Code 1981, § 29-2-71, enacted by Ga. L. 2004, p. 161, § 1.

29-2-72. Hearing.

On the court's own motion or upon timely motion by the minor or by any interested person, the court shall hold a hearing to consider the petition to transfer the guardianship.

History.
Code 1981, § 29-2-72, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, § 72 et seq.

29-2-73. Required findings of court prior to transfer of guardianship; orderly transfer.

(a) The court may grant a petition to transfer a guardianship to a foreign court of competent jurisdiction if the court finds that the:

(1) Guardian is presently in good standing with the court; and

(2) Transfer of the guardianship to the foreign jurisdiction is in the best interest of the minor.

(b) In order to coordinate efforts with the foreign court to facilitate the orderly transfer of the guardianship the court is authorized to:

(1) Notify the foreign court of any significant problems that may have occurred, including whether periodic reports and accountings have been filed in a satisfactory manner and whether all bond or other security requirements imposed under the guardianship have been performed; and

(2) Forward copies of all documents filed with the court relating to the guardianship, including but not limited to:

(A) The initial petition for guardianship and other filings relevant to the appointment of the guardian;

(B) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the court to evaluate the appropriateness of the guardianship;

(C) Reports of physical and mental health practitioners describing the condition of the minor; and

(D) Periodic status reports on the condition of the minor.

(c) As necessary to coordinate the transfer of the guardianship, the court is authorized to:

(1) Delay the effective date of the transfer for a reasonable period of time;

(2) Make the transfer contingent upon the acceptance of the guardianship or appointment of the guardian in the foreign jurisdiction;

(3) Recognize concurrent jurisdiction over the guardianship for a

reasonable period of time to permit the foreign court to accept the guardianship or appoint the guardian in the foreign jurisdiction; or

(4) Make other arrangements that in the sound discretion of the court are necessary to transfer the guardianship.

History.
Code 1981, § 29-2-73, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, § 157.

Part 4

Foreign Guardian

29-2-74. Sale of minor's property by foreign guardian.

(a) As used in this part, the term "foreign guardian" means a guardian or other person who has been given responsibility by a court of competent jurisdiction in another state or territory governed by the Constitution of the United States for the care of a minor and whose guardianship has not been transferred to and accepted in this state pursuant to the provisions of Part 2 of this article.

(b) Any foreign guardian of a minor who resides in any other state and who is authorized to sell and convey property of the minor may sell property of the minor which is in this state, under the rules and regulations prescribed for the sale of real estate by conservators of this state, provided that the foreign guardian must file and have recorded in the court or other proper court, at the time of petitioning for sale, an authenticated copy of the letters of appointment as guardian of a minor and must also file with the court or other proper authority bond with good and sufficient security in double the value of the property to be sold for the faithful execution of the guardianship as provided by law.

History.
Code 1981, § 29-2-74, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(2)(O)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 212 et seq.
Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, § 474 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 276 et seq.

29-2-75. Right of foreign guardian to bring action to enforce rights of minor.

A foreign guardian may institute an action in any court in this state to enforce any right or to recover any property belonging to the minor or accruing to the foreign guardian as such.

History.
Code 1981, § 29-2-75, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under Ga. L. 1850, Cobb's 1851 Digest, p. 341 is included in the annotations for this Code section.

Actions ex contractu and ex delicto not distinguished. — Georgia Laws 1850, Cobb's 1851 Digest, p. 341 does not warrant distinction between actions ex contractu and actions ex delicto. Averitt v. Pope, 30 Ga. 660, 1860 Ga. LEXIS 163 (1860) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 341).

Ward reaching majority during pendency of suit by nonresident guardian may be substituted as plaintiff in lieu of guardian. Sims ex rel. Talbot v. Renwick, 25 Ga. 38 (1858) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 341).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 212 et seq.
Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, § 474 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 276 et seq.
ALR.
Capacity of guardian to sue or to be sued outside state where appointed, 94 A.L.R.2d 162.

29-2-76. Filing of authenticated copy of letters of guardianship.

Pending an action brought by a foreign guardian pursuant to Code Section 29-2-75, an authenticated copy of the letters of guardianship shall be filed with the clerk of the court to become a part of the record, if the case is pending in a court of record, or filed with the papers if the action is a summary proceeding.

History.
Code 1981, § 29-2-76, enacted by Ga. L. 2004, p. 161, § 1.

29-2-77. Submission to jurisdiction by foreign guardian.

A foreign guardian submits personally to the jurisdiction of the courts of this state in any proceeding relating to the guardianship by:

(1) In this state receiving payment of money or taking delivery of personal property belonging to the minor; or

(2) Doing any act as a guardian in this state that would have given this state jurisdiction over the actor as an individual.

History.
Code 1981, § 29-2-77, enacted by Ga. L. 2004, p. 161, § 1.

CHAPTER 3

CONSERVATORS OF MINORS

Article 1

Appointment and Powers

Sec.
29-3-1. Receipt of minor's property by guardian or next friend.
29-3-2. Release of debtor when collection doubtful.
29-3-3. Compromise of claim; settlement.
29-3-4. Disqualifications of conservator.
29-3-5. Nomination of testamentary conservator; bond and security requirements; rights, powers, and duties.
29-3-6. Power to appoint conservator.
29-3-7. Preference among individuals for appointment of conservator; authority to disregard preference.
29-3-8. Petition for appointment of conservator for minor; requirements of petition; notice.
29-3-9. Hearing.
29-3-10. Requirements of order granting conservatorship; required filing of certificate.

Article 2

Rights of Minor and Obligations of Conservator

29-3-20. Rights of minor; effect on testamentary capacity.
29-3-21. Obligations and liabilities of conservator.
29-3-22. Power of conservator; cooperation with guardian of minor.
29-3-23. Rights of conservator to property; disclosure of conflicts of interest.
29-3-24. Oath of conservator.

Article 3

Property Obligations of Conservator

Sec.
29-3-30. Inventory of minor's property; plan for managing, expending, and distributing minor's property.
29-3-31. Retention of property; exchange or conversion of stock or securities.
29-3-32. Investment of funds.
29-3-33. Investment in direct or general obligations issued by the federal government or certain agencies thereof.
29-3-34. Standard for investment decisions; acquisition and retention of assets.
29-3-35. Sale or other disposition of minor's property; accounting for proceeds; authority of temporary substitute conservator.
29-3-36. Estate plan for minor; appointment of guardian ad litem; considerations prior to property transfer.

Article 4

Bonding of Conservators

29-3-40. Bond requirement; exception; recording of bonds.
29-3-41. Requirements of bond; term; value; substantial compliance sufficient.
29-3-42. Reduction of bond.
29-3-43. Additional bond or security; notice; revocation of letters of conservatorship.
29-3-44. Payment of bond premium.
29-3-45. Responsibility of surety in event appointment of conservator void.
29-3-46. Joint and several liability of conservator and surety.
29-3-47. Levy upon property; writ of execution.
29-3-48. Order of levy against property.
29-3-49. Release from surety obligations; hearing; order; appointment of new surety; li-

Sec.
ability; accounting requirement.

Article 5

Compensation of Conservators

29-3-50. Amount of compensation; multiple conservators; forfeiture; renunciation.
29-3-51. Allowance for reasonable expenses.
29-3-52. Petition for additional compensation by conservator; procedural requirements.
29-3-53. Compensation from corporation or other business enterprise; effect on receipt of additional compensation under Code Section 29-5-52; purpose.
29-3-54. Application for compensation by temporary substitute conservator; reduction of compensation to conservator.

Article 6

Accounting for Assets

29-3-60. Annual filing of verified return; change of reporting period; production of documents; effect of failure to file return.
29-3-61. Interim settlement of accounts; reporting and requirements of report; procedure for objecting.
29-3-62. Objections and hearing on interim settlement of accounts.
29-3-63. Judgment against conservator and surety.
29-3-64. Termination of conservatorship.

Article 7

Termination of Conservatorship

29-3-70. Petition for order of dismissal of conservatorship; final return; notice; order of dismissal.
29-3-71. Final settlements; examination of returns and accounts; notice; return of property to minor; death of minor intestate.

Article 8

Successor Conservators

29-3-80. Required showing for resignation of conservator; name of suitable alternate required; notice; order appointing successor conservator.
29-3-81. Appointment of successor upon death of conservator; notice; hearing; order.
29-3-82. Suspension of conservatorship or imposition of sanctions; power of court; liability of conservator.
29-3-83. Breach or threatened breach of fiduciary duty.
29-3-84. Statute of limitations.

Article 9

Temporary Substitute Conservators

29-3-90. Appointment of temporary substitute conservator; length of appointment; powers; notice; removal.
29-3-91. Appointment of successor conservator; notice; hearing; other requirements; order.
29-3-92. Delivery of property; annual return; liability of surety.

Article 10

Foreign Conservatorships

PART 1

GENERAL PROVISIONS

29-3-100. Removal to jurisdiction where minor resides; appointment of guardian ad litem; bond; authority; liability; retention of jurisdiction.

PART 2

PROCEDURE

29-3-105. Petition for transfer of juris-

Sec.
diction; requirements of petition.
29-3-106. Notice and other procedural requirements; waiver.
29-3-107. Hearing.
29-3-108. Required findings prior to granting foreign conservatorship; inventory of property; applicable law; orderly transfer; effect of denial.

PART 3

JURISDICTION

29-3-110. Transfer of jurisdiction in event minor has permanently moved; determining minor's residential status; filings.
29-3-111. Requirements of petition to transfer conservatorship.
Sec.
29-3-112. Notice.
29-3-113. Hearing.
29-3-114. Required findings prior to granting petition to transfer conservatorship; orderly and coordinated transfer.

PART 4

FOREIGN CONSERVATOR

29-3-115. Sale of minor's property.
29-3-116. Right to bring action.
29-3-117. Filing of letters of conservatorship.
29-3-118. Submission to jurisdiction.
29-3-119. Rights of interested parties prior to sale or removal of minor's assets.
29-3-120. Payments to foreign conservator on debts or return of property belonging to minor.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 5 et seq., 54 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 6.

ALR.

Surchargeability of trustee, executor, administrator, or guardian, in respect of mortgage investment, as affected by matters relating to value of property, 117 A.L.R. 871.

Right of guardian of infant or incompetent to appointment as executor or administrator as representative or substitute for infant or incompetent, 135 A.L.R. 585.

Liability of incompetent's estate for torts committed by guardian, committee, or trustee in managing estate, 40 A.L.R.2d 1103.

Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

Guardian's authority, without seeking court approval, to exercise ward's right to revoke trust, 53 A.L.R.4th 1297.

Involuntary disclosure or surrender of will prior to testator's death, 75 A.L.R.4th 1144.

ARTICLE 1

APPOINTMENT AND POWERS

29-3-1. Receipt of minor's property by guardian or next friend.

(a) As used in this Code section, the term "personal property" does not include the value of property that is held for the minor's benefit in trust or by a custodian under Article 5 of Chapter 5 of Title 44, "The Georgia Transfers to Minors Act."

(b) The natural guardian or next friend of a minor may not receive the personal property of the minor until the natural guardian or next friend becomes the legally qualified conservator of the minor; provided, however, that when the total value of all personal property of the minor is $25,000.00 or less, the natural guardian may receive and shall thereafter hold and use all or part of the personal property for the benefit of the minor and shall be accountable for the personal property but shall not be required to become the legally qualified conservator as to that personal property.

(c) Upon receiving an affidavit:

(1) That the value of all the personal property of a minor will not exceed $25,000.00 in value;

(2) That no conservator has been appointed for the minor's estate; and

(3) That the affiant is the natural guardian of the minor,

any person indebted to or holding personal property of the minor shall be authorized to pay the amount of the indebtedness or to deliver the personal property to the affiant. In the same manner and upon like proof, any person having the responsibility for the issuance or transfer of stocks, bonds, or other personal property shall be authorized to issue or transfer the stocks, bonds, or personal property to or in the name of the affiant. Upon such payment, delivery, transfer, or issuance pursuant to the affidavit, the person shall be released to the same extent as if the payment, delivery, transfer, or issuance had been made to the legally qualified conservator of the minor and shall not be required to see to the application or disposition of the personal property.

(d) This Code section shall not authorize a temporary, testamentary, or permanent guardian to receive personal property of the minor unless the guardian becomes the legally qualified conservator of the minor.

History.

Code 1981, § 29-3-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2022, p. 207, § 1/HB 620; Ga. L. 2026, p. 1069, § 54(2)(P)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

Cross references.

Parent and child relationship generally, § 19-7-1 et seq.

Criteria for loss of parental custody, § 19-7-4.

Law reviews.

For article, "Trusts for Dependents: Effect of Georgia's Support Obligation on Federal Income Taxation," see 8 Ga. St. B.J. 323 (1972).

For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

For annual survey on trial practice and procedure, see 74 Mercer L. Rev. 263 (2022).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

JUDICIAL DECISIONS

Analysis

General Consideration
Rights of Natural Guardian
Bond

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1868, § 1794, former Code 1895, § 2513, former Civil Code 1910, § 3032, former Code 1933, § 49-102, and former O.C.G.A. §§ 29-4-2 and 29-4-4.1 are included in the annotations for this Code section.

O.C.G.A. § 19-7-1 and former O.C.G.A. § 29-4-2 must be construed together. — See McCallum v. Bryant, 212 Ga. 348, 92 S.E.2d 531, 1956 Ga. LEXIS 366 (1956) (decided under former Code 1933, § 49-102).

Necessity for appointing guardian ad litem. — Whenever a minor appears as a petitioner in instituting litigation by a next friend, there would seem to be no legal necessity to appoint a guardian ad litem, unless, for some reason, it should be made to appear to the court that the next friend is not a suitable person or for some other reason interests of minor would not be properly protected. Sanders v. Hinton, 171 Ga. 702, 156 S.E. 812, 1931 Ga. LEXIS 448 (1931) (decided under former Civil Code 1910, § 3032).

Binding in courts of law and equity. — Former Code 1868, § 1794 (former O.C.G.A. § 29-4-2) was for protection of rights of minor children and was as imperative and binding in courts of equity as in courts of law. Southwestern R.R. v. Chapman, 46 Ga. 538, 1872 Ga. LEXIS 114 (1872) (decided under former Code 1868, § 1794).

For discussion of scope of natural guardianship, see Jordan v. Smith, 5 Ga. App. 559, 63 S.E. 595, 1909 Ga. App. LEXIS 62 (1909) (decided under former Code 1895, § 2513).

Imbecile minor presents no exception to this rule. Brown v. Gibson, 203 Ga. 213, 46 S.E.2d 68, 1948 Ga. LEXIS 569 (1948) (decided under former Code 1933, § 49-102).

Ward without recourse cannot be bound. — When child has no recourse against representative, then authority to bind child cannot exist. Lynn v. Wagstaff Motor Co., 126 Ga. App. 516, 191 S.E.2d 324, 1972 Ga. App. LEXIS 1198 (1972) (decided under former Code 1933, § 49-102).

Validity of settlement agreement. — Whether probate court approval was necessary for a valid settlement of the minor's claim is immaterial to a court's analysis of whether the offer of settlement

was accepted. Benton v. Gailey, 334 Ga. App. 548, 779 S.E.2d 749, 2015 Ga. App. LEXIS 680 (2015), cert. denied, No. S16C0463, 2016 Ga. LEXIS 221 (Ga. Mar. 7, 2016).

Rights of Natural Guardian

Cannot appoint guardian of person unless natural guardian lost status. — The probate court has no authority to appoint another as guardian of the person of a child with a living natural guardian unless the loss of that status has been ascertained and declared in some regular proceeding authorized by law, after due notice is given. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former O.C.G.A. § 29-4-2).

When natural mother of illegitimate child showed that she was the child's mother, that her parental rights had not been relinquished or forfeited in some regular proceeding authorized by law, and that she was, therefore, the natural guardian of the child, the probate court was without jurisdiction to appoint someone else as the guardian of the child's person. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former O.C.G.A. § 29-4-2).

Mother of illegitimate child is the child's natural guardian with prima-facie right to custody. Whitlock v. Barrett, 158 Ga. App. 100, 279 S.E.2d 244, 1981 Ga. App. LEXIS 2095 (1981) (decided under former O.C.G.A. § 29-4-2); Brown v. King, 193 Ga. App. 495, 388 S.E.2d 400, 1989 Ga. App. LEXIS 1558 (1989) (decided under former O.C.G.A. § 29-4-2).

Surviving parent's right to custody of child cannot be divested by will of deceased parent. Girtman v. Girtman, 191 Ga. 173, 11 S.E.2d 782, 1940 Ga. LEXIS 621 (1940) (decided under former Code 1933, § 49-102).

Parent may forfeit rights as guardian by cruel treatment. — Father has right to be guardian of his minor children, but he may forfeit such right by cruel treatment or neglect of them. McCallum v. Bryant, 212 Ga. 348, 92 S.E.2d 531, 1956 Ga. LEXIS 366 (1956) (decided under former Code 1933, § 49-102).

Parental rights not relinquished by custody agreement. — Although the petitioner argued the appointment of guardianship was proper because the mother, the natural guardian of the minor children involved, had voluntarily waived her parental rights and consented to the award of guardianship by sworn affidavit, the affidavit clearly conferred only temporary custody, and made no reference to permanent guardianship. Parental rights are not relinquished by an agreement granting mere custody. Hill v. Loren, 187 Ga. App. 71, 369 S.E.2d 260, 1988 Ga. App. LEXIS 597 (1988) (decided under former O.C.G.A. § 29-4-2).

Custody right under divorce decree inures to surviving parent. — Upon death of parent who has held custody under divorce decree, the right to custody automatically inures to surviving parent, and divorce proceeding fails so far as concerns any further right to custody of children. Girtman v. Girtman, 191 Ga. 173, 11 S.E.2d 782, 1940 Ga. LEXIS 621 (1940) (decided under former Code 1933, § 49-102).

Natural guardian may not sign away child's chose of action. — A chose in action is property and a natural guardian has no more authority to sign it away than the guardian would have to sell tangible property of child. Lynn v. Wagstaff Motor Co., 126 Ga. App. 516, 191 S.E.2d 324, 1972 Ga. App. LEXIS 1198 (1972) (decided under former Code 1933, § 49-102).

Bond

Requirement of bond applies to income of property and corpus. — Provision of former Code 1868, § 1794 (former O.C.G.A. § 29-4-2), requiring that guardian give bond before the guardian can demand and receive property of child, applied to income of property as well as to corpus thereof. Southwestern R.R. v. Chapman, 46 Ga. 538, 1872 Ga. LEXIS 114 (1872) (decided under former Code 1868, § 1794).

Effect of giving bond by natural guardian. — The only effect of giving bond by natural guardian is to empower

Bond (Cont'd)

the guardian to demand and receive any property belonging to the child. Drake v. Drake, 187 Ga. 423, 1 S.E.2d 573, 1939 Ga. LEXIS 430 (1939) (decided under former Code 1933, § 49-102).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former Code 1933, § 49-102 and former O.C.G.A. §§ 29-4-2 and 29-4-4.1 are included in the annotations for this Code section.

Probate court without authority to appoint guardian where living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. §§ 29-4-2 and 29-4-4.1).

Child support transfer not benefitting child improper. — Transfer by parent of child support judgment without benefitting child is inconsistent with parent's duties as natural guardian of child and child's property. 1972 Op. Att'y Gen. No. 72-147 (decided under former Code 1933, § 49-102).

Parents responsible for locating child absent from school without authorization. — Whereabouts of minor child would clearly seem to fall within area of parental or guardianship responsibility, and therefore, primary responsibility for locating a child who is absent from an educational center or school on an unauthorized basis would fall upon parents or other guardians or custodians. 1978 Op. Att'y Gen. No. 78-48 (decided under former Code 1933, § 49-102).

Domicile of minor is that of parents, but this can be altered where usual parental authority and control over the minor is ended by voluntary or involuntary relinquishment. 1981 Op. Att'y Gen. No. U81-5 (decided under former O.C.G.A. § 29-4-2).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 5 et seq., 40 et seq., 99 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 1, 12, 16.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Minority of parent as affecting right to guardianship or custody of person or estate of child, 19 A.L.R. 1043.

Attempt to bastardize child as affecting right to custody of the child, 37 A.L.R. 531.

Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

29-3-2. Release of debtor when collection doubtful.

The natural guardian of a minor who has no conservator may release the debtor and compromise a debt when the collection of the debt is doubtful without becoming the conservator of the minor and without such action being approved by the court if the amount of the debt is not more than $25,000.00.

History.

Code 1981, § 29-3-2, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2022, p. 207, § 2/HB 620.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Code 1882, § 2539, and former Code 1933, § 49-221 is included in the annotations for this Code section.

"Debt" means that fixed and specific amount is owing. — Distinguishing characteristic of word debt is that fixed and specific amount is owing and no future valuation is required to settle it. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

29-3-3. Compromise of claim; settlement.

(a) As used in this Code section, the term:

(1) "Gross settlement" means the present value of all amounts paid or to be paid in settlement of a minor's claim, including cash, expenses of litigation, attorney's fees, and any amounts allocated to a structured settlement or other similar financial arrangement. Such term shall include the total amount paid or to be paid on behalf of all settling parties.

(2) "Net settlement" means the gross settlement reduced by:

(A) Attorney's fees, expenses of litigation, and legally enforceable liens against the settlement that are to be paid from the settlement proceeds;

(B) The present value of amounts to be received by the minor after reaching the age of majority; and

(C) The present value of amounts to be placed into a trust that the probate court or court in which the action is pending approves or creates for the benefit of the minor.

(b) If the minor has a conservator, the only person who can compromise a minor's claim is the conservator.

(c)(1) If the proposed gross settlement of a minor's claim is $25,000.00 or less, the natural guardian of the minor, without becoming the conservator of the minor and without any court approval:

(A) May compromise the claim; or

(B) May receive payment of and shall thereafter hold and use the settlement for the benefit of the minor and shall be accountable for the same as provided in Code Section 29-3-1.

(2) If the proposed gross settlement of a minor's claim is more than $25,000.00, and the net settlement is $25,000.00 or less:

(A) The settlement shall be submitted for approval to:

(i) The probate court if no legal action has been initiated, or

(ii) The court in which the legal action is pending if legal action has been initiated, and such court shall have exclusive jurisdiction to approve the settlement, except as provided in subsection (g) of this Code section;

(B) No conservator shall be required to compromise the claim; and

(C) No conservator shall be required to receive payment of the settlement; provided, however, that the natural guardian receiving payment of the settlement shall thereafter hold and use the settlement for the benefit of the minor and shall be accountable for the same as provided in Code Section 29-3-1.

(3) If the proposed gross settlement of a minor's claim is more than $25,000.00, and the net settlement is more than $25,000.00:

(A) A conservator shall be required to compromise the claim;

(B) A conservator shall be required to receive payment of the settlement and shall thereafter hold and use the settlement for the benefit of the minor and shall be accountable for the same as provided in Code Section 29-3-1; and

(C) Such conservator shall submit the settlement for approval to:

(i) The probate court if no legal action has been initiated, or

(ii) The court in which the legal action is pending if legal action has been initiated, and such court shall have exclusive jurisdiction to approve the settlement, except as provided in subsection (g) of this Code section.

(d)(1) If an order of approval is obtained from the probate court or a court in which legal action is pending, based upon the best interest of the minor, the natural guardian, next friend, or conservator shall be authorized, subject to Code Section 29-3-22, to compromise any contested or doubtful claim in favor of the minor without receiving consideration for such compromise as a lump sum.

(2) Without limiting the foregoing, the compromise may:

(A) Involve a structured settlement or creation of a trust on terms that the probate court or court in which the action is pending approves or creates, including, but not limited to, funding; and

(B) Be in exchange for:

(i) The resolution of the action; or

(ii) An arrangement that defers:

(I) Receipt of part, not to exceed a total distribution of $25,000.00 prior to a minor reaching the age of majority; or

(II) All of the consideration for the compromise until after the minor reaches the age of majority.

(e) Any settlement entered consistent with the provisions of this Code section shall be final and binding upon all parties, including the minor.

(f) It shall be within the discretion of the court in which the action is pending to hold a hearing on compliance with the requirements of this Code section; provided, however, that a hearing shall not be required if compliance with such requirements is evident from the record.

(g)(1) Notwithstanding any provision of this Code section to the contrary, where a settlement has been submitted to a court for approval, an action shall not be voluntarily dismissed pursuant to subsection (a) of Code Section 9-11-41, or otherwise dismissed upon motion, except upon order of the court in which the action is pending and upon the terms and conditions as that court deems proper.

(2) If specifically indicated in the dismissal order, or if a settlement is reached while the case is pending in the Court of Appeals or the Supreme Court, the trial court shall retain exclusive jurisdiction to approve any settlement.

(3) If legal action has been initiated but is no longer pending, and the trial court has not specifically retained jurisdiction pursuant to paragraph (2) of this subsection, then any settlement approved by the court in which the legal action is pending as required by subsection (c) of this Code section, shall instead be submitted for approval to the probate court.

History.

Code 1981, § 29-3-3, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 5/SB 534; Ga. L. 2008, p. 715, § 6/SB 508; Ga. L. 2022, p. 207, § 3/HB 620; Ga. L. 2026, p. 1069, § 54(2)(Q)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

Law reviews.

For annual survey of wills, trusts, and administration of estates, see 42 Mercer L. Rev. 491 (1990).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

JUDICIAL DECISIONS

Analysis

General Consideration
Claims Subject to Compromise
Effect of Compromise

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1882, §§ 2537, 2538, former Civil Code 1910, §§ 4004, 4005, former Code 1933, §§ 49-219, 49-221, and former O.C.G.A. § 29-2-16 are included in the annotations for this Code section.

Compromises of claims and compromises of debts distinguished. — Former Code 1933, §§ 49-219 and 49-221 (former O.C.G.A. §§ 29-2-16 and 29-2-18) were for purpose of distinguishing when guardian can compromise contested or doubtful claim of ward, and when the guardian can compromise a doubtful debt of ward; requirements for compromising a claim and for compromising a debt are different, and are set forth in separate statutes. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, §§ 49-219 and 49-221).

Former Civil Code 1910, § 4004 (former O.C.G.A. § 29-2-16) did not authorize rescission of contracts. Jones v. Ragan, 136 Ga. 653, 71 S.E. 1098, 1911 Ga. LEXIS 166 (1911) (decided under former Civil Code 1910, § 4004).

Subject matter to be compromised is claims whose justice and legality may be questioned. Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2537).

Validity of settlement agreement. — Whether probate court approval was necessary for a valid settlement of the minor's claim is immaterial to a court's analysis of whether the offer of settlement was accepted. Benton v. Gailey, 334 Ga. App. 548, 779 S.E.2d 749, 2015 Ga. App. LEXIS 680 (2015), cert. denied, No. S16C0463, 2016 Ga. LEXIS 221 (Ga. Mar. 7, 2016).

Compromise need not be approved by probate judge. — There is no requirement that a compromise be approved by the ordinary (now judge of probate court), as is the case with doubtful debts under former Code 1933, § 49-221 (former O.C.G.A. § 29-2-18) referring to liquidated contractual demands. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

A probate court clearly has jurisdiction to appoint a guardian for a minor. However, a guardian, once appointed, need not obtain the approval of the probate court to settle a contested or doubtful claim for or against the minor. Accordingly, any settlement of the tort claims of minors to which their duly appointed guardian agreed would not have to be approved by the probate court. King Cotton, Ltd. v. Powers, 200 Ga. App. 549, 409 S.E.2d 67, 1991 Ga. App. LEXIS 1090 (1991), cert. denied, No. S91C1416, 1991 Ga. LEXIS 537 (Ga. Sept. 6, 1991) (decided under former O.C.G.A. § 29-2-16).

A guardian of property need not obtain prior approval of the probate court in order to compromise or settle a contested or disputed claim. Hay v. Norfolk S. Ry., 879 F. Supp. 1192, 1994 U.S. Dist. LEXIS 20331 (N.D. Ga. 1994) (decided under former O.C.G.A. § 29-2-16).

Executor's authority need not be revoked to attack fraudulent agreement. — Where executor has exceeded authority in entering agreement, the executor's authority need not be revoked in order to attack such agreement. Empire Life Ins. Co. v. Mason, 140 Ga. 141, 78 S.E. 935, 1913 Ga. LEXIS 59 (1913) (decided at time when law included guardians, administrators, executors and other fiduciaries in its

grant of authority to compromise claims; decided under former Civil Code 1910, § 4004).

The probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as they disbursed to themselves and to hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-2-16).

Binding settlement reached. — Minor's exemption under O.C.G.A. § 13-5-3 from contractual liability is a personal privilege which others may not assert as a defense; binding settlement agreement was reached between an insurer and a minor injured party even though: (1) a contract of a minor is voidable under O.C.G.A. § 13-3-20(a); (2) judicial approval pursuant to former O.C.G.A. § 29-2-16(e) postdated the settlement agreement; and (3) no guardian had been appointed for the minor at the time the agreement was reached. Grange Mut. Cas. Co. v. Kay, 264 Ga. App. 139, 589 S.E.2d 711, 2003 Ga. App. LEXIS 1422 (2003), cert. denied, No. S04C0557, 2004 Ga. LEXIS 313 (Ga. Mar. 29, 2004) (decided under former O.C.G.A. § 29-2-16).

For general discussion of former Code 1882, § 2538 (former O.C.G.A. § 29-2-17), see Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2538).

On necessity of order of ordinary (now judge of probate court), see Jones v. Ragan, 136 Ga. 653, 71 S.E. 1098, 1911 Ga. LEXIS 166 (1911) (decided under former Civil Code 1910, § 4005).

Claims Subject to Compromise

"Claim" embraces assertion of liability to party making it to pay sum of money. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

"Claims" is sufficiently broad to include a tort action. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

"Claims" includes demands arising out of tort. — "Claims" as used in former Code 1933, § 49-219 (former O.C.G.A. § 29-2-16) had a technical meaning and implied that a right is in dispute, including a demand arising out of tort. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Wrongful death action was a property right and could be compromised or settled by a duly appointed guardian of property pursuant to former O.C.G.A. § 29-2-16. Hay v. Norfolk S. Ry., 879 F. Supp. 1192, 1994 U.S. Dist. LEXIS 20331 (N.D. Ga. 1994) (decided under former O.C.G.A. § 29-2-16).

Effect of Compromise

Guardian may negotiate complete settlement, which is conclusive until set aside in direct proceeding brought for that purpose. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

Compromise settlement is conclusive until set aside. — Compromise settlement of doubtful "claim" made by guardian is conclusive until set aside in direct proceeding in which guardian is a necessary party. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Motion to intervene filed after settlement approval sought. — Trial court's denial of a co-guardian's motion to intervene in a lawsuit involving the approval of a settlement to a minor was affirmed because the trial court lacked jurisdiction to consider the motion since the motion was filed two weeks after the

Effect of Compromise (Cont'd)

defendants had voluntarily dismissed the action seeking the approval of the settlement. Barnes v. Cannon, 347 Ga. App. 517, 820 S.E.2d 155, 2018 Ga. App. LEXIS 553 (2018).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 168 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 211 et seq.
ALR.
Right of attorney, parent, guardian ad litem, or next friend to remit from verdict or judgment in favor of infant, 30 A.L.R. 1111.

Power of guardian or committee to compromise liquidated contact claim or money judgments and of courts to authorize or approve such a compromise, 155 A.L.R. 196.

Amount of attorneys' compensation in matters involving guardianship and trusts, 57 A.L.R.3d 550.

29-3-4. Disqualifications of conservator.

No person may be appointed or continue to serve as conservator of a minor who:

(1) Is a minor, a ward, or a protected person; or

(2) Has a conflict of interest with the minor unless the court determines that the conflict of interest is insubstantial or that the appointment clearly would be in the minor's best interest.

History.
Code 1981, § 29-3-4, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 46 et seq.

C.J.S.
57 C.J.S., Mental Health, § 123 et seq.

29-3-5. Nomination of testamentary conservator; bond and security requirements; rights, powers, and duties.

(a) Every parent, by will, may nominate a testamentary conservator for the parent's minor child for the property that passes to the minor under the parent's will.

(b) Upon probate of the will, letters of conservatorship shall be issued to the individual nominated in the parent's will who shall serve as testamentary conservator without notice or hearing.

(c) A testamentary conservator shall not be required to give bond and security on the property that passes to the minor under the parent's

will, except in the case of waste committed or apprehended, in which case the court may require a bond and security. If the testamentary conservator fails to give bond as required, the court may dismiss the conservator and appoint another conservator. If property accrues or has accrued to the minor from sources other than the parent's will, the court may appoint a different conservator for such property or may appoint the testamentary conservator for such property and require the testamentary conservator to give bond for the property thus accruing.

(d) In all other respects a testamentary conservator shall have the same rights, powers, and duties as other conservators appointed by the court.

History.

Code 1981, § 29-3-5, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

Cross references.

Rights of minors, § 1-2-8.

Law reviews.

For annual survey of law of wills, trusts, and administration of estates, see 38 Mercer L. Rev. 417 (1986).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 66 Mercer L. Rev. 231 (2014).

JUDICIAL DECISIONS

Analysis

General Consideration
Bond

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1851-52, p. 101, § 1, former Code 1882, § 1804, former Civil Code 1895, § 2514, former Civil Code 1910, § 3033, former Code 1933, § 49-103, and former O.C.G.A. § 29-4-4.1 are included in the annotations for this Code section.

Statutes providing for appointment of guardians for minor children. — The general assembly by inclusion of word "minor" at one place and its exclusion at another did not intend that a parent might, by will, appoint a guardian for property of children who had reached their majority. Therefore, former Code 1933, § 49-103 (former O.C.G.A. § 29-4-3) only provided for appointment of guardians for persons and/or property of minor children. Adams v. Lay, 218 Ga. 451, 128 S.E.2d 502, 1962 Ga. LEXIS 528 (1962) (decided under former Code 1933, § 49-103).

Citation unnecessary in appointing guardian already appointed testamentary guardian. — In appointing one as guardian of minors, who has already been appointed as testamentary guardian in their father's will, citation, as ordinarily required by law, is unnecessary. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Parental power does not include power to appoint testamentary guardian. — One awarded parental power over minor has no power to appoint testamentary guardian for such minor. Lamar v. Harris, 117 Ga. 993, 44 S.E. 866, 1903 Ga. LEXIS 405 (1903) (decided under former Civil Code 1895, § 2514).

Only surviving parent may appoint guardian of person of minor. Adams v. Lay, 218 Ga. 451, 128 S.E.2d 502, 1962

General Consideration (Cont'd)

Ga. LEXIS 528 (1962) (decided under former Code 1933, § 49-103).

Surviving parent's right to custody of child cannot be divested by will of deceased parent. Girtman v. Girtman, 191 Ga. 173, 11 S.E.2d 782, 1940 Ga. LEXIS 621 (1940) (decided under former Code 1933, § 49-103).

Custody does not include power to appoint testamentary guardian. — Judgment or decree of divorce which gives custody and education of child of marriage to wife, does not empower her to appoint a testamentary guardian for that child while the father survives. Taylor v. Jeter, 33 Ga. 195, 1862 Ga. LEXIS 13 (1862) (decided under Ga. L. 1851-52, p. 101, § 1).

Testamentary guardian cannot, by will, transfer custody of the ward to another. Taylor v. Jeter, 33 Ga. 195, 1862 Ga. LEXIS 13 (1862) (decided under Ga. L. 1851-52, p. 101, § 1).

Testamentary guardian is still guardian of the person though dismissed for waste or failure to give bond. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Grandparent named as testamentary guardian should prevail. — When both parents of infant child are deceased, father having survived mother and by will having provided that his mother should be testamentary guardian of the person of such child, and where in contest between paternal and maternal grandmothers of the child it appears that both are fit and proper persons to have custody of the child, the testamentary guardian is entitled to custody. Shanks v. Ross, 173 Ga. 55, 159 S.E. 700, 1931 Ga. LEXIS 260 (1931) (decided under former Civil Code 1910, § 3033).

Bond

When bond required. — Bond and security is required from all general guardians appointed by the ordinary (now judge of probate court) and the ordinary has discretionary power to require additional bond and security when the estate of the ward is enlarged by subsequent acquisition. Huson v. Green, 88 Ga. 722, 16 S.E. 255, 1892 Ga. LEXIS 90 (1892) (decided under former Code 1882, § 1804).

Probate court may authorize testamentary guardian to take charge of minor's estate without requiring bond. — Nothing in the law indicates that court of ordinary (now probate court) is without jurisdiction to authorize testamentary guardian to take charge of minor's estate without requiring bond. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Probate court failing to require bond can, nonetheless, issue letters of guardianship. — Failure to require bond when property comes to ward from sources other than parent's will does not deprive probate court of original jurisdiction to issue letters of guardianship which cannot be collaterally attacked. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Letters of guardianship not null and void due to failure to require bond. — Issuance of letters of guardianship was not null and void because of failure of probate court to require bond from guardian as required by former Code 1910, § 3033 (former O.C.G.A. § 29-4-3(c)) where property came to ward from sources other than parent's will. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 11 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 5 et seq., 10 et seq., 20 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Power of parent to appoint testamentary guardian for adult imbecile child, 24 A.L.R. 1458.

Validity of statute precluding alien from acting as guardian, 39 A.L.R. 943.

Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

Function, power, and discretion of court where there is testamentary appointment of guardian of minor, 67 A.L.R.2d 803.

29-3-6. Power to appoint conservator.

(a) The court of the county in which a minor is found or in which the proposed conservator is domiciled shall have the power to appoint a conservator for the minor.

(b) If a nonresident minor has property in this state, the judge of the court of the county in which the property is located may appoint a conservator who shall have control only over such property.

History.

Code 1981, § 29-3-6, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 6/SB 534.

Cross references.

Appointment of guardian of a child, § 15-11-13.

Provision that surviving spouse under 18 years may take share of estate without intervention of guardian, § 53-1-7.

Appointment, representation, and authority of guardians in probate court proceedings, § 53-11-2.

Law reviews.

For article recommending more consistency in age requirements of laws pertaining to the welfare of minors, see 6 Ga. St. B.J. 189 (1969).

For article, "Trusts for Dependents: Effect of Georgia's Support Obligation on Federal Income Taxation," see 8 Ga. St. B.J. 323 (1972).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

JUDICIAL DECISIONS

Analysis

General Consideration
Ward's Right to Select
Jurisdiction

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. Laws 1850, Cobb's 1851 Digest, p. 338, former Code 1868, § 1797, former Code 1882, § 1806, former Civil Code 1895, § 2516, former Civil Code 1910, § 3036, former Code 1933, § 49-105, and former O.C.G.A. § 29-4-4 are included in the annotations for this Code section.

Probate judge has appointment power for benefit of child. — Power of appointment is vested in ordinary (now judge of probate court), for benefit of child, not of applicant. Watson v. Warnock, 31 Ga. 716, 1861 Ga. LEXIS 266 (1861) (decided under Ga. Laws 1850, Cobb's 1851 Digest, p. 338).

Ward's Right to Select

On appeal the whole case is tried anew, and discretion of ordinary (now judge of probate court) vests in superior court for that trial. Watson v. Warnock, 31 Ga. 716, 1861 Ga. LEXIS 266 (1861)

Ward's Right to Select (Cont'd)

(decided under Ga. Laws 1850, Cobb's 1851 Digest, p. 338).

Jurisdiction

Infant's residence at time guardian appointed determines jurisdiction. — Infant's place of residence at time guardian is to be appointed determines jurisdiction; hence the ordinary (now judge of probate court) who appointed the first guardian of a ward may not always appoint the guardian's successor. Harrison v. Tonge, 67 Ga. App. 54, 19 S.E.2d 535, 1942 Ga. App. LEXIS 335 (1942) (decided under former Code 1933, § 49-105).

No jurisdiction to appoint guardian for infant residing outside county. — Ordinary (now judge of probate court) has no jurisdiction to appoint guardian for infant whose residence is out of the county. Rives v. Sneed, 25 Ga. 612, 1858 Ga. LEXIS 119 (1858) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 338).

Judge of residence approves guardian selection. — It is for probate judge of ward's county of residence to approve or disapprove selection. Dickerson v. Bowen, 128 Ga. 122, 57 S.E. 326, 1907 Ga. LEXIS 45 (1907) (decided under former Civil Code 1895, § 2516).

Jurisdiction over removal and new appointments where guardian and ward leave county without removing trust, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-105).

Jurisdiction is based upon presence of property within county. See Coker v. Gay, 154 Ga. 337, 114 S.E. 217, 1922 Ga. LEXIS 360 (1922) (decided under former Civil Code 1910, § 3036).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 15 et seq., 26 et seq., 31 et seq., 54 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 10 et seq.

ALR.

Right of attorney, parent, guardian ad litem, or next friend to remit from verdict or judgment in favor of infant, 30 A.L.R. 1111.

Guardianship of incompetent or infant as affecting venue of action, 111 A.L.R. 167.

Consideration and weight of religious affiliations in appointment or removal of guardian for minor child, 22 A.L.R.2d 696.

Right of infant to select his own guardian, 85 A.L.R.2d 921.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-3-7. Preference among individuals for appointment of conservator; authority to disregard preference.

(a) The court shall appoint as conservator that person who shall best serve the interest of the minor considering the following order of preferences:

(1) The individual who is the preference of a minor who is 14 years of age or older;

(2) The nearest adult relative of the minor as set forth in Code Section 53-2-1;

(3) Other adult relatives of the minor;

(4) Other adults who are related to the minor by marriage;

(5) A person who was designated in writing by a minor's natural guardian in a notarized document or document witnessed by two or more persons;

(6) A person who has provided care or support for the minor or with whom the minor has lived; or

(7) The county conservator.

(b) The court may disregard an individual who has preference and appoint a person who has a lower preference or no preference. In determining what is in the best interest of the minor, the court may take into account any facts and circumstances presented to it, including the statement of a minor who is under 14 years of age.

History.

Code 1981, § 29-3-7, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2025, p. 713, § 2/SB 98, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "conservator" for "guardian" in paragraph (a)(7).

Cross references.

Appointment of guardian of a child, § 15-11-13.

Provision that surviving spouse under 18 years may take share of estate without intervention of guardian, § 53-1-7.

Appointment, representation, and authority of guardians in probate court proceedings, § 53-11-2.

Law reviews.

For article recommending more consistency in age requirements of laws pertaining to the welfare of minors, see 6 Ga. St. B.J. 189 (1969).

For article, "Trusts for Dependents: Effect of Georgia's Support Obligation on Federal Income Taxation," see 8 Ga. St. B.J. 323 (1972).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

JUDICIAL DECISIONS

Analysis

General Consideration
Ward's Right to Select

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. Laws 1850, Cobb's 1851 Digest, p. 338, former Code 1868, § 1797, former Code 1882, § 1806, former Civil Code 1895, §§ 2516, 2518, former Civil Code 1910, § 3039, Ga. L. 1922, p. 46, § 1, former Code 1933, §§ 49-105, 49-107, and former O.C.G.A. §§ 29-4-4 and 29-4-8 are included in the annotations for this Code section.

Probate judge has appointment power for benefit of child. — Power of appointment is vested in ordinary (now judge of probate court), for benefit of child, not of applicant. Watson v. Warnock, 31 Ga. 716, 1861 Ga. LEXIS 266 (1861) (decided under Ga. Laws 1850, Cobb's 1851 Digest, p. 338).

Guardian of the property. — Former O.C.G.A. § 29-4-4 authorized a probate court to appoint a guardian of the property, over the natural guardian's objection, of a minor over the age of 14, whose sole property was a personal injury action. In re Ray, 248 Ga. App. 45, 545 S.E.2d 617, 2001 Ga. App. LEXIS 347

(2001) (decided under former O.C.G.A. § 29-4-4).

Discussion of former Civil Code 1895, § 2516 (former O.C.G.A. § 29-4-4) application where child had natural guardian. — See Jordan v. Smith, 5 Ga. App. 559, 63 S.E. 595, 1909 Ga. App. LEXIS 62 (1909) (decided under former Civil Code 1895, § 2516).

Contest for guardianship of person and property of one adjudged incompetent. — Former Civil Code 1895, § 2518 (former O.C.G.A. § 29-4-8) was applicable to a contest for guardianship of the person and property of one who has been adjudged incapable of managing one's estate and therefore liable to have a guardian appointed for that person. Armor v. Moore, 104 Ga. 579, 30 S.E. 821, 1898 Ga. LEXIS 368 (1898) (decided under former Civil Code 1895, § 2518).

Nearest relative has absolute right to appointment if unobjectionable. See Kelley v. Kelley, 129 Ga. App. 257, 199 S.E.2d 399, 1973 Ga. App. LEXIS 966 (1973) (decided under former Code 1933, § 49-107); Abrams v. Daffron, 155 Ga. App. 182, 270 S.E.2d 278, 1980 Ga. App. LEXIS 2512 (1980) (decided under former Code 1933, § 49-107).

Meaning of word "objectionable". — The word "objectionable" in former Code 1933, § 49-107 referred not to moral qualities exclusively but to any position or course of dealing which led to the conclusion that the interest of a person selected was adverse to that of the estate. Kelley v. Kelley, 129 Ga. App. 257, 199 S.E.2d 399, 1973 Ga. App. LEXIS 966 (1973) (decided under former Code 1933, § 49-107).

A court has wide discretion in determining whether an applicant was entitled to the absolute preference set forth in former O.C.G.A. § 29-4-8, and it was apparent that "objectionability" in a guardianship dispute was not the same as "parental unfitness," which must generally be shown before a court can interfere with a parent's right to custody over a child. An inquiry into a guardianship applicant's "unobjectionability" may broadly consider the applicant's suitability, habits, responsibility, sense, and morality, as well as the financial interests of the child. A person may be "objectionable," and not entitled to guardianship as a matter of right, even though the objections would not authorize interfering with the person's right to custody of the person's own child. Huval v. Jacobs, 248 Ga. App. 696, 548 S.E.2d 437, 2001 Ga. App. LEXIS 379 (2001) (decided under former O.C.G.A. § 29-4-8).

Grandparent named as testamentary guardian should prevail. — Where both parents of an infant child are deceased, the father having survived the mother and by will having provided that his mother should be testamentary guardian of the person of such child, and where in a contest between the paternal and the maternal grandmothers of the child it appears that both are fit and proper persons to have custody of the child, the testamentary guardian is entitled to the custody. Shanks v. Ross, 173 Ga. 55, 159 S.E. 700, 1931 Ga. LEXIS 260 (1931) (decided under Ga. L. 1922, p. 46, § 1).

Child's grandmother was not entitled to the absolute preference provided for in the statute, and custody of the child was properly awarded to the child's aunt and uncle since: (1) the trial court noted that the grandmother had not exhibited good parenting skills in regard to her own children and had led an inappropriate life style in the presence of minors in the past; (2) the court noted that she divorced the children's father when they were young and then had two long term live in relationships while the minor children lived in her house; (3) one of the children went to live with her father for a year when she was 13 because of difficulties in her relationship with her mother and subsequently left home before finishing high school; and (4) the court found that the grandmother had time and again made poor moral decisions and that educational success had not been a priority for her or her children. Huval v. Jacobs, 248 Ga. App. 696, 548 S.E.2d 437, 2001 Ga. App. LEXIS 379 (2001) (decided under former O.C.G.A. § 29-4-8).

Preference of remaindermen is immaterial. — Under the provisions of former Civil Code 1895, § 2518 (former O.C.G.A. § 29-4-8), the ward's nearest of

kin by blood, if unobjectionable, was, in such a contest, entitled to the appointment; and the preference of remaindermen, to whom the ward's estate may eventually belong was not, in legal contemplation, material. Armor v. Moore, 104 Ga. 579, 30 S.E. 821, 1898 Ga. LEXIS 368 (1898) See also Johnson v. Kelly, 44 Ga. 485, 1871 Ga. LEXIS 408 (1871); Chalker v. Thornton, 31 Ga. App. 791, 122 S.E. 244, 1924 Ga. App. LEXIS 198 (1924) (decided under former Civil Code 1895, § 2518).

Ward's Right to Select

At age of 14 ward may choose new guardian. — Pursuant to former Code 1868, § 1797 (former O.C.G.A. § 29-4-4), a ward, after attaining an age of 14 years, has right to choose a guardian, and for that purpose to have letters of guardianship issued under appointment of ordinary (now judge of probate court) to former guardian, revoked. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1868, § 1797).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. §§ 29-4-4 and 29-4-4.1 is included in the annotations for this Code section.

Cannot appoint guardian of person where child has living parent. — Unless an appointment of a temporary guardian was made under former O.C.G.A. § 29-4-4.1, a probate court was without authority to appoint a guardian of the person for a minor child if the child had living parents, unless the parents relinquished or forfeited their rights in the child. 1983 Op. Att'y Gen. No. U83-37 (decided under former O.C.G.A. §§ 29-4-4 and 29-4-4.1).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 26 et seq., 40 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 24 et seq.

ALR.

Necessity and sufficiency of notice to alleged incompetent of application for appointment of guardian or committee, 23 A.L.R. 594.

Right of attorney, parent, guardian ad litem, or next friend to remit from verdict or judgment in favor of infant, 30 A.L.R. 1111.

Consideration and weight of religious affiliations in appointment or removal of guardian for minor child, 22 A.L.R.2d 696.

Right of infant to select his own guardian, 85 A.L.R.2d 921.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-3-8. Petition for appointment of conservator for minor; requirements of petition; notice.

(a) Any person may file a petition for the appointment of a conservator of a minor.

(b) The petition for appointment of a conservator shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and date of birth of the minor;

(3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to the minor, if any, and, if different from the petitioner, the name, address, and county of domicile of the person nominated by the petitioner to serve as conservator and that person's relationship to the minor, if any;

(4) Whether to the petitioner's knowledge there exists any notarized or witnessed document made by a parent of the minor that deals with the conservatorship of the minor and the name and address of any designee named in the document;

(5) In addition to the petitioner and the nominated conservator, the names and addresses of the following relatives of the minor whose whereabouts are known:

(A) Any parent of the minor whose parental rights have not been terminated;

(B) If there is no parent of the minor whose parental rights have not been terminated, the adult siblings of the minor; provided, however, that not more than three adult siblings need be listed;

(C) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need be listed; or

(D) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1;

(6) A description of all known assets, income, other sources of funds, liabilities, and expenses of the minor;

(7) A disclosure of any financial interest that would cause the proposed conservator to have a conflict of interest with the minor;

(8) A specific listing of any of the additional powers, as described in subsections (b) and (c) of Code Section 29-3-22, that are requested by the conservator and a statement of the circumstances that would justify the granting of such powers; and

(9) The reason for any omission in the petition for appointment of conservator of a minor in the event full particulars are lacking.

(c) Notice of the petition for appointment of a conservator for a minor shall be given to any designee named in paragraph (4) of subsection (b) of this Code section and the individuals named in paragraph (5) of

subsection (b) of this Code section. The notice shall be by personal service if the individual resides in this state at a known current address; by first-class mail if the individual resides outside this state at a known address; or by publication for two weeks in the official county legal organ for the county in which the petition is filed if no address is known. The notice shall state that the individual is entitled to object either to the establishment of a conservatorship or to the selection of the petitioner as conservator, or both. The notice shall require that any objection be filed in writing with the court within ten days of the personal service, within 14 days of the date of the mailing of the notice, or within ten days of the date of the second publication of the notice.

(d) If the judge deems it necessary, a temporary conservator may be appointed under the same rules that apply to the appointment of a temporary administrator as provided in Article 4 of Chapter 6 of Title 53.

History.
Code 1981, § 29-3-8, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1910, §§ 3033 and 3046, former Code 1933, § 49-112, and former O.C.G.A. § 29-5-2 are included in the annotations for this Code section.

For purpose of notice, see New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided prior to amendment of former Civil Code 1810, § 3046 by Ga. L. 1958, p. 673, § 2, which changed notice requirement).

Citation unnecessary to appoint mother as guardian of daughter's property. — In order for a mother, the natural guardian, to also be appointed guardian of her daughter's property, citation is unnecessary. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-112).

Citation necessary for appointment for one not child of applicant. — When application is for appointment of guardian of a minor child under 14 years of age, other than child of applicant, it is necessary for citation to issue. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-112).

Second citation unnecessary. — It is not necessary to issue a second citation when the first citation of application for letters of administration is for the appointment of one person even though the court issues letters of administration to an entirely different person, as to whose appointment no previous notice had been given to any one. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3046).

No citation is necessary for appointment of testamentary guardian and a testamentary guardian might be authorized by probate court to take charge of property coming to the guardian's ward from sources other than parent's will, without necessity of citation. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157

S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3033).

Further notice unnecessary for testamentary guardian over property from other sources. — Where applicant has already, by will, been made testamentary guardian, it is a matter of testamentary disposition, and there would seem to be no necessity for further notice. Moreover, the law raises implication that there could be no better selection for guardianship of property of minors coming from outside sources than that already provided by the father in his own will as to their persons and property devised by the will. New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided under former Civil Code 1910, § 3046).

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 59 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 10 et seq., 34 et seq. 57 C.J.S., Mental Health, § 123 et seq.

ALR.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Necessity and sufficiency of notice to alleged incompetent of application for appointment of guardian or committee, 23 A.L.R. 594.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-3-9. Hearing.

Upon the filing of a petition for the appointment of a conservator of a minor and the giving of notice, the court may hold a hearing and the standard for determination for all matters at issue shall be the best interest of the minor.

History.

Code 1981, § 29-3-9, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Civil Code 1810, § 3046 prior to amendment by Ga. L. 1958, p. 673, § 2 is included in the annotations for this Code section.

For purpose of notice, see New York Life Ins. Co. v. Gilmore, 171 Ga. 894, 157 S.E. 188, 1931 Ga. LEXIS 483 (1931) (decided prior to amendment of former Civil Code 1810, § 3046 by Ga. L. 1958, p. 673, § 2, which changed notice requirement).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 52 et seq., 59 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 34 et seq.
ALR.
Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.
Necessity and sufficiency of notice to alleged incompetent of application for appointment of guardian or committee, 23 A.L.R. 594.
Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

29-3-10. Requirements of order granting conservatorship; required filing of certificate.

(a) An order granting conservatorship shall specify:

(1) The name of the conservator and the basis for the selection;

(2) A specific listing of any of the additional powers, as described in subsections (b) and (c) of Code Section 29-3-22 that are granted to the conservator;

(3) If a guardian is also appointed and if the guardian and conservator are not the same person, the reasonable sums or property to be provided to the guardian to provide adequately for the minor's support, care, education, health, and welfare, subject to modification by subsequent order of the court;

(4) If the minor has an interest in real property, the name of the county in which the real property is located; and

(5) Such other and further provisions of the conservatorship as the court shall determine to be in the best interest of the minor, stating the reasons therefor.

(b) In any case involving the appointment of a conservator, if the minor has an interest in real property, the court shall file, within 30 days of granting the petition for conservatorship, a certificate with the clerk of the superior court of each county in this state in which the minor owns real property, which shall be recorded in the deed records of the county and indexed under the name of the minor in the grantor index. The certificate shall set forth the name of the minor, the expiration date of the conservatorship, the date of the order granting the conservatorship, and the name of the conservator. The certificate shall be accompanied by the same fee required for filing deeds with the clerk of the superior court. The filing fee and any fee for the certificate shall be taxed as costs to the estate.

History.
Code 1981, § 29-3-10, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

Proceedings in probate court only governed by recording requirement in former O.C.G.A. § 29-5-6(e)(2) and on de novo appeal from probate court decision on guardianship petition, superior court may, but was not required to, have the hearing reported. Snider v. Lavender, 164 Ga. App. 591, 298 S.E.2d 582, 1982 Ga. App. LEXIS 2879 (1982) (decided under former O.C.G.A. § 29-5-6).

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Guardian appointment for person of nonresident insane person within county. — Probate courts of this state have jurisdiction to appoint a guardian for person of nonresident insane person if nonresident is found within limits of county of probate court's jurisdiction. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Probate court of Cobb County did not lack jurisdiction over proceedings involving ward who was a Stephens County resident but had been transferred to a convalescent center in Cobb County, where it was uncontroverted that no plea to the court's jurisdiction was filed and that ward was at the time of the proceeding "found" in Cobb County. Smith v. Young, 187 Ga. App. 191, 369 S.E.2d 798, 1988 Ga. App. LEXIS 672 (1988) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga. Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Requirements for petition at trial. — Former O.C.G.A. § 29-5-6(a)(3), which required a guardianship petition to be sworn to by at least two petitioners, did not result in a similar requirement that a petitioner present two witnesses in support of the petition at the actual trial. Cummings v. Stanford, 193 Ga. App. 695, 388 S.E.2d 729, 1989 Ga. App. LEXIS 1588 (1989) (decided under former O.C.G.A. § 29-5-6).

Mental capacity to petition for appointment of guardian. — A person receiving social security disability benefits based on a mental disability, who had not been adjudicated to be incapacitated, was not disqualified to petition for appointment of a guardian for parent. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS

886 (1994) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Notice to nearest relatives of alleged mental incompetent is insufficient. Edwards v. Lampkin, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice, all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Failure to have hearing recorded impacts appeal. — Absent a record of the hearing, the appellate could not determine whether the probate court's finding that appellant was incapable of managing appellant's estate was supported by clear and convincing evidence; accordingly, because the probate court failed to have the hearing recorded or reported, appellant was effectively denied appellant's right to appeal the probate court's decision. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-6).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement

of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 31 et seq.

C.J.S.

56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

ARTICLE 2

RIGHTS OF MINOR AND OBLIGATIONS OF CONSERVATOR

29-3-20. Rights of minor; effect on testamentary capacity.

(a) In every conservatorship, the minor has the right to:

(1) A qualified conservator who acts in the best interest of the minor;

(2) A conservator who is reasonably accessible to the minor;

(3) Have the minor's property utilized as necessary to provide adequately for the minor's support, care, education, health, and welfare; and

(4) Individually or through the minor's representative or legal counsel, bring an action relating to the conservatorship.

(b) The appointment of a conservator is not a determination that an individual who is 14 years of age or older lacks testamentary capacity.

History.

Code 1981, § 29-3-20, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-7 is included in the annotations for this Code section.

Ward's right to make will. — The appointment of a guardian for adults who are incapacitated does not destroy the ward's right or ability to make a will. Pope v. Fields, 273 Ga. 6, 536 S.E.2d 740, 2000 Ga. LEXIS 674 (2000) (decided under former O.C.G.A. § 29-5-7).

29-3-21. Obligations and liabilities of conservator.

(a) A conservator shall receive, collect, and make decisions regarding the minor's property, except as otherwise provided by law or by the court. A conservator shall at all times act as a fiduciary in the minor's best interest and exercise reasonable care, diligence, and prudence.

(b) A conservator shall:

(1) Respect the rights and dignity of the minor;

(2) Be reasonably accessible to the minor and maintain regular communication with the minor;

(3) Petition to have a guardian appointed if necessary;

(4) Endeavor to cooperate with the guardian, if any;

(5) Provide for the support, care, education, health, and welfare of the minor, considering available resources;

(6) Give such bond as required by Code Section 29-3-40;

(7) Within two months of appointment, file with the court and provide to the guardian, if any, an inventory of the minor's property and a plan for administering the property, pursuant to the provisions of Code Section 29-3-30;

(8) Take into account any estate plan of the minor known to the conservator in the administration of the conservatorship;

(9) Keep accurate records including adequate supporting data and file annual returns as required by Code Section 29-3-60;

(10) Promptly notify the court of any conflict of interest between the minor and the conservator when the conflict arises or becomes known to the conservator and take such action as is required by Code Section 29-3-23;

(11) Keep the court informed of the conservator's current address; and

(12) Act promptly to terminate the conservatorship when the minor reaches the age of majority.

(c) A conservator, solely by reason of the conservator-minor relationship, is not personally liable for:

(1) The minor's expenses;

(2) Contracts entered into in the conservator's fiduciary capacity;

(3) The acts or omissions of the minor;

(4) Obligations arising from ownership or control of property of the minor; or

(5) Other acts or omissions occurring in the course of the conservatorship.

History.

Code 1981, § 29-3-21, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1855-56, p. 147, § 1, former Code 1895, § 2571, and former Code 1933, § 49-231, former Code 1933, § 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-2 are included in the annotations for this Code section.

Guardian failing to make annual return forfeits annual commission. — Under former O.C.G.A. §§ 29-2-44 and 53-6-146, guardians and administrators who fail to make annual returns as required by law forfeit their commissions for those years unless the judge of the probate court orders them relieved of this forfeiture. Fuller v. Moister, 246 Ga. 397, 271 S.E.2d 622, 1980 Ga. LEXIS 1122 (1980) (decided under former Code 1933, § 49-231).

Failure entails burden of proving faithful discharge of duties. — Failure of executor or guardian to make returns is an omission of duty, and therefore a breach of trust, and puts upon the executor the burden of proving to satisfaction of court that the executor discharged trust with fidelity. Wellborn v. Rogers, 24 Ga. 558, 1858 Ga. LEXIS 248 (1858) (decided under Ga. L. 1855-56, p. 147, § 1).

Failure to make returns of interest does not demonstrate fraud. — Failure of guardian to make returns of interest accumulated in guardian's hands is not by itself sufficient to authorize finding of fraud and charging of compound interest. Royston v. Royston, 29 Ga. 82, 1859 Ga. LEXIS 289 (1859) (decided under Ga. L. 1855-56, p. 147, § 1).

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to

retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 86 et seq., 182 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 57 et seq., 76 et seq., 141 et seq., 184 et seq., 211 et seq. 57 C.J.S., Mental Health, §§ 123 et seq., 164 et seq., 173 et seq.

ALR.

Resignation or removal of executor, administrator, guardian, or trustee, before final administration or before termination of trust, as affecting his compensation, 94 A.L.R. 1101; 96 A.L.R.3d 1102.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-3-22. Power of conservator; cooperation with guardian of minor.

(a) Without court order, the appointment of a conservator shall vest in the conservator the exclusive power to:

(1) Make reasonable disbursements from the annual income or, if applicable, from the annual budget amount that has been approved by the court pursuant to Code Section 29-3-30 for the support, care, education, health, and welfare of the minor;

(2) Enter into contracts for labor or services upon such terms as the conservator may deem best, but only to the extent that the annual compensation payable under such contracts when combined with other anticipated disbursements does not exceed the amount of the annual income or, if applicable, the annual budget amount which has been approved by the court pursuant to Code Section 29-3-30;

(3) Borrow money for one year or less and bind the minor or the

minor's property, but only if the amount of the annual payments when combined with other anticipated disbursements does not exceed the amount of the annual income or, if applicable, the annual budget amount that has been approved by the court pursuant to Code Section 29-3-30 and only if done for purposes of paying the minor's debts, providing for the support, care, education, health, or welfare of the minor, or repairing the minor's dwelling place;

(4) Receive, collect, and hold the minor's property, additions to the minor's property, and all related records, subject to subsection (d) of Code Section 29-3-41;

(5) Retain the property received by the conservator upon the creation of the conservatorship in accordance with the provisions of Code Section 29-3-31;

(6) Bring, defend, or participate in legal, equitable, or administrative proceedings, including alternative dispute resolution, as are appropriate for the support, care, education, health, or welfare of the minor in the name of or on behalf of the minor;

(7) Fulfill, as far as possible, or, to the extent permitted by law, disaffirm the executory contracts and comply with the executed contracts of the minor;

(8) Examine the will and any other estate planning documents of the minor;

(9) Appoint an attorney in fact to act for the conservator when the conservator is unable to act; provided, however, that the conservator and the conservator's sureties shall be bound for the acts of the attorney as if the acts were the personal acts of the conservator;

(10) Invest the minor's property pursuant to the provisions of Code Sections 29-3-32 and 29-3-33;

(11) Sell the minor's stocks and bonds pursuant to the provisions of subsection (b) of Code Section 29-3-35;

(12) Compromise any contested or doubtful claim for or against the minor if the proposed gross settlement as defined in Code Section 29-3-3 is in an amount not greater than $25,000.00; and

(13) Release the debtor and compromise all debts in an amount not greater than $25,000.00 when the collection of the debt is doubtful.

(b)(1) In the petition for appointment, or at any time during the conservatorship, the conservator may request the continuing power to:

(A) Invest the minor's property in investments other than those authorized in Code Section 29-3-32, pursuant to the provisions of

Code Section 29-3-34, without further court approval of any investment;

(B) Sell, rent, lease, exchange, or otherwise dispose of any or all of the minor's real or personal property without complying with the provisions of Code Section 29-3-35, other than the provisions for additional bond set forth in subsection (e) of Code Section 29-3-35;

(C) Continue the operation of any farm or business in which the minor has an interest; or

(D) Access the digital assets of the minor, pursuant to Code Section 53-13-20.

(2) Unless the request for the powers described in paragraph (1) of this subsection is made in the petition for the initial appointment of the conservator, the court shall order such hearing as the court deems appropriate. Notice shall be given by personal service to the minor and a guardian ad litem appointed for the minor. Notice shall be given by first-class mail to the guardian of the minor, if any; the surety on the conservator's bond; and to the following relatives of the minor whose whereabouts are known:

(A) Any parent of the minor whose parental rights have not been terminated;

(B) If there is no parent of the minor whose parental rights have not been terminated, the adult siblings of the minor; provided, however, that not more than three adult siblings need to be notified;

(C) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need to be notified; or

(D) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined as set forth in Code Section 53-2-1.

(c) After appointment of a guardian ad litem for the minor and such hearing as the court deems appropriate, in granting the petition for appointment of conservator or at any time during the conservatorship, the court may grant the conservator any of the following powers on a case-by-case basis:

(1) To make disbursements that exceed by no more than a specific amount the annual income or, if applicable, the annual budget amount which has been approved by the court pursuant to Code Section 29-3-30 for the support, care, education, health, and welfare of the minor;

(2) To enter into contracts for labor or services for which the

compensation payable under the contracts when combined with other disbursements from the estate exceeds the annual income or, if applicable, the annual budget amount which has been approved by the court pursuant to Code Section 29-3-30;

(3) To make specific investments of the minor's property that do not comply with the provisions of Code Section 29-3-32, pursuant to the provisions of Code Section 29-3-34;

(4) To sell, rent, lease, exchange, or otherwise dispose of specific items of the minor's real or personal property without complying with the provisions of Code Section 29-3-35 other than the provisions for additional bond set forth in subsection (e) of Code Section 29-3-35;

(5) Pursuant to the provisions of Code Section 29-3-3, to compromise a contested or doubtful claim for or against the minor if the proposed gross settlement as defined in Code Section 29-3-3 is in an amount greater than $25,000.00;

(6) To release the debtor and compromise a debt that is in an amount greater than $25,000.00 when the collection of the debt is doubtful;

(7) To establish or add property to a trust for the benefit of the minor; provided, however, that the trust must provide that the minor may revoke the trust at any time after reaching the age of majority and, unless otherwise provided by court order pursuant to Code Section 29-3-36, the trust shall terminate upon the minor's death and any property remaining in the trust shall be paid to the minor's estate;

(8) To disclaim or renounce any property or interest in property of the minor in accordance with the provisions of Code Section 53-1-20;

(9) To access the digital assets of the minor pursuant to Code Section 53-13-20;

(10) To engage in estate planning for the minor pursuant to the provisions of Code Section 29-3-36; and

(11) To perform such other acts as may be in the best interest of the minor.

(d) In granting any of the powers described in subsections (b) and (c) of this Code section, the court shall consider the views of the guardian, if available, or, if there is no guardian, of others who have custody of the minor.

(e) In performing any of the acts described in this Code section, the conservator shall endeavor to cooperate with the guardian or, if there is no guardian, with others who have custody of the minor.

History.

Code 1981, § 29-3-22, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 7/SB 534; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2018, p. 1089, § 5/SB 301; Ga. L. 2019, p. 693, § 3/HB 70; Ga. L. 2022, p. 207, § 4/HB 620.

Cross references.

Bond required of guardians of minors, § 29-4-12.

Revised Uniform Fiduciary Access to Digital Assets Act, § 53-13-1 et seq.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2004, "Code Section 29-3-35" was substituted for "Code Section 2-3-35" in subparagraph (b)(1)(B) and paragraph (c)(4); and "or" was added following the semicolon at the end of subparagraph (b)(2)(C).

Law reviews.

For note discussing and comparing the prudent man rule and the legal list rule in trustee investment, see 15 Mercer L. Rev. 530 (1964).

For article discussing the custodian as a fiduciary under the Gifts to Minors Act (O.C.G.A. § 44-5-110 et seq., see 7 Ga. St. B.J. 175 (1970).

For article, "The Child as a Party in Interest in Custody Proceedings," see 10 Ga. St. B.J. 577 (1974).

For article, "The Scope of Permissible Investments by Fiduciaries Under Georgia Law," see 19 Ga. St. B.J. 6 (1982).

For annual survey of law of wills, trusts, and administration of estates, see 38 Mercer L. Rev. 417 (1986).

For annual survey of wills, trusts, and administration of estates, see 42 Mercer L. Rev. 491 (1990).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

For article on the 2018 amendment of this Code section, see 35 Ga. St. U.L. Rev. 204 (2018).

JUDICIAL DECISIONS

Analysis

General Consideration
Authority of Probate Judge
Notice
Claims Subject to Compromise
Effect of Compromise

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Laws 1809, Cobb's 1851 Digest, p. 315, former Code 1859, p. 37, § 1, former Code 1868, § 1815, former Code 1873, §§ 1824, 1838, 2539, former Code 1882, §§ 1824, 2537, 2538, 2539, former Code 1895, §§ 2541, 2571, former Civil Code 1895, §§ 3432, 4630, former Civil Code 1910, §§ 3060, 3065, 4004, 4005, 4008, 5176, former Code 1933, §§ 49-202, 49-204, 49-213, 49-215, 49-216, 49-217, 49-219, 49-221, and 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-2-16 are included in the annotations for this Code section.

Primarily income, and not corpus, of ward's property is to be expended for the purpose of education, maintenance, and making necessary repairs on the ward's property. Little v. West, 145 Ga. 563, 89 S.E. 682, 1916 Ga. LEXIS 403 (1916) (decided under former Civil Code 1910, § 3060).

Guardian is entitled to charge a ward with necessary medical expenses incurred. Poole v. Wilkinson, 42 Ga. 539, 1871 Ga. LEXIS 100 (1871) (decided under former Code 1868, § 1815).

Attorney's fees. — Attorney's fees incurred in guardian's attempt to require minor children's mother to support her children were denied as extra compensation, where such action by the guardian was not necessary nor beneficial to the wards' estates. Whitehurst v.

General Consideration (Cont'd)

Singletary, 77 Ga. App. 811, 50 S.E.2d 80, 1948 Ga. App. LEXIS 650 (1948) (decided under former Code 1933, § 49-202).

Guardian entitled to reasonable attorney's fees incurred in suits for collection of moneys to which ward was entitled. Royston v. Royston, 29 Ga. 82, 1859 Ga. LEXIS 289 (1859) (decided under former Ga. L. 1859, p. 37, § 1); Zellner v. Cleveland, 69 Ga. 631, 1882 Ga. LEXIS 281 (1882) (decided under former Code 1882, § 1824).

Expenses incurred in opposition to ward's petition for restoration. — Where ward's mental condition is in doubt, and guardian acts in good faith in opposing ward's petition for restoration, the guardian is entitled to recover reasonable and necessary expenses so incurred, including attorney fees. Woodruff v. Trust Co., 233 Ga. 135, 210 S.E.2d 321, 1974 Ga. LEXIS 700 (1974) (decided under former Code 1933, § 49-202).

Guardian entitled to reimbursement for payment of taxes. — Where real estate of ward is impressed by liens for municipal taxes and street pavement assessments, and the guardian pays them off, the guardian will be allowed, in an equitable accounting, to encroach upon corpus of estate for reimbursement, where there are not sufficient funds arising from income. English v. English, 149 Ga. 404, 100 S.E. 362, 1919 Ga. LEXIS 256 (1919) (decided under former Civil Code 1910, § 3060).

Determination of necessities. — For a determination of what are necessities where representations are made by ward to guardian, see Little v. West, 145 Ga. 563, 89 S.E. 682, 1916 Ga. LEXIS 403 (1916) (decided under former Civil Code 1910, § 3060).

Permanent improvements. — Guardian not authorized to sell or encumber property of ward for purpose of erecting permanent improvements on it; or, if the guardian erects permanent improvements on it with the guardian's own money, the guardian cannot obtain a legal order of the ordinary (now judge of probate court), or court of ordinary (now probate court), to sell it for reimbursement of guardian's expenses. Burke & Williams v. Mackenzie, 124 Ga. 248, 52 S.E. 653, 1905 Ga. LEXIS 697 (1905) (decided under former Civil Code 1895, § 2541); Little v. West, 145 Ga. 563, 89 S.E. 682, 1916 Ga. LEXIS 403 (1916) (decided under former Civil Code 1910, § 3060); Sturgis v. Davis, 157 Ga. 352, 121 S.E. 318, 1924 Ga. LEXIS 46 (1924) (decided under former Civil Code 1910, § 3060).

Equity jurisdiction of estates of wards of chancery is broad, comprehensive, and plenary. Turner v. Prigmore, 202 Ga. 377, 43 S.E.2d 259, 1947 Ga. LEXIS 440 (1947) (decided prior to 1958 amendment of former Code 1933, § 49-204).

Guardian may be authorized to sell vested remainder. — While guardian of minor cannot sell a contingent interest under order of the ordinary (now judge of probate court), the guardian may sell the vested estate in remainder of ward under order of the court of ordinary (now probate court). Calhoun v. Thompson, 171 Ga. 286, 155 S.E. 183, 1930 Ga. LEXIS 335 (1930) (decided under former Civil Code 1910, § 3065).

Guardian may convey estate for years. — By complying with statutory provisions, guardians can convey an estate for years, after due advertisement and proper application to superior court (now within jurisdiction of probate court), and order of the judge thereon, for purpose of reinvestment. Shell Petro. Corp. v. Jackson, 47 Ga. App. 667, 171 S.E. 171, 1933 Ga. App. LEXIS 595 (1933) (decided under former Code 1933, § 49-204).

Lease of estate for years is in effect a sale. — Sale of lands by guardian for reinvestment may be made at public or private sale under direction of judge of superior court (now within jurisdiction of judge of probate court) and the lease of an estate for years of lands is in effect the sale of an estate for years therein. Shell Petro. Corp. v. Jackson, 47 Ga. App. 667, 171 S.E. 171, 1933 Ga. App. LEXIS 595 (1933) (decided under former Code 1933, § 49-204).

Order of court authorizing long-term lease with option to buy ward's

land was valid. Union Camp Corp. v. Youmans, 227 Ga. 687, 182 S.E.2d 468, 1971 Ga. LEXIS 818 (1971) (decided under former Code 1933, § 49-204).

Guardian not to allow conflict of interest. — A guardian may not act in such a way that the guardian's own personal interest may come in conflict with interest of ward with respect to estate of latter. Allen v. Wade, 203 Ga. 753, 48 S.E.2d 538, 1948 Ga. LEXIS 519 (1948) (decided under former Code 1933, § 49-204).

Sale by guardian presumed to be in best interests of ward. — Sale of property by guardian on behalf of minor ward is presumed to be in best interests of ward and such sales are required to be consummated under supervision and direction of probate court. Merritt v. DOT, 147 Ga. App. 316, 248 S.E.2d 689, 1978 Ga. App. LEXIS 2670 (1978), rev'd, Department of Transp. v. Merritt, 243 Ga. 52, 252 S.E.2d 508, 1979 Ga. LEXIS 802 (1979) (decided under former Code 1933, § 49-204).

Negotiations for sale prior to obtaining court order allowed. — Guardians can, before they obtain an order of court, enter into negotiations looking to private sale or lease of an estate for years, and such action on their part would not be contrary to public policy nor illegal. Shell Petro. Corp. v. Jackson, 47 Ga. App. 667, 171 S.E. 171, 1933 Ga. App. LEXIS 595 (1933) (decided under former Code 1933, § 49-204).

Sale without required court order not binding upon ward. — Sale of realty belonging to minors by guardian without order from court of ordinary (now probate court) is not binding upon them. Wells v. Chaffin, 60 Ga. 677, 1878 Ga. LEXIS 590 (1878) (decided under former law).

Purchaser claiming title due to guardian's sale must show order. — Purchaser of real estate claiming title by virtue of guardian's sale must show order of ordinary (now judge of probate court) granting to guardian leave to sell it. Wells v. Chaffin, 60 Ga. 677, 1878 Ga. LEXIS 590 (1878) (decided under former law).

Sale by will not applicable. — Former Code 1933, § 49-208 (former O.C.G.A. § 29-2-7) had no application to sale under power conferred by will. Harwell v. Foster, 102 Ga. 38, 28 S.E. 967, 1897 Ga. LEXIS 446 (1897) (decided under former Civil Code 1895, § 4630).

Superior court shall determine necessity of order and validity of claim. — The superior court shall try both issue of necessity of order, and whether property is held adversely. Hull v. Watkins, 134 Ga. 779, 68 S.E. 506, 1910 Ga. LEXIS 346 (1910) (decided under former Civil Code 1910, § 5176).

Validity of claim not dependent upon giving of bond. — It is not necessary to validity of claim of land at executor's or administrator's sale that bond and security should be given. Falls v. Griffith, 25 Ga. 72, 1858 Ga. LEXIS 16 (1858) (decided under Laws 1809, Cobb's 1851 Digest, p. 315).

Finding a purchaser for property was a service within meaning of former Code 1933, § 49-213 (former O.C.G.A. § 29-2-11). Turner v. Prigmore, 202 Ga. 377, 43 S.E.2d 259, 1947 Ga. LEXIS 440 (1947) (decided under former Code 1933, § 49-213).

Reference to county in former Code 1933, § 49-213 (former O.C.G.A. § 29-2-11) referred to county wherein jurisdiction of guardianship laid. Turner v. Prigmore, 202 Ga. 377, 43 S.E.2d 259, 1947 Ga. LEXIS 440 (1947) (decided under former Code 1933, § 49-213).

For limitation of authority of testamentary guardian of incompetent to whom life estate has been devised, see Greer v. Greer, 218 Ga. 416, 128 S.E.2d 51, 1962 Ga. LEXIS 518 (1962) (decided under former Code 1933, § 49-213).

For a discussion of liability of bank which receives fruits of misappropriation by trustee, see Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former Code 1933, §§ 49-215, 49-217).

Former Civil Code 1910, § 3432 (former O.C.G.A. § 29-2-14) was inapplicable to exchange of lands. Mills v. Geer, 111 Ga. 275, 36 S.E. 673, 1900 Ga. LEXIS 530 (1900) (decided under former Civil Code 1895, § 3432).

Guardian acted in fiduciary capacity and was bound to utmost good faith

General Consideration (Cont'd)

with court and ward in interest of latter in proceeding under former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14). American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Proceeding does not require appointment of guardian ad litem. — Petition of guardian to invest funds of ward under this law is an ex parte proceeding of the ward acting through the guardian; it does not require appointment of guardian ad litem for ward. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Investment by guardian in violation of former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14) was a breach of guardian's statutory bond that would authorize suit to recover amount from guardian and guardian's surety. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

For a discussion of liability of guardian for real estate investments without court order, see Paulk v. Roberts, 42 Ga. App. 79, 155 S.E. 55, 1930 Ga. App. LEXIS 238 (1930) (decided under former Civil Code 1910, § 4008).

Compromises of claims and compromises of debts distinguished. — Former Code 1933, §§ 49-219 and 49-221 (former O.C.G.A. §§ 29-2-16 and 29-2-18) were for purpose of distinguishing when guardian can compromise contested or doubtful claim of ward, and when the guardian can compromise a doubtful debt of ward; requirements for compromising a claim and for compromising a debt are different, and are set forth in separate statutes. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, §§ 49-219 and 49-221).

Former Civil Code 1910, § 4004 (former O.C.G.A. § 29-2-16) did not authorize rescission of contracts. Jones v. Ragan, 136 Ga. 653, 71 S.E. 1098, 1911 Ga. LEXIS 166 (1911) (decided under former Civil Code 1910, § 4004).

Subject matter to be compromised is claims whose justice and legality may be questioned. Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2537).

Compromise need not be approved by probate judge. — There is no requirement that a compromise be approved by the ordinary (now judge of probate court), as is the case with doubtful debts under former Code 1933, § 49-221 (former O.C.G.A. § 29-2-18) referring to liquidated contractual demands. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

A probate court clearly has jurisdiction to appoint a guardian for a minor. However, a guardian, once appointed, need not obtain the approval of the probate court to settle a contested or doubtful claim for or against the minor. Accordingly, any settlement of the tort claims of minors to which their duly appointed guardian agreed would not have to be approved by the probate court. King Cotton, Ltd. v. Powers, 200 Ga. App. 549, 409 S.E.2d 67, 1991 Ga. App. LEXIS 1090 (1991), cert. denied, No. S91C1416, 1991 Ga. LEXIS 537 (Ga. Sept. 6, 1991) (decided under former O.C.G.A. § 29-2-16).

A guardian of property need not obtain prior approval of the probate court in order to compromise or settle a contested or disputed claim. Hay v. Norfolk S. Ry., 879 F. Supp. 1192, 1994 U.S. Dist. LEXIS 20331 (N.D. Ga. 1994) (decided under former O.C.G.A. § 29-2-16).

Executor's authority need not be revoked to attack fraudulent agreement. — Where executor has exceeded authority in entering agreement, the executor's authority need not be revoked in order to attack such agreement. Empire Life Ins. Co. v. Mason, 140 Ga. 141, 78 S.E. 935, 1913 Ga. LEXIS 59 (1913) (decided at time when law included guardians, administrators, executors and other fiduciaries in its grant of authority to compromise claims;

decided under former Civil Code 1910, § 4004).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as they disbursed to themselves and to hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-2-16).

Declining to exercise right to participate in case. — Although the conservator had the exclusive power to participate in the wrongful death action pending in the superior court, the conservator expressly declined to exercise that right and thus, any error on the part of the trial court in interfering with the conservator's exclusive power to proceed on behalf of the minor children was self-induced and provided no ground for reversal. Hall v. Hill, 360 Ga. App. 635, 859 S.E.2d 897, 2021 Ga. App. LEXIS 347 (2021), vacated in part, rev'd, 314 Ga. 488, 877 S.E.2d 593, 2022 Ga. LEXIS 226 (2022).

Competing wrongful death actions. — Trial court erred denying the administrator's request to dismiss the guardian ad litem's action — over which the court then lacked jurisdiction — and instead consolidated two wrongful death actions since by depriving the guardian of standing to assert claims for the children; the administrator's appointment deprived the trial court of jurisdiction over any such claims brought by the guardian. Hall v. Hill, 366 Ga. App. 285, 882 S.E.2d 34, 2022 Ga. App. LEXIS 553 (2022).

Binding settlement reached. — Minor's exemption under O.C.G.A. § 13-5-3 from contractual liability is a personal privilege which others may not assert as a defense; binding settlement agreement was reached between an insurer and a minor injured party even though: (1) a contract of a minor is voidable under O.C.G.A. § 13-3-20(a); (2) judicial approval pursuant to former O.C.G.A. § 29-2-16(e) postdated the settlement agreement; and (3) no guardian had been appointed for the minor at the time the agreement was reached. Grange Mut. Cas. Co. v. Kay, 264 Ga. App. 139, 589 S.E.2d 711, 2003 Ga. App. LEXIS 1422 (2003), cert. denied, No. S04C0557, 2004 Ga. LEXIS 313 (Ga. Mar. 29, 2004) (decided under former O.C.G.A. § 29-2-16).

For general discussion of former Code 1882, § 2538 (former O.C.G.A. § 29-2-17), see Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2538).

On necessity of order of ordinary (now judge of probate court), see Jones v. Ragan, 136 Ga. 653, 71 S.E. 1098, 1911 Ga. LEXIS 166 (1911) (decided under former Civil Code 1910, § 4005).

Compliance with statute necessary for validity of compromise order. — The ordinary's (now judge of probate court) direction to compromise doubtful debt belonging to estate was worth nothing to executor unless it appeared that requirements of former Code 1873, § 2539 (former O.C.G.A. § 29-2-18) had been complied with. Ponce v. Wiley, 62 Ga. 118, 1878 Ga. LEXIS 309 (1878) (decided under former Code 1873, § 2539, which included guardians, administrators, executors and other fiduciaries in its grant of authority to compromise debts).

Compromise of claims and compromise of debts distinguished. — Former Code 1933, § 49-221 (former O.C.G.A. § 29-2-16) was for purpose of distinguishing when guardian could compromise contested or doubtful claim of ward, and when guardian could compromise a doubtful debt of ward; requirements for compromising a claim and for compromising a debt were different, and were set forth in separate statutes. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Subject matter to be compromised is debts, true and real, but doubtful as to solvency. Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2539).

"Debt" means that fixed and specific amount is owing. — Distinguishing characteristic of word debt

General Consideration (Cont'd)

is that fixed and specific amount is owing and no future valuation is required to settle it. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Guardian empowered to appoint agent. — Guardian had power to appoint agent to act for guardian during absence in confederate army, and any act of agent within scope of agent's authority would be as valid as that of guardian. Tarpley v. McWhorter, 56 Ga. 410, 1876 Ga. LEXIS 308 (1876) (decided under former Code 1873, § 1838).

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Requests for and objections to joinder. — Georgia Supreme Court held that conservator who declines to join preexisting litigation voluntarily and seeks to have that litigation dismissed does not thereby forfeit their exclusive power to participate in that litigation after they are joined as a party under O.C.G.A. § 9-11-19(a). Hall v. Davis Lawn Care Serv., 314 Ga. 488, 877 S.E.2d 593, 2022 Ga. LEXIS 226 (2022).

Authority of Probate Judge

Probate judge may ratify certain actions of guardian. — Where trustee has acted fairly and properly without previous consent of the ordinary (now judge of probate court), and where prompt and regular annual returns of the trustee's actions in that behalf have been made, the ordinary (now judge), by approving such returns, may ratify the action. Dowling v. Feeley, 72 Ga. 557, 1884 Ga. LEXIS 295 (1884) (decided under former Code 1882, § 1824); Shipp v. McCowen, 147 Ga. 711, 95 S.E. 251, 1918 Ga. LEXIS 119 (1918) (decided under former Civil Code 1910, § 3060).

Probate judge may consent to expenditures exceeding profits. — Ordinary (now judge of probate court) may consent to expenditures exceeding annual profits of ward's estate for expenses of maintenance and education by approving the regular annual returns of the guardian, which show on their face that expenses have exceeded income. Cook v. Rainey, 61 Ga. 452, 1878 Ga. LEXIS 150 (1878) (decided under former Code 1873, § 1824); Sturgis v. Davis, 157 Ga. 352, 121 S.E. 318, 1924 Ga. LEXIS 46 (1924) (decided under former Civil Code 1910, § 3060); Banister v. Bagley, 56 Ga. App. 615, 193 S.E. 480, 1937 Ga. App. LEXIS 180 (1937) (decided under former Code 1933, § 49-202); Bailey v. McElroy, 61 Ga. App. 367, 6 S.E.2d 140, 1939 Ga. App. LEXIS 301 (1939) (decided under former Code 1933, § 49-202).

Probate court order inconsistent with power granted to conservator. — Probate court erred issuing a blanket prohibition on the conservator disbursing any of the anticipated monthly income of the estate based on the conservator needing to show inability to pay pursuant to the statutory obligation as a parent because the order was inconsistent with the exclusive, automatic power granted to a conservator under O.C.G.A. § 29-3-22(a)(1) to make reasonable disbursements from the annual income of the child ward's estate without court approval. In re Estate of T. M. N., 369 Ga. App. 199, 892 S.E.2d 819, 2023 Ga. App. LEXIS 431 (2023).

Probate judge cannot delegate his discretion. — Discretion to encroach upon corpus for maintenance and education of ward is confined to the ordinary (now judge of probate court) and the ordinary cannot relegate it to another. Shipp v. McCowen, 147 Ga. 711, 95 S.E. 251, 1918 Ga. LEXIS 119 (1918) (decided under former Civil Code 1910, § 3060).

Notice

Notice requirement is jurisdictional. — Requirement of former Code 1933, §§ 49-204 and 49-205 (former O.C.G.A. §§ 29-2-4 and 29-2-5) as to citation and notice to ward prior to leave to sell, exchange or encumber the ward's property is jurisdictional, and the ordinary (now judge of probate court) acts without jurisdiction by granting an order to sell without the required notice having been given. Fuller v. Dillon, 220 Ga. 36, 136 S.E.2d 733, 1964 Ga. LEXIS 444 (1964) (decided under former Code 1933, § 49-204).

Showing lack of notice rebuts presumption of validity of sale. — Though a judgment of an ordinary (now judge of probate court) granting leave to sell being regular upon its face is presumptively valid, such presumption is only prima facie and may be rebutted by evidence showing that jurisdictional fact of publication of notice had not been accomplished at time of grant of order. Fuller v. Dillon, 220 Ga. 36, 136 S.E.2d 733, 1964 Ga. LEXIS 444 (1964) (decided under former Code 1933, § 49-204).

Adequacy of notice under former O.C.G.A. § 29-2-4. — See Union Camp Corp. v. Youmans, 227 Ga. 687, 182 S.E.2d 468, 1971 Ga. LEXIS 818 (1971) (decided under former Code 1933, § 49-204).

Ward may appear by next friend. — Former Code 1933, § 49-204 (former O.C.G.A. § 29-2-4) contemplated right of ward to be heard, and where ward was incompetent to appear in person, the ward had right to appear by next friend. Fuller v. Dillon, 220 Ga. 36, 136 S.E.2d 733, 1964 Ga. LEXIS 444 (1964) (decided under former Code 1933, § 49-204).

Claims Subject to Compromise

"Claim" embraces assertion of liability to party making it to pay sum of money. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

"Claims" is sufficiently broad to include a tort action. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

"Claims" includes demands arising out of tort. — "Claims" as used in former Code 1933, § 49-219 (former O.C.G.A. § 29-2-16) had a technical meaning and implied that a right is in dispute, including a demand arising out of tort. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Wrongful death action was a property right and could be compromised or settled by a duly appointed guardian of property pursuant to former O.C.G.A. § 29-2-16. Hay v. Norfolk S. Ry., 879 F. Supp. 1192, 1994 U.S. Dist. LEXIS 20331 (N.D. Ga. 1994) (decided under former O.C.G.A. § 29-2-16).

Effect of Compromise

Guardian may negotiate complete settlement, which is conclusive until set aside in direct proceeding brought for that purpose. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413,

Effect of Compromise (Cont'd)

1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

Compromise settlement is conclusive until set aside. — Compromise settlement of doubtful "claim" made by guardian is conclusive until set aside in direct proceeding in which guardian is a necessary party. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 86 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 15, 16, 57 et seq., 76 et seq., 281.

57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Constitutionality of statute authorizing guardian to sell or lease land of ward, 4 A.L.R. 1552.

Right of guardian to expend principal of ward's estate for maintenance and support, 5 A.L.R. 632.

Right of natural guardian to custody or control of infant's property, 6 A.L.R. 115.

Power of court to authorize guardian to borrow ward's money, 30 A.L.R. 461.

Right of attorney, parent, guardian ad litem, or next friend to remit from verdict or judgment in favor of infant, 30 A.L.R. 1111.

Right of guardian who promises to provide out of own estate for ward to allowance out of ward's estate, 56 A.L.R. 536.

Right of guardian to allowance for expenditures prior to appointment, 67 A.L.R. 1405.

Right of trustee, executor, administrator, or guardian to purchase property of estate or trust at sale brought about by third person, 77 A.L.R. 1513.

Liability of trustee, guardian, executor, or administrator for loss of funds invested, as affected by order of court authorizing the investment, 88 A.L.R. 325.

Power of guardian to sell ward's property without order of court, 108 A.L.R. 936.

Right of trustee or guardian to retain unauthorized securities held by testator or creator of trust, 122 A.L.R. 801; 135 A.L.R. 1528.

Effect of beneficiary's consent to, acquiescence in, or ratification of, improper investments or loans (including failure to invest) by trustee or other fiduciary, 128 A.L.R. 4.

Guardian's sale of ward's property initiated before, but not finally concluded until after, ward's attainment of majority, 141 A.L.R. 1022.

Power of guardian or committee to compromise liquidated contract claim or money judgment, and of courts to authorize or approve such a compromise, 155 A.L.R. 196.

Construction and effect of instrument authorizing or directing trustee or executor to retain investments received under such instrument, 47 A.L.R.2d 187.

Power of guardian representing unborn future interest holders to consent to invasion of trust corpus, 49 A.L.R.2d 1095.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

Power of court or guardian to make noncharitable gifts or allowances out of funds of incompetent ward, 24 A.L.R.3d 863.

Amount of attorneys' compensation in matters involving guardianship and trusts, 57 A.L.R.3d 550.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-3-23. Rights of conservator to property; disclosure of conflicts of interest.

(a) The appointment of a conservator shall not automatically cause the conservator to forfeit any rights to property.

(b) The conservator must promptly disclose any conflict of interest between the conservator and the minor when it arises or becomes known to the conservator and seek the court's determination as to whether the conflict is insubstantial or whether it is in the best interest of the minor for the conservator to continue to serve and not forfeit any property right. If the court finds that the conflict of interest is substantial or contrary to the best interest of the minor, the conservator may either resign or forfeit the property interest that is the source of the conflict.

(c) A transaction affected by a substantial conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator or the spouse, descendant, agent, or lawyer of the conservator or a corporation or other enterprise in which the conservator has a significant beneficial interest.

History.
Code 1981, § 29-3-23, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 99 et seq., 201 et seq.

C.J.S.
57 C.J.S., Mental Health, § 123 et seq.

29-3-24. Oath of conservator.

Before entering upon the duties of the appointment, every conservator appointed pursuant to the terms of this chapter shall take an oath or

affirmation before the court to perform well and truly the duties required of a conservator and to account faithfully for the estate. The oath or affirmation of a conservator may be subscribed before the judge or clerk of any probate court of this state. The judge of the probate court who appoints the conservator shall have the authority to grant a commission to a judge or clerk of any court of record of any other state to administer the oath or affirmation.

History.
Code 1981, § 29-3-24, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 36, 37, 142.

ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

ARTICLE 3

PROPERTY OBLIGATIONS OF CONSERVATOR

29-3-30. Inventory of minor's property; plan for managing, expending, and distributing minor's property.

(a) Within two months of appointment, the conservator shall file with the court and provide to the minor's guardian, if any, an inventory of the minor's property and a plan for managing, expending, and distributing the property.

(b) The inventory shall describe all the assets and liabilities of the minor and shall include a list of all the personal and real property owned by the minor and describe how the property is titled. When the inventory is returned to the court, the conservator shall swear or affirm, in addition to the usual oath on making returns, that the inventory contains a true statement of all the assets and liabilities of the minor which are known to the conservator.

(c) The plan for managing, expending, and distributing the minor's property must be based on the actual needs of the minor and take into consideration the best interest of the minor. The conservator shall include in the plan projections for expenses and resources and any proposals to change the title of any of the assets in the conservatorship estate. The plan and any proposed budget for the expenditure of funds in excess of the anticipated income from the property must be approved by the court. With each annual return filed thereafter, the conservator

shall file with the court and provide to the guardian, if any, an updated plan pursuant to the provisions of this subsection.

History.
Code 1981, § 29-3-30, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Probate court order inconsistent with power granted to conservator. — Probate court erred issuing a blanket prohibition on the conservator disbursing any of the anticipated monthly income of the estate based on the conservator needing to show inability to pay pursuant to the statutory obligation as a parent because the order was inconsistent with the exclusive, automatic power granted to a conservator under O.C.G.A. § 29-3-22(a)(1) to make reasonable disbursements from the annual income of the child ward's estate without court approval. In re Estate of T. M. N., 369 Ga. App. 199, 892 S.E.2d 819, 2023 Ga. App. LEXIS 431 (2023).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 85, 211 et seq.

29-3-31. Retention of property; exchange or conversion of stock or securities.

(a) A conservator may retain the property received by the conservator on the creation of the conservatorship, including, in the case of a corporate fiduciary, stock or other securities of its own issue, even though the property may not otherwise be a legal investment and shall not be liable for the retention, except for gross neglect. In the case of corporate securities, the conservator may likewise retain any securities into which the securities originally received may be converted or which may be derived therefrom as a result of merger, consolidation, stock dividends, splits, liquidations, and similar procedures; and the conservator may exercise by purchase or otherwise any rights, warrants, or conversion features attaching to any such securities.

(b) In the case of a corporate fiduciary, the authority granted in subsection (a) of this Code section shall apply to the exchange or conversion of stock or securities of the corporate fiduciary's own issue, whether or not any new stock or securities received in exchange therefor are substantially equivalent to those originally held; and such authority shall also apply to the continued retention of all new stock and securities resulting from merger, consolidation, stock dividends, splits, liquidations, and similar procedures and received by virtue of such conversion or exchange of stock or securities of the corporate fiduciary's own issue, whether or not the new stock or securities are substantially equivalent to those originally received by the fiduciary.

The foregoing authority shall have reference, inter alia, to the exchange of such stock or securities for stock or securities of any holding company which owns stock or other interests in one or more other corporations including the corporate fiduciary, whether the holding company is newly formed or already existing, and whether or not any of the corporations own assets identical or similar to the assets of or carry on business identical or similar to the corporation whose stock or securities were previously received by the fiduciary and the continued retention of stock or securities, or both, of the holding company; and such authority shall apply regardless of whether any of the corporations have officers, directors, employees, agents, or trustees in common with the corporation whose stock or securities were previously received by the fiduciary.

History.
Code 1981, § 29-3-31, enacted by Ga. L. 2004, p. 161, § 1.

29-3-32. Investment of funds.

A conservator is authorized to invest estate funds in the following and shall not otherwise be liable for such investment, except in the case of gross neglect:

(1) Bonds issued by any county or municipality of this state which have been validated as required by law for the validation of county and municipal bonds;

(2) Bonds issued by any county board of education under Subpart 1 of Part 3 of Article 9 of Chapter 2 of Title 20 for the purpose of building and equipping schoolhouses, which bonds have been validated and confirmed as required under Part 1 of Article 2 of Chapter 82 of Title 36;

(3) Bonds and other securities issued by this state or by the Board of Regents of the University System of Georgia;

(4) Bonds or other obligations issued by the United States government and bonds of any corporation created by an act of Congress, the bonds of which are guaranteed by the United States government;

(5) Interest-bearing deposits in any financial institution located in this state, to the extent the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or comparable insurance;

(6) Bonds or other obligations issued by a housing authority pursuant to Article 1 of Chapter 3 of Title 8 or issued by any public housing authority or agency of the United States when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, as authorized by Code Section 8-3-81;

(7) Bonds or other obligations issued by a housing authority in connection with a redevelopment program pursuant to Chapter 4 of Title 8, as authorized by Code Section 8-4-11;

(8) Reserved;

(9) Reserved;

(10) Bonds issued by the Georgia Highway Authority, pursuant to Code Section 32-10-30, as authorized by Code Section 32-10-45;

(11) Bonds or other obligations issued by a municipality or county pursuant to Chapter 61 of Title 36 or by any urban redevelopment agency or housing authority vested with urban redevelopment project powers under Code Section 36-61-17, provided that such bonds or other obligations are secured by an agreement between the issuer and the federal government in accordance with Code Section 36-61-13, as authorized by Code Section 36-61-13;

(12) Reserved;

(13) Farm loan bonds issued by federal land banks or joint-stock land banks under the Federal Farm Loan Act, 12 U.S.C. Sections 2001, et seq., and any notes, bonds, debentures, or other similar obligations, consolidated or otherwise, issued by farm credit institutions pursuant to the Farm Credit Act of 1971, 12 U.S.C. Sections 2001, et seq.;

(14) Real property loans:

(A) Which are not in default;

(B) Which are secured by mortgages or deeds to secure debt conveying a first security title to improve real property;

(C) Which are insured pursuant to the National Housing Act, 12 U.S.C. Sections 1701, et seq.; and

(D) With respect to which loans, on or after default, pursuant to such insurance, debentures in at least the full amount of unpaid principal are issuable, which debentures are fully and unconditionally guaranteed both as to principal and interest by the United States; and

(15) Any other investments which are designated under the laws of this state as lawful or legal investments for guardians or conservators.

History.

Code 1981, § 29-3-32, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2010, p. 579, § 14/SB 131; Ga. L. 2012, p. 775, § 29/HB 942; Ga. L. 2013, p. 141, § 29/HB 79; Ga. L. 2024, p. 922, § 3-3/SB 341, effective May 6, 2024.

Amendments.

The 2024 amendment, effective May 6, 2024, substituted "Reserved" for "Bonds

issued by the Georgia Education Authority, pursuant to Part 3 of Article 11 of Chapter 2 of Title 20, as authorized by Code Section 20-2-570;" in paragraph (8).

Law reviews.

For note discussing and comparing the prudent man rule and the legal list rule in trustee investment, see 15 Mercer L. Rev. 530 (1964).

For article, "The Scope of Permissible Investments by Fiduciaries Under Georgia Law," see 19 Ga. St. B.J. 6 (1982).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 3432, former Civil Code 1910, § 4008, and former Code 1933, §§ 49-215, 49-216, 49-217 are included in the annotations for this Code section.

For a discussion of liability of bank which receives fruits of misappropriation by trustee, see Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former Code 1933, §§ 49-215, 49-217).

Former Civil Code 1910, § 3432 (former O.C.G.A. § 29-2-14) was inapplicable to exchange of lands. Mills v. Geer, 111 Ga. 275, 36 S.E. 673, 1900 Ga. LEXIS 530 (1900) (decided under former Civil Code 1895, § 3432).

Guardian acted in fiduciary capacity and was bound to utmost good faith with court and ward in interest of latter in proceeding under former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14). American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Proceeding does not require appointment of guardian ad litem. — Petition of guardian to invest funds of ward under this law is an ex parte proceeding of the ward acting through the guardian; it does not require appointment of guardian ad litem for ward. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Investment by guardian in violation of former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14) was a breach of guardian's statutory bond that would authorize suit to recover amount from guardian and guardian's surety. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

For a discussion of liability of guardian for real estate investments without court order, see Paulk v. Roberts, 42 Ga. App. 79, 155 S.E. 55, 1930 Ga. App. LEXIS 238 (1930) (decided under former Civil Code 1910, § 4008).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 129 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 116 et seq.

ALR.

Power of court to authorize guardian to borrow ward's money, 30 A.L.R. 461.

Right of trustee, executor, administrator, or guardian to purchase property of estate or trust at sale brought about by third person, 77 A.L.R. 1513.

Effect of beneficiary's consent to, acquiescence in, or ratification of, improper investments or loans (including failure to invest) by trustee or other fiduciary, 128 A.L.R. 4.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

29-3-33. Investment in direct or general obligations issued by the federal government or certain agencies thereof.

(a) Whenever by law or by court order the conservator is authorized,

permitted, required, or directed to invest funds in direct and general obligations of the United States government, obligations unconditionally guaranteed by the United States government, or obligations of the agencies of the United States government enumerated in Code Section 29-3-32, the conservator may invest in and hold such obligations either directly or in the form of securities or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Sections 80a-1, et seq., so long as:

(1) The portfolio of such investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations;

(2) Such investment company or investment trust takes delivery of such collateral, either directly or through an authorized custodian; and

(3) Such investment company or investment trust is operated so as to provide a constant net asset value or price per share.

(b) The authority granted in this Code section shall be applicable notwithstanding that a corporate fiduciary or an affiliate of the corporate fiduciary provides services to the investment company or investment trust as investment adviser, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise and receives compensation for such services.

History.
Code 1981, § 29-3-33, enacted by Ga. L. 2004, p. 161, § 1.

29-3-34. Standard for investment decisions; acquisition and retention of assets.

(a) After receiving court approval as required in subsection (b) or (c) of Code Section 29-3-22, in making investments and in acquiring and retaining those investments and managing property of the minor, the conservator shall exercise the judgment and care, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the account. In making such investment decisions, a conservator may consider the general economic conditions, the anticipated tax consequences of the investments, the anticipated duration of the account, and the needs of the minor.

(b) Within the limitations of the standard provided in subsection (a) of this Code section and with prior approval by the court in accordance with Code Section 29-5-23, a conservator is authorized to acquire and retain every kind of property, including real, personal, or mixed and

every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, including the securities of or other interests in any open-end or closed-end management investments company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Sections 80a-l, et seq. The propriety of an investment is to be determined by what the conservator knew or should have known at the time of the decision about the inherent nature and expected performance of a particular investment, including probable yield, the attributes of the portfolio, the general economy, and the needs of the minor as they existed at the time of the decision. Any determination of liability for investment performance shall consider not only the performance of a particular investment but also the performance of the minor's portfolio as a whole. Within the limitations of such standard, a conservator may retain property properly acquired without limitation as to time and without regard to its suitability for original purchase.

(c) A conservator that is a financial institution, trust company, national or state bank, savings bank, or savings and loan association described in Code Section 7-1-242 shall not be precluded from acquiring and retaining securities of or other interests in an investment company or investment trust because the bank or trust company or an affiliate provides services to the investment company or investment trust as investment adviser, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise and receives compensation for such services.

History.
Code 1981, § 29-3-34, enacted by Ga. L. 2004, p. 161, § 1.

29-3-35. Sale or other disposition of minor's property; accounting for proceeds; authority of temporary substitute conservator.

(a) A conservator may sell perishable property of the minor, property of the minor that is liable to deteriorate from keeping, or property of the minor that is expensive to keep as early as practicable and in the manner as the court shall determine is in the best interest of the minor, after notice and opportunity for hearing, if any, as the court shall deem practicable under the circumstances.

(b) A conservator may sell stocks or bonds of the minor that are either listed or admitted to unlisted trading privileges upon any stock exchange or quoted regularly in any newspaper having a general circulation in Georgia at a sales price not less than the stock exchange bid price or the published bid price at the time of sale and pay

reasonable brokerage commissions not in excess of those customarily charged by stock exchange members.

(c) Except as otherwise provided in subsections (a) and (b) of this Code section, a conservator may petition the court to sell, rent, lease, exchange, or otherwise dispose of property of the minor, whether real or personal or mixed. The petition shall set forth the property involved and the interests therein, the specific purpose of the transaction, the proposed price, the anticipated net proceeds of the sale, all other terms or conditions proposed for the transaction, and that the proposed transaction is in the best interest of the minor.

(d) Upon the filing of the petition, the court shall appoint a guardian ad litem for the minor. The petition and notice shall be served personally on the minor and the guardian ad litem.

(e) If no written objection by a person notified pursuant to subsection (d) of this Code section is filed within 30 days following the mailing of notice or service upon the guardian ad litem, the court shall order the sale summarily in the manner and under the terms petitioned; provided, however, that, if real property is to be converted to personal property, the court shall order the conservator to post additional bond to cover the amount of the anticipated net proceeds of the sale prior to the closing of the sale. If an objection is filed, the court shall hear the matter and grant or deny the petition for sale or make such other order as is in the best interest of the minor, which may require the sale to be private or at public auction, including confirmation of the sale by the court or otherwise.

(f) A conservator shall make a full return to the court within 30 days of every sale, specifying the property sold, the purchasers, and the amounts received, together with the terms of the sale.

(g) The recital in the conservator's deed of a compliance with legal provisions shall be prima-facie evidence of the facts recited.

(h) Where a conservator sells real property under the provisions of this Code section, liens thereon may be divested and transferred to the proceeds of the sale as a condition of the sale.

(i) A temporary substitute conservator is authorized to petition the court for leave to sell or otherwise deal with the property of the estate only if good cause is shown for not waiting until a different type of conservatorship is created or the conservatorship is terminated.

History.

Code 1981, § 29-3-35, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(1)(K)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in the first sentence in subsection (e).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Laws 1809, Cobb's 1851 Digest, p. 315, former Civil Code 1895, § 4630, and former Civil Code 1910, § 5176 are included in the annotations for this Code section.

Sale by will not applicable. — Former Code 1933, § 49-208 (former O.C.G.A. § 29-2-7) had no application to sale under power conferred by will. Harwell v. Foster, 102 Ga. 38, 28 S.E. 967, 1897 Ga. LEXIS 446 (1897) (decided under former Civil Code 1895, § 4630).

Superior court shall determine necessity of order and validity of claim. — The superior court shall try both issue of necessity of order, and whether property is held adversely. Hull v. Watkins, 134 Ga. 779, 68 S.E. 506, 1910 Ga. LEXIS 346 (1910) (decided under former Civil Code 1910, § 5176).

Validity of claim not dependent upon giving of bond. — It is not necessary to validity of claim of land at executor's or administrator's sale that bond and security should be given. Falls v. Griffith, 25 Ga. 72, 1858 Ga. LEXIS 16 (1858) (decided under former Laws 1809, Cobb's 1851 Digest, p. 315).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 141 et seq.

ALR.

Constitutionality of statute authorizing guardian to sell or lease land of ward, 4 A.L.R. 1552.

29-3-36. Estate plan for minor; appointment of guardian ad litem; considerations prior to property transfer.

(a) After notice to interested parties and other persons as the court may direct, and upon a showing that the minor shall probably remain in need of a conservator throughout the minor's lifetime and that it is in the best interest of the minor, the court may order the conservator to apply such principal or income of the minor as is not required for the support, care, education, health, and welfare of the minor toward the establishment or continuation of an estate plan for the minor and make transfers of the minor's personal or real property, outright or in trust, provided that the court finds that a competent, reasonable person in the minor's circumstances would make such transfers and there is no evidence that the minor, if not in need of a conservator, would not adopt such an estate plan.

(b) Prior to authorizing such transfers, the court shall appoint a guardian ad litem for the minor and shall consider:

(1) The composition and value of the entire estate of the minor, other known sources of support available to the minor, and the income produced thereby;

(2) The probable expenses for the support, care, education, health,

or welfare of the minor for the remainder of the minor's lifetime in the standard of living to which the minor has become accustomed;

(3) The identity of the proposed transferees and, in particular, whether they are natural objects of the minor's bounty by relationship or prior behavior of the minor;

(4) The purpose and estate planning benefit to be derived by the transfer as well as the possible harm to any interested party; and

(5) Any previous history or predisposition toward making similar transfers by the minor.

History.
Code 1981, § 29-3-36, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

Law reviews.
For annual survey of law of wills, trusts, and administration of estates, see 38 Mercer L. Rev. 417 (1986).

ARTICLE 4

BONDING OF CONSERVATORS

29-3-40. Bond requirement; exception; recording of bonds.

(a) A conservator appointed by the court shall give bond with good and sufficient security.

(b) A financial institution, trust company, national or state bank, savings bank, or savings and loan association described in Code Section 7-1-242 that seeks to qualify as a conservator is not required to give bond for the faithful performance of its duties unless its combined capital, surplus, and undivided profits are less than $3 million as reflected in its last statement filed with the Comptroller of the Currency of the United States or the commissioner of banking and finance.

(c) The clerk of the court shall record bonds in books kept for that purpose and shall retain custody of the bonds.

History.
Code 1981, § 29-3-40, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2528, former Code 1873, § 1812, and former Code 1933, § 49-113 are included in the annotations for this Code section.

Grant of letters without bond not void without notice. — In all cases of appointment by ordinary (now judge of probate court) of guardian of a minor — whether the clerk of the superior court or some other proper person — bond should be required; but the grant of letters without taking bond would not be void as against a bona fide purchaser under the guardian, without notice of want of a

bond. Cuyler v. Wayne, 64 Ga. 78, 1879 Ga. LEXIS 11 (1879) (decided under former Code 1873, § 1812).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se a breach of bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

29-3-41. Requirements of bond; term; value; substantial compliance sufficient.

(a) The bond of a conservator shall be:

(1) Secured by an individual who is a domiciliary of this state or by a licensed commercial surety authorized to transact business in this state;

(2) Payable to the court for the benefit of the minor;

(3) Conditioned upon the faithful discharge of the conservator's duty, as is required by law; and

(4) Attested by the judge or clerk of the court.

(b) The court may order a conservator who is required to give bond to post bond for a period of time greater than one year, as may be appropriate in the circumstances. A surety on a bond posted pursuant to this subsection shall not be relieved of liability merely because of the expiration of the term of the bond but shall be subject to the provisions of law for the discharge of a surety applicable to other bonds.

(c) Except as provided in subsection (d) of this Code section, the bond shall be in a value equal to double the estimated value of the minor's estate; provided, however, that the bond shall be in an amount equal to the estimated value of the estate if secured by a licensed commercial surety authorized to transact business in this state. The value of the estate for purposes of the bond shall be determined without regard to the value of any real property or improvements thereon but, upon conversion of the real property into personal property, a bond shall be given based upon the value of the estate, including the value of the personal property into which the real property was converted.

(d) When the assets of the estate consist of only one or more choses in action of indeterminate value, no bond shall be required until the value of any such chose in action is able to be determined by settlement or judgment, whereupon bond shall be set in an amount to be determined in accordance with subsection (c) of this Code section; provided, however, that a conservator appointed without bond pursuant to this subsection shall have no authority to receive assets of the minor's estate other than a chose or choses in action until such conservator has posted bond in accordance with this Code section. As used in this subsection, the term "chose in action" shall have the same meaning as provided in Article 2 of Chapter 12 of Title 44.

(e) Substantial compliance with these requirements for the bond shall be deemed sufficient; and no bond shall be declared invalid by reason of any variation from these requirements as to payee, amount, or condition, where the manifest intention was to give bond as conservator and a breach of the fiduciary's duty as such has been proved.

History.

Code 1981, § 29-3-41, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2022, p. 207, § 5/HB 620.

Cross references.

Time limitation on bringing of actions against guardians, § 9-3-27.

Statute of limitations for prosecution of guardian for theft by conversion of property of ward, § 17-3-2.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2528, former Code 1873, § 1812, and former Code 1933, § 49-113 are included in the annotations for this Code section.

Only substantial compliance with statutes in execution of bonds required. — Policy of the law as to all bonds required by statute, and especially as to bonds of guardians, administrators, and like trustees, is to disregard mere formalities, and to require only substantial compliance to secure all statutory remedies to persons injured by their breach. United States Fid. & Guar. Co. v. Davis, 2 Ga. App. 525, 58 S.E. 777, 1907 Ga. App. LEXIS 445 (1907) (decided under former Civil Code 1895, § 2528).

Grant of letters without bond not void without notice. — In all cases of appointment by ordinary (now judge of probate court) of guardian of a minor — whether the clerk of the superior court or some other proper person — bond should be required; but the grant of letters without taking bond would not be void as against a bona fide purchaser under the guardian, without notice of want of a bond. Cuyler v. Wayne, 64 Ga. 78, 1879 Ga. LEXIS 11 (1879) (decided under former Code 1873, § 1812).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se a breach of bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

Void sale does not amount to breach. — Where sale of realty conducted by guardian is illegal and void, title to property sold does not pass, and heirs and distributees may assert their title to

property so sold, so that there is no such loss to them as would amount to breach of bond of administrator and render surety thereon liable. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.
ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.
Liability of guardian for loss of funds deposited in bank in form which discloses trust or fiduciary character, 90 A.L.R. 641.
Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

29-3-42. Reduction of bond.

If the value of the minor's bonded estate decreases, the court may permit a corresponding reduction in the value of the bond, but this reduction does not affect the liability of the surety for prior waste or misconduct of the conservator.

History.
Code 1981, § 29-3-42, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.
ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.
Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

29-3-43. Additional bond or security; notice; revocation of letters of conservatorship.

(a) When it comes to the attention of the court, either by annual return or otherwise:

(1) That additional personal property has accrued to the minor by descent, gift, or otherwise or that for any other reason the bond or security of the conservator fails to comply with the minimum statutory bond amount set forth in Code Section 29-3-40; or

(2) That the bond or security is otherwise insufficient in the judgment of the court,

the court shall give notice to the conservator to appear and give additional bond or security. Notice shall be mailed by first-class mail to

the conservator and to the surety on the conservator's bond. If the conservator fails to comply with the notice, the court may revoke the letters of conservatorship in accordance with Code Section 29-3-82.

(b) When it comes to the attention of the court that the surety on the conservator's bond has died, become insolvent, or removed from this state or if from other cause the security becomes insufficient, the court may give notice to the conservator to appear give other and sufficient security. Notice shall be mailed by first-class mail to the conservator and to the surety on the conservator's bond. If the conservator fails to comply with the notice, the court may revoke the letters of conservatorship in accordance with Code Section 29-3-82.

History.
Code 1981, § 29-3-43, enacted by Ga. L. 2004, p. 161, § 1.

Cross references.
Delivery of property to successor guardian; reporting requirements, § 29-2-52.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1882, §§ 1814, 1815, former Civil Code 1910, §§ 3049, 3050, and former Code 1933, §§ 49-115 and 49-116 are included in the annotations for this Code section.

Additional bond is discretionary and cumulative. — Additional bond required by former Code 1882, § 1814 (former O.C.G.A. § 29-4-14), upon other property coming in, was discretionary with the ordinary (now judge of probate court) and, if required, would be cumulative and not exclusive as to such assets. Huson v. Green, 88 Ga. 722, 16 S.E. 255, 1892 Ga. LEXIS 90 (1892) (decided under former Code 1882, § 1814).

Additional bond is cumulative, Remington v. Hopson, 137 Ga. 95, 72 S.E. 918, 1911 Ga. LEXIS 311 (1911) (decided under former Civil Code 1910, § 3049).

Additional bond is cumulative; new sureties become cosureties. — Where additional security was required of guardian by court pursuant to former Code 1933, § 49-116 (former O.C.G.A. § 29-4-15), second bond is cumulative of first, and new sureties become cosureties with those on first bond. Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-116).

New sureties become cosureties on first bond for waste. — Where guardian's bond was executed for specific amount, and subsequently one of the sureties died, and, in proceeding under former Civil Code 1910, § 3050 (former O.C.G.A. § 29-4-15), guardian executed second bond with new sureties, the sureties upon such bond were cosureties with those on first bond for any past or future waste. Remington v. Hopson, 137 Ga. 95, 72 S.E. 918, 1911 Ga. LEXIS 311 (1911) (decided under former Civil Code 1910, § 3050).

Death of only surety will not abate letters of guardianship. — Where guardian has been regularly appointed and has given bond, death of only surety on such bond will not abate letters of guardianship and render any act of guardian thereafter illegal and void. Prine v. Mapp, 80 Ga. 137, 5 S.E. 66, 1887 Ga. LEXIS 345 (1887) (decided under former Code 1882, § 1815).

Purchaser not affected by failure to require additional security. — If upon death of surety on guardian's bond, the ordinary (now judge of probate court) fails to require new bond, and guardian continues to act as such and ordinary recognizes appointment and receives the

guardian's returns, a purchaser at a guardian's sale will not be affected by failure of ordinary to require additional security of guardian. Prine v. Mapp, 80 Ga. 137, 5 S.E. 66, 1887 Ga. LEXIS 345 (1887) (decided under former Code 1882, § 1815).

Proceedings for removal are against guardian as individual. — Proceedings to remove guardian and revoke guardian's letters under former Code 1933, §§ 49-232, 49-115, or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15) were proceedings against the guardian as an individual, and not against estate or trust the guardian represents; and where the guardian was removed and letters revoked, it is proper that the guardian appeal therefrom as an individual. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, §§ 49-115 and 49-116).

Removed guardian may appeal to superior court. — Where guardian is removed and guardian's letters revoked, upon rule issued by ordinary (now judge of probate court) under O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15, after hearing on the ordinary's answer to such rule, the guardian may appeal to the superior court. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, §§ 49-115 and 49-116).

Proceeding under former Code 1933, § 49-116 (former O.C.G.A. § 29-4-15) can be instituted only by court. — See Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-116).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

29-3-44. Payment of bond premium.

(a) A conservator who is required to give bond, and who has given as security on such bond one or more licensed commercial sureties, may pay any bond premium from the estate.

(b) When the guardian is required to give bond pursuant to Code Section 29-2-25, the conservator shall, upon the request of the guardian, pay any bond premium from the estate.

History.
Code 1981, § 29-3-44, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 4/HB 70.

RESEARCH REFERENCES

ALR.
Liability of guardian for loss of funds deposited in bank in form which discloses trust or fiduciary character, 90 A.L.R. 641.

29-3-45. Responsibility of surety in event appointment of conservator void.

If the appointment of a conservator for any cause is declared void, the surety of that conservator shall nevertheless be responsible on the bond for any property received by the conservator.

History.
Code 1981, § 29-3-45, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2554 and former Code 1933, § 49-225 are included in the annotations for this Code section.

There were no exceptions to rule established by former Code 1933, § 49-225 (former O.C.G.A. § 29-2-47). Clark v. Great Am. Ins. Co., 387 F.2d 710, 1967 U.S. App. LEXIS 4103 (5th Cir. 1967), cert. denied, 393 U.S. 825, 89 S. Ct. 86, 21 L. Ed. 2d 95, 1968 U.S. LEXIS 657 (1968) (decided under former Code 1933, § 49-225).

Sureties upon bond are estopped to deny guardianship of one who was guardian by estoppel. Griffin v. Collins, 125 Ga. 159, 53 S.E. 1004, 1906 Ga. LEXIS 82 (1906) See also Griffin v. Collins, 122 Ga. 102, 49 S.E. 827, 1905 Ga. LEXIS 121 (1905) (decided under former Civil Code 1895, § 2554).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 284 et seq.

29-3-46. Joint and several liability of conservator and surety.

The conservator and any surety shall be held and deemed joint and several obligors and may be subjected jointly and severally to liability in the same action. When a conservator moves beyond the limits of this state, dies and leaves an unrepresented estate, or is in such a position that an attachment may be issued as against a debtor, any party in interest or any person having demands against that conservator in the conservator's representative capacity may institute an action against any one or more of the sureties on the bond of the conservator in the first instance, without first obtaining a judgment against the conservator in that person's representative capacity.

History.
Code 1981, § 29-3-46, enacted by Ga. L. 2004, p. 161, § 1.

29-3-47. Levy upon property; writ of execution.

(a) When a judgment has been obtained against the conservator or the surety on the bond of a conservator, or both, a levy may be made upon any property of any defendant in fi. fa.

(b) The court shall be authorized to enter a judgment and to issue a writ of execution against the conservator and surety on the bond and shall be authorized to grant judgment and execution in favor of the

surety against the conservator upon payment of the judgment by the surety.

History.
Code 1981, § 29-3-47, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Civil Code 1895, § 3504 is included in the annotations for this Code section.

For former Civil Code 1895, § 3504 (former O.C.G.A. § 29-2-51) prior to 1958 amendment levy of execution against any defendant in fieri facias, see Bailey v. McAlpin, 122 Ga. 616, 50 S.E. 388, 1905 Ga. LEXIS 284 (1905) (decided under former Civil Code 1895, § 3504).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 202, 242, 243, 284 et seq.

29-3-48. Order of levy against property.

In all cases of judgments recovered against a conservator or any surety of a conservator, the execution shall first be levied on the property of the surety and no levy shall be made on the property of the conservator until there is a return of nulla bona as to the surety.

History.
Code 1981, § 29-3-48, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Civil Code 1895, § 3504 is included in the annotations for this Code section.

For former Civil Code 1895, § 3504 (former O.C.G.A. § 29-2-51) prior to 1958 amendment permitting levy of execution against any defendant in fieri facias, see Bailey v. McAlpin, 122 Ga. 616, 50 S.E. 388, 1905 Ga. LEXIS 284 (1905) (decided under former Civil Code 1895, § 3504).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 202, 242, 243, 284 et seq.

29-3-49. Release from surety obligations; hearing; order; appointment of new surety; liability; accounting requirement.

(a) The surety on the bond of any conservator or, if the surety is dead, the surety's personal representative, may at any time petition the court regarding any misconduct of the conservator in the discharge of the conservator's trust or to show the court its desire for any reason to be relieved as surety. The death of a surety shall be a sufficient ground for the discharge of the surety from future liability.

(b) Upon a petition by the surety or the surety's personal representative, the court shall cite the conservator to appear and show cause, if any, why the surety should not be discharged. After hearing the parties and the evidence, the court, in its discretion, may issue an order discharging the surety from all future liability and requiring the conservator to give new and sufficient security or be removed as conservator.

(c) If new security is given, the discharged surety shall be discharged only from liability for future misconduct of the conservator from the time the new security is given. The new surety shall be liable for past as well as future misconduct of the conservator.

(d) If new security is not given and the conservator is removed, the discharged surety shall be bound for a true accounting of the conservator with the successor conservator or with the minor if no other conservator is appointed. In all cases where letters of conservatorship are revoked, any surety on the bond shall be liable for all acts of the conservator in relation to the trust up to the time of the settlement with the new conservator or the minor.

History.

Code 1981, § 29-3-49, enacted by Ga. L. 2004, p. 161, § 1.

Cross references.

Appointment of emergency guardian, § 29-4-15.

Law reviews.

For annual survey article on wills, trusts and administration of estates, see 50 Mercer L. Rev. 381 (1998).

JUDICIAL DECISIONS

Analysis

General Consideration
Liabilities of Discharged and Second Surety

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Laws 1810, Cobb's 1851 Digest, p. 317, Code 1873, § 1817, former Code 1882, § 1817, former Civil Code 1895, § 2533, former Civil Code 1910, § 3052, former Code 1933, § 49-233, and former O.C.G.A. § 29-2-52 are included in the annotations for this Code section.

Only surety or representative can institute proceeding. — Proceeding under former Code 1933, § 49-233(former O.C.G.A. § 29-2-52) could be instituted only by surety, or, if surety was dead, by the surety's representative. Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-233).

Principal and surety cannot by agreement release surety, even with approval of court. Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-233).

Guardian must be cited before surety can be discharged. — Surety on a guardian's bond can obtain no discharge without a petition and without having an ordinary (now judge of probate court) to cite guardian to appear and show cause against application. DuPont v. Mayo, 56 Ga. 304, 1876 Ga. LEXIS 275 (1876) (decided under former Code 1873, § 1817).

Two distinct contingencies whereby surety may seek discharge. — Under former Civil Code 1910, § 3052 (former O.C.G.A. § 29-2-52), surety on guardian's bond could obtain relief in two distinct contingencies; first, in case of misconduct of guardian in discharge of trust; second, when for any other reason, the surety desires to be relieved. Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919). See also National Surety Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1910, § 3052).

Preremoval misconduct. — Former O.C.G.A. § 29-2-52 did not require the court, based on the guardian's preremoval misconduct, to grant a surety's petition for relief from its obligations under bonds, and thereby discharge the surety from any liability for the guardian's misconduct. Osborne Bonding & Sur. Co. v. Glaze, 230 Ga. App. 895, 497 S.E.2d 612 (decided under former O.C.G.A. § 29-2-52).

Acts or omissions pertaining to mismanagement of estate constitute misconduct. — Under former Code 1933, § 49-233 (former O.C.G.A. § 29-2-52) all acts, whether of commission or omission, which pertain to mismanagement of estate by guardian or administrator, constituted misconduct and could authorize discharge of surety. Spradley v. St. Paul Fire & Marine Ins. Co., 108 Ga. App. 865, 134 S.E.2d 850, 1964 Ga. App. LEXIS 1043 (1964) (decided under former Code 1933, § 49-233).

The words, "any misconduct of his principal [guardian] in discharge of his trust," are exhaustive of all acts, whether of commission or omission, which pertain to guardian's mismanagement of estate, or nonperformance of any duties devolving upon him in his office. National Sur. Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1895, § 2533); Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919) (decided under former Civil Code 1910, § 3052).

Acts of guardian authorized discharge of surety. — See Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919) (decided under former Civil Code 1910, § 3052).

Discharge prevents proceedings against continuing guardian's acts prior to discharge. — Outgoing surety cannot by proceedings instituted subsequent to discharge, interfere with guardian who is continued in outgoing surety's office, in discharge of the surety's duties, because of acts of mismanagement and failure to comply with requirements of law relative to the surety's duties which occurred prior to discharge of first surety. Hooks v. Fidelity & Deposit Co., 135 Ga.

396, 69 S.E. 484, 1910 Ga. LEXIS 553 (1910) (decided under former Civil Code 1910, § 3052).

Reasons other than official misconduct for which surety might seek discharge. — A guardian's want of personal integrity, lack of business capacity, extravagant or reckless living, indulgence in vicious or immoral habits, criminality, and scores of other things which might be suggested, would certainly afford good reasons for a desire to be relieved as surety. National Sur. Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1895, § 2533); Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919) (decided under former Civil Code 1910, § 3052).

Surety seeking discharge against continuing guardian is not entitled to accounting. — Surety is not entitled to seek in a petition for discharge an accounting from guardian who, by providing new security, continues in a trust capacity. Spradley v. St. Paul Fire & Marine Ins. Co., 108 Ga. App. 865, 134 S.E.2d 850, 1964 Ga. App. LEXIS 1043 (1964) (decided under former Code 1933, § 49-233).

Discharged surety not entitled to require payment of ward's funds into court by continuing guardian. Hooks v. Fidelity & Deposit Co., 135 Ga. 396, 69 S.E. 484, 1910 Ga. LEXIS 553 (1910) (decided under former Civil Code 1910, § 3052).

Surety need not wait until liable for waste or mismanagement. — Surety not bound to wait until liability for actual waste or mismanagement arises. The surety may reasonably anticipate same and move for relief at that time. National Sur. Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1895, § 2533).

Surety need not show actual loss by guardian's misconduct. — To state a cause of action for discharge under former Code 1933, § 49-233 (former O.C.G.A. § 29-2-52), it was not necessary that surety show actual loss had accrued to estate by reason of official misconduct of the principal, it being sufficient to show that guardian or administrator has refused to comply with the law, thereby raising reasonable apprehension of future loss. Spradley v. St. Paul Fire & Marine Ins. Co., 108 Ga. App. 865, 134 S.E.2d 850, 1964 Ga. App. LEXIS 1043 (1964) (decided under former Code 1933, § 49-233).

Liabilities of Discharged and Second Surety

Effect of discharge on liabilities of new and old sureties. — Discharge of sureties upon guardian's bond releases them from all future responsibility. New sureties are bound for all past and future waste. Justices of Inferior Court ex rel. Woods v. Woods, 1 Ga. 84, 1846 Ga. LEXIS 43 (1846) (decided under Laws 1810, Cobb's 1851 Digest, p. 317).

Liability is between second surety and discharged surety. — Second surety's liability for guardian's past defaults is primary as between himself and discharged surety. Tittle v. Bennett, 94 Ga. 405, 21 S.E. 62, 1894 Ga. LEXIS 94 (1894) (decided under former Code 1882, § 1817).

Discharged and new sureties both primarily liable to wards. — Liability of discharged surety and second surety is not joint, but several, both being primarily liable to wards, and as between themselves, the second surety is primarily liable. Sutton v. Williams, 77 Ga. 570, 1 S.E. 175, 1887 Ga. LEXIS 137 (1887) (decided under former Code 1882, § 1817).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, §§ 294 et seq., 305 et seq.

ALR.

Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

ARTICLE 5

COMPENSATION OF CONSERVATORS

29-3-50. Amount of compensation; multiple conservators; forfeiture; renunciation.

(a) Other than a temporary substitute conservator, a conservator shall be entitled to compensation for services rendered equal to:

(1) Two and one-half percent commission on all sums of money received by the conservator on account of the estate, except on money loaned by and repaid to the conservator, and 2 1/2 percent commission on all sums paid out by the conservator;

(2) An additional commission equal to one-half of 1 percent computed on the market value of the estate as of the last day of the reporting period. This commission shall be proportionately reduced for any reporting period of less than 12 months;

(3) Ten percent commission on the amount of interest made if, during the course of the conservatorship, the conservator shall receive interest on money loaned by the conservator in that capacity and shall include the same on the return to the court so as to become chargeable with the interest as a part of the corpus of the estate;

(4) Reasonable compensation, as determined in the discretion of the court and after such notice, if any, as the court shall direct, for the delivery over of property in kind, not exceeding 3 percent of the appraised value and, in cases where there has been no appraisal, not over 3 percent of the fair value as found by the court, irrespective of whether delivery over in kind is made pursuant to proceedings for that purpose in the court and irrespective of whether the property, except money, is tangible or intangible or personal or real; and

(5) In the discretion of the court, compensation for working land for the benefit of the minor, but not to exceed 10 percent of the annual income of the managed property.

(b) Whenever any portion of the dividends, interest, or rents payable to a conservator is required by law of the United States or other governmental unit to be withheld by the person paying the same for income tax purposes, the amount withheld shall be deemed to have been collected by the conservator.

(c) Where some or all of the estate passes through the hands of several conservators by reason of the death, removal, or resignation of the first qualified conservator or otherwise, the estate shall not be subject to diminution by charges of commission of each successive conservator holding and receiving in the same right but rather com-

missions for receiving the estate shall be paid to the first conservator who receives the property for the benefit of the estate or that person's representative, and commissions for paying out shall be paid to the conservator who actually distributes the fund, and no commissions shall be paid for handing over the fund to a successor conservator. If there is more than one conservator serving simultaneously, the division of the compensation allowed them shall be according to the services rendered by each.

(d) A conservator shall not be entitled to any commissions for any sums paid to any conservator of the estate as commissions or other compensation.

(e) Conservators who fail to make annual returns as required by law shall forfeit all commissions for transactions during the year within which no return is made unless the probate court, upon cause shown, shall by special order entered on the record, relieve them from the forfeiture.

(f) A conservator may renounce the right to all or any part of the compensation to which the conservator is entitled under this Code section.

History.
Code 1981, § 29-3-50, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 8/SB 534.

Law reviews.
For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

29-3-51. Allowance for reasonable expenses.

Conservators shall be allowed reasonable expenses incurred in the administration of the estate, including without limitation, expenses for travel, employing counsel and other agents, and the expenses and premiums incurred in securing a bond. Such reasonable expenses shall be determined after notice, if any, as the court shall direct. The conservator's commissions are part of the expense of administering the estate and may be charged against the corpus of the estate as well as the income of the estate.

History.
Code 1981, § 29-3-51, enacted by Ga. L. 2004, p. 161, § 1.

29-3-52. Petition for additional compensation by conservator; procedural requirements.

(a) A conservator may petition the court for compensation that is greater than that allowed under Code Section 29-3-50. Service of notice

of the petition for extra compensation shall be made to the minor and to a guardian ad litem appointed for the minor. Service shall be made in the manner described in Chapter 9 of this title and shall direct the parties served to file any written objections to the petition for extra compensation with the court within ten days.

(b) After hearing any objection filed by or on behalf of the minor, the court shall allow such extra compensation as the court deems reasonable. The allowance of extra compensation shall be conclusive as to all parties in interest.

History.
Code 1981, § 29-3-52, enacted by Ga. L. 2004, p. 161, § 1.

29-3-53. Compensation from corporation or other business enterprise; effect on receipt of additional compensation under Code Section 29-5-52; purpose.

(a) Any conservator who is a domiciliary of this state may receive compensation for services, as specified in this subsection, from a corporation or other business enterprise where the estate of the minor owns an interest in the corporation or other business enterprise, provided that:

(1) The services furnished by the conservator to the corporation or other business enterprise are of a managerial, executive, or business advisory nature;

(2) The compensation received for the services is reasonable; and

(3) The services are performed and the conservator is paid pursuant to a contract executed by the conservator and the corporation or business enterprise, which contract is approved by a majority of those members of the board of directors or other similar governing authority of the corporation or business enterprise who are not officers or employees of the conservator and are not related to the conservator and provided the contract is approved by the court of the county which has jurisdiction over the conservatorship.

(b) Any conservator receiving compensation from a corporation or other business enterprise for services to it as described in subsection (a) of this Code section shall not receive extra compensation in respect to such services as provided in Code Section 29-3-52; provided, however, that nothing in this Code section shall prohibit the receipt by the conservator of extra compensation for services rendered in respect to other assets or matters involving the estate.

(c) Nothing in this Code section shall prohibit the receipt by conservators of normal commissions and compensation for the usual services performed by conservators pursuant to law.

(d) The purpose of this Code section is to enable additional compensation to be paid to a conservator for business management and advisory services to corporations and business enterprises pursuant to contract, without the necessity of petitioning for extra compensation pursuant to Code Section 29-3-52.

History.
Code 1981, § 29-3-53, enacted by Ga. L. 2004, p. 161, § 1.

29-3-54. Application for compensation by temporary substitute conservator; reduction of compensation to conservator.

A temporary substitute conservator may apply to the court for reasonable compensation after notice to interested parties in compliance with Chapter 9 of this title. The court shall award reasonable compensation to a temporary substitute conservator and such compensation shall be the only compensation or commission paid to the temporary substitute conservator for services performed in that capacity. For good cause, including but not limited to services performed and compensation awarded to a temporary substitute conservator, the court may reduce the compensation due the conservator under other provisions of this article.

History.
Code 1981, § 29-3-54, enacted by Ga. L. 2004, p. 161, § 1.

ARTICLE 6

ACCOUNTING FOR ASSETS

29-3-60. Annual filing of verified return; change of reporting period; production of documents; effect of failure to file return.

(a) Each year, within 60 days of the anniversary date of qualification, every conservator shall file with the court a verified return consisting of a statement of the receipts and expenditures of the conservatorship during the year preceding the anniversary date of qualification, an updated inventory consisting of a statement of the assets and liabilities of the estate as of the anniversary date of qualification, an updated plan for managing, expending, and distributing the minor's property, a note or memorandum of any other fact necessary to show the true condition of the estate, and a statement of the current amount of the bond. The conservator shall mail a copy of the return by first-class mail to the surety on the conservator's bond and the minor's guardian, if any. If the minor has no guardian or if the guardian and the conservator are the

same person, the conservator shall mail a copy of the return by first-class mail to the minor.

(b) Upon petition of the conservator or upon the court's own motion, the court may change the reporting period from the year immediately preceding the anniversary date of qualification to the year immediately preceding a date ordered by the court. In lieu of changing the reporting date, the court is authorized to accept a return for filing even if the return does not cover the appropriate reporting period; however, such acceptance shall not change the reporting period established by either the anniversary date of qualification or a subsequent order of the court, unless the court also enters an order changing the reporting date.

(c) The court shall carefully examine each return of a conservator and, upon petition of any interested person or upon the court's own motion, may require the conservator to produce the original documents that support the return. Except as otherwise provided in this subsection, if no objection is filed within 30 days of the time the conservator's return is filed, the court shall record the return within 60 days of its filing. The return shall be kept on file in the court. The recorded return shall be prima-facie evidence of its correctness. If there is an objection to the return or if the court on its own motion determines that the conservator may have wasted the property of the minor or failed in any manner to comply with applicable law, the court shall hold a hearing or take such other action as the court deems appropriate.

(d) The court shall keep a docket of conservators liable to file returns. Upon the failure of any conservator to file any return within the time frame required by law, the court shall cite the conservator to appear and show reason for the delay. A conservator who fails to file an annual return as required by law shall forfeit all commissions and other compensation for the year within which no return is filed unless otherwise ordered by the court. A willful and continued failure to file a return shall be good cause for removal.

History.
Code 1981, § 29-3-60, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1855-56, p. 147, § 1, former Code 1868, § 1807, former Code 1882, § 1816, former Code 1933, §§ 49-231 and 49-232, and former O.C.G.A. § 29-2-45 are included in the annotations for this Code section.

Guardian failing to make annual return forfeits annual commission. — Under former O.C.G.A. §§ 29-2-44 and 53-6-146, guardians and administrators

who fail to make annual returns as required by law forfeit their commissions for those years unless the judge of the probate court orders them relieved of this forfeiture. Fuller v. Moister, 246 Ga. 397, 271 S.E.2d 622, 1980 Ga. LEXIS 1122 (1980) (decided under former Code 1933, § 49-231).

Failure entails burden of proving faithful discharge of duties. — Failure of executor or guardian to make returns is an omission of duty, and therefore a breach of trust, and puts upon the executor the burden of proving to satisfaction of court that the executor discharged trust with fidelity. Wellborn v. Rogers, 24 Ga. 558, 1858 Ga. LEXIS 248 (1858) (decided under Ga. L. 1855-56, p. 147, § 1).

Failure to make returns of interest does not demonstrate fraud. — Failure of guardian to make returns of interest accumulated in guardian's hands is not by itself sufficient to authorize finding of fraud and charging of compound interest. Royston v. Royston, 29 Ga. 82, 1859 Ga. LEXIS 289 (1859) (decided under Ga. L. 1855-56, p. 147, § 1).

Former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45) was to be liberally construed in favor of incompetent ward. Aiken v. Mitchell, 66 Ga. App. 309, 18 S.E.2d 219, 1941 Ga. App. LEXIS 204 (1941) (decided under former Code 1933, § 49-232).

Former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45) was applicable to guardians of incompetent veterans of World War I and other persons of unsound mind. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

"Unfit" is not limited nor is scope of inquiry. — "Unfit," as used in former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45), was not limited to physical, mental, or moral conditions, and the statute laid down no limitations on scope of inquiry as to fitness and capacity of a guardian. Morse v. Caldwell, 55 Ga. App. 804, 191 S.E. 479, 1937 Ga. App. LEXIS 511 (1937) (decided under former Code 1933, § 49-232).

Guardian's failure to file annual returns was evidence that the guardian's fiduciary duties were breached and such evidence supported removal. Gary v. Weiner, 233 Ga. App. 284, 503 S.E.2d 898 (decided under former O.C.G.A. § 29-2-45).

Requirements for verified return and updated inventory. — A verified return consists of a statement of the receipts and expenditures of the conservatorship during the year preceding the anniversary date of qualification of the conservator. An updated inventory consists of a statement of the assets and liabilities of the estate as of the anniversary date of qualification. In re Estate of T. M. N., 369 Ga. App. 199, 892 S.E.2d 819, 2023 Ga. App. LEXIS 431 (2023).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 162 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 211 et seq.

ALR.

Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

Resignation or removal of executor, administrator, guardian, or trustee, before final administration or before termination of trust, as affecting his compensation, 94 A.L.R. 1101; 96 A.L.R.3d 1102.

Liability of guardian, or his surety, as affected by agreement by which he limits his control over funds or investments, 102 A.L.R. 1108.

Improper handling of funds, investments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

29-3-61. Interim settlement of accounts; reporting and requirements of report; procedure for objecting.

(a) At any time after the six-month period following qualification, but not more frequently than once every 24 months, a conservator may petition the court for an interim settlement of accounts. The court shall appoint a guardian ad litem for the minor upon the filing of the petition for interim settlement.

(b) The petition for an interim settlement of accounts shall be accompanied by a report which shall set forth all of the information required by law in annual returns and, in addition thereto, shall show:

(1) The period which the report covers;

(2) The name and address of the minor, the name and address of the minor's guardian, if any, and the name of the surety on the conservator's bond, with the amount of the bond; and

(3) Such other facts as the court may require.

(c) The court, upon the petition for an interim settlement of accounts being filed, shall issue a citation and shall require any objections to be filed in accordance with Chapter 9 of this title. The minor and the guardian ad litem shall be served personally, and the minor's guardian, if any, and the surety of the conservator's bond shall be served by first-class mail.

History.
Code 1981, § 29-3-61, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

29-3-62. Objections and hearing on interim settlement of accounts.

Any interested person may file an objection to the conservator's interim settlement of accounts. Upon receipt of objections or on the court's own motion, the court shall hold a hearing in which it shall consider all objections, hear evidence, and determine whether the conservator shall be discharged from liability for the period covered by the interim settlement of accounts.

History.
Code 1981, § 29-3-62, enacted by Ga. L. 2004, p. 161, § 1.

29-3-63. Judgment against conservator and surety.

If the court finds that the conservator is liable to the minor, the court shall enter a judgment against the conservator and any surety in the amount of such liability.

History.
Code 1981, § 29-3-63, enacted by Ga. L. 2004, p. 161, § 1.

29-3-64. Termination of conservatorship.

(a) The conservatorship of a minor shall terminate either on the date upon which the minor reaches 18 years of age or earlier if the minor becomes emancipated. Proof of emancipation shall be filed with the court; and, where the court deems appropriate, the court may order a hearing on the issue of termination.

(b) Within six months prior to the date the minor reaches 18 years of age, the conservator or any other interested person may file a petition for the appointment of a conservator for the minor when that minor becomes an adult, in accordance with the provisions of Article 2 of Chapter 5 of this title, to take effect on the date the minor reaches 18 years of age.

(c) The death of the minor automatically terminates the conservatorship, but the conservator or the conservator's personal representative must comply with the provisions in Code Section 29-3-70.

(d) Upon termination of the conservatorship, the conservator shall deliver any money or property to the former minor or, if a conservator has been appointed for the former minor, to that conservator, or, if the minor is deceased, to the minor's personal representative.

History.
Code 1981, § 29-3-64, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

ARTICLE 7

TERMINATION OF CONSERVATORSHIP

29-3-70. Petition for order of dismissal of conservatorship; final return; notice; order of dismissal.

(a) Upon the termination of the conservatorship or upon the resignation of the conservator, the conservator may petition the court for an order dismissing the conservator from office. The petition shall include a final return to the court which covers the period from the last annual return filed by the conservator. The final return shall contain the information required for annual returns and shall otherwise comply with the provisions of Code Section 29-3-60. Notice shall be published one time in the newspaper in which sheriff's advertisements are published in the county in which the petition is filed and shall state that any objection must be made in writing and shall designate the date on or before which objections must be filed in the court, which date shall

not be less then 30 days from the date of publication. The court shall examine any objections filed.

(b) If no objection is filed or if, upon hearing any objection, the court is satisfied that the order dismissing the conservator from office is appropriate, the court shall enter an order dismissing the conservator from office. Such order shall not bar an action against the conservator or the conservator's surety.

History.
Code 1981, § 29-3-70, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 42 et seq., 102, 105, 140, 211 et seq.

29-3-71. Final settlements; examination of returns and accounts; notice; return of property to minor; death of minor intestate.

(a) A minor who has reached the age of majority, the personal representative of a deceased minor, a successor conservator, or any interested person may petition the court for an order requiring a conservator or that conservator's personal representative to appear and submit to a final settlement of the conservator's accounts. Alternatively, the court on its own motion may issue such an order. The settlement period shall be the period of time from the commencement of the conservatorship or the end of the period covered by the last interim settlement of accounts. If the conservator fails or refuses to appear as cited, the court may proceed without the appearance of the conservator. If the conservator has been required to give bond, the surety on the bond shall be bound by the settlement if the surety is given notice by first-class mail of the settlement proceeding.

(b) A conservator, a former conservator, the conservator of a conservator, or the personal representative of a deceased conservator shall be allowed to cite the minor, the minor's personal representative, or a successor conservator to appear and be present at a final settlement of the conservator's accounts and discharge from liability in the manner provided for in subsection (a) of this Code section. The settlement period shall be the period of time from the commencement of the conservatorship or the end of the period covered by the last interim settlement of accounts. Notice by first-class mail of the settlement proceeding must be given to the surety on the conservator's bond and to the minor's guardian, if any. If the minor has not reached 18 years of age or if the conservator is the minor's personal representative, the

court shall appoint a guardian ad litem for the minor who shall be served personally.

(c) Upon the return of a notice referred to in subsections (a) and (b) of this Code section, the court shall proceed to examine all returns and accounts of the conservator during the settlement period and to hear any objection to the settlement and discharge.

(d) The court shall order any property in the hands of the conservator to be delivered to the minor, the minor's personal representative, or to the successor conservator and shall issue a judgment, writ of fieri facias, and execution thereon for any sums found to be due from the conservator. If the court is satisfied that the conservator has faithfully and honestly discharged the office, an order shall be entered releasing and discharging the conservator from all liability.

(e) When a minor ward for whom the county administrator, county conservator, or county guardian has been previously appointed as conservator dies intestate, the conservator shall proceed to distribute the minor ward's estate in the same manner as if the conservator had been appointed administrator of the estate. The sureties on the conservator's bond shall be responsible for the conservator's faithful administration and distribution of the estate.

History.

Code 1981, § 29-3-71, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2006, p. 805, § 9/SB 534; Ga. L. 2025, p. 713, § 3/SB 98, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted ", county conservator," in the first sentence of subsection (e).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1839, former Code 1882, §§ 1839, 1849, former Code 1895, § 2567, former Civil Code 1895, § 2568, former Code 1933, §§ 49-301 and 49-314, and former O.C.G.A. § 29-2-84 are included in the annotations for this Code section.

Constitutionality. — Davis v. Harper, 54 Ga. 180, 1875 Ga. LEXIS 115 (1875) (decided under former Code 1873, § 1839).

Ward seeking accounting must apply to probate court. — Where duly qualified guardian had not filed for approval any annual returns, ward should have applied to ordinary (now judge of probate court), instead of superior court, for accounting which ward was seeking. Moon v. Moon, 215 Ga. 110, 109 S.E.2d 39, 1959 Ga. LEXIS 403 (1959) (decided under former Code 1933, § 49-301).

Of age ward can cite former guardian for settlement. — Upon arriving at age, ward can cite former guardian, to appear before ordinary (now judge of probate court) for settlement of the guardian's accounts, whether the guardian was, in fact, guardian at the time of such citation and hearing or not. Hood v. Perry, 73 Ga. 319, 1884 Ga. LEXIS 122 (1884) (decided under former Code 1882, § 1839).

Relationship of guardian and ward does not terminate for settlement purposes when ward reaches majority. Pettigrew v. Williams, 65 Ga. App. 576, 16

S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

When ward reaches majority, relationship of guardian and ward continues only for purposes of settlement. Donehoo v. Commercial Bank & Trust Co., 124 Ga. App. 588, 184 S.E.2d 690, 1971 Ga. App. LEXIS 1036 (1971) (decided under former Code 1933, § 49-301).

Ward is not barred by statute of limitations in seeking accounting and settlement with guardian. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

Approval not conclusive when given when ward was minor. — Approval of returns by probate court when ward was an infant is not conclusive against ward. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

Application to executor of deceased guardian. — See Cunningham v. Schley, 34 Ga. 395, 1866 Ga. LEXIS 110 (1866) (decided under former Code 1863, § 1790).

Citation for settlement of non-resident guardian. — A guardian who has obtained letters of guardianship in one county but lives in another county becomes a quasi officer of the appointing court and may be cited by ordinary (now judge of probate court) of that county. Usry v. Usry, 82 Ga. 198, 8 S.E. 60, 1888 Ga. LEXIS 387 (1888) (decided under former Code 1882, § 1839).

Citation of non-resident guardian when not subject to court's jurisdiction. — An ordinary (now judge of probate court) does not have jurisdiction to cite for settlement a guardian who was not appointed by the judge and who had never, in any way, been subject to jurisdiction of such judge and acknowledgment of service of citation was no waiver of jurisdiction where guardian did not appear or plead to the citation. Jackson v. Hitchcock, 48 Ga. 491, 1873 Ga. LEXIS 99 (1873) (decided under former Code 1873, § 1839).

Pleading which attacks approved returns of guardian must be specific. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

Petitions in substantial compliance with law. — See Weldon v. Patrick, 69 Ga. 724, 1882 Ga. LEXIS 305 (1882) (decided under former Code 1882, § 1839); De Loach v. Waters, 54 Ga. App. 386, 188 S.E. 58, 1936 Ga. App. LEXIS 590 (1936) (decided under former Code 1933, § 49-301).

One palpable item casts suspicion upon all. — The law presumes that one palpable item casts suspicion upon entire account. Poullain v. Poullain, 76 Ga. 420, 4 S.E. 92, 1886 Ga. LEXIS 47 (1886) (decided under former Code 1882, § 1849).

Mingling with ward's uninvested funds incurs liability for interest. — While a guardian may have the right to hold funds of the ward, uninvested, for purpose of paying off a judgment as to which there is pending litigation, if the guardian mingles such funds with the guardian's own, the guardian is liable for interest thereon, even though the guardian individually has at all times with banks, enough money to settle fully with the ward, none of such money being deposited by the depositor as guardian. Jones v. Nolan, 120 Ga. 588, 48 S.E. 166, 1904 Ga. LEXIS 647 (1904) (decided under former Civil Code 1895, § 2568).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 162 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 211 et seq.

ALR.

Rate of interest chargeable against guardians, executors or administrators, and trustees, 112 A.L.R. 833; 156 A.L.R. 936.

Right of appeal from order on applica-

tion for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

Guardian's position as joint tenant of or successor to property in ward's estate as raising conflict of interest, 69 A.L.R.3d 1198.

ARTICLE 8

SUCCESSOR CONSERVATORS

29-3-80. Required showing for resignation of conservator; name of suitable alternate required; notice; order appointing successor conservator.

(a) A conservator or the duly authorized guardian, conservator, or attorney in fact of a conservator acting on behalf of the conservator may resign upon petition to the court showing to the satisfaction of the court that:

(1) The conservator is unable to continue serving due to age, illness, infirmity, or other good cause;

(2) Greater burdens have devolved upon the office of conservator than those that were originally contemplated or should have been contemplated when the conservator was qualified and the additional burdens work a hardship upon the conservator;

(3) Disagreement exists between the minor and the conservator or between the guardian and the conservator in respect to the conservator's management of the minor's property, which disagreement and conflict appear to be detrimental to the minor;

(4) The resignation of the conservator will result in or permit substantial financial benefit to the minor; or

(5) The resignation would not be disadvantageous to the minor.

(b) The petition for resignation shall include the name of a suitable person who is willing to accept the conservatorship.

(c) Personal service of the petition for resignation shall be made upon the minor and a guardian ad litem appointed by the court for the minor. Service shall be made by first-class mail to the guardian of the minor, if any, the surety on the conservator's bond, and to the following relatives of the minor who are persons other than the resigning conservator or the proposed successor conservator:

(1) Any parent of the minor whose parental rights have not been terminated;

(2) If there is no parent of the minor whose parental rights have not been terminated, the adult siblings of the minor; provided, however, that not more than three adult siblings need be served;

(3) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need be served; or

(4) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1.

(d) If, after such hearing as the court deems appropriate, the court is satisfied that the petition for the resignation of the conservator and the appointment of the successor conservator should be granted, the court shall enter an order appointing the successor conservator in accordance with the provisions of Code Section 29-3-91 and shall accept the conservator's resignation, subject to the resigning conservator turning over to the successor conservator all property of the minor held by the conservator.

History.

Code 1981, § 29-3-80, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2011, p. 752, § 29/HB 142.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2004, "or" was added following the semicolon at the end of paragraph (c)(3) and "Code Section 53-2-1" was substituted for "53-2-1" in paragraph (c)(4).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 79 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 36, 37, 42 et seq.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-3-81. Appointment of successor upon death of conservator; notice; hearing; order.

(a) In the event of the death of a conservator and upon the petition of an interested person or upon the court's own motion, the court shall appoint a successor conservator. The court shall notify the minor and a guardian ad litem appointed for the minor by personal service. Notice shall be given by first-class mail to the guardian of the minor, if any, the surety on the conservator's bond, the personal representative of the deceased conservator, if any, and, in the following order of preference, to the following relatives of the minor who are persons other than the proposed successor conservator:

(1) Any parent of the minor whose parental rights have not been terminated;

(2) If there is no parent of the minor whose parental rights have not been terminated, the adult siblings of the minor; provided, however, that not more than three adult siblings need be served;

(3) If there is no adult sibling of the minor, the grandparents of the minor; provided, however, that not more than three grandparents need be served; or

(4) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1.

(b) After such hearing as the court deems appropriate, the court shall enter an order appointing a successor conservator in accordance with the provisions of Code Section 29-3-91 and require the personal representative of the deceased conservator to turn over to the successor conservator all property of the minor held by the conservator.

History.
Code 1981, § 29-3-81, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2011, p. 752, § 29/HB 142.

RESEARCH REFERENCES

ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

29-3-82. Suspension of conservatorship or imposition of sanctions; power of court; liability of conservator.

(a) Upon the petition of any interested person or whenever it appears to the court that good cause may exist to revoke or suspend the letters

of conservatorship or to impose sanctions, the court shall cite the conservator to answer the charge. The court shall investigate the allegations and may require such accounting as the court deems appropriate. The court may appoint a temporary substitute conservator to take possession of and to administer the minor's property during the investigation.

(b) Upon investigation the court may in its discretion:

(1) Revoke or suspend the letters of conservatorship;

(2) Require additional security;

(3) Require the conservator to appear and submit to a settlement of accounts following the procedure as set forth in Code Section 29-3-71, whether or not the conservator has first resigned or been removed and whether or not a successor conservator has been appointed;

(4) Reduce or deny compensation to the conservator or impose such other sanction or sanctions as the court deems appropriate; and

(5) Issue such other orders which the court deems appropriate under the circumstances of the case.

(c) The revocation or suspension of letters of conservatorship shall not abate any action pending for or against the conservator. The successor conservator shall be made a party to the action in the manner provided in Code Section 9-11-25.

History.
Code 1981, § 29-3-82, enacted by Ga. L. 2004, p. 161, § 1.

29-3-83. Breach or threatened breach of fiduciary duty.

(a) If a conservator commits a breach of fiduciary duty or threatens to commit a breach of fiduciary duty, a minor or an interested person on behalf of the minor shall have a cause of action as appropriate:

(1) To recover damages;

(2) To compel performance of the conservator's duties;

(3) To enjoin the commission of a breach of fiduciary duty; or

(4) To compel the redress of a breach of fiduciary duty by payment of money or otherwise.

(b) When the minor's assets are misapplied and can be traced into the hands of persons who have notice of the misapplication, a trust shall attach to the assets.

(c) The provision of remedies for breach of fiduciary duty by this Code

section does not prevent resort to any other appropriate remedy provided by statute or common law.

History.
Code 1981, § 29-3-83, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1868, § 1807, former Code 1882, § 1816, former Civil Code 1910, § 3051, former Code 1933, § 49-232, and former O.C.G.A. § 29-2-45 are included in the annotations for this Code section.

Religious belief of guardian does not render guardian unfit to discharge guardianship. Maxey v. Bell, 41 Ga. 183, 1870 Ga. LEXIS 57 (1870) (decided under former Civil Code 1910, § 3051).

Suit against guardian for waste permitted if regarding revocation of guardianship. — Suit by next friend in behalf of ward for waste committed by guardian, or recovery of money in guardian's hands, can be brought only in connection with a proceeding to remove guardian and revoke guardian's letters. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Proceedings are against guardian as an individual, not against estate. — Proceedings to remove guardian and revoke guardian's letters, under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), were proceedings against guardian as an individual, and not against the estate or trust guardian represents; and where guardian was removed as guardian and guardian's letters revoked, it was proper that guardian appeal therefrom as an individual. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

On question of removal, interest of ward governs, rather than that of guardian. Morse v. Caldwell, 55 Ga. App. 804, 191 S.E. 479, 1937 Ga. App. LEXIS 511 (1937) (decided under former Code 1933, § 49-232).

Burden of proof rests upon party attacking guardian's conduct. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Guardian who has been removed may appeal to superior court. — Where guardian was removed and guardian's letters revoked, upon rule issued by the ordinary (now judge of probate court), under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), after hearing on guardian's answer to such rule, guardian may appeal to superior court. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

Revocation of letters of guardianship. — Where court of ordinary (now probate court) rendered decision revoking letters of guardianship, an appeal will lie from such decision to superior court, though no issue of fact be involved. Teasley v. Vickery, 133 Ga. 721, 66 S.E. 918, 1910 Ga. LEXIS 34 (1910) (decided under former Civil Code 1910, § 3051).

For jurisdiction over removal proceedings where guardian and ward have moved from county of original appointment, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-232).

Guardian's failure to file annual returns was evidence that the guardian's fiduciary duties were breached and such evidence supported removal. Gary v. Weiner, 233 Ga. App. 284, 503 S.E.2d 898 (decided under former O.C.G.A. § 29-2-45).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-232 is included in the annotations for this Code section.

Use of estate funds should accompany petition to revoke guardianship. — One who has been adjudged insane and confined to state mental hospital and who desires to use funds in estate for purpose of proving that sanity has been restored, should properly proceed by making application to ordinary (now judge of probate court) for revocation of letters of guardianship. 1952-53 Ga. Op. Att'y Gen. 373 (decided under former Code 1933, § 49-232).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 160 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 79 et seq., 256, 257.

ALR.

Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

Liability of guardian, or his surety, as affected by agreement by which he limits his control over funds or investments, 102 A.L.R. 1108.

Improper handling of funds, investments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

29-3-84. Statute of limitations.

All actions against a conservator, except on a conservator's bond, shall be brought within six years of the termination of the conservatorship of the minor, except as provided in Code Section 9-3-90.

History.

Code 1981, § 29-3-84, enacted by Ga. L. 2004, p. 161, § 1.

ARTICLE 9

TEMPORARY SUBSTITUTE CONSERVATORS

29-3-90. Appointment of temporary substitute conservator; length of appointment; powers; notice; removal.

(a) Upon its own motion or on the petition of any interested party, including the minor, the court may appoint a temporary substitute conservator for a minor if it appears to the court that the best interest of the minor requires immediate action.

(b) The temporary substitute conservator shall be appointed for a specified period not to exceed 120 days.

(c) The court shall appoint as temporary substitute conservator the county conservator or some other appropriate person who shall serve the best interest of the minor.

(d) Except as otherwise ordered by the court, a temporary substitute conservator has the powers set forth in the order of appointment. The authority of the previously appointed conservator is suspended for as long as the temporary substitute conservator has authority.

(e) Notice of the appointment of a temporary substitute conservator shall be served personally on the minor. Notice of the appointment shall be served personally on the previously appointed conservator at the last address provided by that conservator to the court. Notice of the appointment shall be mailed by first-class mail to the surety of the previously appointed conservator and to the minor's guardian, if any.

(f) The court may remove the temporary substitute conservator at any time. A temporary substitute conservator shall make any report and shall give any bond the court deems appropriate. In all other respects, the provisions of this chapter apply to the temporary substitute conservator.

History.
Code 1981, § 29-3-90, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 713, § 4/SB 98, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, substituted "conservator" for "guardian" in subsection (c).

29-3-91. Appointment of successor conservator; notice; hearing; other requirements; order.

(a) The court shall appoint a successor conservator upon the resignation, death, or revocation of the letters of the conservator if the appointment of a successor conservator is in the best interest of the minor. The court shall select the successor conservator in the manner provided in Code Section 29-3-7.

(b) In the event of the resignation or death of the conservator, notice of the proceeding for appointment of a successor conservator shall be given as provided in Code Sections 29-3-80 and 29-3-81. In all other cases, notice of the proceeding for appointment of a successor conservator shall be served personally on the minor and a guardian ad litem appointed for the minor. Notice shall be given by first-class mail to the guardian of the minor, if any, and to the following relatives of the minor, in the following order of preference, who are persons other than the proposed successor conservator:

(1) Any parent of the minor whose parental rights have not been terminated;

(2) If there is no parent of the minor whose parental rights have not been terminated, the adult siblings of the minor; provided, however, that not more than three adult siblings need be served;

(3) If there is no adult sibling of the minor, the grandparents of the

minor; provided, however, that not more than three grandparents need be served; or

(4) If there is no grandparent of the minor, any three of the nearest adult relatives of the minor determined according to Code Section 53-2-1.

(c) After any hearing the court deems appropriate, the court shall enter an order appointing the successor conservator and require that bond be posted in the amount set forth in Code Section 29-3-40.

History.
Code 1981, § 29-3-91, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2011, p. 752, § 29/HB 142.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 56, 85.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 13, 20 et seq., 24 et seq., 36, 37, 49, 50, 282.
ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-3-92. Delivery of property; annual return; liability of surety.

Upon the appointment of a successor conservator, the predecessor conservator or the personal representative of a deceased predecessor conservator shall deliver to the successor conservator all property of the minor held by the conservator and shall submit a final return covering the period since the conservator's last annual return. The surety of the predecessor conservator shall be liable for all acts of the conservator in relation to the minor's property up to the time of the receipt of all of the minor's property by the successor conservator.

History.
Code 1981, § 29-3-92, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Debts due to guardian individually cannot be left to successor. — Guardian cannot discharge trust by turning over to successor debts due to the guardian individually from successor. Such is the rule, though successor be solvent at time, if, owing to the successor's subsequent insolvency, the ward is injured by settlement. Manning v. Manning, 61 Ga. 137, 1878 Ga. LEXIS 49 (1878) (decided under former Code 1873, § 1848); Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 162 et seq., 182 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 42 et seq., 76 et seq., 211 et seq., 282 et seq.
ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

ARTICLE 10

FOREIGN CONSERVATORSHIPS

PART 1

GENERAL PROVISIONS

29-3-100. Removal to jurisdiction where minor resides; appointment of guardian ad litem; bond; authority; liability; retention of jurisdiction.

(a) A conservator may petition to remove the conservatorship to the jurisdiction of the court of the county in this state in which the minor resides.

(b) Upon the filing of a petition to remove the conservatorship to another county in this state, the court shall appoint a guardian ad litem for the minor. The court of the county in which the conservator was appointed shall grant the petition for removal only if the court determines that the removal is in the best interest of the minor.

(c) Before the removal of the conservatorship to another county in this state, the conservator must give bond and good security to the court of such county as if the conservator had been first appointed by that court and a certificate to this effect shall be filed in the court in which the conservator was appointed. The conservator shall file with the court of the county to which the conservatorship is to be removed certified copies of all the records pertaining to the conservatorship.

(d) Following removal of a conservatorship to another county in this state, the court to which the conservatorship is removed shall have the same jurisdiction over the conservator as if the conservator had been first appointed in that county, and every case growing out of or affecting the conservatorship shall be heard and tried only in the county to which the conservatorship has been removed.

(e) The sureties on the conservator's first bond shall be liable only for misconduct of the conservator up until the giving of new bond and security. The sureties on the new bond shall be liable for both past and future misconduct of the conservator.

(f) The court in which an action or proceeding is pending or which has issued an order for a settlement of accounts, removal, or sanction of a conservator shall retain jurisdiction of such matters even though the conservatorship has been removed to another county.

History.
Code 1981, § 29-3-100, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Ga. L. 1812, Cobb's 1851 Digest, p. 318 and Code 1933, § 49-239 are included in the annotations for this Code section.

Compliance discharges surety from further liability on account of guardian. — When provisions of the Act of 1812 (former O.C.G.A. § 29-2-70) are fully complied with, sureties on first bond are discharged from all further liability on account of their principal. Justices of Inferior Court ex rel. Selman v. Selman, 6 Ga. 432, 1849 Ga. LEXIS 58 (1849) (decided under Ga. L. 1812, Cobb's 1851 Digest, p. 318).

For jurisdiction over removal and new appointments where guardian moves from county without removing trust, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-239).

RESEARCH REFERENCES

ALR.
Guardianship of incompetent or infant as affecting venue of action, 11 A.L.R. 167.

PART 2

PROCEDURE

29-3-105. Petition for transfer of jurisdiction; requirements of petition.

(a) As used in this part and Part 3 of this article, the term "conservatorship" refers to a legal relationship in which a person is given responsibility by a court of competent jurisdiction for the care of the property of a minor, thereby becoming a conservator.

(b) A conservator who has been appointed by a foreign court of competent jurisdiction may petition to have the conservatorship transferred to and accepted in this state by filing a petition for receipt and acceptance of the foreign conservatorship in the court of the county in this state where the minor resides or may reside.

(c) The petition shall include the following:

(1) An authenticated copy of the foreign conservatorship order, including:

(A) All attachments describing the duties and powers of the conservator; and

(B) All amendments or modifications to the foreign conservatorship order entered subsequent to the original order, including any order to transfer the conservatorship;

(2) The address of the foreign court which issued the conservatorship order;

(3) A listing of any other conservatorship petitions that are pending in any jurisdiction and the names and addresses of the courts where the petitions have been filed;

(4) The petitioner's name, address, and county of domicile;

(5) The name, age, and current address of the minor;

(6) The names and current addresses of the adult siblings of the minor, if any;

(7) The name and address of the person responsible for the care and custody of the minor, if other than the petitioner, and of any other conservator currently serving;

(8) The name and address of any currently acting legal representative, other than the petitioner, including any legal counsel, guardian ad litem, or court visitor appointed by the foreign court for the minor;

(9) The name and address of the minor's guardian, if any;

(10) The name and address of the surety on the conservator's bond;

(11) The reason the transfer is in the minor's best interest; and

(12) To the extent known to the petitioner, a statement of the location and estimated value of the minor's property and the source and amount of any anticipated income or receipts.

(d) The petition may be combined with other petitions related to the conservatorship, including a petition to modify the terms of the conservatorship.

History.
Code 1981, § 29-3-105, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(2)(R)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

29-3-106. Notice and other procedural requirements; waiver.

(a) Notice and a copy of the petition for receipt and acceptance of a foreign conservatorship shall be served personally on the minor. The notice shall:

(1) State that the minor has a right to a hearing on the petition;

(2) Inform the minor of the procedure to exercise the minor's right to a hearing; and

(3) State that the minor has the right to independent legal counsel and that the court shall appoint legal counsel for the minor unless the minor has retained counsel or legal counsel has been appointed by the foreign court to represent the minor in the transfer of the conservatorship.

(b) Notice and a copy of the petition for receipt and acceptance of a foreign conservatorship shall be provided to the court from which the conservatorship is to be transferred. Notice to the foreign court shall include a request that the foreign court:

(1) Certify whether:

(A) The foreign court has any record that the conservator has engaged in malfeasance, misfeasance, or nonfeasance during the conservator's appointment;

(B) Periodic reports have been filed in a satisfactory manner; and

(C) All bond or other security requirements imposed under the conservatorship have been performed;

(2) Forward copies of all documents filed with the foreign court relating to the conservatorship, including but not limited to:

(A) The initial petition for conservatorship and other filings relevant to the appointment of the conservator;

(B) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the foreign court to evaluate the appropriateness of the conservatorship;

(C) Reports of physical and mental health practitioners describing the condition of the minor;

(D) Periodic status reports on the condition of the minor and the minor's assets; and

(E) The order to transfer the conservatorship, if any.

(c) Notice and a copy of the petition for receipt and acceptance of a foreign conservatorship shall be mailed to all other persons named in the petition by first-class mail. The notice shall inform these persons of their right to object to the receipt and acceptance of the conservatorship by this state.

(d) The minor shall have 30 days from the date of service of the petition for receipt and acceptance of the foreign conservator to request a hearing on the petition. All other persons to whom notice is given under this Code section shall have 30 days from the mailing of the notice to request a hearing on the petition.

(e) The court may waive the notice requirements of subsections (a) through (c) of this Code section if:

(1) The conservator has filed a petition in the foreign court for transfer and release of the conservatorship to this state;

(2) Notice was given to the minor and all interested persons in conjunction with the petition for transfer and release of the conservatorship;

(3) The petitioner provides the court with an authenticated copy of the petition for transfer and release of the conservatorship filed with the foreign court and proof that service was made on the minor not more than 90 days from the date the petition for receipt and acceptance of the conservatorship is filed in the court; and

(4) The minor is represented by legal counsel with respect to the petition in the foreign court.

History.
Code 1981, § 29-3-106, enacted by Ga. L. 2004, p. 161, § 1.

29-3-107. Hearing.

(a) Upon the court's own motion or upon timely motion by the minor or by any interested person, the court shall hold a hearing to consider the petition for receipt and acceptance of the foreign conservator.

(b) If any interested person challenges the validity of the foreign conservator or the authority of the foreign court to appoint the conservator, the court may stay this proceeding while the petitioner is afforded the opportunity to have the foreign court hear the challenge and determine its merits.

History.
Code 1981, § 29-3-107, enacted by Ga. L. 2004, p. 161, § 1.

29-3-108. Required findings prior to granting foreign conservatorship; inventory of property; applicable law; orderly transfer; effect of denial.

(a) The court may grant a petition for receipt and acceptance of a foreign conservatorship provided the court finds that:

(1) The conservator is presently in good standing with the foreign court; and

(2) The transfer of the conservatorship from the foreign jurisdiction is in the best interest of the minor.

(b) The court may require the conservator to file an inventory of the minor's property at the time of the transfer from the foreign jurisdiction.

(c) Subject to subsection (d) of this Code section, at all times following the entry of the order accepting the guardianship, the laws of the State of Georgia shall apply to the conservatorship.

(d) In order to coordinate efforts with the foreign court to facilitate the orderly transfer of the conservatorship, the court is authorized to:

(1) Delay the effective date of the receipt and acceptance for a reasonable period of time;

(2) Make the receipt and acceptance contingent upon the release of the conservatorship or the termination of the conservatorship and the discharge of the conservator in the foreign jurisdiction;

(3) Recognize concurrent jurisdiction over the conservatorship for

a reasonable period of time to permit the foreign court to release the conservatorship or to terminate the conservatorship and discharge the conservator in the foreign jurisdiction; or

(4) Make other arrangements the court deems necessary to effectuate the receipt and acceptance of the conservatorship.

(e) The denial of a petition for receipt and acceptance of the foreign conservatorship does not affect the right of a conservator appointed by a foreign court of competent jurisdiction to petition for conservatorship under Code Section 29-3-8.

History.
Code 1981, § 29-3-108, enacted by Ga. L. 2004, p. 161, § 1.

Part 3

Jurisdiction

29-3-110. Transfer of jurisdiction in event minor has permanently moved; determining minor's residential status; filings.

(a) A conservator may petition the Georgia court which has jurisdiction over the conservatorship to transfer the conservatorship to a foreign court of competent jurisdiction if the minor has moved permanently to the foreign jurisdiction.

(b) The minor may be presumed to have moved permanently to the foreign jurisdiction if:

(1) The minor has resided in the foreign jurisdiction for more than 12 consecutive months;

(2) The conservator notifies the court that the minor will move or has moved permanently to the foreign jurisdiction; or

(3) A foreign court of competent jurisdiction notifies the court of the filing of a petition for conservatorship for the minor in the foreign jurisdiction.

(c) To facilitate the transfer of conservatorship the court may order the conservator to file a petition for receipt and acceptance of the conservatorship in the foreign jurisdiction.

(d) If the foreign jurisdiction does not have a procedure for receiving and accepting a foreign conservatorship, the court may order the conservator to file a petition for conservatorship in the foreign jurisdiction.

History.
Code 1981, § 29-3-110, enacted by Ga. L. 2004, p. 161, § 1.

29-3-111. Requirements of petition to transfer conservatorship.

The petition to transfer a conservatorship to a foreign jurisdiction shall include the following:

(1) The name and address of the foreign court to which the conservatorship shall be transferred and an authenticated copy of the petition for receipt and acceptance of a foreign conservatorship if previously filed in the foreign court;

(2) A listing of any other conservatorship petitions that are pending in any jurisdiction and the names and addresses of the courts where the petitions have been filed;

(3) The petitioner's name, address, and county of domicile;

(4) The name, age, and current address of the minor and the new or proposed address of the minor;

(5) The names and current addresses of the adult siblings of the minor, if any;

(6) The name and address of the person responsible for the care and custody of the minor, if other than the petitioner, and of any other conservator currently serving;

(7) The name and address of the minor's guardian, if any;

(8) The name and address of the surety on the conservator's bond;

(9) The name and address of any legal representative, other than the petitioner, including any legal counsel, guardian ad litem, or court visitor appointed by the foreign court for the minor;

(10) The reason for moving the minor; and

(11) The reason the transfer of the conservatorship is in the minor's best interest.

History.
Code 1981, § 29-3-111, enacted by Ga. L. 2004, p. 161, § 1.

29-3-112. Notice.

(a) Notice and a copy of the petition to transfer a conservatorship to a foreign jurisdiction shall be served personally on the minor not less than ten days prior to the date set for the hearing. The notice shall state:

(1) The date that the hearing shall be held; and

(2) That the minor has the right to independent legal counsel and that the court shall appoint legal counsel for the minor unless the minor has retained counsel or legal counsel has been appointed by the foreign court to represent the minor in the receipt and acceptance of the guardianship.

(b) Notice and a copy of the petition to transfer the conservatorship shall be provided to the foreign court to which the conservatorship is to be transferred.

(c) Notice and a copy of the petition to transfer the conservatorship shall be mailed to all other persons named in the petition. The notice shall inform these persons of the date of the hearing and of their right to file objections to the transfer of the conservatorship by this state.

History.
Code 1981, § 29-3-112, enacted by Ga. L. 2004, p. 161, § 1.

29-3-113. Hearing.

Upon the court's own motion or upon timely motion by the minor or by any interested person, the court shall hold a hearing to consider the petition to transfer the conservatorship.

History.
Code 1981, § 29-3-113, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

29-3-114. Required findings prior to granting petition to transfer conservatorship; orderly and coordinated transfer.

(a) The court may grant a petition to transfer a conservatorship to a foreign court of competent jurisdiction if the court finds that:

(1) The conservator is presently in good standing with the court; and

(2) The transfer of the conservatorship to the foreign jurisdiction is in the best interest of the minor.

(b) In order to coordinate efforts with the foreign court to facilitate the orderly transfer of the conservatorship, the court is authorized to:

(1) Notify the foreign court of any significant problems that may have occurred, including whether periodic reports and accountings have been filed in a satisfactory manner and whether all bond or other security requirements imposed under the conservatorship have been performed;

(2) Forward copies of all documents filed with the court relating to the conservatorship, including but not limited to:

(A) The initial petition for conservatorship and other filings relevant to the appointment of the conservator;

(B) Reports and recommendations of guardians ad litem, court visitors, or other individuals appointed by the court to evaluate the appropriateness of the conservatorship;

(C) Reports of physical or mental health practitioners describing the condition of the minor; and

(D) Periodic status reports on the condition of the minor and the minor's assets; and

(3) Require the conservator to file an inventory of the minor's property at the time of the transfer to the foreign jurisdiction.

(c) As necessary to coordinate the transfer of the conservatorship the court is authorized to:

(1) Delay the effective date of the transfer for a reasonable period of time;

(2) Make the transfer contingent upon the acceptance of the conservatorship or appointment of the conservator in the foreign jurisdiction;

(3) Recognize concurrent jurisdiction over the conservatorship for a reasonable period of time to permit the foreign court to accept the conservatorship or appoint the conservator in the foreign jurisdiction; or

(4) Make other arrangements that in the sound discretion of the court are necessary to transfer the conservatorship.

History.
Code 1981, § 29-3-114, enacted by Ga. L. 2004, p. 161, § 1.

Part 4

Foreign Conservator

29-3-115. Sale of minor's property.

(a) As used in this part, the term "foreign conservator" means a conservator or other person who has been given responsibility by a court of competent jurisdiction in another state or territory governed by the Constitution of the United States for the care of the property of a minor and whose conservatorship has not been transferred to and accepted in this state pursuant to the provisions of Part 2 of this article.

(b) Any foreign conservator of a minor who resides in any other state and who is authorized to sell and convey property of the minor may sell

property of the minor which is in this state, under the rules and regulations prescribed for the sale of real estate by conservators of this state, provided that the foreign conservator shall file and have recorded in the court or other proper court, at the time of petitioning for sale, an authenticated copy of the letters of appointment and shall also file with the court or other proper authority bond with good and sufficient security, in double the value of the property to be sold, for the faithful execution of the conservatorship, as provided by law.

History.
Code 1981, § 29-3-115, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 29(3)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this part, the term 'foreign conservator' means" for "For purposes of this part, a 'foreign conservator' is" at the beginning of subsection (a) and substituted "shall" for "must" in two places in subsection (b).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 276 et seq.

29-3-116. Right to bring action.

A foreign conservator may institute an action in any court in this state to enforce any right or to recover any property belonging to the minor or accruing to the foreign conservator in his or her capacity as conservator.

History.
Code 1981, § 29-3-116, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under Ga. L. 1850, Cobb's 1851 Digest, p. 341 is included in the annotations for this Code section.

Actions ex contractu and ex delicto not distinguished. — Georgia Laws 1850, Cobb's 1851 Digest, p. 341 does not warrant distinction between actions ex contractu and actions ex delicto. Averitt v. Pope, 30 Ga. 660, 1860 Ga. LEXIS 163 (1860) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 341).

Ward reaching majority during pendency of suit by nonresident guardian may be substituted as plaintiff in lieu of guardian. Sims ex rel. Talbot v. Renwick, 25 Ga. 38 (1858) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 341).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 212 et seq.

C.J.S.
39 C.J.S., Guardian and Ward, § 276 et seq.

ALR.
Capacity of guardian to sue or to be sued outside state where appointed, 94 A.L.R.2d 162.

29-3-117. Filing of letters of conservatorship.

Pending an action brought by a foreign conservator pursuant to Code Section 29-3-116, an authenticated copy of the letters of conservatorship shall be filed with the clerk of the court to become a part of the record if the case is pending in a court of record, or filed with the papers if the action is a summary proceeding.

History.
Code 1981, § 29-3-117, enacted by Ga. L. 2004, p. 161, § 1.

29-3-118. Submission to jurisdiction.

A foreign conservator submits personally to the jurisdiction of the courts of this state in any proceeding relating to the conservatorship by:

(1) Receiving payment of money or taking delivery of personal property in this state belonging to the minor; or

(2) Doing any act as a conservator in this state that would have given this state jurisdiction over the conservator as an individual.

History.
Code 1981, § 29-3-118, enacted by Ga. L. 2004, p. 161, § 1.

29-3-119. Rights of interested parties prior to sale or removal of minor's assets.

Any resident of this state who is interested as a creditor, heir, or will beneficiary of a minor whom a foreign conservator represents may apply to the proper court to compel the foreign conservator to protect his or her interest according to equity and good conscience before selling the minor's assets or removing the minor's assets beyond the limits of this state.

History.
Code 1981, § 29-3-119, enacted by Ga. L. 2004, p. 161, § 1.

29-3-120. Payments to foreign conservator on debts or return of property belonging to minor.

(a) A person who is indebted to or has possession of tangible or intangible property of a minor may pay the debt or deliver the property to a foreign conservator of the minor. Payment of the debt or delivery of the property may be made upon proof that the foreign conservator has

been appointed and is entitled to the debt payment or to receive delivery of the property.

(b) Payment of the debt or delivery of the property in response to the demand discharges the debtor or possessor, unless the debtor or possessor has knowledge of proceedings for the appointment of a guardian, conservator, or other protective proceeding in this state.

History.
Code 1981, § 29-3-120, enacted by Ga. L. 2004, p. 161, § 1.

CHAPTER 4

GUARDIANS OF ADULTS

Article 1

General Provisions

Sec.

29-4-1. Required findings prior to appointment of guardian; limitations on presumptions regarding need for guardianship; extent of guardianship.
29-4-2. Qualifications of guardians.
29-4-3. Order of preference in selecting guardian; authority to disregard preference; nominations.

Article 2

Procedure for Appointment

29-4-10. Petition for appointment of guardian; requirements for petition.
29-4-11. Required probable cause finding; notice; evaluation and report; other requirements; response by counsel.
29-4-12. Judicial review; probable cause findings; hearing; determinations by court; judge unavailability.
29-4-13. Requirements of order granting guardianship; service; obligations of legal counsel.
29-4-14. Petition for appointment of emergency guardian; requirements of petition.
29-4-15. Appointment of emergency guardian; required probable cause finding; notice; hearing; appointment of counsel and guardian for hearing.
29-4-16. Conduct of emergency guardianship hearing; limitations on emergency guardianship.
29-4-17. [Reserved] Responsibility for paying expenses of any hearing.
29-4-18. Temporary medical consent guardianship; requirements of petition; required findings; notice; appointment of counsel; hearings; selection of guardian; termination; liability.

Article 3

Protection of the Ward

29-4-20. Rights of ward; impact on voting and testamentary capacity.
29-4-21. Rights and privileges removed from ward upon appointment of guardian.
29-4-22. Decisions on ward's well-being; obligations of guardian; liability of guardian.
29-4-23. Powers and rights of guardian; appointment of guardian ad litem; coordination and cooperation with conservator or others.
29-4-24. Disclosure of conflicts of interest.
29-4-25. Oath or affirmation of guardian.

Article 4

Requirement of Guardian

29-4-30. Bond; recording of bond; payment of bond premium.

Article 5

Review and Termination of Guardianship

29-4-40. Judicial inquiry into allegations of unjust denial of rights or privileges of ward; notice; limitation on petitions.
29-4-41. Modification of guardianship; petition requirements; notice; evaluation; hearing; other requirements; successive petitions.
29-4-42. Termination of guardian-

Sec.
ship; petition requirements; notice; evaluation; hearing; other requirements; burden of proof; successive petitions; return of property.
29-4-43. Dismissal of guardianship; petition requirements; notice; order; liability.

Article 6

Successor Guardians

29-4-50. Resignation of guardian; required showing; alternative guardian; notice; hearing; other requirements; order.
29-4-51. Appointment of successor upon death of guardian; notice; hearing; other requirements; order.
29-4-52. Revocation or suspension of guardianship; investigation and powers of court; effect on other proceedings.
29-4-53. Breach of fiduciary duty by guardian.
29-4-54. Statute of limitations.

Article 7

Temporary Substitute Guardians

29-4-60. Appointment of temporary substitute guardian; length of appointment; powers; notice; removal.
29-4-61. Appointment of successor guardian upon resignation, death, or revocation of letters of guardianship; notice; hearing; other requirements; order.
29-4-62. Delivery of property and final report from predecessor guardian.

Article 8

Appellate Proceedings

29-4-70. Right of ward to appeal; procedure; appointment of emergency guardian.

Article 9

Jurisdiction

PART 1

GENERAL PROVISIONS

29-4-80. Removal to jurisdiction where ward resides; appointment of guardian ad litem; certification and transfer of records; scope of jurisdiction.

PART 2

PROCEDURE

29-4-85 through 29-4-88. [Reserved].

PART 3

TRANSFER OF GUARDIANSHIP

29-4-90 through 29-4-94. [Reserved].

PART 4

FOREIGN GUARDIANS

29-4-95. Sale of ward's property.
29-4-96. Right to bring action.
29-4-97. Required filing of letters of guardianship.
29-4-98. Submission to jurisdiction; registration of guardianship order; powers of court.

Cross references.

Appointment of guardian ad litem for incompetent person not otherwise represented in an action, § 9-11-17.

Disabled Adults and Elder Persons Protection Act, § 30-5-1.

Workers' compensation benefits claim by guardian or trustee of mental incompetent or minor, § 34-9-85.

Appointment of guardian for minor or incompetent workers' compensation benefits claimant, § 30-9-226.

Appointment of representatives and guardians ad litem for persons undergoing treatment for mental illness, developmental disabilities, alcoholism, or drug dependency, §§ 37-3-147, 37-4-107, 37-7-147.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by

the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

Law reviews.

For article, "The Georgia Law of Insanity," see 3 Ga. B. J. 28 (1941).

For note on 1995 amendments of Code sections in this chapter, see 12 Ga. St. U.L. Rev. 216 (1995).

For note, "Deinstitutionalization: Georgia's Progress in Developing and Implementing an 'Effectively Working Plan' as Required by Olmstead v. L.C. ex rel," see 25 Ga. St. U.L. Rev. 699 (2009).

For article, "The Olmstead Decision: The Road to Dignity and Freedom," see 26 Ga. St. U.L. Rev. 651 (2010).

For article, "Olmstead's Promise and Cohousing's Potential," see 26 Ga. St. U.L. Rev. 663 (2010).

For article, "From the Inside Out: Personal Perspectives of Six Georgians on Their Institutional Experiences," see 26 Ga. St. U.L. Rev. 741 (2010).

For article, "The Constitutional Right to Community Services," see 26 Ga. St. U.L. Rev. 763 (2010).

For article, "Reconsidering Makin v. Hawaii: The Right of Medicaid Beneficiaries to Home-Based Services as an Alternative to Institutionalization," see 26 Ga. St. U.L. Rev. 803 (2010).

For article, "The Potential and Risks of Relying on Title II's Integration Mandate to Close Segregated Institutions," see 26 Ga. St. U.L. Rev. 855 (2010).

For article, "Beyond Residential Segregation: The Application of Olmstead to Segregated Employment Settings," see 26 Ga. St. U.L. Rev. 875 (2010).

For article, "From Almshouses to Nursing Homes and Community Care: Lessons from Medicaid's History," see 26 Ga. St. U.L. Rev. 937 (2010).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1933, Ch. 49-6, as it read prior to revision by Ga. L. 1980, p. 1661, and former O.C.G.A. § 29-5-1 et seq. are included in the annotations for this Code section.

Joint tenancy not terminated by tenant's incapacity. — Joint tenancies in bank and stock investment accounts and in real property did not terminate as a matter of law when one of the joint tenants was declared incapacitated and a guardian was appointed for that person and for the property. A guardian, unlike a trustee, has no beneficial title in the ward's estate, but is merely a custodian or manager. Moore v. Self., 222 Ga. App. 71, 473 S.E.2d 507, 1996 Ga. App. LEXIS 614 (1996) (decided under former O.C.G.A. § 29-5-1 et seq.).

Former Chapters 49-6 and 88-5 of the 1933 Code (former O.C.G.A. Ch. 5, T. 29 and Ch. 3, T. 37) were meant to be read together for procedural purposes. Kiker v. Kiker, 126 Ga. App. 39, 189 S.E.2d 880, 1972 Ga. App. LEXIS 1037 (1972) (decided under former Code 1933, Ch. 49-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 21 et seq., 37, 56 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, §§ 2, 5, 23, 26 et seq., 36 et seq., 42 et seq., 59, 60.

ALR.

Showing as to mental condition which will entitle one restrained on ground of insanity to release, 19 A.L.R. 715.

Constitutionality of statute making physical disability ground for appointment of guardian of person or property, 30 A.L.R. 1381.

Liability of insane person for tort, 51 A.L.R. 833; 89 A.L.R. 476.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Liability of incompetent's estate for care and maintenance furnished by public institution or hospital before incompetent's acquisition of any estate or property, 33 A.L.R.2d 1257.

Power of guardian, committee, or trustee of mental incompetent, after latter's death, to pay debts and obligations, 60 A.L.R.2d 963.

Power to make charitable gifts from estate of incompetent, 99 A.L.R.2d 946.

Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

ARTICLE 1

GENERAL PROVISIONS

29-4-1. Required findings prior to appointment of guardian; limitations on presumptions regarding need for guardianship; extent of guardianship.

(a) The court may appoint a guardian for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety.

(b) No guardian, other than a guardian ad litem or a guardian appointed in an emergency under paragraph (1) of subsection (a) of Code Section 29-11-13, shall be appointed for an adult except pursuant to the procedures of this chapter.

(c) No guardian shall be appointed for an adult unless the appointment is in the best interest of the adult.

(d) No guardian shall be appointed for an adult within two years after the denial or dismissal on the merits of a petition for the appointment of a guardian for that adult unless the petitioner shows a significant change in the condition or circumstances of the adult.

(e)(1) No adult shall be presumed to be in need of a guardian unless:

(A) He or she has been adjudicated to be in need of a guardian pursuant to this chapter; or

(B) The court has recognized another state's determination of incapacity and the appointment of a guardian as provided in subsection (g) of Code Section 29-11-21.

(2) An adult shall not be presumed to be in need of a guardian solely because of a finding of criminal insanity or incompetence to

stand trial or a finding of a need for treatment or services pursuant to:

(A) Code Section 37-1-1;

(B) Code Sections 37-3-1 through 37-3-6;

(C) Articles 2 through 6 of Chapter 3 of Title 37;

(D) Code Sections 37-4-1 through 37-4-3 and 37-4-5 through 37-4-8;

(E) Articles 2 through 5 of Chapter 4 of Title 37;

(F) Code Section 37-5-3;

(G) Code Sections 37-7-1, 37-7-2, and 37-7-4 through 37-7-7; and

(H) Articles 2 through 6 of Chapter 7 of Title 37.

(3) An adult shall not be presumed to be in need of a guardian solely because of a finding that the adult has one or more developmental disabilities as defined in paragraph (8) of Code Section 37-1-1.

(f) All guardianships ordered pursuant to this chapter shall be designed to encourage the development of maximum self-reliance and independence in the adult and shall be ordered only to the extent necessitated by the adult's actual and adaptive limitations after a determination that less restrictive alternatives to the guardianship are not available or appropriate.

History.

Code 1981, § 29-4-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 5/HB 70; Ga. L. 2025, p. 402, § 2/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added paragraph (e)(3).

Cross references.

Domicile of persons of full age placed under power of guardian, § 19-2-5.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2570, former Civil Code 1910, § 3089, former Code 1933, § 49-601, as it read prior to revision by Ga. L. 1964, pp. 499, 657, and former O.C.G.A. § 29-5-1 are included in the annotations for this Code section.

All insane persons covered. — Former Code 1933, § 49-601 was broad enough to cover all classes of insane persons, resident and nonresident. Shea v. Gehan, 70 Ga. App. 229, 28 S.E.2d 181,

1943 Ga. App. LEXIS 290 (1943) (decided under former Code 1933, § 49-601).

Definition and classifications of insane persons. — See Royal Indem. Co. v. Agnew, 66 Ga. App. 377, 18 S.E.2d 57, 1941 Ga. App. LEXIS 214 (1941) (decided under former Code 1933, § 49-601).

Blindness and limited education not grounds for appointment of guardian. — There is no provision of law in this state for appointment of guardian for a person sui juris solely on ground of blindness and limited education. Griffin v. Collins, 122 Ga. 102, 49 S.E. 827, 1905 Ga. LEXIS 121 (1905) (decided under former Code 1895, § 2570).

Probate judges have exclusive jurisdiction to appoint for insane persons. — Only ordinaries (now judges of probate courts) of the several counties of this state have power to appoint for insane persons. Meadors v. Walden, 28 Ga. App. 409, 111 S.E. 227, 1922 Ga. App. LEXIS 555 (1922) (decided under former Code 1910, § 3089).

Claimant suffering from Alzheimer's disease. — Default would not be entered against a claimant in a bankruptcy proceeding because there was some evidence that the claimant might be suffering from Alzheimer's disease, and a bankruptcy trustee needed to determine if a conservator or a guardian had been appointed for the claimant, pursuant to O.C.G.A. §§ 29-4-1 or 29-5-1, in a state probate court before default could be entered. Townson v. Loftin (In re Ford), No. R02-50780-PWB, No. R02-50780-PWB, No. 08-4069, 2009 Bankr. LEXIS 801 (Bankr. N.D. Ga. Mar. 3, 2009).

Probate court vested with original, exclusive, and general jurisdiction. — Court of ordinary (now probate court) was vested with original, exclusive, and general jurisdiction over insane persons and the appointment and removal of their guardians. Shea v. Gehan, 70 Ga. App. 229, 28 S.E.2d 181, 1943 Ga. App. LEXIS 290 (1943) (decided under former Code 1933, § 49-601).

May commit insane person present in county. — Court of ordinary (now probate court) has jurisdiction to adjudge and have committed an insane person who is present in that county in keeping with law in general relative to power of state over persons found within its borders as provided in former Code 1933, § 15-202 (former O.C.G.A. § 50-2-21). Shea v. Gehan, 70 Ga. App. 229, 28 S.E.2d 181, 1943 Ga. App. LEXIS 290 (1943) (decided under former Code 1933, § 49-601).

May appoint guardian for in-state land of nonresident insane person. — Courts of ordinary (now probate courts) of this state have jurisdiction to appoint guardians for lands of lunatics who reside beyond limits of this state, where property is located in territorial limits of state in which such courts act. Coker v. Gay, 154 Ga. 337, 114 S.E. 217, 1922 Ga. LEXIS 360 (1922) (decided under former Civil Code 1910, § 3089).

May authorize guardian to sell ward's land to pay debts. — Court of ordinary (now probate court) is vested by law with jurisdiction to render judgment granting to guardian of insane person permission to sell land belonging to such ward for purpose of paying debts; proceedings in such case to be in conformity with statutes relating to sales by administrators. Jernigan v. Radford, 182 Ga. 484, 185 S.E. 828, 1936 Ga. LEXIS 463 (1936) (decided under former Code 1933, § 49-601).

Applicability of statute pertaining to guardians of minors. — All provisions of statute as to settlements of guardians of minors, their resignation, letters of dismission, and distribution of estates of deceased wards, also apply to guardians appointed under former Civil Code 1910, § 3089 (former O.C.G.A. § 29-5-1). Shadburn v. Verner, 169 Ga. 5, 149 S.E. 579, 1929 Ga. LEXIS 266 (1929) (decided under former Civil Code 1910, § 3089).

Appointment of guardian does not mandate eligibility for commitment. — One may be eligible to have guardian even if ineligible for admission as inmate of Milledgeville State Hospital (now closed). Tucker v. American Sur. Co., 78 Ga. App. 327, 50 S.E.2d 859, 1948 Ga. App. LEXIS 737 (1948) (decided under former Code 1933, § 49-601).

Evidence sufficient to appoint guardian and conservator. — Order

granting children's petition for guardianship and conservatorship of their parent pursuant to O.C.G.A. §§ 29-4-1 and 29-5-1(a) was proper because the evidence included, inter alia, the testimony of one child's personal knowledge regarding the parent's physical problems, refusal to either relocate or to hire a private care giver, and failure to pay bills; the evidence also included a social worker's evaluation which detailed the parent's erratic behavior and refusal to pay bills, which the trial court properly considered pursuant to O.C.G.A. § 29-5-12(d)(4). In re Cash, 298 Ga. App. 110, 679 S.E.2d 124, 2009 Ga. App. LEXIS 619 (2009).

There was sufficient evidence to support the probate court's findings that appellant needed a guardian and conservator because the court-appointed evaluator reported that appellant had dementia and other health problems, needed supervision with activities of daily living, and was illiterate and vulnerable, appellant's sibling testified that appellant was suffering from dementia, and appellant's testimony suggested mental confusion and showed a lack of recall of certain property and financial transactions. In re Wheeler, 368 Ga. App. 1, 889 S.E.2d 132, 2023 Ga. App. LEXIS 248 (2023).

Evidence sufficient to appoint parent as guardian of adult autistic child. — Decision granting a parent guardianship of an adult autistic child was supported by sufficient evidence based on the child's desire to change domicile to the parent's home, the child's desire to engage in more activities while at the parent's home, as well as the testimony of the attorney appointed for the child, who indicated that while the child undoubtedly faced certain challenges due to autism, the child was not so mentally impaired to lack capacity to choose Georgia as the child's domicile. In the Interest of M. P., 338 Ga. App. 696, 791 S.E.2d 592, 2016 Ga. App. LEXIS 531 (2016).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-601 is included in the annotations for this Code section.

Court cannot appoint guardian for one rational but arthritic. — Probate court would have no authority to name guardian for one who is perfectly rational but is only afflicted with arthritis. 1960-61 Ga. Op. Att'y Gen. 88 (decided under former Code 1933, § 49-601).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 21 et seq., 37, 56 et seq.

Am. Jur. Pleading and Practice Forms.

13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 9 et seq., 42 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 18 et seq.

C.J.S.

57 C.J.S., Mental Health, § 113 et seq.

ALR.

Appointment of guardian for infant as affecting rights and duties of parents, 63 A.L.R. 1147.

Power of guardian representing unborn future interest holders to consent to invasion of trust corpus, 49 A.L.R.2d 1095.

Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

29-4-2. Qualifications of guardians.

(a) Only an individual may serve as guardian of an adult, except in

the event a public guardian or the Department of Human Services is appointed pursuant to subsection (b.1) of Code Section 29-4-3.

(b) No individual may be appointed as guardian of an adult who:

(1) Is a minor, a ward, or a protected person;

(2) Has a conflict of interest with the adult unless the court determines that the conflict of interest is insubstantial or that the appointment would be in the adult's best interest; or

(3) Is an owner, operator, or employee of a long-term care or other caregiving institution or facility at which the adult is receiving care, unless related to the adult by blood, marriage, or adoption.

(c) No entity may be appointed as guardian of an adult which:

(1) Has a conflict of interest with the adult unless the court determines that the conflict of interest is insubstantial or that the appointment would be in the adult's best interest; or

(2) Is a long-term care or other caregiving institution or facility at which the adult is receiving care.

History.
Code 1981, § 29-4-2, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 509, § 2/HB 394; Ga. L. 2009, p. 453, § 2-2/HB 228.

Editor's notes.
Ga. L. 2005, p. 509, § 9/HB 394, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2005, and all appointments of guardians of the person made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 41 et seq.

C.J.S.
57 C.J.S., Mental Health, § 123 et seq.

29-4-3. Order of preference in selecting guardian; authority to disregard preference; nominations.

(a) The court shall appoint as guardian that individual who will best serve the interest of the adult, considering the order of preferences set forth in this Code section. The court may disregard an individual who has preference and appoint an individual who has a lower preference or no preference; provided, however, that the court may disregard the preferences listed in paragraph (1) of subsection (b) of this Code section only upon good cause shown.

(b) Individuals who are eligible have preference in the following order:

(1) The individual last nominated by the adult in accordance with the provisions of subsection (c) of this Code section;

(2) The spouse of the adult or an individual nominated by the adult's spouse in accordance with the provisions of subsection (d) of this Code section;

(3) An adult child of the adult or an individual nominated by an adult child of the adult in accordance with the provisions of subsection (d) of this Code section;

(4) A parent of the adult or an individual nominated by a parent of the adult in accordance with the provisions of subsection (d) of this Code section;

(5) A guardian appointed during the minority of the adult;

(6) A guardian previously appointed in Georgia or another state;

(7) A friend, relative, or any other individual;

(8) Any other person, including a volunteer to the court, found suitable and appropriate who is willing to accept the appointment; and

(9) The county guardian.

(b.1) If no other person is available to serve as guardian of the ward, the judge may appoint a public guardian in accordance with Chapter 10 of this title. In the event the court determines that there is no public guardian registered in accordance with Chapter 10 of this title appropriately available to serve as guardian for a ward, the court may appoint the Department of Human Services as guardian. If so appointed, the department shall designate a representative of the department to provide guardian services who shall take the oath of guardianship. If, after having been so appointed, the department presents to the court a public guardian registered in accordance with Chapter 10 of this

title or some other person suitable and appropriate to serve as guardian of a ward and willing to so serve, the court shall allow the department to resign and shall appoint such public guardian or such other person. If the department is appointed pursuant to this subsection, it shall be bound by all the requirements of this chapter, except that it shall not be required to post bond or pay any cost or fee of court associated with the guardianship proceeding. If the department is appointed pursuant to this subsection and enters into a contract with an independent contractor for the provision of guardianship services, the expense of providing such services may be paid for from state funds appropriated for public guardians under Chapter 10 of this title or, upon approval of the court, from the estate of the ward.

(c) At any time prior to the appointment of a guardian, an adult may nominate in writing an individual to serve as that adult's guardian should the adult be judicially determined to be in need of a guardian, and that nomination shall be given the preference described in this Code section, provided that it is signed in accordance with the provisions of subsection (e) of this Code section or the provisions of Code Section 31-32-5.

(d) At any time prior to the appointment of a guardian, a spouse, adult child, or parent of an adult may nominate in writing an individual to serve as that adult's guardian should the adult be judicially determined to be in need of a guardian, and that nomination shall be given the preference described in this Code section, provided that it is signed in accordance with the provisions of subsection (e) of this Code section or, if in a will, is executed in accordance with the provisions of Code Section 53-4-20.

(e) A writing nominating the guardian of an adult:

(1) Must contain an express nomination of the individual who shall serve as guardian and must be signed or acknowledged by the individual making the nomination in the presence of two witnesses who sign in the individual's presence; and

(2) May be revoked by the individual by obliteration, cancellation, or by a subsequent inconsistent writing, whether or not witnessed.

History.

Code 1981, § 29-4-3, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 509, § 3/HB 394; Ga. L. 2007, p. 133, § 7/HB 24; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2011, p. 752, § 29/HB 142.

Editor's notes.

Ga. L. 2005, p. 509, § 9/HB 394, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2005, and all appointments of guardians of the person made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

Ga. L. 2007, p. 133, § 1/HB 24, not codified by the General Assembly, provides: "(a) The General Assembly has long recognized the right of the individual to control all aspects of his or her personal

care and medical treatment, including the right to insist upon medical treatment, decline medical treatment, or direct that medical treatment be withdrawn. In order to secure these rights, the General Assembly has adopted and amended statutes recognizing the living will and health care agency and provided statutory forms for both documents.

"(b) The General Assembly has determined that the statutory forms for the living will and durable power of attorney for health care are confusing and inconsistent and that the statutes providing for the living will and health care agency contain conflicting concepts, inconsistent and out-of-date terminology, and confusing and inconsistent requirements for execution. In addition, there is a commendable trend among the states to combine the concepts of the living will and health care agency into a single legal document.

"(c) The General Assembly recognizes that a significant number of individuals representing the academic, medical, legislative, and legal communities, state officials, ethics scholars, and advocacy groups worked together to develop the advance directive for health care contained in this Act, and the collective intent was to create a form that uses understandable and everyday language in order to encourage more citizens of this state to execute advance directives for health care.

"(d) The General Assembly finds that the clear expression of an individual's decisions regarding health care, whether made by the individual or an agent appointed by the individual, is of critical importance not only to citizens but also to the health care and legal communities, third parties, and families. In furtherance of these purposes, the General Assembly enacts a new Chapter 32 of Title 31, setting forth general principles governing the expression of decisions regarding health care and the appointment of a health care agent, as well as a form of advance directive for health care."

Law reviews.

For survey article on wills, trusts, guardianships, and fiduciary administration, see 59 Mercer L. Rev. 447 (2007).

For article, "Marriage, Death and Taxes: The Estate Planning Impact of Windsor and Obergefell on Georgia's Same Sex Spouses," see 21 Ga. St. Bar. J. 9 (2015).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

Spouse's statutory priority to be appointed guardian properly disregarded. In a family dispute over the appointment of a conservatorship for an adult ward, a retiree who currently lived in an assisted living facility due to the ward's severe memory and mental health problems, the trial court did not err by finding good cause to disregard the spouse's statutory priority to be appointed guardian over the ward because the ward suffered from dementia and encephalopathy that were caused by the ward's long history of alcoholism; and there was evidence that the spouse was incapable of handling the ward's health and that the spouse would continue to aid

or enable the ward's alcoholism. In re Estate of Jenkins, 366 Ga. App. 628, 883 S.E.2d 843, 2023 Ga. App. LEXIS 51 (2023).

Willingness and ability requirement. — Where the Department of Human Services, Division of Aging Services, objected to appointment as temporary medical consent guardian for an 89-year-old incapacitated patient, stating its unwillingness and inability to serve, the probate court erred in denying the Department's motion to vacate the appointment order because O.C.G.A. § 29-4-18 specifically requires willingness and ability, and controls over the general guardian-of-last-resort provision in O.C.G.A. § 29-4-3(b.1). In re Dubois, 378 Ga. App. 876, 927 S.E.2d 536, 2026 Ga. App. LEXIS 150 (2026).

Failure to appoint nominated guardian/conservator. — Probate court abused the court's discretion by applying an incorrect analysis in determining who to appoint as the parent's guardian and conservator because the issue of whether the parent's child, who the parent nominated to serve as the parent's guardian and conservator in the parent's estate planning documents, should have been appointed as the parent's guardian and conservator was squarely and properly before the probate court for determination as the guardianship and conservatorship statutes setting forth the preference for an individual nominated by an adult did not include a requirement that the nominated individual had to file a written request for appointment or file any pleadings in the proceedings. In re Estate of Kurtzman, 366 Ga. App. 725, 884 S.E.2d 110, 2023 Ga. App. LEXIS 66 (2023).

Appointment of neutral third-party guardian. — Probate court did not err by not appointing appellant's stepchild to be the guardian because there was credible testimony that under the stepchild's care appellant had been alienated from many family members, and in light of the clear acrimony between the stepchild and appellant's grandchild, the court determined that a neutral third-party guardian would best serve appellant's interests. In re Wheeler, 368 Ga. App. 1, 889 S.E.2d 132, 2023 Ga. App. LEXIS 248 (2023).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 40 et seq.

C.J.S.

57 C.J.S., Mental Health, § 123 et seq.

ARTICLE 2

PROCEDURE FOR APPOINTMENT

29-4-10. Petition for appointment of guardian; requirements for petition.

(a) Any interested person, including the proposed ward, may file a petition for the appointment of a guardian. Such petition shall be filed in the court of the county in which:

(1) The proposed ward is domiciled;

(2) The proposed ward is found; provided, however, that, if the court of the county where the proposed ward is found determines that the proposed ward was removed to such county solely for the purposes of filing a petition for the appointment of a guardian and that such court acquired jurisdiction to appoint a guardian because of

unjustifiable conduct, such court may take any action authorized by Code Section 29-11-16; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.

(b) The petition for appointment of a guardian shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and county of domicile of the proposed ward, if known;

(3) The name, address, and county of domicile of the petitioner or petitioners and the petitioner's relationship to the proposed ward, if any, and, if different from the petitioner, the name, address, and county of domicile of the person nominated by the petitioner to serve as guardian and that person's relationship to the proposed ward, if any;

(4) A statement of the reasons the guardianship is sought, including the facts which support the claim of the need for a guardian;

(5) Any foreseeable limitations on the guardianship;

(6) Whether, to the petitioner's knowledge, there exists any living will, durable power of attorney for health care, advance directive for health care, psychiatric advance directive, order relating to cardiopulmonary resuscitation, or other instrument that deals with the management of the person of the proposed ward in the event of incapacity and the name and address of any fiduciary or agent named in the instrument;

(7) The names and addresses of the following whose whereabouts are known:

(A) The spouse of the proposed ward; and

(B) All children of the proposed ward; or

(C) If there are no adult children, then at least two adults in the following order of priority:

(i) Lineal descendants of the proposed ward;

(ii) Parents and siblings of the proposed ward; and

(iii) Friends of the proposed ward;

(8) If known, the name and address of any individual nominated to serve as guardian by the proposed ward, as described in paragraph (1) of subsection (b) of Code Section 29-4-3;

(9) If known, the name and address of any individual nominated to serve as guardian by the proposed ward's spouse, adult child, or

parent, as described in paragraph (2), (3), or (4) of subsection (b) of Code Section 29-4-3;

(10) Whether any nominated guardian has consented or will consent to serve as guardian;

(11) If known, whether any nominated guardian is an owner, operator, or employee of a long-term care or other caregiving institution or facility at which the proposed ward is receiving care, and, if so, whether the nominated guardian is related to the proposed ward by blood, marriage, or adoption;

(12) Whether an emergency guardian has been appointed for the proposed ward or a petition for the appointment of an emergency guardian has been filed or is being filed;

(13) If known, a disclosure of any ownership or other financial interest that would cause any nominated guardian to have a conflict of interest with the proposed ward;

(14) A specific listing of any of the additional powers, as described in subsection (b) of Code Section 29-4-23, that are requested by the guardian and a statement of the circumstances that would justify the granting of additional powers;

(15) Whether a guardian or conservator has been appointed in another state or whether a petition for the appointment of a guardian or conservator is pending in another state;

(16) That to petitioner's knowledge, there has been no petition for guardianship denied or dismissed within two years by any court of this state or, if so, that there has been a significant change in the condition or circumstances of the individual, as shown by the accompanying affidavits or evaluation;

(17) Any state in which the proposed ward was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of the petition or ending within the six months prior to the filing of the petition; and

(18) The reason for any omission in the petition for appointment of a guardian in the event full particulars are lacking.

(c)(1) The petition shall be sworn to by two or more petitioners or shall be supported by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or, if the

proposed ward is a patient in any federal medical facility in which such a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker is not available, a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker who is authorized to practice in such federal facility.

(2) Any affidavit shall be based on personal knowledge and shall state that the affiant has examined the proposed ward within 15 days prior to the filing of the petition and that, based on the examination, the proposed ward was determined to lack sufficient capacity to make or communicate significant, responsible decisions concerning the proposed ward's health or safety.

(3) In addition to stating the facts that support the claim of the need for a guardian, the affidavit shall state the foreseeable duration of the guardianship and may set forth the affiant's opinion as to any other limitations on the guardianship.

(d) Within six months prior to the date a minor in the custody of the Division of Family and Children Services of the Department of Human Services reaches 18 years of age, the Division of Family and Children Services may file a petition for the appointment of a guardian for the minor when that minor becomes an adult, in accordance with the provisions of this article, to take effect on or after the date the minor reaches 18 years of age.

History.

Code 1981, § 29-4-10, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2007, p. 133, § 8/HB 24; Ga. L. 2013, p. 884, § 1/HB 446; Ga. L. 2019, p. 693, § 6/HB 70; Ga. L. 2021, p. 151, § 14/HB 154; Ga. L. 2022, p. 611, § 2-6/HB 752; Ga. L. 2025, p. 402, § 3/HB 36, effective July 1, 2025; Ga. L. 2026, p. 1069, § 54(1)(L)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (c)(1), inserted "physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor" twice, inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," and substituted "such federal" for "that."

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in paragraph (a)(2).

Editor's notes.

Ga. L. 2007, p. 133, § 1/HB 24, not codified by the General Assembly, provides: "(a) The General Assembly has long recognized the right of the individual to control all aspects of his or her personal care and medical treatment, including the right to insist upon medical treatment, decline medical treatment, or direct that medical treatment be withdrawn. In order to secure these rights, the General Assembly has adopted and amended statutes recognizing the living will and health care agency and provided statutory forms for both documents.

"(b) The General Assembly has deter-

mined that the statutory forms for the living will and durable power of attorney for health care are confusing and inconsistent and that the statutes providing for the living will and health care agency contain conflicting concepts, inconsistent and out-of-date terminology, and confusing and inconsistent requirements for execution. In addition, there is a commendable trend among the states to combine the concepts of the living will and health care agency into a single legal document.

"(c) The General Assembly recognizes that a significant number of individuals representing the academic, medical, legislative, and legal communities, state officials, ethics scholars, and advocacy groups worked together to develop the advance directive for health care contained in this Act, and the collective intent was to create a form that uses understandable and everyday language in order to encourage more citizens of this state to execute advance directives for health care.

"(d) The General Assembly finds that the clear expression of an individual's decisions regarding health care, whether made by the individual or an agent appointed by the individual, is of critical importance not only to citizens but also to the health care and legal communities, third parties, and families. In furtherance of these purposes, the General Assembly enacts a new Chapter 32 of Title 31, setting forth general principles governing the expression of decisions regarding health care and the appointment of a health care agent, as well as a form of advance directive for health care."

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Stepchildren are not included in "children." — A ward's stepchildren are not children under the guardianship statute, nor are they next of kin, and because there were individuals in this case related to the ward by blood, who were not notified of the guardianship proceedings, the appointment of the guardian was void. Wilson v. James, 260 Ga. 234, 392 S.E.2d 5, 1990 Ga. LEXIS 222 (1990) (decided under former O.C.G.A. § 29-5-6).

Guardian appointment for person of nonresident insane person within county. — Probate courts of this state have jurisdiction to appoint a guardian for person of nonresident insane person if nonresident is found within limits of county of probate court's jurisdiction. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Probate court of Cobb County did not lack jurisdiction over proceedings involving ward who was a Stephens County resident but had been transferred to a convalescent center in Cobb County, where it was uncontroverted that no plea to the court's jurisdiction was filed and that ward was at the time of the proceeding "found" in Cobb County. Smith v.

Young, 187 Ga. App. 191, 369 S.E.2d 798, 1988 Ga. App. LEXIS 672 (1988) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga. Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Requirements for petition at trial. — Former O.C.G.A. § 29-5-6(a)(3), which required a guardianship petition to be sworn to by at least two petitioners, did not result in a similar requirement that a petitioner present two witnesses in support of the petition at the actual trial. Cummings v. Stanford, 193 Ga. App. 695, 388 S.E.2d 729, 1989 Ga. App. LEXIS 1588 (1989) (decided under former O.C.G.A. § 29-5-6).

Mental capacity to petition for appointment of guardian. — A person receiving social security disability benefits based on a mental disability, who had not been adjudicated to be incapacitated, was not disqualified to petition for appointment of a guardian for parent. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Mental capacity for selection of domicile. — Decision granting a parent guardianship of an adult autistic child was supported by sufficient evidence based on the child's desire to change domicile to the parent's home, the child's desire to engage in more activities while at the parent's home, as well as the testimony of the attorney appointed for the child, who indicated that while the child undoubtedly faced certain challenges due to autism, the child was not so mentally impaired to lack capacity to choose Georgia as the child's domicile. In the Interest of M. P., 338 Ga. App. 696, 791 S.E.2d 592, 2016 Ga. App. LEXIS 531 (2016).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are

summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 59 et seq.

Am. Jur. Pleading and Practice Forms.

13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, § 9 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 15 et seq.

C.J.S.

56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-4-11. Required probable cause finding; notice; evaluation and report; other requirements; response by counsel.

(a) Upon the filing of a petition for guardianship of a proposed ward, the court shall review the petition and the affidavit, if any, and determine whether there is probable cause to believe that the proposed ward is in need of a guardian within the meaning of Code Section 29-4-1.

(b) If the court determines that there is no probable cause to believe that the proposed ward is in need of a guardian, the court shall dismiss the petition and provide the proposed ward with a copy of the petition, the affidavit, if any, and the order dismissing the petition.

(c) If the court determines that there is probable cause to believe that the proposed ward is in need of a guardian:

(1) The court shall immediately notify the proposed ward of the proceedings by service of all pleadings on the proposed ward, which notice shall:

(A) Be served personally on the proposed ward by an officer of the court and shall not be served by mail;

(B) Inform the proposed ward that a petition has been filed to have a guardian appointed for the proposed ward, that the proposed ward has the right to attend any hearing that is held, and that, if a guardian is appointed, the proposed ward may lose important rights to control the management of the proposed ward's person;

(C) Inform the proposed ward of the place and time at which the proposed ward shall submit to the evaluation provided for by subsection (d) of this Code section; and

(D) Inform the proposed ward of the proposed ward's right to independent legal counsel and that the court shall appoint counsel within two days of service unless the proposed ward indicates that he or she has retained counsel in that time frame;

(2) Upon notice that the proposed ward has retained legal counsel or upon the appointment of legal counsel by the court, the court shall furnish legal counsel with a copy of the petition, the affidavit, if any, and the order for evaluation provided for by subsection (d) of this Code section;

(3) The court shall give notice of the petition by first-class mail to all adult individuals and other persons who are named in the petition

pursuant to the requirements of paragraphs (7), (8), and (9) of subsection (b) of Code Section 29-4-10; and

(4) On the motion of any interested person or on the court's own motion, the court shall determine whether to appoint a guardian ad litem.

(d)(1) If the petition is not dismissed pursuant to subsection (b) of this Code section, the court shall appoint an evaluator who shall be a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or, if the proposed ward is a patient in any federal medical facility in which such a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker is not available, a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker who is authorized to practice in such federal facility, other than the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker who completed the affidavit attached to the petition pursuant to subsection (c) of Code Section 29-4-10.

(2) When evaluating the proposed ward, the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker shall explain the purpose of the evaluation to the proposed ward. The proposed ward may remain silent. Any statements made by the proposed ward during the evaluation shall be privileged and shall be inadmissible as evidence in any proceeding other than a proceeding under this chapter. The proposed ward's legal counsel shall have the right to be present but shall not participate in the evaluation.

(3) The evaluation shall be conducted with as little interference with the proposed ward's activities as possible. The evaluation shall take place at the place and time set in the notice to the proposed ward and his or her legal counsel and the time set shall not be sooner than the fifth day after the service of notice on the proposed ward. The court, however, shall have the exclusive power to change the place and time of the examination at any time upon reasonable notice being given to the proposed ward and to his or her legal counsel. If the

proposed ward fails to appear, the court may order that the proposed ward be taken directly to and from a medical facility or the office of the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker for purposes of evaluation only. The evaluation shall be conducted during the normal business hours of the facility or office and the proposed ward shall not be detained in the facility or office overnight. The evaluation may include, but not be limited to:

(A) A self-report from the proposed ward, if possible;

(B) Questions and observations of the proposed ward to assess the functional abilities of the proposed ward;

(C) A review of the records for the proposed ward, including, but not limited to, medical records, medication charts, and other available records;

(D) An assessment of cultural factors and language barriers that may impact the proposed ward's abilities and living environment; and

(E) All other factors the evaluator determines to be appropriate to the evaluation.

(4) A written report shall be filed with the court no later than seven days after the evaluation, and the court shall serve a copy of the report by first-class mail upon the proposed ward and the proposed ward's legal counsel and guardian ad litem if appointed.

(5) The report shall be signed under oath by the evaluator and shall:

(A) State the circumstances and duration of the evaluation, including a summary of questions or tests utilized, and the elements of the evaluation;

(B) List all persons and other sources of information consulted in evaluating the proposed ward;

(C) Describe the proposed ward's mental and physical state and condition, including all observed facts considered by the evaluator;

(D) Describe the overall social condition of the proposed ward, including support, care, education, and well-being; and

(E) Describe the needs of the proposed ward and their foreseeable duration.

(6) The proposed ward's legal counsel may file a written response to the evaluation, provided the response is filed no later than the date

of the commencement of the hearing on the petition for guardianship. The response may include, but is not limited to, independent evaluations, affidavits of individuals with personal knowledge of the proposed ward, and a statement of applicable law. In the response, the proposed ward's legal counsel may also challenge the sufficiency and weight of the results and conclusions of the evaluation and written report and the qualifications, experience, or abilities of the person performing the evaluation.

History.

Code 1981, § 29-4-11, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 402, § 4/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, rewrote paragraph (d)(1); substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or" for "psychologist, or" in paragraph (d)(2) and in paragraph (d)(3); substituted "his or her legal" for "the legal" in the second sentence of paragraph (d)(3); inserted a comma following "evaluation" and substituted "guardian ad litem if appointed" for ", if any, the guardian ad litem" in paragraph (d)(4); substituted "evaluator" for "physician, psychologist, or licensed clinical social worker" in paragraph (d)(5); substituted "evaluator" for "physician or psychologist or licensed clinical social worker" in subparagraph (d)(5)(C); and, in paragraph (d)(6), inserted "on the petition for guardianship" at the end of the first sentence and added the last sentence.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2025, "inadmissible" was substituted for "inadmissable" in paragraph (d)(2).

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

Requiring notice is to protect public and alleged incompetent. — The object of former Code 1933, § 49-604 in requiring notice to relatives was not to confer any right upon them, but was solely for the purpose of protecting public and interest of alleged incompetent. Phillips v. Phillips, 202 Ga. 776, 44 S.E.2d 767, 1947 Ga. LEXIS 528 (1947) (decided under former Code 1933, § 49-604).

Relations notified are not parties in their own behalf but are notified for benefit of person to be considered and given an opportunity to be heard in that person's behalf. They are not summoned by process; no judgment can be rendered against them merely because of such notice; and there is no provision for taxing costs against them. Slaughter v. Heath, 127 Ga. 747, 57 S.E. 69, 1907 Ga. LEXIS 473 (1907) (decided under former Code 1895, § 2573).

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga.

App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Stepchildren are not included in "children." — A ward's stepchildren are not children under the guardianship statute, nor are they next of kin, and because there were individuals in this case related to the ward by blood, who were not notified of the guardianship proceedings, the appointment of the guardian was void. Wilson v. James, 260 Ga. 234, 392 S.E.2d 5, 1990 Ga. LEXIS 222 (1990) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Requirements for petition at trial. — Former O.C.G.A. § 29-5-6(a)(3), which required a guardianship petition to be sworn to by at least two petitioners, did not result in a similar requirement that a petitioner present two witnesses in support of the petition at the actual trial. Cummings v. Stanford, 193 Ga. App. 695, 388 S.E.2d 729, 1989 Ga. App. LEXIS 1588 (1989) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Evaluation required after initial probable cause found. — Probate court, having initially determined that there was probable cause to warrant filing of a petition for guardianship or conservatorship, erred in dismissing the petition without requiring an evaluation

of the proposed ward as mandated by O.C.G.A. §§ 29-4-11 and 29-5-11; the ward's refusal to speak to the evaluator without counsel present meant the evaluation should have been rescheduled. In re Estate of Davis, 330 Ga. App. 97, 766 S.E.2d 550, 2014 Ga. App. LEXIS 806 (2014).

Notice to nearest relatives of alleged mental incompetent is insufficient. Edwards v. Lampkin, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice, all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 23, 41, 53.

Am. Jur. Pleading and Practice Forms.

13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 9 et seq., 72 et seq.

C.J.S.

56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as

court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-4-12. Judicial review; probable cause findings; hearing; determinations by court; judge unavailability.

(a) After the filing of the evaluation report, the court shall review the pleadings and the evaluation report.

(b) If, after the review, the court finds that there is no probable cause to support a finding that the proposed ward is in need of a guardian within the meaning of Code Section 29-4-1, the court shall dismiss the petition.

(c) If, after the review, the court finds that there is probable cause to support a finding that the proposed ward is in need of a guardian, the court shall schedule a hearing on the petition. Notice of the hearing shall be served by first-class mail upon the proposed ward, the proposed ward's legal counsel, and the proposed ward's guardian ad litem, if any; the petitioner or the petitioner's legal counsel, if any; and all adult individuals and other persons who are named in the petition pursuant to the requirements of paragraphs (7), (8), and (9) of subsection (b) of Code Section 29-4-10. The date of the hearing shall not be less than ten days after the notice is mailed.

(d)(1) The hearing shall be held in a courtroom or, for good cause shown, at such other place as the court may choose. At the request of the proposed ward or the proposed ward's legal counsel and for good cause shown, the court may exercise its discretion to exclude the public from the hearing and the record shall reflect the court's action. The proposed ward or the proposed ward's legal counsel may waive the appearance of the proposed ward at the hearing.

(2) The hearing shall be recorded by either a certified court reporter or a sound-recording device. The recording shall be retained for not less than 45 days from the date of the entry of the order described in Code Section 29-4-13.

(3) The court shall apply the rules of evidence applicable in civil cases.

(4) At the hearing, the proposed ward may also challenge, by appropriate evidence and argument, the sufficiency and weight of the results and conclusions of the evaluation and written report and the

qualifications, experience, or abilities of the person performing the evaluation. The proposed ward shall have the right to present such evidence and argument regardless of whether the proposed ward's legal counsel raised such matters in a written response submitted by the proposed ward's legal counsel pursuant to paragraph (6) of subsection (d) of Code Section 29-4-11.

(5) The court shall utilize the criteria in Code Section 29-4-1 to determine whether there is clear and convincing evidence of the need for a guardianship in light of the evidence taken at the hearing. In addition, the court may consider the evaluation report and any response filed or argument and evidence presented by the proposed ward. The burden of proof shall be upon the petitioner.

(6) If the court finds that the proposed ward has one or more developmental disabilities as defined in paragraph (8) of Code Section 37-1-1, the court shall not find that there is a need for a guardianship unless the evidence shows by clear and convincing evidence that, due to such developmental disability or disabilities and other factors that may be present, the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety.

(7) Upon determination of the need for a guardianship, the court shall determine the powers, if any, which are to be retained by the proposed ward, in accordance with the provisions of Code Section 29-4-21 and whether any additional powers are to be granted to the guardian, pursuant to the provisions of subsection (b) of Code Section 29-4-23.

(8) If the court determines that a guardianship is necessary and the proposed ward is present, the proposed ward may suggest any individual as guardian. The court shall select as guardian the individual who will serve the best interest of the ward.

(9) In any procedure under this chapter in which the judge of the court is unable to hear a case within the time required for such hearing, the judge shall appoint an individual to hear the case and exercise all the jurisdiction of the court in the case. Any individual appointed shall be a member of the State Bar of Georgia who is qualified to serve as the probate judge in that county and who is, in the opinion of the appointing judge, qualified for the duties by training and experience. The appointment may be made on a case-by-case basis or by making a standing appointment of one or more individuals. Any individual who receives a standing appointment shall serve at the pleasure of the judge who makes the appointment or the judge's successor in office. The compensation of an individual appointed shall be as agreed upon by the judge who makes the

appointment and the individual appointed, with the approval of the governing authority of the county for which the individual is appointed, and shall be paid from county funds. All fees collected for the service of the appointed individual shall be paid into the general funds of the county.

History.

Code 1981, § 29-4-12, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2025, p. 402, § 5/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added present paragraph (d)(4), redesignated former paragraph (d)(4) as present paragraph (d)(5); in paragraph (d)(5), inserted "or argument and evidence presented" in the second sentence; added present paragraph (d)(6); and redesignated former paragraphs (d)(5) through (d)(7) as present paragraphs (d)(7) through (d)(9), respectively.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

Proceedings in probate court only governed by recording requirement in former O.C.G.A. § 29-5-6(e)(2) and on de novo appeal from probate court decision on guardianship petition, superior court may, but was not required to, have the hearing reported. Snider v. Lavender, 164 Ga. App. 591, 298 S.E.2d 582, 1982 Ga. App. LEXIS 2879 (1982) (decided under former O.C.G.A. § 29-5-6).

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Guardian appointment for person of nonresident insane person within county. — Probate courts of this state have jurisdiction to appoint a guardian for person of nonresident insane person if nonresident is found within limits of county of probate court's jurisdiction. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Probate court of Cobb County did not lack jurisdiction over proceedings involving ward who was a Stephens County resident but had been transferred to a convalescent center in Cobb County, where it was uncontroverted that no plea to the court's jurisdiction was filed and that ward was at the time of the proceeding "found" in Cobb County. Smith v. Young, 187 Ga. App. 191, 369 S.E.2d 798, 1988 Ga. App. LEXIS 672 (1988) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children

for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga. Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Evaluation required after initial probable cause is found. — Probate court, having initially determined that there was probable cause to warrant filing of a petition for guardianship or conservatorship, erred in dismissing the petition without requiring an evaluation of the proposed ward as mandated by O.C.G.A. §§ 29-4-11 and 29-5-11; the ward's refusal to speak to the evaluator without counsel present meant the evaluation should have been rescheduled. In re Estate of Davis, 330 Ga. App. 97, 766 S.E.2d 550, 2014 Ga. App. LEXIS 806 (2014).

Notice to nearest relatives of alleged mental incompetent is insufficient. Edwards v. Lampkin, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice, all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486,

145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Failure to have hearing recorded impacts appeal. — Absent a record of the hearing, the appellate could not determine whether the probate court's finding that appellant was incapable of managing appellant's estate was supported by clear and convincing evidence; accordingly, because the probate court failed to have the hearing recorded or reported, appellant was effectively denied appellant's right to appeal the probate court's decision. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-6).

Standing to appeal from grant of petition. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-6).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 69.

C.J.S.

39 Am. Jur. 2d, Guardian and Ward, § 70. 56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as

court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-4-13. Requirements of order granting guardianship; service; obligations of legal counsel.

(a) The court shall issue an order that sets forth the findings of fact and conclusions of law that support the grant or denial of the petition. An order granting guardianship shall specify:

(1) The name of the guardian and the basis for the selection;

(2) Any powers retained by the ward pursuant to Code Section 29-4-21;

(3) The limitations on the guardianship;

(4) A specific listing of any of the additional powers, as described in subsection (b) of Code Section 29-4-23, that are granted to the guardian;

(5) If only a guardian is appointed or if the guardian and the conservator appointed are not the same person, the reasonable sums of property to be provided the guardian to provide adequately for the ward's support, care, education, health, and welfare, subject to modification by subsequent order of the court;

(6) The type and frequency of any physical, mental, and social evaluations of the ward's condition which the court may require to supplement the reports submitted pursuant to paragraph (9) of subsection (a) of Code Section 29-4-22; and

(7) Such other and further provisions of the guardianship as the court shall determine to be in the best interest of the ward, stating the reasons therefor.

(b) Service of the court's order shall be made by first-class mail upon the ward, the ward's legal counsel, the guardian ad litem, if any, the guardian, the petitioner, and other persons designated for service of the petition for guardianship.

(c) After service of an order granting guardianship, the ward's legal counsel shall make reasonable efforts to explain to the ward the order and the ward's rights under the order.

History.

Code 1981, § 29-4-13, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 67 Mercer L. Rev. 273 (2015).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

Ward's visitation with non-guardian parent. — Probate court had the authority to establish a set visitation schedule between an adult mentally disabled ward and the ward's non-guardian parent in order to protect the ward's rights and best interests under the broad powers granted in O.C.G.A. §§ 15-9-30(a), 29-4-40, and 29-4-41, despite the guardian's objection to the visitation. In re Estate of Wertzer, 330 Ga. App. 294, 765 S.E.2d 425, 2014 Ga. App. LEXIS 734 (2014), cert. denied, No. S15C0662, 2015 Ga. LEXIS 206 (Ga. Mar. 30, 2015).

Findings or conclusion about guardian's suitability required. — In a family dispute over the appointment of a conservatorship for an adult ward, although the trial court did not err by finding good cause to disregard the spouse's statutory priority to be appointed guardian over the ward, the trial court erred in appointing one of the ward's children as the ward's guardian because the trial court's order did not contain any findings or conclusions as to the child's suitability to act as the ward's guardian. In re Estate of Jenkins, 366 Ga. App. 628, 883 S.E.2d 843, 2023 Ga. App. LEXIS 51 (2023).

Failure to have hearing recorded impacts appeal. — Absent a record of the hearing, the appellate could not determine whether the probate court's finding that appellant was incapable of managing appellant's estate was supported by clear and convincing evidence; accordingly, because the probate court failed to have the hearing recorded or reported, appellant was effectively denied appellant's right to appeal the probate court's decision. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-6).

Standing to appeal from grant of petition. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-6).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for

rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 38 et seq.

C.J.S.

39 Am. Jur. 2d, Guardian and Ward, § 32 et seq. 56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-4-14. Petition for appointment of emergency guardian; requirements of petition.

(a) Any interested person, including the proposed ward, may file a petition for the appointment of an emergency guardian. Such petition shall be filed in the court of the county in which:

(1) The proposed ward is domiciled;

(2) The proposed ward is found; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.

(b) The petition for appointment of an emergency guardian shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and county of domicile of the proposed ward, if known;

(3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to the proposed ward;

(4) A statement of the reasons the emergency guardianship is sought, including the facts that support the need for a guardian and the facts that establish an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed;

(5) The reasons why compliance with the procedures of Code Sections 29-4-10 through 29-4-13 is not appropriate in the circumstances;

(6) The fact that no other person appears to have authority and willingness to act in the circumstances, whether under a power of attorney, trust, or otherwise; and

(7) The reason for any omission in the petition for appointment of emergency guardian in the event full particulars are lacking.

(c) The petition shall state whether a petition for the appointment of a guardian or conservator has been filed or is being filed in conjunction with the petition for the appointment of an emergency guardian.

(d)(1) The petition shall be sworn to by two or more petitioners or shall be supported by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or, if the proposed ward is a patient in any federal medical facility in which such a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker is not available, a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker authorized to practice in such federal facility.

(2) Any affidavit shall be based on personal knowledge and shall state that the affiant has examined the proposed ward within 15 days prior to the filing of the petition and that, based on the examination, the proposed ward was determined to lack sufficient capacity to make or communicate significant, responsible decisions concerning the proposed ward's health or safety and that there is an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed.

(3) In addition to stating the facts that support the claim of the need for an emergency guardianship, the affidavit shall state the

foreseeable duration of the emergency guardianship and may set forth the affiant's opinion as to any other limitations on the emergency guardianship.

History.

Code 1981, § 29-4-14, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 7/HB 70; Ga. L. 2025, p. 402, § 6/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (d)(1), inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43,", substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or" for "psychologist, or" twice, and substituted "such federal" for "that."

JUDICIAL DECISIONS

Petition properly denied. — Probate court did not err by dismissing the hospital's petition for emergency guardianship for failure to satisfy the requirements of O.C.G.A. § 29-4-14(b)(4) because the hospital presented nothing to satisfy the statute's requirement of establishing an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian was appointed. In the Interest of Farr, 322 Ga. App. 55, 743 S.E.2d 615, 2013 Ga. App. LEXIS 450 (2013).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-5-8 is included in the annotations for this Code section.

Right to jury trial. — If the appointment of an emergency guardian under former O.C.G.A. § 29-5-8 is only for that period of time pending the outcome either of the emergency guardianship hearing or the permanent guardianship hearing, the order would not be final or appealable to a jury in superior court, and hence would not be subject to Ga. L. 1986, p. 982, affecting procedures before the probate court in certain counties; on the other hand, if the petition before the probate court sought only an emergency guardian for a period not to exceed 45 days, as in a situation where immediate surgical or other medical consent was required for a seriously ill person proposed to be a ward, an order granting such a petition, which would leave nothing further to be decided by the probate court, would be final, appealable to a superior court jury, and hence would be a "civil case" under the 1986 Act, giving a party a right to demand a jury trial. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-8).

29-4-15. Appointment of emergency guardian; required probable cause finding; notice; hearing; appointment of counsel and guardian for hearing.

(a) Upon the filing of a petition for an emergency guardianship, the court shall review the petition and the affidavit, if any, to determine whether there is probable cause to believe that the proposed ward is in

need of an emergency guardian within the meaning of paragraph (4) of subsection (b) of Code Section 29-4-14.

(b) If the court determines that there is no probable cause to believe that the proposed ward is in need of an emergency guardian, the court shall dismiss the petition and provide the proposed ward with a copy of the petition, the affidavit, if any, and the order dismissing the petition.

(c) If the court determines that there is probable cause to believe that the proposed ward is in need of an emergency guardian, the court shall:

(1) Immediately appoint legal counsel to represent the proposed ward at the emergency hearing, which counsel may be the same counsel who is appointed to represent the proposed ward in the hearing on the petition for guardianship or conservatorship, if any such petition has been filed, and shall inform counsel of the appointment;

(2) Order an emergency hearing to be conducted not sooner than three days nor later than five days after the filing of the petition;

(3) Order an evaluation of the proposed ward by an evaluator who shall be a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, other than the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker who completed the affidavit attached to the petition pursuant to paragraph (1) of subsection (d) of Code Section 29-4-10. The evaluation shall be conducted within 72 hours of the time the order was issued and a written report shall be furnished to the court and made available to the parties within this time frame, which evaluation and report shall be governed by the provisions of subsection (d) of Code Section 29-4-11;

(4) Immediately notify the proposed ward of the proceedings by service of all pleadings on the proposed ward, which notice shall:

(A) Be served personally on the proposed ward by an officer of the court and shall not be served by mail;

(B) Inform the proposed ward that a petition has been filed to have an emergency guardian appointed for the proposed ward, that the proposed ward has the right to attend any hearing that is held, and that, if an emergency guardian is appointed, the proposed ward may lose important rights to control the management of the proposed ward's person;

(C) Inform the proposed ward of the place and time at which the proposed ward shall submit to the evaluation provided for by paragraph (3) of this subsection;

(D) Inform the proposed ward of the appointment of legal counsel; and

(E) Inform the proposed ward of the date and time of the hearing on the emergency guardianship; and

(5) Appoint an emergency guardian to serve until the emergency hearing, with or without prior notice to the proposed ward, if the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker. Appointment of an emergency guardian under this paragraph is not a final determination of the proposed ward's need for a nonemergency guardian. Any emergency guardian appointed under this paragraph shall have only those powers and duties specifically enumerated in the letters of emergency guardianship, and the powers and duties shall not exceed those absolutely necessary to respond to the immediate threatened risk to the ward.

History.

Code 1981, § 29-4-15, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 10/SB 534; Ga. L. 2025, p. 402, § 7/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (c)(3), in the first sentence, substituted "an evaluator" for "a physician", substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or" for "psychologist, or"; added "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," in paragraphs (c)(3) and (c)(5), and inserted a comma following "emergency guardianship" in the last sentence in paragraph (c)(5).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-5-8 is included in the annotations for this Code section.

Right to jury trial. — If the appointment of an emergency guardian under former O.C.G.A. § 29-5-8 is only for that period of time pending the outcome either of the emergency guardianship hearing or the permanent guardianship hearing, the order would not be final or appealable to a jury in superior court, and hence would not be subject to Ga. L. 1986,

p. 982, affecting procedures before the probate court in certain counties; on the other hand, if the petition before the probate court sought only an emergency guardian for a period not to exceed 45 days, as in a situation where immediate surgical or other medical consent was required for a seriously ill person proposed to be a ward, an order granting such a petition, which would leave nothing further to be decided by the probate court, would be final, appealable to a superior court jury, and hence would be a "civil case" under the 1986 Act, giving a party a right to demand a jury trial. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-8).

29-4-16. Conduct of emergency guardianship hearing; limitations on emergency guardianship.

(a) The court shall conduct the emergency guardianship hearing, at the time and date set forth in its order, to determine whether there is clear and convincing evidence of the need for an emergency guardianship in light of the evidence taken at the hearing. In addition to the evidence at the hearing, the court may consider the evaluation report and any response filed by the proposed ward. The proposed ward may also challenge, by appropriate evidence and argument, the sufficiency and weight of the results and conclusions of the evaluation and written report and the qualifications, experience, or abilities of the person performing the evaluation. The burden of proof shall be upon the petitioner. Upon the consent of the petitioner and the proposed ward, the court may grant a continuance of the case for a period not to exceed 30 days.

(b) If the court at the emergency hearing finds that an emergency guardianship is necessary, the court shall order the emergency guardianship; provided, however, that:

(1) Any emergency guardian shall have only those powers and duties specifically enumerated in the letters of emergency guardianship and the powers and duties shall not exceed those absolutely necessary to respond to the immediate threatened risk to the ward;

(2) The court may order the emergency guardian to make any report the court requires;

(3) If the court finds that the proposed ward has one or more developmental disabilities as defined in paragraph (8) of Code Section 37-1-1, the court shall not find that there is a need for an emergency guardianship unless the evidence shows by clear and convincing evidence that, due to such developmental disability or disabilities and other factors that may be present, the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety and there is an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed; and

(4) The emergency guardianship shall terminate on the earliest of:

(A) The court's removal of the emergency guardian, with or without cause;

(B) The effective date of the appointment of a guardian;

(C) Unless otherwise specified in the order of dismissal, the dismissal of a petition for appointment of a guardian;

(D) The date specified for the termination in the order appointing the emergency guardian;

(E) Sixty days from the date of appointment of the emergency guardian, provided that the court had jurisdiction to issue such order under paragraph (1) of Code Section 29-11-12; or

(F) Ninety days from the date of appointment of the emergency guardian, provided that the court had jurisdiction to issue such order under paragraph (2) or (3) of Code Section 29-11-12.

History.
Code 1981, § 29-4-16, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2019, p. 693, § 8/HB 70; Ga. L. 2025, p. 402, § 8/HB 36, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, added the third sentence of subsection (a); added present paragraph (b)(3); and redesignated former paragraph (b)(3) as present paragraph (b)(4).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-5-8 is included in the annotations for this Code section.

Right to jury trial. — If the appointment of an emergency guardian under former O.C.G.A. § 29-5-8 is only for that period of time pending the outcome either of the emergency guardianship hearing or the permanent guardianship hearing, the order would not be final or appealable to a jury in superior court, and hence would not be subject to Ga. L. 1986, p. 982, affecting procedures before the probate court in certain counties; on the other hand, if the petition before the probate court sought only an emergency guardian for a period not to exceed 45 days, as in a situation where immediate surgical or other medical consent was required for a seriously ill person proposed to be a ward, an order granting such a petition, which would leave nothing further to be decided by the probate court, would be final, appealable to a superior court jury, and hence would be a "civil case" under the 1986 Act, giving a party a right to demand a jury trial. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-8).

29-4-17. [Reserved] Responsibility for paying expenses of any hearing.

History.
Ga. L. 2006, p. 805, § 11/SB 534; repealed by Ga. L. 2019, p. 693, § 9/HB 70, effective January 1, 2020.

Editor's notes.
Ga. L. 2019, p. 693, § 9/HB 70, reserved the designation of this Code section, effective January 1, 2020.

29-4-18. Temporary medical consent guardianship; requirements of petition; required findings; notice; appointment of counsel; hearings; selection of guardian; termination; liability.

(a) As used in this Code section, the term:

(1) "Adult unable to consent" means a person 18 years of age or older who has been determined in his or her medical records by a licensed physician after the physician has personally examined the adult that he or she lacks sufficient understanding or capacity to make significant responsible decisions regarding his or her medical treatment or the ability to communicate by any means such decisions.

(2) "Life-sustaining procedures" means medications, machines, or other medical procedures or interventions which, when applied to a medical consent ward in a terminal condition or in a state of permanent unconsciousness, could in reasonable medical judgment keep such medical consent ward alive but cannot cure the medical consent ward and where, in the judgment of the medical consent ward's primary treating physician and a second physician, death will occur without such procedures or interventions.

(3) "Medical consent ward" means a ward for whom the court has appointed a temporary medical consent guardian pursuant to this Code section for a limited time and only for the purposes of consenting to surgical or medical treatment or procedures not prohibited by law.

(4) "Proposed medical consent ward" means an adult unable to consent who is or has been a patient in a health care institution or of a health care provider.

(5) "State of permanent unconsciousness" means an incurable or irreversible condition in which the medical consent ward is not aware of himself or herself or his or her environment and in which such medical consent ward is showing no behavioral response to his or her environment.

(6) "Temporary medical consent guardian" means an individual appointed pursuant to the provisions of this Code section for a limited time and only for the purposes of consenting to surgical or medical treatment or procedures not prohibited by law.

(7) "Terminal condition" means an incurable or irreversible condition which would result in the medical consent ward's death in a relatively short period of time.

(b) In the absence, after reasonable inquiry, of a person authorized or willing to consent for the proposed medical consent ward under the

provisions of Code Section 31-9-2, any interested person, including the proposed medical consent ward, may file a petition for the appointment of a temporary medical consent guardian. The petition shall be filed in the court of the county in which the proposed medical consent ward is domiciled or is found.

(c) The petition for appointment of a temporary medical consent guardian shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and county of domicile of the proposed medical consent ward, if known;

(3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to the proposed medical consent ward;

(4) A statement of the reasons the temporary medical consent guardian is sought, including:

(A) Facts that support the need for such guardian including facts that establish what medical decisions are needed and why those decisions are needed without undue delay;

(B) Facts that support the determination that the proposed medical consent ward lacks sufficient capacity to make or communicate medical treatment decisions; and

(C) The anticipated duration of the temporary medical consent guardianship;

(5) The fact that no other person appears to have authority and willingness to act in the circumstances, whether under a power of attorney, trust, or otherwise;

(6) The reason for any omission in the petition for an appointment of a temporary medical consent guardian in the event full particulars are lacking; and

(7) Whether a petition for the appointment of a guardian or conservator has been filed or is being filed in conjunction with the petition for the appointment of the temporary medical consent guardian.

(d) Upon the filing of a petition for a temporary medical consent guardian, the court shall review the petition to determine whether there is probable cause to believe that the proposed medical consent ward lacks decision-making capacity and is in need of a temporary medical consent guardian and either:

(1) Dismiss the petition and provide the proposed medical consent ward with the order dismissing the petition; or

(2) If the court determines that there is probable cause to believe that the proposed medical consent ward is in need of a temporary medical consent guardian, immediately:

(A) Appoint legal counsel to represent the proposed medical consent ward, which counsel may be the same counsel who is appointed to represent such adult in the hearing on the petition for guardianship, if any such petition has been filed, and the court shall inform counsel of the appointment;

(B) Order a preliminary hearing to be conducted within 72 hours after the filing of the petition; and

(C) Notify any proposed medical consent ward of any proceedings by service of all pleadings on such proposed medical consent ward, which notice shall be served personally on the proposed medical consent ward by a person specially appointed by the court for such purpose and shall not be served by mail, and such notice shall inform the proposed medical consent ward:

(i) That he or she has the right to attend any hearing that is held in connection with the petition to appoint a temporary medical consent guardian;

(ii) That he or she may lose important rights to control the management of his or her person if a temporary medical consent guardian is appointed;

(iii) That legal counsel has been appointed on his or her behalf; and

(iv) The date and time of the preliminary hearing on the petition to appoint a temporary medical consent guardian.

(e) Unless waived by the court, notice of the petition and the preliminary hearing shall also be served on the following persons who have not joined in the petition or otherwise consented to the proceedings:

(1) The administrator of the hospital or other health care facility where the proposed medical consent ward is located;

(2) The primary treating physician and other physicians believed to have provided any medical opinion or advice about any condition of the proposed medical consent ward relevant to the petition;

(3) All other persons the petitioner believes may have information concerning the expressed wishes of the proposed medical consent ward; and

(4) Any other persons as the court may direct.

(f) At the preliminary hearing, the court, in its discretion, shall:

(1) Appoint a temporary medical consent guardian;

(2) Order an evidentiary hearing to be conducted not later than four days after the preliminary hearing; or

(3) Dismiss the petition and provide the proposed medical consent ward with the order dismissing the petition.

(g) If the court orders an evidentiary hearing, in addition to any other evidence presented to the court, the court may consider any case review by the hospital's or health care facility's ethics committee or subcommittee thereof or by any other ethics mechanism selected by the hospital or health care facility.

(h) If the court holds an evidentiary hearing, the court, in its discretion, shall either:

(1) Appoint a temporary medical consent guardian; or

(2) Dismiss the petition and provide the proposed medical consent ward with the order dismissing the petition.

(i) The court shall have the authority to appoint as a temporary medical consent guardian any individual the court deems fit with consideration given to any applicable conflict of interest issue so as long as such individual is: (1) willing and able to become involved in the proposed medical consent ward's health care decisions and (2) willing to exercise reasonable care, diligence, and prudence and to consent in good faith to medical or surgical treatment or procedures which the proposed medical consent ward would have wanted had he or she not been incapacitated. Where the proposed medical consent ward's preferences are not known, the temporary medical consent guardian shall agree to act in the proposed medical consent ward's best interests. However, a temporary medical consent guardian shall not be authorized to withdraw life-sustaining procedures unless specifically authorized by the court pursuant to this Code section.

(j) The temporary medical consent guardianship shall terminate on the earliest of:

(1) The court's removal of the temporary medical consent guardian;

(2) The effective date of the appointment of a permanent guardian under Code Section 29-4-2;

(3) The duration of the current hospitalization of the medical consent ward or a substantially continuous stay in another health care facility; or

(4) Sixty days from the date of appointment of the temporary medical consent guardian.

(k)(1) No hospital or other health care facility, health care provider, or other person or entity shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for relying in good faith on any direction or decision by a temporary medical consent guardian, even if death or injury to the medical consent ward ensues. Each hospital or other health care facility, health care provider, and any other person or entity who acts in good faith reliance on any direction or decision by a temporary medical consent guardian shall be protected and released to the same extent as though such person had interacted directly with the medical consent ward as a fully competent person.

(2) No temporary medical consent guardian who, in good faith, acts with due care for the benefit of the medical consent ward, or who fails to act, shall be subject to civil or criminal liability for such action or inaction.

History.

Code 1981, § 29-4-18, enacted by Ga. L. 2010, p. 852, § 2/SB 367; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2012, p. 83, § 2/HB 247; Ga. L. 2013, p. 684, § 1/SB 158; Ga. L. 2015, p. 305, § 5/SB 109.

Cross references.

Persons authorized to consent to surgical or medical treatment, § 31-9-2.

Health records, § 31-33-1 et seq.

Law reviews.

For article on the 2011 amendment of this Code section, see 28 Ga. St. U.L. Rev. 147 (2011).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 67 Mercer L. Rev. 273 (2015).

JUDICIAL DECISIONS

Willingness and ability requirement. — Where the Department of Human Services, Division of Aging Services, objected to appointment as temporary medical consent guardian for an 89-year-old incapacitated patient, stating its unwillingness and inability to serve, the probate court erred in denying the Department's motion to vacate the appointment order because O.C.G.A. § 29-4-18 specifically requires willingness and ability, and controls over the general guardian-of-last-resort provision in O.C.G.A. § 29-4-3(b.1). In re Dubois, 378 Ga. App. 876, 927 S.E.2d 536, 2026 Ga. App. LEXIS 150 (2026).

ARTICLE 3

PROTECTION OF THE WARD

29-4-20. Rights of ward; impact on voting and testamentary capacity.

(a) In every guardianship, the ward has the right to:

(1) A qualified guardian who acts in the best interest of the ward;

(2) A guardian who is reasonably accessible to the ward;

(3) Have the ward's property utilized to provide adequately for the ward's support, care, education, health, and welfare;

(4) Communicate freely and privately with persons other than the guardian, except as otherwise ordered by a court of competent jurisdiction;

(5) Individually, or through the ward's representative or legal counsel, bring an action relating to the guardianship, including the right to file a petition alleging that the ward is being unjustly denied a right or privilege granted by this chapter and Chapter 5 of this title and including the right to bring an action to modify or terminate the guardianship pursuant to the provisions of Code Sections 29-4-41 and 29-4-42;

(6) The least restrictive form of guardianship assistance, taking into consideration the ward's functional limitations, personal needs, and preferences; and

(7) Be restored to capacity at the earliest possible time.

(b) The appointment of a guardian is not a determination regarding the right of the ward to vote.

(c) The appointment of a guardian is not a determination that the ward lacks testamentary capacity.

History.

Code 1981, § 29-4-20, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 67 Mercer L. Rev. 273 (2015).

JUDICIAL DECISIONS

Non-guardian parent had the right to visitation with a child over the guardian's objection. — Although the guardian, who is the parent of a disabled adult child, was authorized to exercise the powers reasonably necessary to provide for the child's health and welfare pursuant to O.C.G.A. § 29-4-23(a)(4), the child retained the right to communicate freely with persons other than the guardian under O.C.G.A. § 29-4-20(a)(4). In the absence of any medical or other direct testimony showing that visitation would negatively impact the child, the non-guardian parent was entitled to visitation with the child over the guardian's objection. Mitchum v. Manning, 304 Ga. App. 842, 698 S.E.2d 360, 2010 Ga. App. LEXIS 620 (2010).

RESEARCH REFERENCES

ALR.

Guardianship Powers over Visitation with Incapacitated Person, 90 A.L.R.7th 8.

29-4-21. Rights and privileges removed from ward upon appointment of guardian.

(a) Unless the court's order specifies that one or more of the following powers are to be retained by the ward, the appointment of a guardian shall remove from the ward the power to:

(1) Contract marriage;

(2) Make, modify, or terminate other contracts;

(3) Consent to medical treatment;

(4) Establish a residence or dwelling place;

(5) Change domicile;

(6) Revoke a revocable trust established by the ward; and

(7) Bring or defend any action at law or equity, except an action relating to the guardianship.

(b) The mere appointment of a guardian does not revoke the powers of an agent who was previously appointed by the ward to act as an agent under a durable power of attorney for health care, a health care agent under an advance directive for health care, or a mental health care agent under a psychiatric advance directive.

History.

Code 1981, § 29-4-21, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2007, p. 133, § 9/HB 24; Ga. L. 2022, p. 611, § 2-7/HB 752.

Editor's notes.

Ga. L. 2007, p. 133, § 1/HB 24, not codified by the General Assembly, provides: "(a) The General Assembly has long recognized the right of the individual to control all aspects of his or her personal care and medical treatment, including the right to insist upon medical treatment, decline medical treatment, or direct that medical treatment be withdrawn. In order to secure these rights, the General Assembly has adopted and amended statutes recognizing the living will and health care agency and provided statutory forms for both documents.

"(b) The General Assembly has determined that the statutory forms for the living will and durable power of attorney for health care are confusing and inconsistent and that the statutes providing for the living will and health care agency contain conflicting concepts, inconsistent and out-of-date terminology, and confusing and inconsistent requirements for execution. In addition, there is a commendable trend among the states to combine the concepts of the living will and health care agency into a single legal document.

"(c) The General Assembly recognizes that a significant number of individuals representing the academic, medical, legislative, and legal communities, state officials, ethics scholars, and advocacy groups worked together to develop the advance directive for health care contained in this Act, and the collective intent was to create a form that uses understandable and everyday language in order to encourage more citizens of this state to execute advance directives for health care.

"(d) The General Assembly finds that the clear expression of an individual's decisions regarding health care, whether made by the individual or an agent appointed by the individual, is of critical importance not only to citizens but also to the health care and legal communities, third parties, and families. In furtherance of these purposes, the General Assembly

enacts a new Chapter 32 of Title 31, setting forth general principles governing the expression of decisions regarding health care and the appointment of a health care agent, as well as a form of advance directive for health care."

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 76 et seq.

29-4-22. Decisions on ward's well-being; obligations of guardian; liability of guardian.

(a) Except as otherwise provided by law or by the court, a guardian shall make decisions regarding the ward's support, care, education, health, and welfare. A guardian shall, to the extent feasible, encourage the ward to participate in decisions, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the ward. A guardian shall at all times act as a fiduciary in the ward's best interest and exercise reasonable care, diligence, and prudence.

(b) A guardian shall:

(1) Respect the rights and dignity of the ward;

(2) Become or remain personally acquainted with the ward and maintain sufficient contact with the ward to know of the ward's capacities, limitations, needs, opportunities, and physical and mental health;

(3) If necessary, petition to have a conservator appointed;

(4) Endeavor to cooperate with the conservator, if any;

(5) Take reasonable care of the ward's personal effects;

(6) Arrange for the support, care, education, health, and welfare of the ward, considering the ward's needs and available resources;

(7) Expend money of the ward that has been received by the guardian for the ward's current needs for support, care, education, health, and welfare;

(8) Conserve for the ward's future needs any excess money of the ward received by the guardian; provided, however, that, if a conservator has been appointed for the ward, the guardian shall pay to the conservator, at least quarterly, money to be conserved for the ward's future needs;

(9) Within 60 days after appointment and within 60 days after each anniversary date of appointment, file with the court and provide to the ward and to the conservator, if any, a personal status report concerning the ward, which shall include:

(A) A description of the ward's general condition, changes since the last report, and needs;

(B) All addresses of the ward during the reporting period and the living arrangements of the ward for all addresses;

(C) A description of the amount and expenditure of any funds that were received by the guardian pursuant to paragraph (7) of this subsection; and

(D) Recommendations for any alteration in the guardianship order;

(10) Promptly notify the court of any change in the ward's condition that in the opinion of the guardian might require modification or termination of the guardianship;

(11) Promptly notify the court of any conflict of interest between the ward and the guardian when the conflict arises or becomes known to the guardian and take any action as is required by Code Section 29-4-24; and

(12) Keep the court informed of the guardian's current address.

(c) A guardian, solely by reason of the guardian-ward relationship, is not personally liable for:

(1) The ward's expenses or the expenses of those persons who are entitled to be supported by the ward;

(2) Contracts entered into in the guardian's fiduciary capacity;

(3) The acts or omissions of the ward;

(4) Obligations arising from ownership or control of property of the ward; or

(5) Other acts or omissions occurring in the course of the guardianship.

History.

Code 1981, § 29-4-22, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(1)(M)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in paragraph (b)(8).

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 67 Mercer L. Rev. 273 (2015).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2571, and former Code 1933, § 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, are included in the annotations for this Code section.

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Ward's visitation with non-guardian parent. — Probate court had the authority to establish a set visitation schedule between an adult mentally disabled ward and the ward's non-guardian parent in order to protect the ward's rights and best interests under the broad powers granted in O.C.G.A. §§ 15-9-30(a), 29-4-40, and 29-4-41, despite the guardian's objection to the visitation. In re Estate of Wertzer, 330 Ga. App. 294, 765 S.E.2d 425, 2014 Ga. App. LEXIS 734 (2014), cert. denied, No. S15C0662, 2015 Ga. LEXIS 206 (Ga. Mar. 30, 2015).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 38 et seq., 86 et seq., 182 et seq.

C.J.S.

57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

Guardianship Powers over Visitation with Incapacitated Person, 90 A.L.R.7th 8.

29-4-23. Powers and rights of guardian; appointment of guardian ad litem; coordination and cooperation with conservator or others.

(a) Unless inconsistent with the terms of any court order relating to the guardianship, a guardian may:

(1) Take custody of the person of the ward and establish the ward's place of dwelling within this state;

(2) Subject to Chapters 9, 20, and 36 of Title 31 and any other pertinent law, give any consents or approvals that may be necessary for medical or other professional care, counsel, treatment, or service for the ward;

(3) Bring, defend, or participate in legal, equitable, or administrative proceedings, including alternative dispute resolution, as are appropriate for the support, care, education, health, or welfare of the ward in the name of or on behalf of the ward; and

(4) Exercise those other powers reasonably necessary to provide adequately for the support, care, education, health, and welfare of the ward.

(b) At the time of the appointment of the guardian or at any time thereafter, any of the following powers may be specifically granted by the court to the guardian upon such notice, if any, as the court shall determine, provided that no disposition of the ward's property shall be made without the involvement of a conservator, if any:

(1) To establish the ward's place of dwelling outside this state;

(2) To change the jurisdiction of the guardianship to another county in this state that is the county of the ward's place of dwelling, pursuant to Code Section 29-4-80;

(3) To change the domicile of the ward to the ward's or the guardian's place of dwelling, in the determination of which the court shall consider the tax ramifications and succession and inheritance rights of the ward and other parties;

(4) To bring an action for the divorce of the ward based on any of the grounds listed in Code Section 19-5-3, except on the ground that the marriage is irretrievably broken;

(5) To consent to the adoption of the ward;

(6) To receive reasonable compensation from the estate of the ward for services rendered to the ward; and

(7) If there is no conservator, to disclaim or renounce any property or interest in property of the ward in accordance with the provisions of Code Section 53-1-20.

(c) Before granting any of the powers described in subsection (b) of this Code section, the court shall appoint a guardian ad litem for the ward.

(d) In granting any of the powers described in subsection (b) of this Code section, the court shall consider the property rights of the ward

and the views of the conservator, if any, or, if there is no conservator, of others who have custody of the ward's property.

(e) In performing any of the acts described in this Code section, the guardian shall act in coordination and cooperation with the conservator or, if there is no conservator, with others who have custody of the ward's property.

History.
Code 1981, § 29-4-23, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1838, former Code 1895, § 2571, and former Code 1933, § 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, are included in the annotations for this Code section.

Guardian empowered to appoint agent. — Guardian had power to appoint agent to act for guardian during absence in confederate army, and any act of agent within scope of agent's authority would be as valid as that of guardian. Tarpley v. McWhorter, 56 Ga. 410, 1876 Ga. LEXIS 308 (1876) (decided under former Code 1873, § 1838).

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Non-guardian parent had the right to visitation with a child over the guardian's objection. — Although the guardian, who is the parent of a disabled adult child, was authorized to exercise the powers reasonably necessary to provide for the child's health and welfare pursuant to O.C.G.A. § 29-4-23(a)(4), the child retained the right to communicate freely with persons other than the guardian under O.C.G.A. § 29-4-20(a)(4). In the absence of any medical or other direct testimony showing that visitation would negatively impact the child, the non-guardian parent was entitled to visitation with the child over the guardian's objection. Mitchum v. Manning, 304 Ga. App. 842, 698 S.E.2d 360, 2010 Ga. App. LEXIS 620 (2010).

Probate court had the authority to establish a set visitation schedule between an adult mentally disabled ward and the ward's non-guardian parent in order to protect the ward's rights and best interests under the broad powers granted in O.C.G.A. §§ 15-9-30(a), 29-4-40, and 29-4-41, despite the guardian's objection to the visitation. In re Estate of Wertzer, 330 Ga. App. 294, 765 S.E.2d 425, 2014 Ga. App. LEXIS 734 (2014), cert. denied,

No. S15C0662, 2015 Ga. LEXIS 206 (Ga. Mar. 30, 2015).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Guardian had authority to sign pre-dispute arbitration agreement. — Trial court erred in denying the nursing facility's motion to compel arbitration in an action by a patient's guardian because the Guardianship Code, O.C.G.A. § 29-4-1 et seq., granted the guardian authority to enter into a binding pre-dispute arbitration agreement where the exercise of such power was reasonably necessary to provide adequately for the ward's support, care, health, and welfare. CL SNF, LLC v. Fountain, 312 Ga. 416, 863 S.E.2d 116, 2021 Ga. LEXIS 624 (2021).

Guardian had authority to sign arbitration agreement. — Statute gave the guardian the authority to enter into the arbitration agreement on the ward's behalf. West v. Bowser, 365 Ga. App. 517, 878 S.E.2d 56, 2022 Ga. App. LEXIS 467 (2022).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 86 et seq.

C.J.S.

57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Amount of attorneys' compensation in matters involving guardianship and trusts, 57 A.L.R.3d 550.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-4-24. Disclosure of conflicts of interest.

The guardian must promptly disclose any conflict of interest between the guardian and the ward when it arises or becomes known to the guardian and seek the court's determination as to whether the conflict is insubstantial or if it is in the best interest of the ward for the guardian to continue to serve.

History.

Code 1981, § 29-4-24, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In

re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 201 et seq.

C.J.S.
57 C.J.S., Mental Health, § 123 et seq.

29-4-25. Oath or affirmation of guardian.

Before entering upon the duties of the appointment, every guardian appointed pursuant to the terms of this chapter shall take an oath or affirmation before the court to perform well and truly the duties required of a guardian and to account faithfully for the estate. The oath or affirmation of a guardian may be subscribed before the judge or clerk of any probate court of this state. The judge of the probate court who appoints the guardian shall have the authority to grant a commission to a judge or clerk of any court of record of any other state to administer the oath or affirmation.

History.
Code 1981, § 29-4-25, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 36, 37, 142.

ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

ARTICLE 4

REQUIREMENT OF GUARDIAN

29-4-30. Bond; recording of bond; payment of bond premium.

(a)(1) A guardian, including a guardian appointed in a final order accepting the transfer of a guardianship proceeding from another state issued under subsection (e) of Code Section 29-11-21, may be required to give bond with good and sufficient security in such amount as the court may determine from time to time.

(2) With respect to a guardianship order from another state that has been registered with and recorded by the court under Code Section 29-11-30, in addition to any action the court may take under paragraph (1) of this subsection or under subsection (b) of Code

Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any action relating to a bond of such guardian, stating the reasons therefor.

(b) The clerk of the court shall record bonds in books kept for that purpose and shall retain custody of the bonds.

(c) If a guardian is required to give bond and has given as security one or more licensed commercial sureties authorized to transact business in this state, the bond premium shall, upon the request of the guardian, be paid from the estate of the ward.

History.

Code 1981, § 29-4-30, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2019, p. 693, § 10/HB 70.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2528, former Code 1873, § 1812, and former Code 1933, § 49-113 are included in the annotations for this Code section.

Only substantial compliance with statutes in execution of bonds required. — Policy of the law as to all bonds required by statute, and especially as to bonds of guardians, administrators, and like trustees, is to disregard mere formalities, and to require only substantial compliance to secure all statutory remedies to persons injured by their breach. United States Fid. & Guar. Co. v. Davis, 2 Ga. App. 525, 58 S.E. 777, 1907 Ga. App. LEXIS 445 (1907) (decided under former Civil Code 1895, § 2528).

Grant of letters without bond not void without notice. — In all cases of appointment by ordinary (now judge of probate court) of guardian of a minor — whether the clerk of the superior court or some other proper person — bond should be required; but the grant of letters without taking bond would not be void as against a bona fide purchaser under the guardian, without notice of want of a bond. Cuyler v. Wayne, 64 Ga. 78, 1879 Ga. LEXIS 11 (1879) (decided under former Code 1873, § 1812).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se a breach of bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

Void sale does not amount to breach. — Where sale of realty conducted by guardian is illegal and void, title to property sold does not pass, and heirs and distributees may assert their title to property so sold, so that there is no such loss to them as would amount to breach of bond of administrator and render surety thereon liable. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

ARTICLE 5

REVIEW AND TERMINATION OF GUARDIANSHIP

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 128 et seq.

29-4-40. Judicial inquiry into allegations of unjust denial of rights or privileges of ward; notice; limitation on petitions.

(a) Upon the petition of any interested person, including the ward, or upon the court's own motion, the court may conduct a judicial inquiry into whether the ward is being denied a right or privilege provided for by this chapter and may issue appropriate orders. Except for good cause shown, the court shall order that notice of the inquiry be given, in whatever form the court deems appropriate, to the ward, the guardian, the ward's legal counsel, if any, and the ward's conservator, if any. The court, in its discretion, may appoint legal counsel for the ward or a guardian ad litem, or both.

(b) No petition alleging that the ward is being unjustly denied a right or privilege provided for by this chapter shall be allowed by the court within two years after the denial or dismissal on the merits of a petition alleging that the ward is being unjustly denied substantially the same right or privilege unless the petitioner shows a significant change in the condition or circumstances of the ward.

History.

Code 1981, § 29-4-40, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1933, § 49-113, and former O.C.G.A. § 29-5-7 are included in the annotations for this Code section.

Commingling of funds and failure to account is breach. — Deposit of

ward's funds to individual account of guardian, and failure to account therefor, is per se a breach of bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

Void sale does not amount to breach. — Where sale of realty conducted by guardian is illegal and void, title to property sold does not pass, and heirs and distributees may assert their title to property so sold, so that there is no such loss to them as would amount to breach of bond of administrator and render surety thereon liable. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

Ward's right to make will. — The appointment of a guardian for adults who are incapacitated does not destroy the ward's right or ability to make a will. Pope v. Fields, 273 Ga. 6, 536 S.E.2d 740, 2000 Ga. LEXIS 674 (2000) (decided under former O.C.G.A. § 29-5-7).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as the attorneys disbursed to themselves, and to hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-5-7).

Ward's right to visitation with non-guardian parent. — Probate court had the authority to establish a set visitation schedule between an adult mentally disabled ward and the ward's non-guardian parent in order to protect the ward's rights and best interests under the broad powers granted in O.C.G.A. §§ 15-9-30(a), 29-4-40, and 29-4-41, despite the guardian's objection to the visitation. In re Estate of Wertzer, 330 Ga. App. 294, 765 S.E.2d 425, 2014 Ga. App. LEXIS 734 (2014), cert. denied, No. S15C0662, 2015 Ga. LEXIS 206 (Ga. Mar. 30, 2015).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 182 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 81 et seq., 256 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

Guardianship Powers over Visitation with Incapacitated Person, 90 A.L.R.7th 8.

29-4-41. Modification of guardianship; petition requirements; notice; evaluation; hearing; other requirements; successive petitions.

(a) Upon the petition of any interested person, including the ward, or upon the court's own motion, the court may modify the guardianship by adjusting the duties or powers of the guardian, as defined in Code Sections 29-4-22 and 29-4-23, or the powers of the ward, as defined in Code Sections 29-4-20 and 29-4-21, or by making other appropriate adjustments to reflect the extent of the current capacity of the ward or other circumstances of the guardianship. Except for good cause shown, the court shall order that notice of the petition be given, in whatever form the court deems appropriate, to the ward, the guardian, the ward's

legal counsel, and the ward's conservator, if any. In any proceeding under this Code section that would expand or increase the powers of the guardian or further restrict the rights of the ward, the court shall appoint legal counsel for the ward. In all other cases, the court, in its discretion, may appoint legal counsel for the ward or a guardian ad litem, or both.

(b) If the petition for modification alleges a significant change in the capacity of the ward, it must be supported either by the affidavits of two persons who have knowledge of the ward, one of whom may be the petitioner, or of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the supporting facts and determinations. If, after reviewing the petition and the affidavits, the court determines that there is no probable cause to believe that there has been a significant change in the capacity of the ward, the court shall dismiss the petition. If the petition is not dismissed, the court shall order that an evaluation be conducted, in accordance with the provisions of subsection (d) of Code Section 29-4-11. If, after reviewing the evaluation report, the court finds that there is no probable cause to believe that there has been a significant change in the capacity of the ward, the court shall dismiss the petition. If the petition is not dismissed, the court shall schedule a hearing, with notice as the court deems appropriate.

(c) If the petition for modification does not allege a significant change in the capacity of the ward, the court in its discretion may modify the guardianship upon a showing that the modification is in the ward's best interest; provided, however, that the court may order compliance with any of the provisions of subsection (b) of this Code section prior to granting the petition for modification.

(d) In any proceeding under this Code section that would expand or increase the powers of the guardian or further restrict the powers of the ward, the burden is on the petitioner to show by clear and convincing evidence that the modification is in the ward's best interest. In any proceeding under this Code section that would restrict the powers of the guardian or restore powers to the ward, the burden is on the petitioner to show by a preponderance of the evidence that the modification is in the ward's best interest.

(e) No petition for modification shall be allowed by the court within two years after the denial or dismissal on the merits of a petition for substantially the same modification unless the petitioner shows a significant change in the condition or circumstances of the ward.

History.

Code 1981, § 29-4-41, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 551, § 1/SB 134; Ga. L. 2025, p. 402, § 9/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," in the first sentence of subsection (b).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-5-9 are included in the annotations for this Code section.

Petition premised on former O.C.G.A. § 29-5-9(b) that merely set forth facts concerning the state of the ward's health and finances but did not evidence a significant change in the extent of the ward's incapacity or circumstances since the appointment of the guardian was properly dismissed without conducting an evidentiary hearing. In re Pitts, 219 Ga. App. 15, 463 S.E.2d 550, 1995 Ga. App. LEXIS 913 (1995) (decided under former O.C.G.A. § 29-5-9).

Medical evidence. — The admission of medical evidence which was used in a prior proceeding was not barred by former O.C.G.A. § 29-5-9(b). In re Vincent, 240 Ga. App. 876, 525 S.E.2d 409 (decided under former O.C.G.A. § 29-5-9).

The trial court did not err in admitting the examining doctor's testimony even though the ward's attorneys were not permitted in the room during the ward's evaluation. In re Vincent, 240 Ga. App. 876, 525 S.E.2d 409 (decided under former O.C.G.A. § 29-5-9).

Ward's visitation with non-guardian parent. — Probate court had the authority to establish a set visitation schedule between an adult mentally disabled ward and the ward's non-guardian parent in order to protect the ward's rights and best interests under the broad powers granted in O.C.G.A. §§ 15-9-30(a), 29-4-40, and 29-4-41, despite the guardian's objection to the visitation. In re Estate of Wertzer, 330 Ga. App. 294, 765 S.E.2d 425, 2014 Ga. App. LEXIS 734 (2014), cert. denied, No. S15C0662, 2015 Ga. LEXIS 206 (Ga. Mar. 30, 2015).

RESEARCH REFERENCES

C.J.S.

57 C.J.S., Mental Health, § 168 et seq.

ALR.

Jurisdiction of court after adjudication of restoration to competency, as regards claims against former incompetent, 128 A.L.R. 1386.

Guardianship Powers over Visitation with Incapacitated Person, 90 A.L.R.7th 8.

29-4-42. Termination of guardianship; petition requirements; notice; evaluation; hearing; other requirements; burden of proof; successive petitions; return of property.

(a) Upon the petition of any interested person, including the ward, or upon the court's own motion, and upon a proper showing that the need for a guardianship is ended, the court may terminate the guardianship and restore all personal and property rights to the ward. Except for good cause shown, the court shall order that notice of the petition be given, in whatever form the court deems appropriate, to the ward, the

guardian, the ward's legal counsel, if any, and the ward's conservator, if any. The court shall appoint legal counsel for the ward and may, in its discretion, appoint a guardian ad litem.

(b) A petition for termination must be supported either by the affidavits of two persons who have knowledge of the ward, one of whom may be the petitioner, or of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the supporting facts and determinations. If, after reviewing the petition and the affidavits, the court determines that there is no probable cause to believe that the guardianship should be terminated, the court shall dismiss the petition. If the petition is not dismissed, the court shall order that an evaluation be conducted, in accordance with the provisions of subsection (d) of Code Section 29-4-11. If, after reviewing the evaluation report, the court finds that there is no probable cause to believe that the guardianship should be terminated, the court shall dismiss the petition. If the petition is not dismissed, the court shall schedule a hearing, with such notice as the court deems appropriate.

(c) In any proceeding under this Code section, the burden is on the petitioner to show by a preponderance of the evidence that there is no longer a need for the guardianship.

(d) No petition for termination of a guardianship shall be allowed by the court within two years after the denial or dismissal on the merits of a petition for termination of the guardianship unless the petitioner shows a significant change in the condition or circumstances of the ward.

(e) The death of the ward automatically terminates the guardianship, except as otherwise provided in Code Section 29-4-43.

(f) Upon termination of the guardianship, the guardian shall deliver any money or property to the ward or, if a conservator has been appointed for the ward, to that conservator or, if the ward is deceased, to the ward's personal representative.

History.

Code 1981, § 29-4-42, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 402, § 10/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," in the first sentence of subsection (b).

JUDICIAL DECISIONS

Probable cause hearing. — Probate court should have conducted a probable cause hearing on the petition to terminate guardianship pursuant to O.C.G.A. §§ 29-4-42(b) and 29-5-72(b) as there was conflicting evidence regarding the ward's capacity to make or communicate decisions by a psychologist and a social worker. In re Loftus, 331 Ga. App. 329, 771 S.E.2d 38, 2015 Ga. App. LEXIS 151 (2015).

RESEARCH REFERENCES

C.J.S.
57 C.J.S., Mental Health, § 168 et seq.
ALR.
Jurisdiction of court after adjudication of restoration to competency, as regards claims against former incompetent, 128 A.L.R. 1386.

29-4-43. Dismissal of guardianship; petition requirements; notice; order; liability.

(a) Upon the termination of the guardianship or the resignation of the guardian, the guardian may petition the court for an order dismissing the guardian from office. The petition shall include a final status report to the court which covers the period of time from the latest annual status report filed by the guardian. The final status report shall contain the information required for annual status reports and shall otherwise comply with the provisions of Code Section 29-4-22. Notice shall be published one time in the newspaper in which sheriff's advertisements are published in the county in which the petition is filed and shall state that any objection must be made in writing and shall designate the date on or before which objections must be filed in the court, which shall not be less than 30 days from the date of publication. The court shall examine any objections filed.

(b) If no objection is filed or if, upon hearing any objection, the court is satisfied that the order dismissing the guardian from office is appropriate, the court shall enter an order dismissing the guardian from office. An order dismissing the guardian shall not bar an action against the guardian.

History.
Code 1981, § 29-4-43, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1850, Cobb's 1851 Digest, p. 340, former Code 1882, § 1849, former Civil Code 1895, §§ 2567, 2568, former Code 1933, § 49-314, and former O.C.G.A. § 29-2-84 are included in the annotations for this Code section.

Letters of dismission act as bar to matters they cured. — Letters of dismission granted to guardian, like other judgments of courts of competent

jurisdiction, are a bar as to matters cured by them, unless set aside for fraud in their procurement or for other sufficient cause. Mobley v. Mobley, 9 Ga. 247, 1851 Ga. LEXIS 4 (1851) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 340); Poullain v. Poullain, 72 Ga. 412, 1884 Ga. LEXIS 271 (1884) (decided under former Code 1882, § 1849); Poullain v. Poullain, 76 Ga. 420, 4 S.E. 92, 1886 Ga. LEXIS 47 (1886) (decided under former Code 1882, § 1849).

Dismissal presupposes a validly appointed guardian. Gay v. Gay, 121 Ga. App. 287, 173 S.E.2d 712, 1970 Ga. App. LEXIS 1200 (1970) (decided under former Code 1933, § 49-314).

Dismissal amounts to adjudication that guardian has fully and completely performed all duties of trust. Gay v. Gay, 121 Ga. App. 287, 173 S.E.2d 712, 1970 Ga. App. LEXIS 1200 (1970) (decided under former Code 1933, § 49-314).

Discharge without notice publication does not bar suit. — Discharge granted without compliance with notice publication requirement does not bar suit on guardian's bond. Griffin v. Collins, 122 Ga. 102, 49 S.E. 827, 1905 Ga. LEXIS 121 (1905) (decided under former Civil Code 1895, § 2567).

Discharge without notice does not bar personal jurisdiction. — Where an application for dismission of a guardian was published as required by former O.C.G.A. § 29-2-84(a), the probate court did not lack personal jurisdiction even though the ward was never served with notice of the dismission. Utica Mut. Ins. Co. v. Mitchell, 227 Ga. App. 830, 490 S.E.2d 489 (decided under former O.C.G.A. § 29-2-84).

Possibility of conflict of interest does not require refusal of dismission. — Mere possibility of conflict between personal interest of guardian who is salaried officer and director in corporation in which ward owns stock and interest of guardian's ward will not require refusal of letters of dismission to guardian. Gay v. Gay, 226 Ga. 90, 172 S.E.2d 690, 1970 Ga. LEXIS 441 (1970) (decided under former Code 1933, § 49-314).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 128 et seq.

ALR.

Rate of interest chargeable against guardians, executors or administrators, and trustees, 112 A.L.R. 833; 156 A.L.R. 936.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

Guardian's position as joint tenant of or successor to property in ward's estate as raising conflict of interest, 69 A.L.R.3d 1198.

ARTICLE 6

SUCCESSOR GUARDIANS

29-4-50. Resignation of guardian; required showing; alternative guardian; notice; hearing; other requirements; order.

(a) A guardian or the duly authorized guardian, conservator, or attorney in fact of a guardian, acting on behalf of the guardian, may resign upon petition to the court, showing to the satisfaction of the court that:

(1) The guardian is unable to continue serving due to age, illness, infirmity, or other good cause;

(2) Greater burdens have devolved upon the office of guardian than those that were originally contemplated or should have been contemplated when the guardian was qualified and the additional burdens work a hardship upon the guardian;

(3) Disagreement exists between the ward and the guardian or between the guardian and the conservator in respect of the guardian's care of the ward, which disagreement and conflict appear to be detrimental to the ward;

(4) The resignation of the guardian will result in or permit substantial financial benefit to the ward; or

(5) The resignation would not be disadvantageous to the ward.

(b) The petition for resignation shall include the name of a suitable person who is willing to accept the guardianship.

(c) The court shall appoint legal counsel for the ward and personal service of the petition for resignation shall be made upon the ward and the ward's legal counsel. Service shall be made by first-class mail to the conservator of the ward, if any, and to the following persons whose whereabouts are known and who must be persons other than the resigning guardian or the proposed successor guardian:

(1) The spouse of the ward; and

(2) All adult children of the ward; or

(3) If there is no adult child, then at least two adults in the following order of priority:

(A) Lineal descendants of the ward;

(B) Parents and siblings of the ward; and

(C) Friends of the ward.

(d) If, after such hearing as the court deems appropriate, the court is satisfied that the petition for the resignation of the guardian and the appointment of the successor guardian should be granted, the court shall enter an order appointing the successor guardian in accordance with the provisions of Code Section 29-4-61 and accepting the resignation, subject to the resigning guardian turning over to the successor guardian or conservator all property of the ward held by the guardian.

History. Code 1981, § 29-4-50, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 79 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 36, 37, 42 et seq.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-4-51. Appointment of successor upon death of guardian; notice; hearing; other requirements; order.

(a) In the event of the death of a guardian, and upon the petition of an interested person or on the court's own motion, the court shall appoint a successor guardian. The court shall appoint legal counsel for the ward and personal service of the petition shall be made upon the ward and the ward's legal counsel. Notice shall be given by first-class mail to the conservator of the ward, if any, the personal representative of the deceased guardian, if any, and to the following persons whose whereabouts are known and who must be persons other than the proposed successor guardian:

(1) The spouse of the ward; and

(2) All adult children of the ward; or

(3) If there is no adult child, then at least two adults in the following order of priority:

(A) Lineal descendants of the ward;

(B) Parents and siblings of the ward; and

(C) Friends of the ward.

(b) After such hearing as the court deems appropriate, the court

shall enter an order appointing a successor guardian in accordance with the provisions of Code Section 29-4-61, requiring the personal representative of the deceased guardian to turn over to the successor guardian all property of the ward held by the guardian.

History.
Code 1981, § 29-4-51, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

29-4-52. Revocation or suspension of guardianship; investigation and powers of court; effect on other proceedings.

(a) Upon the petition of any interested person or whenever it appears to the court that good cause may exist to revoke or suspend the letters of a guardian or to impose sanctions, the court shall cite the guardian to answer the charge. The court shall investigate the allegations and may require such accounting as the court deems appropriate. The court may appoint a temporary substitute guardian for the ward during the investigation.

(b) Upon investigation, the court may, in the court's discretion:

(1) Revoke or suspend the guardian's letters;

(2) Require additional security;

(3) Reduce or deny compensation to the guardian or impose any other sanction or sanctions as the court deems appropriate; and

(4) Issue any other order as in the court's judgment is appropriate under the circumstances of the case.

(c) The revocation or suspension of letters of guardianship shall not abate any action pending for or against the guardian. The successor guardian shall be made a party to the action against the guardian in the manner provided in Code Section 9-11-25.

History.
Code 1981, § 29-4-52, enacted by Ga. L. 2004, p. 161, § 1.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2004, "the guardian. The" was substituted for "the guardian The" in subsection (c).

29-4-53. Breach of fiduciary duty by guardian.

(a) If a guardian commits a breach of fiduciary duty or threatens to commit a breach of fiduciary duty, a ward or an interested person on behalf of the ward shall have a cause of action as appropriate to:

(1) Recover damages;

(2) Compel performance of the guardian's duties;

(3) Enjoin the commission of a breach of fiduciary duty; or

(4) Compel the redress of a breach of fiduciary duty by payment of money or otherwise.

(b) When the ward's assets are misapplied and can be traced into the hands of persons who have notice of the misapplication, a trust shall attach to the assets.

(c) The provision of remedies for breach of fiduciary duty by this Code section does not prevent resort to any other appropriate remedy provided by statute or common law.

History.
Code 1981, § 29-4-53, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1868, § 1807, former Civil Code 1910, § 3051, former Code 1933, § 49-232, and former O.C.G.A. § 29-2-45 are included in the annotations for this Code section.

Former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45) was to be liberally construed in favor of incompetent ward. Aiken v. Mitchell, 66 Ga. App. 309, 18 S.E.2d 219, 1941 Ga. App. LEXIS 204 (1941) (decided under former Code 1933, § 49-232).

Former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45) was applicable to guardians of incompetent veterans of World War I and other persons of unsound mind. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Religious belief of guardian does not render guardian unfit to discharge guardianship. Maxey v. Bell, 41 Ga. 183, 1870 Ga. LEXIS 57 (1870) (decided under former Civil Code 1910, § 3051).

Suit against guardian for waste permitted if regarding revocation of guardianship. — Suit by next friend in behalf of ward for waste committed by guardian, or recovery of money in guardian's hands, can be brought only in connection with a proceeding to remove guardian and revoke guardian's letters. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Proceedings are against guardian as an individual, not against estate. — Proceedings to remove guardian and revoke guardian's letters, under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), were proceedings against guardian as an individual, and not against the estate or trust guardian represents; and where guardian was removed as guardian and guardian's

letters revoked, it was proper that guardian appeal therefrom as an individual. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

On question of removal, interest of ward governs, rather than that of guardian. Morse v. Caldwell, 55 Ga. App. 804, 191 S.E. 479, 1937 Ga. App. LEXIS 511 (1937) (decided under former Code 1933, § 49-232).

Burden of proof rests upon party attacking guardian's conduct. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Guardian who has been removed may appeal to superior court. — Where guardian was removed and guardian's letters revoked, upon rule issued by the ordinary (now judge of probate court), under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), after hearing on guardian's answer to such rule, guardian may appeal to superior court. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

Revocation of letters of guardianship. — Where court of ordinary (now probate court) rendered decision revoking letters of guardianship, an appeal will lie from such decision to superior court, though no issue of fact be involved. Teasley v. Vickery, 133 Ga. 721, 66 S.E. 918, 1910 Ga. LEXIS 34 (1910) (decided under former Civil Code 1910, § 3051).

For jurisdiction over removal proceedings where guardian and ward have moved from county of original appointment, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-232).

Guardian's failure to file annual returns was evidence that the guardian's fiduciary duties were breached and such evidence supported removal. Gary v. Weiner, 233 Ga. App. 284, 503 S.E.2d 898 (decided under former O.C.G.A. § 29-2-45).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 160 et seq., 201 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 4, 79 et seq., 256, 257.

ALR.

Liability of guardian, or his surety, as affected by agreement by which he limits his control over funds or investments, 102 A.L.R. 1108.

Improper handling of funds, investments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

29-4-54. Statute of limitations.

All actions against a guardian, except on the guardian's bond, shall be brought within six years of the termination of the guardianship of the ward, except as provided in Code Section 9-3-90.

History.

Code 1981, § 29-4-54, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 167, 194.

ARTICLE 7

TEMPORARY SUBSTITUTE GUARDIANS

29-4-60. Appointment of temporary substitute guardian; length of appointment; powers; notice; removal.

(a) Upon its own motion or on the petition of any interested party, including the ward, the court may appoint a temporary substitute guardian for a ward if it appears to the court that the best interest of the ward requires immediate action.

(b) The temporary substitute guardian shall be appointed for a specified period not to exceed 120 days.

(c) The court shall appoint as temporary substitute guardian an appropriate individual who shall serve the best interest of the ward.

(d) Except as otherwise ordered by the court, a temporary substitute guardian has the powers set forth in the order of appointment. The authority of the previously appointed guardian is suspended for as long as the temporary substitute guardian has authority.

(e) Notice of the appointment of a temporary substitute guardian shall be served personally on the ward. Notice of the appointment shall be served personally on the previously appointed guardian at the last address provided by that guardian to the court. Notice of the appointment shall be mailed by first-class mail to the ward's conservator, if any.

(f) The court may remove the temporary substitute guardian at any time. A temporary substitute guardian shall make any report the court requires. In all other respects, the provisions of this chapter apply to the temporary substitute guardian.

History.
Code 1981, § 29-4-60, enacted by Ga. L. 2004, p. 161, § 1.

29-4-61. Appointment of successor guardian upon resignation, death, or revocation of letters of guardianship; notice; hearing; other requirements; order.

(a) The court shall appoint a successor guardian upon the resignation, death, or revocation of the letters of the guardian if the appointment of a successor guardian is in the best interest of the ward. The

court shall select the successor guardian in the manner provided in Code Section 29-4-3.

(b) The court shall appoint legal counsel for the ward. In the event of the resignation or death of the guardian, notice of the proceeding for appointment of a successor guardian shall be given as provided in Code Sections 29-4-50 and 29-4-51. In all other cases, notice of the proceeding for appointment of a successor guardian shall be served personally on the ward and the ward's legal counsel. Notice shall be made by first-class mail to the conservator of the ward, if any, and to the following persons whose whereabouts are known and who must be persons other than the proposed successor guardian:

(1) The spouse of the ward; and

(2) All adult children of the ward; or

(3) If there is no adult child, then at least two adults in the following order of priority:

(A) Lineal descendants of the ward;

(B) Parents and siblings of the ward; and

(C) Friends of the ward.

(c) After a hearing which the court deems appropriate, the court shall enter an order appointing the successor guardian.

History.
Code 1981, § 29-4-61, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 11/HB 70.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 56, 85.

C.J.S.
39 C.J.S., Guardian and Ward, §§ 20 et seq., 24 et seq., 36, 37, 49, 50, 282.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-4-62. Delivery of property and final report from predecessor guardian.

Upon the appointment of a successor guardian, the predecessor guardian or the personal representative of a deceased predecessor guardian shall deliver to the successor guardian all property of the ward held by the guardian and shall submit a final status report covering the period since the guardian's last status report.

History.

Code 1981, § 29-4-62, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 and former Code 1882, § 1848 are included in the annotations for this Code section.

Debts due to guardian individually cannot be left to successor. — Guardian cannot discharge trust by turning over to successor debts due to the guardian individually from successor. Such is the rule, though successor be solvent at time, if, owing to the successor's subsequent insolvency, the ward is injured by settlement. Manning v. Manning, 61 Ga. 137, 1878 Ga. LEXIS 49 (1878) (decided under former Code 1873, § 1848); Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 10, 56, 85, 88.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 42 et seq., 76 et seq., 211 et seq., 282 et seq.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

ARTICLE 8

APPELLATE PROCEEDINGS

29-4-70. Right of ward to appeal; procedure; appointment of emergency guardian.

(a) Except as provided in Article 6 of Chapter 9 of Title 15, the ward, individually or by the ward's legal counsel, representative, or guardian ad litem, or the petitioner may appeal any final order of the court to the superior court in the county in which the proceedings were held. The appeal shall be in the same manner as other appeals from the probate court to the superior court but shall be heard as expeditiously as possible. The appeal shall be de novo unless the parties by agreement specifically limit the issues. The ward shall retain the right to counsel or to have counsel appointed; provided, however, that if counsel was appointed by the probate court, the appointment shall continue on appeal to the superior court. The burden of proof shall be upon the petitioner and the standard used by the court in reaching its decision shall be clear and convincing evidence.

(b) All rights of appeal from the superior court shall be as provided by law.

(c) The filing of an appeal to the superior court from the judgment of the probate court shall act as a supersedeas.

(d) Pending any appeal, the superior court or a probate court that is described in paragraph (2) of Code Section 15-9-120 may appoint an emergency guardian with such powers and duties as are described in Code Section 29-4-16; provided, however, that an emergency guardian may be appointed only upon the filing of an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the existence of the emergency circumstances described in subsection (d) of Code Section 29-4-14 and after a hearing at which other evidence may be presented. The appointment of an emergency guardian is not appealable.

History.

Code 1981, § 29-4-70, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 402, § 11/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "a physician assistant licensed under Chapter 34 of Title 43, a

nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," in the first sentence of subsection (d).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-11 is included in the annotations for this Code section.

Standing to appeal. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-11).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-11 are included in the annotations for this Code section.

Authority to appoint emergency guardian pending appeal. — Under former O.C.G.A. § 29-5-11(d), the probate courts which were authorized to hold jury trials under Ga. L. 1986, p. 982, would not be authorized to appoint an emergency guardian pending appeal. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-11).

Payment of costs upon appeal of emergency orders. — An appeal from those emergency guardianship orders which can be considered "final orders" will act as supersedeas upon payment of the costs by the appellant. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-11).

ARTICLE 9

JURISDICTION

PART 1

GENERAL PROVISIONS

29-4-80. Removal to jurisdiction where ward resides; appointment of guardian ad litem; certification and transfer of records; scope of jurisdiction.

(a) A guardian may petition to remove the guardianship to the jurisdiction of the court of the county in this state in which the ward resides.

(b) Upon the filing of a petition to remove the guardianship to another county in this state, the court shall appoint a guardian ad litem for the ward. The court of the county in which the guardian was appointed shall grant the petition for removal only if the court determines that the removal is in the best interest of the ward.

(c) Before the removal of the guardianship to another county in this state, the guardian shall file with the court of the county to which the guardianship is to be removed certified copies of all the records pertaining to the guardianship.

(d) Following removal of a guardianship to another county in this state, the court of that county shall have the same jurisdiction over the guardian as if the guardian had been first appointed in that county, and every case growing out of or affecting the guardianship shall be heard and tried only in the county to which the guardianship has been removed.

(e) The court in which an action or proceeding is pending or which has issued an order for a settlement of accounts, removal, or sanction of a guardian shall retain jurisdiction of such matters even though the guardianship has been removed to another county.

History.
Code 1981, § 29-4-80, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1812, Cobb's 1851 Digest, p. 318 and Code 1933, § 49-239 are included in the annotations for this Code section.

Compliance discharges surety from further liability on account of guardian. — When provisions of the Act of 1812 (former O.C.G.A. § 29-2-70) are fully complied with, sureties on first bond are discharged from all further liability on account of their principal. Justices of Inferior Court ex rel. Selman v. Selman, 6 Ga. 432, 1849 Ga. LEXIS 58 (1849) (decided under Ga. L. 1812, Cobb's 1851 Digest, p. 318).

For jurisdiction over removal and new appointments where guardian moves from county without removing trust, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-239).

RESEARCH REFERENCES

ALR.
Guardianship of incompetent or infant as affecting venue of action, 11 A.L.R. 167.

PART 2

PROCEDURE

29-4-85 through 29-4-88. [Reserved].

History.
Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; repealed by Ga. L. 2016, p. 563, § 2/HB 954, effective July 1, 2016.

Editor's notes.
Ga. L. 2016, p. 563, § 2/HB 954, reserved the designation of this part, effective July 1, 2016.

The former part, relating to procedure, consisted of Code Sections 29-4-85 through 29-4-88.

Part 3

Transfer of Guardianship

29-4-90 through 29-4-94. [Reserved].

History.
Ga. L. 2004, p. 161, § 1; repealed by Ga. L. 2016, p. 563, § 2/HB 954, effective July 1, 2016.

Editor's notes.
Ga. L. 2016, p. 563, § 2/HB 954, reserved the designation of this part, effective July 1, 2016.

The former part, relating to transfer of guardianship, consisted of Code Sections 29-4-90 through 29-4-94.

Part 4

Foreign Guardians

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 276 et seq.

29-4-95. Sale of ward's property.

(a) As used in this part, the term "foreign guardian" means a guardian or other person who has been given responsibility by a court of competent jurisdiction in another state or territory governed by the Constitution of the United States for the care of an incapacitated adult referred to as the "ward" and whose guardianship has not been transferred to and accepted in this state pursuant to the provisions of Article 3 of Chapter 11 of this title.

(b) Any foreign guardian of a ward who resides in any other state and who is authorized to sell and convey property of the ward may sell property of the ward which is in this state, under the rules and regulations prescribed for the sale of real estate by conservators of this state, provided that the foreign guardian shall file and have recorded in the court or other proper court, at the time of petitioning for sale, an authenticated copy of the letters of appointment and shall also file with the court or other proper authority bond with good and sufficient security in double the value of the property to be sold for the faithful execution of the guardianship as provided by law.

History.
Code 1981, § 29-4-95, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2016, p. 563, § 4/HB 954; Ga. L. 2026, p. 1069, § 29(4)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in this part, the term 'foreign guardian' means" for "For purposes of this part, a 'foreign guardian' is" at the beginning of subsection (a) and substituted "shall" for "must" in two places in subsection (b).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 276 et seq.

29-4-96. Right to bring action.

A foreign guardian may institute an action in any court in this state to enforce any right or to recover any property belonging to the ward or accruing to the foreign guardian as such.

History.
Code 1981, § 29-4-96, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under Ga. L. 1850, Cobb's 1851 Digest, p. 341 is included in the annotations for this Code section.
Actions ex contractu and ex delicto not distinguished. — Georgia Laws 1850, Cobb's 1851 Digest, p. 341 does not warrant distinction between actions ex contractu and actions ex delicto. Averitt v. Pope, 30 Ga. 660, 1860 Ga. LEXIS 163 (1860) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 341).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 99 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, § 188 et seq.
ALR.
Capacity of guardian to sue or to be sued outside state where appointed, 94 A.L.R.2d 162.

29-4-97. Required filing of letters of guardianship.

Pending an action brought by a foreign guardian pursuant to Code Section 29-4-96, an authenticated copy of the letters of guardianship shall be filed with the clerk of the court to become a part of the record, if the case is pending in a court of record, or filed with the papers if the action is a summary proceeding.

History.
Code 1981, § 29-4-97, enacted by Ga. L. 2004, p. 161, § 1.

29-4-98. Submission to jurisdiction; registration of guardianship order; powers of court.

(a) A foreign guardian submits personally to the jurisdiction of the courts of this state in any proceeding relating to the guardianship by:

(1) Receiving payment of money or taking delivery of personal property in this state belonging to the ward;

(2) Doing any act as a guardian in this state that would have given this state jurisdiction over the actor as an individual; or

(3) Registering the guardianship order in this state pursuant to Code Section 29-11-30.

(b) With respect to a guardianship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-30, in addition to any action such court of this state may take under this part or under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any proceeding relating to the guardianship initiated in this state under subsection (a) of this Code section, stating the reasons therefor.

History.
Code 1981, § 29-4-98, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 12/HB 70.

CHAPTER 5

CONSERVATORS OF ADULTS

Article 1

Appointment

Sec.
29-5-1. Appointment of conservator; limitations on presumptions regarding need for conservator; extent of conservatorship.
29-5-2. Qualifications.
29-5-3. Order of preference in selecting conservator; authority to disregard preference; nominations.
29-5-4. Payment, transfer, or delivery of property of incapacitated adult pursuant to affidavit; liability; disposition of property by affiant.

Article 2

Petition for Appointed Conservator

29-5-10. Petition requirements.
29-5-11. Required probable cause finding; notice; evaluation and report; other requirements; response by counsel.
29-5-12. Judicial review; probable cause findings; hearing on petition for appointment of conservator; determinations by court; judge unavailability.
29-5-13. Requirements of order granting conservatorship; service; obligation of legal counsel; filing of certificate of conservatorship with court.
29-5-14. Appointment of emergency conservator; petition requirements.
29-5-15. Judicial review; probable cause findings; notice; hearing on petition for emergency conservatorship; evaluation and report; other requirements.
29-5-16. Emergency conservatorship hearing; limitations on powers of emergency conservator; termination.

Article 3

Rights of Ward and Responsibilities of Conservator

29-5-20. Rights of adult ward; impact on right to vote or testamentary capacity.
29-5-21. Rights and powers removed from ward.
29-5-22. Obligations and liabilities of conservator.
29-5-23. Authority of conservator; cooperation with guardian or other interested parties.
29-5-24. Forfeiture of rights by conservator; disclosure of conflicts of interest; substantial conflicts of interest.
29-5-25. Oath or affirmation required of conservator.

Article 4

Property Obligations of Conservator

29-5-30. Inventory of ward's property; plan for managing, expending, and distributing ward's property.
29-5-31. Retention of property; exchange or conversion of stocks or securities.
29-5-32. Investment of funds.
29-5-33. Investments in direct or general obligations issued by the federal government or certain agencies thereof.
29-5-34. Standard for investment decisions; acquisition and retention of property.
29-5-35. Sale or other disposition of ward's property; accounting for proceeds; authority of emergency or temporary substitute conservators.
29-5-36. Estate plan for ward; appointment of guardian ad

Sec.
litem; considerations prior to property transfer.

Article 5

Conservator's Bond and Other Obligations

29-5-40. Bond requirement; exception; recording of bonds.
29-5-41. Requirements of bond; term; value; substantial compliance sufficient.
29-5-42. Reduction of bond.
29-5-43. Additional bond or security; notice; revocation of letters of conservatorship; other powers of court.
29-5-44. Payment of bond premium.
29-5-45. Liability of surety in event conservatorship is void.
29-5-46. Joint and several liability of conservator and surety.
29-5-47. Levy upon property; writ of execution.
29-5-48. Order of levy against property.
29-5-49. Release from surety obligations; hearing; order; appointment of new surety; liability; accounting requirement.
29-5-49.1. Communication with other states on conservatorship.

Article 6

Compensation of Conservators

29-5-50. Amount of compensation; multiple conservators; forfeiture; renunciation.
29-5-51. Allowance for reasonable expenses.
29-5-52. Petition for additional compensation by conservator; procedural requirements.
29-5-53. Compensation from corporation or other business enterprise; effect on receipt of additional compensation under Code Section 29-5-52; purpose.
29-5-54. Application for compensation by emergency or temporary substitute conservator;
Sec.
reduction of compensation to conservator.

Article 7

Accounting for Assets

29-5-60. Annual filing of verified return; change of reporting period; production of documents; effect of failure to file return.
29-5-61. Interim settlement of accounts; reporting and requirements of report; procedure for objecting.
29-5-62. Objections and hearing on interim settlement of accounts.
29-5-63. Judgment against conservator and surety.

Article 8

Modification and Termination of Conservatorship

29-5-70. Proceedings regarding denial of rights or privileges of ward; notice; successive petitions.
29-5-71. Modification of conservatorship; petition requirements; notice; evaluation; hearing; other requirements; burden of proof; successive petitions; return of property.
29-5-72. Termination of conservatorship; petition requirements; notice; evaluation; hearing; other requirements; burden of proof; successive petitions; return of property; death of ward intestate.

Article 9

Dismissal of Conservator

29-5-80. Petition for dismissal of conservator; requirements; notice; order; liability.
29-5-81. Final settlement of accounts; appearance by conservator, ward, or others; notice; return of property.

Article 10

Removal of Conservator for Other Reasons

Sec.

29-5-90. Resignation of conservator; required showing; alternative conservator; notice; hearing; other requirements; order.
29-5-91. Appointment of successor upon death of conservator; notice; hearing; other requirements; order.
29-5-92. Revocation or suspension of conservatorship; investigation and powers of court; effect on other proceedings.
29-5-93. Cause of action for breach of conservator's duties; remedies available to ward.
29-5-94. Statute of limitations.

Article 11

Temporary Substitute Conservator

29-5-100. Appointment of temporary substitute conservator; length of appointment; powers; notice; removal.
29-5-101. Appointment of successor conservator; notice; hearing; other requirements; order.
29-5-102. Delivery of property; annual return; liability of surety.

Article 12

Appellate Proceedings

29-5-110. Right of ward to appeal; procedure; appointment of emergency conservator.

Article 13

Foreign Conservatorships

PART 1

GENERAL PROVISIONS

Sec.

29-5-120. Removal to jurisdiction where ward resides; appointment of guardian ad litem; bond; authority; liability; retention of jurisdiction.

PART 2

TRANSFER OF CONSERVATORSHIP

29-5-125 through 29-5-128. [Reserved].

PART 3

TRANSFER OF CONSERVATORSHIP

29-5-130 through 29-5-134. [Reserved].

PART 4

FOREIGN CONSERVATOR

29-5-135. Sale of ward's property.
29-5-136. Right to bring action.
29-5-137. Filing of letters of conservatorship.
29-5-138. Submission to jurisdiction personally of foreign conservator; registration of conservatorship.
29-5-139. Rights of interested parties prior to sale of ward's assets; court communication with appointing foreign court.
29-5-140. Payments to foreign conservator on debts or return of property belonging to ward.

Cross references.

Appointment of guardian ad litem for incompetent person not otherwise represented in an action, § 9-11-17.

Disabled Adults and Elder Persons Protection Act, § 30-5-1 et seq.

Appointment of guardian for minor or incompetent workers' compensation benefits claimant, § 30-9-226.

Appointment of representatives and guardians ad litem for persons undergoing treatment for mental illness, developmental disabilities, alcoholism, or drug dependency, §§ 37-3-147, 37-4-107, 37-7-147.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to

former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

Law reviews.

For article, "The Georgia Law of Insanity," see 3 Ga. B. J. 28 (1941).

For note on 1995 amendments of sections in this chapter, see 12 Ga. St. U.L. Rev. 216 (1995).

For article, "Medical Decision-Making in Georgia," see 10 Ga. St. B.J. 50 (2005).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1933, Ch. 49-6, as it read prior to revision by Ga. L. 1980, p. 1661, and former O.C.G.A. § 29-5-1 et seq. are included in the annotations for this Code section.

Joint tenancy not terminated by tenant's incapacity. — Joint tenancies in bank and stock investment accounts and in real property did not terminate as a matter of law when one of the joint tenants was declared incapacitated and a guardian was appointed for that person and for the property. A guardian, unlike a trustee, has no beneficial title in the ward's estate, but is merely a custodian or manager. Moore v. Self., 222 Ga. App. 71, 473 S.E.2d 507, 1996 Ga. App. LEXIS 614 (1996) (decided under former O.C.G.A. § 29-5-1 et seq.).

Former Chapters 49-6 and 88-5 of the 1933 Code (former O.C.G.A. Ch. 5, T. 29 and Ch. 3, T. 37) were meant to be read together for procedural purposes. Kiker v. Kiker, 126 Ga. App. 39, 189 S.E.2d 880, 1972 Ga. App. LEXIS 1037 (1972) (decided under former Code 1933, Ch. 49-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 21 et seq. 53 Am. Jur. 2d, Mentally Impaired Persons, §§ 42, 43, 173 et seq.

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 6.

ALR.

Showing as to mental condition which will entitle one restrained on ground of insanity to release, 19 A.L.R. 715.

Constitutionality of statute making physical disability ground for appointment of guardian of person or property, 30 A.L.R. 1381.

Liability of insane person for tort, 51 A.L.R. 833; 89 A.L.R. 476.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Liability of incompetent's estate for care and maintenance furnished by public institution or hospital before incompetent's acquisition of any estate or property, 33 A.L.R.2d 1257.

Power of guardian, committee, or trustee of mental incompetent, after latter's death, to pay debts and obligations, 60 A.L.R.2d 963.

Power to make charitable gifts from estate of incompetent, 99 A.L.R.2d 946.

Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

Priority and preference in appointment of conservator or guardian for an incompetent, 65 A.L.R.3d 991.

ARTICLE 1

APPOINTMENT

29-5-1. Appointment of conservator; limitations on presumptions regarding need for conservator; extent of conservatorship.

(a) The court may appoint a conservator for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his or her property.

(b) No conservator, except a conservator appointed under paragraph (2) of subsection (a) of Code Section 29-11-13 or a conservator for the estate of an individual who is missing or who is believed to be dead, shall be appointed for any adult except pursuant to the procedures of this chapter.

(c) No conservator shall be appointed for an adult unless the appointment is in the best interest of the adult.

(d) No conservator shall be appointed for an adult within two years after the denial or dismissal on the merits of a petition for the appointment of a conservator for that adult unless the petitioner shows a significant change in the condition or circumstances of the adult.

(e)(1) No adult shall be presumed to be in need of a conservator unless:

(A) He or she has been adjudicated to be in need of a conservator pursuant to this chapter; or

(B) The court has recognized another state's determination of a protected person's incapacity and the appointment of a conservator as provided in subsection (g) of Code Section 29-11-21.

(2) An adult shall not be presumed to be in need of a conservator solely because of a finding of criminal insanity or incompetence to stand trial or a finding of a need for treatment or services pursuant to:

(A) Code Section 37-1-1;

(B) Code Sections 37-3-1 through 37-3-6;

(C) Articles 2 through 6 of Chapter 3 of Title 37;

(D) Code Sections 37-4-1 through 37-4-3 and 37-4-5 through 37-4-8;

(E) Articles 2 through 5 of Chapter 4 of Title 37;

(F) Code Section 37-5-3;

(G) Code Sections 37-7-1, 37-7-2, and 37-7-4 through 37-7-7; and

(H) Articles 2 through 6 of Chapter 7 of Title 37.

(3) An adult shall not be presumed to be in need of a conservator solely because of a finding that the adult has one or more developmental disabilities as defined in paragraph (8) of Code Section 37-1-1.

(f) All conservatorships ordered pursuant to this chapter shall be designed to encourage the development of maximum self-reliance and independence in the adult and shall be ordered only to the extent necessitated by the adult's actual and adaptive limitations after a determination that less restrictive alternatives to the conservatorship are not available or appropriate.

History.

Code 1981, § 29-5-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 13/HB 70; Ga. L. 2025, p. 402, § 12/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added paragraph (e)(3).

Cross references.

Domicile of persons of full age placed under power of guardian, § 19-2-5.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

For article with annual survey on wills, trusts, guardianships, and fiduciary administration, see 73 Mercer L. Rev. 281 (2021).

For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2570, former Civil Code 1910, § 3089, former Code 1933, § 49-601, as it read prior to revision by Ga. L. 1964, pp. 499, 657, and former O.C.G.A. §§ 29-5-1 and 29-5-7 are included in the annotations for this Code section.

All insane persons covered. — Former Code 1933, § 49-601 was broad enough to cover all classes of insane persons, resident and nonresident. Shea v. Gehan, 70 Ga. App. 229, 28 S.E.2d 181, 1943 Ga. App. LEXIS 290 (1943) (decided under former Code 1933, § 49-601).

Definition and classifications of insane persons. — See Royal Indem. Co. v. Agnew, 66 Ga. App. 377, 18 S.E.2d 57, 1941 Ga. App. LEXIS 214 (1941) (decided under former Code 1933, § 49-601).

Blindness and limited education not grounds for appointment of guardian. — There is no provision of law in this state for appointment of guardian for a person sui juris solely on ground of blindness and limited education. Griffin v. Collins, 122 Ga. 102, 49 S.E. 827, 1905 Ga. LEXIS 121 (1905) (decided under former Code 1895, § 2570).

Claimant suffering from Alzheimer's disease. — Default would not be entered against a claimant in a bankruptcy proceeding because there was some evidence that the claimant might be suffering from Alzheimer's disease, and a bankruptcy trustee needed to determine if a conservator or a guardian had been

appointed for the claimant, pursuant to O.C.G.A. §§ 29-4-1 or 29-5-1, in a state probate court before default could be entered. Townson v. Loftin (In re Ford), No. R02-50780-PWB, No. R02-50780-PWB, No. 08-4069, 2009 Bankr. LEXIS 801 (Bankr. N.D. Ga. Mar. 3, 2009).

Probate judges have exclusive jurisdiction to appoint for insane persons. — Only ordinaries (now judges of probate courts) of the several counties of this state have power to appoint for insane persons. Meadors v. Walden, 28 Ga. App. 409, 111 S.E. 227, 1922 Ga. App. LEXIS 555 (1922) (decided under former Code 1910, § 3089).

Probate court vested with original, exclusive, and general jurisdiction. — Court of ordinary (now probate court) was vested with original, exclusive, and general jurisdiction over insane persons and the appointment and removal of their guardians. Shea v. Gehan, 70 Ga. App. 229, 28 S.E.2d 181, 1943 Ga. App. LEXIS 290 (1943) (decided under former Code 1933, § 49-601).

May commit insane person present in county. — Court of ordinary (now probate court) has jurisdiction to adjudge and have committed an insane person who is present in that county in keeping with law in general relative to power of state over persons found within its borders as provided in former Code 1933, § 15-202 (former O.C.G.A. § 50-2-21). Shea v. Gehan, 70 Ga. App. 229, 28 S.E.2d 181, 1943 Ga. App. LEXIS 290 (1943) (decided under former Code 1933, § 49-601).

May appoint guardian for in-state land of nonresident insane person. — Courts of ordinary (now probate courts) of this state have jurisdiction to appoint guardians for lands of lunatics who reside beyond limits of this state, where property is located in territorial limits of state in which such courts act. Coker v. Gay, 154 Ga. 337, 114 S.E. 217, 1922 Ga. LEXIS 360 (1922) (decided under former Civil Code 1910, § 3089).

May authorize guardian to sell ward's land to pay debts. — Court of ordinary (now probate court) is vested by law with jurisdiction to render judgment granting to guardian of insane person permission to sell land belonging to such ward for purpose of paying debts; proceedings in such case to be in conformity with statutes relating to sales by administrators. Jernigan v. Radford, 182 Ga. 484, 185 S.E. 828, 1936 Ga. LEXIS 463 (1936) (decided under former Code 1933, § 49-601).

Appointment of guardian does not mandate eligibility for commitment. — One may be eligible to have guardian even if ineligible for admission as inmate of Milledgeville State Hospital (now closed). Tucker v. American Sur. Co., 78 Ga. App. 327, 50 S.E.2d 859, 1948 Ga. App. LEXIS 737 (1948) (decided under former Code 1933, § 49-601).

Evidence sufficient to appoint guardian and conservator. — Order granting children's petition for guardianship and conservatorship of their parent pursuant to O.C.G.A. §§ 29-4-1 and 29-5-1(a) was proper because the evidence included, inter alia, the testimony of one child's personal knowledge regarding the parent's physical problems, refusal to either relocate or to hire a private care giver, and failure to pay bills; the evidence also included a social worker's evaluation which detailed the parent's erratic behavior and refusal to pay bills, which the trial court properly considered pursuant to O.C.G.A. § 29-5-12(d)(4). In re Cash, 298 Ga. App. 110, 679 S.E.2d 124, 2009 Ga. App. LEXIS 619 (2009).

There was sufficient evidence to support the probate court's findings that appellant needed a guardian and conservator because the court-appointed evaluator reported that appellant had dementia and other health problems, needed supervision with activities of daily living, and was illiterate and vulnerable, appellant's sister testified that appellant was suffering from dementia, and appellant's testimony suggested mental confusion and showed a lack of recall of certain property and financial transactions. In re Wheeler, 368 Ga. App. 1, 889 S.E.2d 132, 2023 Ga. App. LEXIS 248 (2023).

Appointment of county conservator upheld. — Seeking to avoid the recovery of Medicaid payments from their parent's estate, when the children opted their

parent out of Medicaid and planned to sell some of the parent's property, those decisions were properly held to not be in the parent's best interest and supported the appointment of the county conservator in said capacity. Cruver v. Mitchell, 289 Ga. App. 145, 656 S.E.2d 269, 2008 Ga. App. LEXIS 24 (2008).

Findings of parent's inability to manage property were supported. — Given a parent's gravely-impaired judgment, which combined with a physical frailty and impaired vision, made the parent vulnerable to exploitation by a new person living with the parent, the probate court properly concluded that the parent lacked sufficient understanding to make significant responsible decisions concerning the management of the parent's property; moreover, because the parent chose not to include the transcript of the evidence in the appellate record, and, as any pre-trial ruling on the parent's capabilities was, after a trial determining the matter, harmless if not moot, the probate court's ruling was upheld. Yetman v. Walsh, 282 Ga. App. 499, 639 S.E.2d 491, 2006 Ga. App. LEXIS 1446 (2006).

Finding of some evidence of parent's incapacity did not prove undue influence as matter of law. — The fact that a probate court had found some evidence of a parent's incapacity under former O.C.G.A. § 29-5-6 (repealed) and had appointed a psychologist to evaluate the parent before the parent deeded real property to one of the adult children did not mean that there was undue influence as a matter of law; at that stage of the guardianship proceedings, the incapacity of the parent was an unproven proposition, not a proven fact. Chesser v. Chesser, 284 Ga. App. 381, 643 S.E.2d 764, 2007 Ga. App. LEXIS 194 (2007), cert. denied, No. S07C1110, 2007 Ga. LEXIS 493 (Ga. June 25, 2007).

Ward's right to make will. — The appointment of a guardian for adults who are incapacitated does not destroy the ward's right or ability to make a will. Pope v. Fields, 273 Ga. 6, 536 S.E.2d 740, 2000 Ga. LEXIS 674 (2000) (decided under former O.C.G.A. § 29-5-7).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as the attorneys disbursed to themselves, and to hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-5-7).

Appointment of conservator proper. — Trial court did not err in granting a petition for the appointment of a conservator to manage a ward's property and financial affairs because the Department of Human Services carried the Department's burden of proving under O.C.G.A. § 29-5-1(a) that the ward lacked sufficient capacity to make or communicate significant responsible decisions concerning the management of the ward's property and financial affairs; pursuant to O.C.G.A. § 29-5-12(d)(4), the evidence was sufficient for the probate court to find by clear and convincing evidence that the ward was in need of a conservator to protect the ward's assets because the ward suffered from cognitive loss that affected the ward's judgment with respect to financial affairs, and the ward's impaired judgment led the ward to incur significant financial losses as the ward repeatedly fell victim to fraud. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-601 is included in the annotations for this Code section.

Court cannot appoint guardian for one rational but arthritic. — Probate court would have no authority to name guardian for one who is perfectly rational but is only afflicted with arthritis. 1960-61 Ga. Op. Att'y Gen. 88 (decided under former Code 1933, § 49-601).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 21 et seq., 39.
Am. Jur. Pleading and Practice Forms.
13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 9 et seq., 42 et seq., 45, 63, 151, 450.
C.J.S.
57 C.J.S., Mental Health, § 113 et seq.
ALR.
Power of guardian representing unborn future interest holders to consent to invasion of trust corpus, 49 A.L.R.2d 1095.
Mental condition which will justify the appointment of guardian, committee, or conservator of the estate for an incompetent or spendthrift, 9 A.L.R.3d 774.

29-5-2. Qualifications.

No person may be appointed or continue to serve as conservator of the estate of an adult who:

(1) Is a minor, a ward, or a protected person;

(2) Who has a conflict of interest with the adult unless the court determines that the conflict of interest is insubstantial or that the appointment clearly would be in the adult's best interest; or

(3) Is an owner, operator, or employee of a long-term care or other caregiving institution or facility at which the adult is receiving care, unless related to the adult by blood, marriage, or adoption.

History.
Code 1981, § 29-5-2, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

Court's order amounted to an abuse of discretion requiring remand as the order failed to give the parent a reasonable opportunity to meet the court's requirements for bond, before passing the parent over in favor of the county guardian, and implicitly found that the parent was unavailable to serve as guardian. In re Estate of Taylor, 270 Ga. App. 807, 608 S.E.2d 299, 2004 Ga. App. LEXIS 1605 (2004) (decided under former O.C.G.A. § 29-5-2).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 24 et seq., 46 et seq.

C.J.S.
57 C.J.S., Mental Health, § 123 et seq.

29-5-3. Order of preference in selecting conservator; authority to disregard preference; nominations.

(a) The court shall appoint as conservator that person who shall best serve the interest of the adult taking into consideration the order of preferences set forth in this Code section. The court may disregard a person who has preference and appoint a person who has a lower preference or no preference; provided, however, that the court may disregard the preferences listed in paragraph (1) of subsection (b) of this Code section only upon good cause shown.

(b) Persons who are eligible and not disqualified have preference in the following order:

(1) The person last nominated by the adult in accordance with the provisions of subsection (c) of this Code section;

(2) The spouse of the adult or a person nominated by the adult's spouse in accordance with the provisions of subsection (d) of this Code section;

(3) An adult child of the adult or a person nominated by an adult child of the adult in accordance with the provisions of subsection (d) of this Code section;

(4) A parent of the adult or a person nominated by a parent of the adult in accordance with the provisions of subsection (d) of this Code section;

(5) A conservator appointed during the minority of the adult;

(6) A conservator previously appointed in Georgia or another state;

(7) A friend, relative, or any other person; or

(8) The county conservator.

(c) At any time prior to the appointment of a conservator, an adult may nominate in writing a person to serve as that adult's conservator should the adult be judicially determined to be in need of a conservator, and that nomination shall be given the preference set forth in this Code section, provided that it is signed in accordance with the provisions of subsection (e) of this Code section or the provisions of Code Section 31-36-5.

(d) At any time prior to the appointment of a conservator, a spouse, adult child, or parent of an adult may nominate in writing a person to

serve as the adult's conservator should the adult be judicially determined to be in need of a conservator, and that nomination shall be given the preference described in this Code section, provided that it is signed in accordance with the provisions of subsection (e) of this Code section or, if in a will, is executed in accordance with the provisions of Code Section 53-4-20.

(e) A writing nominating the conservator of an adult:

(1) Must contain an express nomination of the person who shall serve as conservator and must be signed or acknowledged by the individual making the nomination in the presence of two witnesses who sign in the individual's presence; and

(2) May be revoked by the individual by obliteration, cancellation, or by a subsequent inconsistent writing, whether or not witnessed.

History.

Code 1981, § 29-5-3, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 12/SB 534; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2025, p. 713, § 5/SB 98, effective July 1, 2025; Ga. L. 2025, p. 1029, § 29(1)/SB 153, effective July 1, 2025.

Amendments.

The first 2025 amendment, effective July 1, 2025, substituted "conservator" for "guardian" in paragraph (b)(8).

The second 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, substituted "subsection (d)" for "subsection (c)" in paragraph (b)(4).

Editor's notes.

Former Code Section 31-36-5, referred to in subsection (c) of this Code section, was repealed by Ga. L. 2007, p. 133, § 3/HB 24, effective July 1, 2007.

Law reviews.

For article, "Marriage, Death and Taxes: The Estate Planning Impact of Windsor and Obergefell on Georgia's Same Sex Spouses," see 21 Ga. St. Bar. J. 9 (2015).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to appoint nominated guardian/conservator. — Probate court abused the court's discretion by applying an incorrect analysis in determining who to appoint as the parent's guardian and conservator because the issue of whether the parent's child, who the parent nominated to serve as the parent's guardian and conservator in the parent's estate planning documents, should have been appointed as the parent's guardian and conservator was squarely and properly before the probate court for determination as the guardianship and conservatorship statutes setting forth the preference for an individual nominated by an adult did not include a requirement that the nominated individual had to file a written request for appointment or file any pleadings in the proceedings. In re Estate of Kurtzman, 366 Ga. App. 725, 884 S.E.2d 110, 2023 Ga. App. LEXIS 66 (2023).

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In

re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

Denial of appointment of guardian held erroneous. — Because the probate court applied an incorrect analysis regarding the children's request for guardianship in an action involving their parent, the request was improperly denied. Cruver v. Mitchell, 289 Ga. App. 145, 656 S.E.2d 269, 2008 Ga. App. LEXIS 24 (2008).

Appointment of county conservator upheld. — Seeking to avoid the recovery of Medicaid payments from their parent's estate, when the children opted their parent out of Medicaid and planned to sell some of the parent's property, those decisions were properly held to not be in the parent's best interest and supported the appointment of the county conservator in said capacity. Cruver v. Mitchell, 289 Ga. App. 145, 656 S.E.2d 269, 2008 Ga. App. LEXIS 24 (2008).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 40 et seq.

Am. Jur. Pleading and Practice Forms.

13 Am. Jur. Pleading and Practice Forms, Guardian and Ward, §§ 9 et seq., 42 et seq., 45, 63, 151, 450.

C.J.S.

57 C.J.S., Mental Health, § 123 et seq.

29-5-4. Payment, transfer, or delivery of property of incapacitated adult pursuant to affidavit; liability; disposition of property by affiant.

(a) Upon receiving an affidavit:

(1) That the total personal property of an incapacitated adult does not exceed $2,500.00 in value;

(2) That no conservator has been appointed for the incapacitated adult's estate; and

(3) That the affiant is the spouse or that there is no spouse and the affiant is a relative having the responsibility of the support of the incapacitated adult,

any person or corporation indebted to or holding personal property of the incapacitated adult shall be authorized to pay the amount of the indebtedness or deliver the personal property to the affiant. In the same manner and upon like proof, any person or corporation having the responsibility for the issuance or transfer of stocks, bonds, or other personal property shall be authorized to issue or transfer the stocks, bonds, or personal property to or in the name of the affiant. Upon payment, delivery, transfer, or issuance pursuant to the affidavit, the person or corporation shall be released to the same extent as if the payment, delivery, transfer, or issuance had been made to the legally qualified conservator of the incapacitated adult and shall not be required to see to the application or disposition of the personal property.

(b) The person making the affidavit and receiving the personal property shall be authorized to expend or otherwise dispose of the personal property for the benefit of the incapacitated adult in the person's judgment as may be just and proper.

History.
Code 1981, § 29-5-4, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-2 is included in the annotations for this Code section.

Failure to explain reason for selection of county guardian. — Probate court, when selecting a new guardian for appellant, erred in failing to consider appellant's next of kin; because the hearing was not recorded, and because the order failed to explain the reason the probate court selected the county guardian as the new guardian, the record supported appellant's argument that the probate court failed to consider the statutory preferences of former O.C.G.A. § 29-5-2(c) in naming a new guardian. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-2).

Purported settlement agreement involving the ward not enforceable. — Trial court did not err in denying a driver's motions to enforce a settlement with the driver's injured passenger, and dismiss the passenger's action, as: (1) the attorney, who purported to agree to the settlement of the passenger's claim, lacked the authority to do so; and (2) the undisputed evidence revealed that at the time of the purported settlement no guardian had been appointed for the passenger. Anaya v. Coello, 279 Ga. App. 578, 632 S.E.2d 425, 2006 Ga. App. LEXIS 644 (2006), cert. denied, No. S06C1724, 2006 Ga. LEXIS 699 (Ga. Sept. 8, 2006).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 162 et seq.

C.J.S.
57 C.J.S., Mental Health, § 123 et seq.

ARTICLE 2

PETITION FOR APPOINTED CONSERVATOR

29-5-10. Petition requirements.

(a) Any interested person, including the proposed ward, may file a petition for the appointment of a conservator. Such petition shall be filed in the court of the county in which:

(1) The proposed ward is domiciled;

(2) The proposed ward is found; provided, however, that, if the court of the county where the proposed ward is found determines that the proposed ward was removed to such county solely for the purposes of filing a petition for the appointment of a conservator and that such court acquired jurisdiction to appoint a conservator because

of unjustifiable conduct, such court may take any action authorized by Code Section 29-11-16; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.

(b) The petition for appointment of a conservator shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and county of domicile of the proposed ward, if known;

(3) The name, address, and county of domicile of the petitioner or petitioners and the petitioner's relationship to the proposed ward, if any, and, if different from the petitioner, the name, address, and county of domicile of the person nominated by the petitioner to serve as conservator and that person's relationship to the proposed ward, if any;

(4) A statement of the reasons the conservatorship is sought, including the facts which support the claim of the need for a conservator;

(5) Any foreseeable limitations on the conservatorship;

(6) Whether, to the petitioner's knowledge, there exists any power of attorney, trust, or other instrument that deals with the management of the property of the proposed ward in the event of incapacity and the name and address of any fiduciary or agent named in the instrument;

(7) A description of all known assets, income, other sources of funds, liabilities, and expenses of the proposed ward;

(8) The names and addresses of the following whose whereabouts are known:

(A) The spouse of the proposed ward; and

(B) All children of the proposed ward; or

(C) If there are no adult children, then at least two adults in the following order of priority:

(i) Lineal descendants of the proposed ward;

(ii) Parents and siblings of the proposed ward; and

(iii) Friends of the proposed ward;

(9) If known, the name and address of any person nominated to serve as conservator by the proposed ward, as described in paragraph (1) of subsection (b) of Code Section 29-5-3;

(10) If known, the name and address of any person nominated to serve as conservator by the proposed ward's spouse, adult child, or parent, as described in paragraphs (2) through (4) of subsection (b) of Code Section 29-5-3;

(11) The name and address of any person nominated to serve as conservator by the petitioner;

(12) Whether any nominated conservator has consented or will consent to serve as conservator;

(13) If known, whether any nominated conservator is an owner, operator, or employee of a long-term care or other caregiving institution or facility at which the proposed ward is receiving care, and, if so, whether the nominated conservator is related to the proposed ward by blood, marriage, or adoption;

(14) Whether an emergency conservator has been appointed for the proposed ward or a petition for the appointment of an emergency conservator has been filed or is being filed;

(15) If known, a disclosure of any ownership or other financial interest that would cause any nominated conservator to have a conflict of interest with the proposed ward;

(16) A specific listing of any additional powers, as described in subsections (b) and (c) of Code Section 29-5-23, that are requested by the conservator and a statement of the circumstances which would justify the granting of additional powers;

(17) Whether a guardian or conservator has been appointed in another state or whether a petition for the appointment of a guardian or conservator is pending in another state;

(18) That to petitioner's knowledge, there has been no petition for conservatorship denied or dismissed within two years by any court of this state or, if so, that there has been a significant change in the condition or circumstances of the individual, as shown by the accompanying affidavits or evaluation;

(19) Any state in which the proposed ward was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of the petition or ending within the six months prior to the filing of the petition; and

(20) The reason for any omission in the petition for appointment of conservator in the event full particulars are lacking.

(c)(1) The petition shall be sworn to by two or more petitioners or shall be supported by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to

practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or, if the proposed ward is a patient in any federal medical facility in which such a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker is not available, a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker authorized to practice in such federal facility.

(2) Any affidavit shall be based on personal knowledge and shall state that the affiant has examined the proposed ward within 15 days prior to the filing of the petition and that, based upon the examination, the proposed ward was determined to lack sufficient capacity to make or communicate significant, responsible decisions concerning the management of the proposed ward's property.

(3) In addition to stating the facts that support the claim of the need for a conservator, the affidavit shall state the foreseeable duration of the conservatorship and may set forth the affiant's opinion as to any other limitations on the conservatorship.

History.

Code 1981, § 29-5-10, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2013, p. 884, § 2/HB 446; Ga. L. 2019, p. 693, § 14/HB 70; Ga. L. 2022, p. 352, § 29/HB 1428; Ga. L. 2025, p. 402, § 13/HB 36, effective July 1, 2025; Ga. L. 2026, p. 1069, § 54(1)(N)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (c)(1), inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43,", inserted a comma following "social worker" and preceding "or," substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or" for "psychologist, or" twice, and substituted "such federal" for "that."

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in paragraph (a)(2).

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, certain decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been

included in the annotations for this Code section.

Requiring notice is to protect public and alleged incompetent. — The object of former Code 1933, § 49-604 in requiring notice to relatives was not to confer any right upon them, but was solely for the purpose of protecting public and interest of alleged incompetent. Phillips v. Phillips, 202 Ga. 776, 44 S.E.2d 767, 1947 Ga. LEXIS 528 (1947) (decided under former Code 1933, § 49-604).

Relations notified are not parties in their own behalf but are notified for benefit of person to be considered and given an opportunity to be heard in that person's behalf. They are not summoned by process; no judgment can be rendered against them merely because of such notice; and there is no provision for taxing costs against them. Slaughter v. Heath, 127 Ga. 747, 57 S.E. 69, 1907 Ga. LEXIS 473 (1907) (decided under former Code 1895, § 2573).

Proceedings in probate court only governed by recording requirement in former O.C.G.A. § 29-5-6(e)(2) and on de novo appeal from probate court decision on guardianship petition, superior court may, but was not required to, have the hearing reported. Snider v. Lavender, 164 Ga. App. 591, 298 S.E.2d 582, 1982 Ga. App. LEXIS 2879 (1982) (decided under former O.C.G.A. § 29-5-6).

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Stepchildren are not included in "children." — A ward's stepchildren are not children under the guardianship statute, nor are they next of kin, and because there were individuals in this case related to the ward by blood, who were not notified of the guardianship proceedings, the appointment of the guardian was void. Wilson v. James, 260 Ga. 234, 392 S.E.2d 5, 1990 Ga. LEXIS 222 (1990) (decided under former O.C.G.A. § 29-5-6).

Guardian appointment for person of nonresident insane person within county. — Probate courts of this state have jurisdiction to appoint a guardian for person of nonresident insane person if nonresident is found within limits of county of probate court's jurisdiction. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Probate court of Cobb County did not lack jurisdiction over proceedings involving ward who was a Stephens County resident but had been transferred to a convalescent center in Cobb County, where it was uncontroverted that no plea to the court's jurisdiction was filed and that ward was at the time of the proceeding "found" in Cobb County. Smith v. Young, 187 Ga. App. 191, 369 S.E.2d 798, 1988 Ga. App. LEXIS 672 (1988) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga.

Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Requirements for petition at trial. — Former O.C.G.A. § 29-5-6(a)(3), which required a guardianship petition to be sworn to by at least two petitioners, did not result in a similar requirement that a petitioner present two witnesses in support of the petition at the actual trial. Cummings v. Stanford, 193 Ga. App. 695, 388 S.E.2d 729, 1989 Ga. App. LEXIS 1588 (1989) (decided under former O.C.G.A. § 29-5-6).

Mental capacity to petition for appointment of guardian. — A person receiving social security disability benefits based on a mental disability, who had not been adjudicated to be incapacitated, was not disqualified to petition for appointment of a guardian for parent. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Notice to nearest relatives of alleged mental incompetent is insufficient. Edwards v. Lampkin, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice, all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Failure to have hearing recorded impacts appeal. — Absent a record of the hearing, the appellate could not determine whether the probate court's finding that appellant was incapable of

managing appellant's estate was supported by clear and convincing evidence; accordingly, because the probate court failed to have the hearing recorded or reported, appellant was effectively denied appellant's right to appeal the probate court's decision. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-6).

Motion to strike affidavit properly denied. — Trial court did not err in denying a ward's petition to strike the affidavit of a psychologist that accompanied a petition for the appointment of a conservator to manage the ward's property and financial affairs because the affidavit satisfied the requirements of O.C.G.A. § 29-5-10(c); the affidavit included the specific determination, required by § 29-5-10(c)(2), that the ward lacked sufficient capacity to make or communicate significant, responsible decisions concerning the management of the ward's property, and statements supporting that determination. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

Trial court did not err in denying a ward's petition to strike the affidavit of a psychologist that accompanied a petition for the appointment of a conservator to manage the ward's property and financial affairs because although the ward did not agree to the appointment of a conservator, the Department of Human Services nevertheless was authorized to petition for the appointment under O.C.G.A. § 30-5-5(e); because the Department was authorized to petition for a conservatorship, and inasmuch as O.C.G.A. § 29-5-10(c) contemplated that such a petition be supported by the affidavit of a professional, such as a licensed psychologist, the Department did not act without any authority when the Department obtained an affidavit from the psychologist. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

Standing to appeal from grant of petition. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-6).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 38 et seq., 59 et seq.

C.J.S.

39 Am. Jur. 2d, Guardian and Ward, § 7 et seq. 56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-5-11. Required probable cause finding; notice; evaluation and report; other requirements; response by counsel.

(a) Upon the filing of a petition for conservatorship of the estate of a proposed ward, the court shall review the petition and the affidavit, if any, and determine whether there is probable cause to believe that the proposed ward is in need of a conservator within the meaning of Code Section 29-5-1.

(b) If the court determines that there is no probable cause to believe that the proposed ward is in need of a conservator, the court shall dismiss the petition and provide the proposed ward with a copy of the petition, the affidavit, if any, and the order dismissing the petition.

(c) If the court determines that there is probable cause to believe that the proposed ward is in need of a conservator:

(1) The court shall immediately notify the proposed ward of the proceedings by service of all pleadings on the proposed ward, which notice shall:

(A) Be served personally on the proposed ward by an officer of the court and shall not be served by mail;

(B) Inform the proposed ward that a petition has been filed to have a conservator appointed for the proposed ward, that the proposed ward has the right to attend any hearing that is held, and that if a conservator is appointed the proposed ward may lose important rights to control the management of the proposed ward's property;

(C) Inform the proposed ward of the place and time at which the

proposed ward shall submit to the evaluation provided for by subsection (d) of this Code section; and

(D) Inform the proposed ward of the proposed ward's right to independent legal counsel and that the court shall appoint counsel within two days of service unless the proposed ward indicates that he or she has retained counsel within that time frame;

(2) Upon notice that the proposed ward has retained legal counsel or upon the appointment of legal counsel by the court, the court shall furnish legal counsel with a copy of the petition, the affidavit, if any, and the order for evaluation provided for by subsection (d) of this Code section.

(3) The court shall give notice of the petition by first-class mail to all adult individuals and other persons who are named in the petition pursuant to the requirements of paragraphs (8) through (10) of subsection (b) of Code Section 29-5-10; and

(4) Upon the court's own motion or upon the motion of any interested person, the court shall determine whether to appoint a guardian ad litem.

(d)(1) If the petition is not dismissed pursuant to subsection (b) of this Code section, the court shall appoint an evaluator who shall be a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or, if the proposed ward is a patient in any federal medical facility in which such a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker is not available, a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker authorized to practice in such federal facility other than the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker who completed the affidavit attached to the petition pursuant to subsection (c) of Code Section 29-5-10.

(2) When evaluating the proposed ward, the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker shall explain the purpose of the evaluation to the

proposed ward. The proposed ward may remain silent. Any statements made by the proposed ward during the evaluation shall be privileged and shall be inadmissible as evidence in any proceeding other than a proceeding under this chapter. The proposed ward's legal counsel shall have the right to be present but shall not participate in the evaluation.

(3) The evaluation shall be conducted with as little interference with the proposed ward's activities as possible. The evaluation shall take place at the place and time set in the notice to the proposed ward and to his or her legal counsel and the time set shall not be sooner than the fifth day after the service of notice on the proposed ward. The court, however, shall have the exclusive power to change the place and time of the examination at any time upon reasonable notice being given to the proposed ward and to his or her legal counsel. If the proposed ward fails to appear, the court may order that the proposed ward be taken directly to and from a medical facility, office of a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker for purposes of evaluation only. The evaluation shall be conducted during the normal business hours of the facility or office, and the proposed ward shall not be detained in the facility or office overnight. The evaluation may include, but not be limited to:

(A) A self-report from the proposed ward, if possible;

(B) Questions and observations of the proposed ward to assess the functional abilities of the proposed ward;

(C) A review of the records for the proposed ward, including, but not limited to, medical records, medication charts, and other available records;

(D) An assessment of cultural factors and language barriers that may impact the proposed ward's abilities and living environment; and

(E) All other factors the evaluator determines to be appropriate to the evaluation.

(4) A written report shall be filed with the court no later than seven days after the evaluation, and the court shall serve a copy of the report by first-class mail upon the proposed ward and the proposed ward's legal counsel and guardian ad litem, if appointed.

(5) The report shall be signed under oath by the evaluator and shall:

(A) State the circumstances and duration of the evaluation,

including a summary of questions or tests utilized, and the elements of the evaluation;

(B) List all persons and other sources of information consulted in evaluating the proposed ward;

(C) Describe the proposed ward's mental and physical state and condition, including all observed facts considered by the evaluator;

(D) Describe the overall social condition of the proposed ward, including support, care, education, and well-being; and

(E) Describe the needs of the proposed ward and their foreseeable duration.

(6) The proposed ward's legal counsel may file a written response to the evaluation, provided the response is filed no later than the date of the commencement of the hearing on the petition for conservatorship. The response may include, but is not limited to, independent evaluations, affidavits of individuals with personal knowledge of the proposed ward, and a statement of applicable law. In the response, the proposed ward's legal counsel may also challenge the sufficiency and weight of the results and conclusions of the evaluation and written report and the qualifications, experience, or abilities of the person performing the evaluation.

History.

Code 1981, § 29-5-11, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2025, p. 402, § 14/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (d)(1), substituted "evaluator" for "evaluating physician", inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43,", substituted "such" for "that"; substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor" for "psychologist, or" three times in paragraph (d)(1) and in paragraph (d)(2) and in paragraph (d)(3); substituted "evaluator" for "physician, psychologist, or licensed clinical social worker" in paragraph (d)(5) and in subparagraph (d)(5)(C); and added the last sentence of paragraph (d)(6).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2025, "inadmissible" was substituted for "inadmissable" in paragraph (d)(2).

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been

included in the annotations for this Code section.

Requiring notice is to protect public and alleged incompetent. — The object of former Code 1933, § 49-604 in requiring notice to relatives was not to confer any right upon them, but was solely for the purpose of protecting public and interest of alleged incompetent. Phillips v. Phillips, 202 Ga. 776, 44 S.E.2d 767, 1947 Ga. LEXIS 528 (1947) (decided under former Code 1933, § 49-604).

Relations notified are not parties in their own behalf but are notified for benefit of person to be considered and given an opportunity to be heard in that person's behalf. They are not summoned by process; no judgment can be rendered against them merely because of such notice; and there is no provision for taxing costs against them. Slaughter v. Heath, 127 Ga. 747, 57 S.E. 69, 1907 Ga. LEXIS 473 (1907) (decided under former Code 1895, § 2573).

Proceedings in probate court only governed by recording requirement in former O.C.G.A. § 29-5-6(e)(2) and on de novo appeal from probate court decision on guardianship petition, superior court may, but was not required to, have the hearing reported. Snider v. Lavender, 164 Ga. App. 591, 298 S.E.2d 582, 1982 Ga. App. LEXIS 2879 (1982) (decided under former O.C.G.A. § 29-5-6).

Names and addresses of adult children of ward. — Even though it was shown that a petitioner for appointment as guardian failed to name an adult child of the ward, because petitioner did not know the child's address, and included another child's residence address on the petition, rather than the county jail where petitioner knew that child was incarcerated, failure to comply with statutory notice requirements was not established. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Stepchildren are not included in "children." — A ward's stepchildren are not children under the guardianship statute, nor are they next of kin, and because there were individuals in this case related to the ward by blood, who were not notified of the guardianship proceedings, the appointment of the guardian was void. Wilson v. James, 260 Ga. 234, 392 S.E.2d 5, 1990 Ga. LEXIS 222 (1990) (decided under former O.C.G.A. § 29-5-6).

Guardian appointment for person of nonresident insane person within county. — Probate courts of this state have jurisdiction to appoint a guardian for person of nonresident insane person if nonresident is found within limits of county of probate court's jurisdiction. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Probate court of Cobb County did not lack jurisdiction over proceedings involving ward who was a Stephens County resident but had been transferred to a convalescent center in Cobb County, where it was uncontroverted that no plea to the court's jurisdiction was filed and that ward was at the time of the proceeding "found" in Cobb County. Smith v. Young, 187 Ga. App. 191, 369 S.E.2d 798, 1988 Ga. App. LEXIS 672 (1988) (decided under former O.C.G.A. § 29-5-6).

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga.

Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Requirements for petition at trial. — Former O.C.G.A. § 29-5-6(a)(3), which required a guardianship petition to be sworn to by at least two petitioners, did not result in a similar requirement that a petitioner present two witnesses in support of the petition at the actual trial. Cummings v. Stanford, 193 Ga. App. 695, 388 S.E.2d 729, 1989 Ga. App. LEXIS 1588 (1989) (decided under former O.C.G.A. § 29-5-6).

Mental capacity to petition for appointment of guardian. — A person receiving social security disability benefits based on a mental disability, who had not been adjudicated to be incapacitated, was not disqualified to petition for appointment of a guardian for parent. Johnson v. Jones, 214 Ga. App. 386, 448 S.E.2d 1, 1994 Ga. App. LEXIS 886 (1994) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Evaluation required after initial probable cause is found. — Probate court, having initially determined that there was probable cause to warrant filing of a petition for guardianship or conservatorship, erred in dismissing the petition without requiring an evaluation of the proposed ward as mandated by O.C.G.A. §§ 29-4-11 and 29-5-11; the ward's refusal to speak to the evaluator without counsel present meant the evaluation should have been rescheduled. In re Estate of Davis, 330 Ga. App. 97, 766 S.E.2d 550, 2014 Ga. App. LEXIS 806 (2014).

Notice to nearest relatives of alleged mental incompetent is insufficient. Edwards v. Lampkin, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice,

all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Probable cause. — Because the evidence was sufficient to sustain the order of conservatorship, the court of appeals would not separately consider whether the probate court properly found probable cause to proceed with an evaluation and then conduct a hearing for purposes of O.C.G.A. §§ 29-5-11 and 29-5-12; there is no reason to distinguish a finding of probable cause under O.C.G.A. § 29-5-11 from a finding of probable cause under O.C.G.A. § 29-5-12. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Cannot appoint guardian for rational but physically incapacitated. — Probate court cannot name guardian for one who is perfectly rational but only suffers some physical incapacity. 1977 Op. Att'y Gen. No. U77-65 (decided under former law).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 38 et seq., 46 et seq., 52 et seq.

C.J.S.

56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding

based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-5-12. Judicial review; probable cause findings; hearing on petition for appointment of conservator; determinations by court; judge unavailability.

(a) After the filing of the evaluation report, the court shall review the pleadings and the evaluation report.

(b) If, after the review, the court finds that there is no probable cause to support a finding that the proposed ward is in need of a conservator within the meaning of Code Section 29-5-1, the court shall dismiss the petition.

(c) If, after the review, the court finds that there is probable cause to support a finding that the proposed ward is in need of a conservator, the court shall schedule a hearing on the petition. Notice of the hearing shall be served by first-class mail upon the proposed ward, the proposed ward's legal counsel, and the proposed ward's guardian ad litem, if any; the petitioner or the petitioner's legal counsel, if any; and all adult individuals and other persons who are named in the petition pursuant to the requirements of paragraphs (8) through (10) of subsection (b) of Code Section 29-5-10. The date of the hearing shall not be less than ten days after the date the notice is mailed.

(d)(1) The hearing shall be held in a courtroom or, for good cause shown, at any other place as the court may set. At the request of the proposed ward or the proposed ward's legal counsel and for good cause shown, the court may exercise its discretion to exclude the public from the hearing and the record shall reflect the court's action. The proposed ward or the proposed ward's legal counsel may waive the appearance of the proposed ward at the hearing.

(2) The hearing shall be recorded by either a certified court reporter or a sound-recording device. The recording shall be retained for not less than 45 days from the date of the entry of the order described in Code Section 29-5-138.

(3) The court shall apply the rules of evidence applicable in civil cases.

(4) At the hearing, the proposed ward may also challenge, by appropriate evidence and argument, the sufficiency and weight of the results and conclusions of the evaluation and written report and the qualifications, experience, or abilities of the person performing the evaluation. The proposed ward shall have the right to present such evidence and argument regardless of whether the proposed ward's

legal counsel raised such matters in a written response submitted by the proposed ward's legal counsel pursuant to paragraph (6) of subsection (d) of Code Section 29-5-11.

(5) The court shall utilize the criteria in Code Section 29-5-1 to determine whether there is clear and convincing evidence of the need for a conservatorship in light of the evidence taken at the hearing. In addition to the evidence at the hearing, the court may consider the evaluation report and any response filed by the proposed ward. The burden of proof shall be upon the petitioner.

(6) If the court finds that the proposed ward has one or more developmental disabilities as defined in paragraph (8) of Code Section 37-1-1, the court shall not find that there is a need for a conservatorship unless the evidence shows by clear and convincing evidence that, due to such developmental disability or disabilities and other factors that may be present, the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his or her property.

(7) Upon determination of the need for a conservatorship, the court shall determine the powers, if any, which are to be retained by the proposed ward, in accordance with the provisions of Code Section 29-5-21 and whether any additional powers shall be granted to the conservator pursuant to the provisions of subsections (b) and (c) of Code Section 29-5-23.

(8) If the court determines that a conservatorship is necessary and the proposed ward is present, the proposed ward may suggest any person as conservator. The court shall select as conservator the person who shall serve the best interest of the ward.

(9) In any procedure under this chapter in which the judge of the court is unable to hear a case within the time required for a hearing on the petition for conservatorship, the judge shall appoint an individual to serve to hear the case and exercise all the jurisdiction of the court in the case. Any individual so appointed shall be a member of the State Bar of Georgia who is qualified to serve as the probate judge in that county and who is, in the opinion of the appointing judge, qualified for the duties by training and experience. The appointment may be made on a case-by-case basis or by making a standing appointment of one or more individuals. Any individual who receives a standing appointment shall serve at the pleasure of the judge who makes the appointment or the judge's successor in office. The compensation of an individual so appointed shall be as agreed upon by the judge who makes the appointment and the individual appointed, with the approval of the governing authority of the county for which the individual is appointed, and shall be paid from county

funds. All fees collected for the service of the appointed individual shall be paid into the general funds of the county.

History.

Code 1981, § 29-5-12, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2025, p. 402, § 15/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added present paragraph (d)(4) and redesignated former paragraph (d)(4) as present paragraph (d)(5), added present paragraph (d)(6), and redesignated former paragraphs (d)(5) through (d)(7) as present paragraphs (d)(7) through (d)(9), respectively.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1895, § 2573, former Code 1933, § 49-604, as it read prior to its amendment by Ga. L. 1964, p. 499, § 68, and as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-6 have been included in the annotations for this Code section.

Third party intervention in probate court proceeding. — Third party is not prohibited from intervention in a probate court guardianship proceeding. Kipp v. Rawson, 193 Ga. App. 532, 388 S.E.2d 409, 1989 Ga. App. LEXIS 1560 (1989) (decided under former O.C.G.A. § 29-5-6).

Grandchild did not have the right to intervene in proceedings by children for the appointment of a guardian for their parent. White v. Heard, 225 Ga. App. 351, 484 S.E.2d 12, 1997 Ga. App. LEXIS 244 (1997), cert. denied, No. S97C1065, 1997 Ga. LEXIS 670 (Ga. June 27, 1997) (decided under former O.C.G.A. § 29-5-6).

Motion to intervene not required. — It was not error for the probate court to permit the Department of Human Resources (now Department of Human Services) to intervene in guardianship proceedings without requiring it to file a motion to intervene. In re Martin, 218 Ga. App. 79, 460 S.E.2d 304, 1995 Ga. App. LEXIS 649 (1995), cert. denied, No. S95C1849, 1995 Ga. LEXIS 1211 (Ga. Nov. 3, 1995) (decided under former O.C.G.A. § 29-5-6).

Mental incompetent is entitled to hearing in county of residence. — When an individual files an application for the appointment of a guardian for an allegedly mentally incompetent state resident, the state resident is entitled to have the guardianship application heard in the probate court of the county in which they reside. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Where representative of alleged incompetent files plea to court's jurisdiction on ground that alleged incompetent is resident of another county, the plea should be sustained if it is determined that alleged incompetent is, in fact and in law, a resident of the other county. Sorrells v. Sorrells, 247 Ga. 9, 274 S.E.2d 314, 1981 Ga. LEXIS 585 (1981) (decided under former O.C.G.A. § 29-5-6).

Court where alleged insane person lives may have jurisdiction. — The court of ordinary (now probate court) of county in which alleged insane person is living and who becomes violent and liable to incur personal injury has jurisdiction notwithstanding fact that residence of such alleged insane person may be in some other county in this state. Anderson v. Smith, 76 Ga. App. 171, 45 S.E.2d 282, 1947 Ga. App. LEXIS 399, 1947 Ga. App. LEXIS 400 (1947) (decided under former Code 1933, § 49-604).

Inquiry into capacity to manage own estate is limited. — For the type of examination inquiring into one's capacity to manage own estate, jurisdiction of ordinary (now judge of probate court) is extremely limited, proceedings are summary and must be strictly construed. Milam v. Terrell, 214 Ga. 199, 104 S.E.2d 219, 1958 Ga. LEXIS 370 (1958) (decided

under former Code 1933, § 49-604); Boockholdt v. Brown, 224 Ga. 737, 164 S.E.2d 836, 1968 Ga. LEXIS 928 (1968) (decided under former Code 1933, § 49-604); Trapnell v. Smith, 131 Ga. App. 254, 205 S.E.2d 875, 1974 Ga. App. LEXIS 1393 (1974) (decided under former Code 1933, § 49-604).

In proceedings brought under former Code 1933, § 49-604 to inquire into one's capacity to manage own estate, jurisdiction of courts of ordinary (now probate courts) was extremely limited. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Evaluation required after initial probable cause is found. — Probate court, having initially determined that there was probable cause to warrant filing of a petition for guardianship or conservatorship, erred in dismissing the petition without requiring an evaluation of the proposed ward as mandated by O.C.G.A. §§ 29-4-11 and 29-5-11; the ward's refusal to speak to the evaluator without counsel present meant the evaluation should have been rescheduled. In re Estate of Davis, 330 Ga. App. 97, 766 S.E.2d 550, 2014 Ga. App. LEXIS 806 (2014).

When notice is insufficient, all proceedings under statute are void. — When court of ordinary was without jurisdiction due to insufficiency of notice, all subsequent proceedings in cause brought under former Code 1933, § 49-604, including appointment of guardian, were void. Edwards v. Lampkin, 112 Ga. App. 128, 144 S.E.2d 119, 1965 Ga. App. LEXIS 617, aff'd, 221 Ga. 486, 145 S.E.2d 518, 1965 Ga. LEXIS 506 (1965) (decided under former Code 1933, § 49-604).

Probable cause. — Because the evidence was sufficient to sustain the order of conservatorship, the court of appeals would not separately consider whether the probate court properly found probable cause to proceed with an evaluation and then conduct a hearing for purposes of O.C.G.A. §§ 29-5-11 and 29-5-12; there is no reason to distinguish a finding of probable cause under O.C.G.A. § 29-5-11 from a finding of probable cause under O.C.G.A. § 29-5-12. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

Social worker's evaluation properly considered. — Order granting children's petition for guardianship and conservatorship of their parent pursuant to O.C.G.A. §§ 29-4-1 and 29-5-1(a) was proper because the evidence included, inter alia, the testimony of one child's personal knowledge regarding the parent's physical problems, refusal to either relocate or to hire a private care giver, and failure to pay bills; the evidence also included a social worker's evaluation which detailed the parent's erratic behavior and refusal to pay bills, which the trial court properly considered pursuant to O.C.G.A. § 29-5-12(d)(4). In re Cash, 298 Ga. App. 110, 679 S.E.2d 124, 2009 Ga. App. LEXIS 619 (2009).

Failure to have hearing recorded impacts appeal. — Absent a record of the hearing, the appellate could not determine whether the probate court's finding that appellant was incapable of managing appellant's estate was supported by clear and convincing evidence; accordingly, because the probate court failed to have the hearing recorded or reported, appellant was effectively denied appellant's right to appeal the probate court's decision. In re Phillips, 2002 Ga. App. LEXIS 1311 (Ga. Ct. App. 2002) (decided under former O.C.G.A. § 29-5-6).

Standing to appeal from grant of petition. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-6).

Findings of parent's inability to manage property were supported. — Given a parent's gravely-impaired

judgment, which combined with a physical frailty and impaired vision, made the parent vulnerable to exploitation by a new person living with the parent, the probate court properly concluded that the parent lacked sufficient understanding to make significant responsible decisions concerning the management of the parent's property; moreover, because the parent chose not to include the transcript of the evidence in the appellate record, and, as any pre-trial ruling on the parent's capabilities was, after a trial determining the matter, harmless if not moot, the probate court's ruling was upheld. Yetman v. Walsh, 282 Ga. App. 499, 639 S.E.2d 491, 2006 Ga. App. LEXIS 1446 (2006).

Appointment of conservator proper. — Trial court did not err in granting a petition for the appointment of a conservator to manage a ward's property and financial affairs because the Department of Human Services carried the Department's burden of proving under O.C.G.A. § 29-5-1(a) that the ward lacked sufficient capacity to make or communicate significant responsible decisions concerning the management of the ward's property and financial affairs; pursuant to O.C.G.A. § 29-5-12(d)(4), the evidence was sufficient for the probate court to find by clear and convincing evidence that the ward was in need of a conservator to protect the ward's assets because the ward suffered from cognitive loss that affected the ward's judgment with respect to financial affairs, and the ward's impaired judgment led the ward to incur significant financial losses as the ward repeatedly fell victim to fraud. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-6 are included in the annotations for this Code section.

Appointment of guardian for property of mentally incompetent nonresident. — A probate court in Georgia may appoint a guardian of the property of a nonresident who is alleged to be mentally incompetent only if: (1) the nonresident has purposely established sufficient minimum contacts with Georgia; (2) there is compliance with O.C.G.A. § 9-10-91; and (3) the criteria and procedures of former O.C.G.A. § 29-5-1 et seq. are strictly followed. 1986 Op. Att'y Gen. No. U86-8 (decided under former O.C.G.A. § 29-5-6).

Guardianship termination order filing requirement. — The requirement of former O.C.G.A. § 29-5-6 that a certified copy of a guardianship termination order over an incapacitated person or over the property of an incapacitated person be filed in each county in which lies real property of the guardianship applies to a termination order issued upon the death of the incapacitated ward. 1989 Op. Att'y Gen. U89-12 (decided under former O.C.G.A. § 29-5-6).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 69.

C.J.S.

56 C.J.S., Mental Health, § 22 et seq. 57 C.J.S., Mental Health, § 113 et seq.

ALR.

May proceedings to have a person declared insane and to appoint conservator of committee of his person or estate rest upon substituted or constructive service of process, 77 A.L.R. 1227; 175 A.L.R. 1324.

Construction and application of statute prescribing that notice of petition or hearing for appointment of guardian be of such nature or be given to such persons as court deems reasonable or proper, 109 A.L.R. 338.

Right of appeal in proceeding for restoration to competency, 122 A.L.R. 541.

Necessity and sufficiency of notice to

infant or other incompetent of application for appointment of successor to guardian on committee, 138 A.L.R. 1364.

Waiver by alleged incompetent of notice of inquisition proceeding or proceeding for appointment of guardian, 152 A.L.R. 1247.

Validity of guardianship proceeding based on brainwashing of subject by religious, political, or social organization, 44 A.L.R.4th 1207.

29-5-13. Requirements of order granting conservatorship; service; obligation of legal counsel; filing of certificate of conservatorship with court.

(a) The court shall issue an order that sets forth the findings of fact and conclusions of law that support the grant or denial of the petition. An order granting conservatorship shall specify:

(1) The name of the conservator and the basis for the selection;

(2) Any powers retained by the ward pursuant to Code Section 29-5-21;

(3) The limitations on the conservatorship;

(4) A specific listing of any additional powers which are granted to the conservator as set forth in subsections (b) and (c) of Code Section 29-5-23;

(5) If a guardian is also appointed and if the guardian and conservator are not the same person, the reasonable sums or property to be furnished to the guardian to provide adequately for the ward's support, care, education, health, and welfare, subject to modification by subsequent order of the court;

(6) If the ward has an interest in real property, the name of the county in which the real property is located; and

(7) Such other and further provisions of the conservatorship as the court shall determine to be in the best interest of the ward, stating the reasons therefor.

(b) Service of the court's order shall be made by first-class mail upon the ward, the ward's legal counsel, the guardian ad litem, if any, the conservator, the petitioner, and other persons designated for service of the petition for conservatorship.

(c) After service of an order granting a conservatorship, the ward's legal counsel shall make reasonable efforts to explain to the ward the order of conservatorship and the ward's rights under the order.

(d) In any case involving the appointment of a conservator, if the ward has an interest in real property, the court shall file, within 30 days of granting the petition for conservatorship, a certificate with the clerk

of the superior court of each county in this state in which the ward owns real property, to be recorded in the deed records of the county and indexed under the name of the ward in the grantor index. The certificate shall set forth the name of the ward, the expiration date of the conservatorship, if limited by court order, the date of the order granting the conservatorship, and the name of the conservator. The certificate shall be accompanied by the same fee required for filing deeds with the clerk of the superior court. The filing fee and any fee for the certificate shall be taxed as costs to the estate.

History.
Code 1981, § 29-5-13, enacted by Ga. L. 2004, p. 161, § 1.

29-5-14. Appointment of emergency conservator; petition requirements.

(a) Any interested person, including the proposed ward, may file a petition for the appointment of an emergency conservator. Such petition shall be filed in the court of the county in which:

(1) The proposed ward is domiciled;

(2) The proposed ward is found; or

(3) Jurisdiction is otherwise proper under Code Section 29-11-12.

(b) The petition for appointment of an emergency conservator shall set forth:

(1) A statement of the facts upon which the court's jurisdiction is based;

(2) The name, address, and county of domicile of the proposed ward, if known;

(3) The name, address, and county of domicile of the petitioner and the petitioner's relationship to the proposed ward;

(4) A statement of the reasons the emergency conservatorship is sought, including the facts which support the need for a conservator and the facts which establish an immediate and substantial risk of irreparable waste or dissipation of the proposed ward's property unless an emergency conservator is appointed;

(5) The reasons why compliance with the procedures of Code Sections 29-5-10 through 29-5-13 is not appropriate in the circumstances;

(6) The fact that no other person appears to have authority and willingness to act in the circumstances, whether under a power of attorney, trust, or otherwise; and

(7) The reason for any omission to the petition for appointment of emergency conservator in the event full particulars are lacking.

(c) The petition shall state whether a petition for the appointment of a conservator or guardian has been filed or is being filed in conjunction with the petition for the appointment of an emergency conservator; and, if no other petition has been filed or is being filed, shall include a summary description of all known assets, income, other sources of funds, liabilities, and expenses of the proposed ward.

(d)(1) The petition shall be sworn to by two or more petitioners or shall be supported by an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, or, if the proposed ward is a patient in any federal medical facility in which such a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker is not available, a physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker authorized to practice in such federal facility.

(2) Any affidavit shall be based on personal knowledge and shall state that the affiant has examined the proposed ward within 15 days prior to the filing of the petition and that, based on the examination, the proposed ward was determined to lack sufficient capacity to make or communicate significant, responsible decisions concerning the management of the proposed ward's property and that there is an immediate and substantial risk of irreparable waste or dissipation of the proposed ward's property unless an emergency conservator is appointed.

(3) In addition to stating the facts that support the need for an emergency conservator, the affidavit shall state the foreseeable duration of the emergency conservatorship and may set forth the affiant's opinion as to any other limitations on the emergency conservatorship.

History.

Code 1981, § 29-5-14, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 15/HB 70; Ga. L. 2025, p. 402, § 16/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (d)(1), inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or

clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43,", substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor" for "psychologist, or" in two places, inserted a comma following "social worker" and preceding "or, if", and substituted "such federal" for "that".

JUDICIAL DECISIONS

Appellate court lacked jurisdiction over appeal when probate action still pending. — Georgia Court of Appeals lacked jurisdiction of an appeal challenging two probate court orders entered in a proceeding for the appointment of a guardian and conservator because the orders were not final as the proceeding remained pending in the probate court and were not subject to a statutory provision allowing a direct appeal. In re Bruni, 369 Ga. App. 488, 893 S.E.2d 862, 2023 Ga. App. LEXIS 481 (2023).

29-5-15. Judicial review; probable cause findings; notice; hearing on petition for emergency conservatorship; evaluation and report; other requirements.

(a) Upon the filing of a petition for an emergency conservatorship, the court shall review the petition and the affidavit, if any, to determine whether there is probable cause to believe that the proposed ward is in need of an emergency conservator within the meaning of Code Section 29-5-14.

(b) If the court determines that there is no probable cause to believe that the proposed ward is in need of an emergency conservator, the court shall dismiss the petition and provide the proposed ward with a copy of the petition, the affidavit, if any, and the order dismissing the petition.

(c) If the court determines that there is probable cause to believe that the proposed ward is in need of an emergency conservator, the court shall:

(1) Immediately appoint legal counsel to represent the proposed ward at the emergency hearing, which counsel may be the same counsel who is appointed to represent the proposed ward in the hearing on the petition for guardianship or conservatorship, if any such petition has been filed, and shall inform counsel of the appointment;

(2) Order an emergency hearing to be conducted not sooner than three days nor later than five days after the filing of the petition;

(3) Order an evaluation of the proposed ward by an evaluator who shall be a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a

nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, other than the physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker who completed the affidavit attached to the petition pursuant to paragraph (1) of subsection (d) of Code Section 29-5-10. Such evaluation shall be conducted within 72 hours of the time such order was issued, and a written report shall be furnished to the court and made available to the parties within such time, which evaluation and report shall be governed by the provisions of subsection (d) of Code Section 29-5-11;

(4) Immediately notify the proposed ward of the proceedings by service of all pleadings on the proposed ward, which notice shall:

(A) Be served personally on the proposed ward by an officer of the court and shall not be served by mail;

(B) Inform the proposed ward that a petition has been filed to have an emergency conservator appointed for the proposed ward, that the proposed ward has the right to attend any hearing that is held, and that, if an emergency conservator is appointed, the proposed ward may lose important rights to control the management of the proposed ward's property;

(C) Inform the proposed ward of the place and time at which the proposed ward shall submit to the evaluation provided for by paragraph (3) of this subsection;

(D) Inform the proposed ward of the appointment of legal counsel; and

(E) Inform the proposed ward of the date and time of the hearing on the emergency conservatorship; and

(5) Appoint an emergency conservator to serve until the emergency hearing, with or without prior notice to the proposed ward, if the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker; provided, however, that, pending the emer-

gency hearing, the court shall order that no withdrawals may be made from any account on the authority of the proposed ward's signature without the court's prior approval and that the emergency conservator shall not expend any funds of the proposed ward without prior court approval. Appointment of an emergency conservator under this paragraph is not a final determination of the proposed ward's need for a nonemergency conservator. Any emergency conservator appointed under this paragraph shall have only those powers and duties specifically enumerated in the letters of emergency conservatorship; such powers and duties shall not exceed those absolutely necessary to respond to the immediate threatened risk to the ward; and such powers and duties shall be subject to the limitations provided in this paragraph regarding the expenditures of funds of the ward.

History.

Code 1981, § 29-5-15, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 13/SB 534; Ga. L. 2025, p. 402, § 17/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (c)(3), in the first sentence, substituted "an evaluator" for "a physician", inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43,", substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or" for "psychologist, or", and substituted "Code Section 29-5-10. Such evaluation shall be conducted" for "Code Section 29-5-10, to be conducted" at the end of the first sentence, inserted "of the time such order was issued" following "72 hours", substituted "of the time such order was issued, and a written report shall" for "and a written report to", "such time" for "72 hours", and "subsection (d) of Code Section 29-5-11" for "subsection (d) of Code Section 29-5-14" in the last sentence; and, in paragraph (c)(5), inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43,", inserted "a" preceding "licensed" in the first sentence, and added the last sentence.

29-5-16. Emergency conservatorship hearing; limitations on powers of emergency conservator; termination.

(a) The court shall conduct the emergency conservatorship hearing at the time and date set forth in its order to determine whether there is clear and convincing evidence of the need for an emergency conservatorship in light of the evidence taken at the hearing. In addition to the evidence at the hearing, the court may consider the evaluation report and any response filed by the proposed ward. The proposed ward may also challenge, by appropriate evidence and argument, the sufficiency and weight of the results and conclusions of the evaluation and written report and the qualifications, experience, or abilities of the person performing the evaluation. The burden of proof shall be upon the

petitioner. Upon the consent of the petitioner and the proposed ward, the court may grant a continuance of the case for a period not to exceed 30 days.

(b) If the court at the emergency hearing finds that an emergency conservatorship is necessary, the court shall order the emergency conservatorship; provided, however, that:

(1) Any emergency conservator shall have only those powers and duties specifically enumerated in the letters of emergency conservatorship and the powers and duties shall not exceed those absolutely necessary to respond to the immediate threatened risk to the ward;

(2) The court may order the emergency conservator to make any report the court requires;

(3) If the court finds that the proposed ward has one or more developmental disabilities as defined in paragraph (8) of Code Section 37-1-1, the court shall not find that there is a need for an emergency conservatorship unless the evidence shows by clear and convincing evidence that, due to such developmental disability or disabilities and other factors that may be present, the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his or her property and there is an immediate and substantial risk of irreparable waste or dissipation of the proposed ward's property unless an emergency conservator is appointed; and

(4) The emergency conservatorship shall terminate on the earliest of:

(A) The court's removal of the emergency conservator, with or without cause;

(B) The effective date of the appointment of a conservator;

(C) Unless otherwise specified in the order of dismissal, the dismissal of a petition for appointment of a conservator;

(D) The date specified for the termination in the order appointing the emergency conservator; or

(E) Sixty days from the date of appointment of the emergency conservator.

History.

Code 1981, § 29-5-16, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 402, § 18/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added the third sentence of subsection (a), added present paragraph (b)(3), and redesignated former paragraph (b)(3) as present paragraph (b)(4).

JUDICIAL DECISIONS

Appellate court lacked jurisdiction over appeal when probate action still pending. — Georgia Court of Appeals lacked jurisdiction of an appeal challenging two probate court orders entered in a proceeding for the appointment of a guardian and conservator because the orders were not final as the proceeding remained pending in the probate court and were not subject to a statutory provision allowing a direct appeal. In re Bruni, 369 Ga. App. 488, 893 S.E.2d 862, 2023 Ga. App. LEXIS 481 (2023).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former O.C.G.A. § 29-5-8 is included in the annotations for this Code section.

Right to jury trial. — If the appointment of an emergency guardian under former O.C.G.A. § 29-5-8 is only for that period of time pending the outcome either of the emergency guardianship hearing or the permanent guardianship hearing, the order would not be final or appealable to a jury in superior court, and hence would not be subject to Ga. L. 1986, p. 982, affecting procedures before the probate court in certain counties; on the other hand, if the petition before the probate court sought only an emergency guardian for a period not to exceed 45 days, as in a situation where immediate surgical or other medical consent was required for a seriously ill person proposed to be a ward, an order granting such a petition, which would leave nothing further to be decided by the probate court, would be final, appealable to a superior court jury, and hence would be a "civil case" under the 1986 Act, giving a party a right to demand a jury trial. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-8).

ARTICLE 3

RIGHTS OF WARD AND RESPONSIBILITIES OF CONSERVATOR

29-5-20. Rights of adult ward; impact on right to vote or testamentary capacity.

(a) In every conservatorship the ward has the right to:

(1) A qualified conservator who acts in the best interest of the ward;

(2) A conservator who is reasonably accessible to the ward;

(3) Have the ward's property utilized as necessary to provide adequately for the ward's support, care, education, health, and welfare;

(4) Communicate freely and privately with persons other than the conservator, except as otherwise ordered by a court of competent jurisdiction;

(5) Individually, or through the ward's representative or legal counsel, bring an action relating to the conservatorship, including the right to file a petition alleging that the ward is being unjustly denied

a right or privilege granted by Chapter 4 of this title and this chapter and the right to bring an action to modify or terminate the conservatorship pursuant to the provisions of Code Sections 29-5-71 and 29-5-72;

(6) The least restrictive form of conservatorship, taking into consideration the ward's functional limitations, personal needs, and preferences; and

(7) Be restored to capacity at the earliest possible time.

(b) The appointment of a conservator is not a determination regarding the right of the ward to vote.

(c) The appointment of a conservator is not a determination that the ward lacks testamentary capacity.

History.
Code 1981, § 29-5-20, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-7 is included in the annotations for this Code section.

Ward's right to make will. — The appointment of a guardian for adults who are incapacitated does not destroy the ward's right or ability to make a will. Pope v. Fields, 273 Ga. 6, 536 S.E.2d 740, 2000 Ga. LEXIS 674 (2000) (decided under former O.C.G.A. § 29-5-7).

The probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as the attorneys disbursed to themselves, and to hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-5-7).

29-5-21. Rights and powers removed from ward.

(a) Unless the court's order specifies that one or more of the following powers are to be retained by the ward, the appointment of a conservator shall remove from the ward the power to:

(1) Make, modify, or terminate contracts, other than the power to contract marriage;

(2) To buy, sell, or otherwise dispose of or encumber property;

(3) Enter into or conduct other business or commercial transactions;

(4) Revoke a revocable trust established by the ward; and

(5) Bring or defend any action at law or equity, except an action relating to the conservatorship.

(b) The mere appointment of a conservator does not revoke the powers of an agent who was previously appointed by the ward to act as the ward's agent under a durable power of attorney for health care, health care agent under an advance directive for health care, or mental health care agent under a psychiatric advance directive.

History.

Code 1981, § 29-5-21, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2007, p. 133, § 10/HB 24; Ga. L. 2022, p. 611, § 2-8/HB 752.

Editor's notes.

Ga. L. 2007, p. 133, § 1/HB 24, not codified by the General Assembly, provides: "(a) The General Assembly has long recognized the right of the individual to control all aspects of his or her personal care and medical treatment, including the right to insist upon medical treatment, decline medical treatment, or direct that medical treatment be withdrawn. In order to secure these rights, the General Assembly has adopted and amended statutes recognizing the living will and health care agency and provided statutory forms for both documents.

"(b) The General Assembly has determined that the statutory forms for the living will and durable power of attorney for health care are confusing and inconsistent and that the statutes providing for the living will and health care agency contain conflicting concepts, inconsistent and out-of-date terminology, and confusing and inconsistent requirements for execution. In addition, there is a commendable trend among the states to combine the concepts of the living will and health care agency into a single legal document.

"(c) The General Assembly recognizes that a significant number of individuals representing the academic, medical, legislative, and legal communities, state officials, ethics scholars, and advocacy groups worked together to develop the advance directive for health care contained in this Act, and the collective intent was to create a form that uses understandable and everyday language in order to encourage more citizens of this state to execute advance directives for health care.

"(d) The General Assembly finds that the clear expression of an individual's decisions regarding health care, whether made by the individual or an agent appointed by the individual, is of critical importance not only to citizens but also to the health care and legal communities, third parties, and families. In furtherance of these purposes, the General Assembly enacts a new Chapter 32 of Title 31, setting forth general principles governing the expression of decisions regarding health care and the appointment of a health care agent, as well as a form of advance directive for health care."

Law reviews.

For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-7 is included in the annotations for this Code section.

Ward's right to make will. — The appointment of a guardian for adults who are incapacitated does not destroy the ward's right or ability to make a will. Pope v. Fields, 273 Ga. 6, 536 S.E.2d 740, 2000 Ga. LEXIS 674 (2000) (decided under former O.C.G.A. § 29-5-7).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as the attorneys disbursed to themselves, and to

hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-5-7).

29-5-22. Obligations and liabilities of conservator.

(a) Except as otherwise provided by law or by the court, a conservator shall receive, collect, and make decisions regarding the ward's property. A conservator shall, to the extent feasible, encourage the ward to participate in decisions, act on the ward's own behalf, and develop or regain the ability to manage the ward's property. A conservator, in making decisions, shall consider the expressed desires and personal values of the ward which are known to the conservator. A conservator shall at all times act as a fiduciary in the ward's best interest and exercise reasonable care, diligence, and prudence.

(b) A conservator shall:

(1) Respect the rights and dignity of the ward;

(2) Be reasonably accessible to the ward and maintain regular communication with the ward;

(3) If necessary, petition to have a guardian appointed;

(4) Endeavor to cooperate with the guardian, if any;

(5) Provide for the support, care, education, health, and welfare of the ward and persons who are entitled to be supported by the ward, to the extent consistent with the current and future needs and resources of the ward;

(6) Give such bond as required by Code Section 29-5-40;

(7) Within two months of appointment, file with the court and provide to the guardian, if any, an inventory of the ward's property and a plan for administering the property, pursuant to the provisions of Code Section 29-5-30.

(8) Take into account any estate plan of the ward known to the conservator in the administration of the conservatorship;

(9) Keep accurate records, including adequate supporting data, and file annual returns, as required by Code Section 29-5-60;

(10) Promptly notify the court of any change in the ward's condition that in the opinion of the conservator might require modification or termination of the conservatorship;

(11) Promptly notify the court of any conflict of interest between the ward and the conservator when the conflict arises or becomes known to the conservator and take such action as is required by Code Section 29-5-24; and

(12) Keep the court informed of the conservator's current address.

(c) A conservator, solely by reason of the conservator-ward relationship, is not personally liable for:

(1) The ward's expenses or the expenses of those entitled to be supported by the ward;

(2) Contracts entered into in the conservator's fiduciary capacity;

(3) The acts or omissions of the ward;

(4) Obligations arising from ownership or control of property of the ward; or

(5) Other acts or omissions occurring in the course of the conservatorship.

History.
Code 1981, § 29-5-22, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1855-56, p. 147, § 1, former Code 1895, § 2571, former Code 1933, § 49-231 and § 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. § 29-5-4 are included in the annotations for this Code section.

Failure entails burden of proving faithful discharge of duties. — Failure of executor or guardian to make returns is an omission of duty, and therefore a breach of trust, and puts upon the executor the burden of proving to satisfaction of court that the executor discharged trust with fidelity. Wellborn v. Rogers, 24 Ga. 558, 1858 Ga. LEXIS 248 (1858) (decided under Ga. L. 1855-56, p. 147, § 1).

Failure to make returns of interest does not demonstrate fraud. — Failure of guardian to make returns of interest accumulated in guardian's hands is not by itself sufficient to authorize finding of fraud and charging of compound interest. Royston v. Royston, 29 Ga. 82, 1859 Ga. LEXIS 289 (1859) (decided under Ga. L. 1855-56, p. 147, § 1).

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Unauthorized estate planning. — When the conservator transferred funds from the ward's payable on death (POD) investment account to another account without maintaining the POD designation that named appellee as beneficiary, this constituted unauthorized estate planning that could not void the ward's beneficiary designation. In re Estate of Baker, 377 Ga. App. 573, 923 S.E.2d 118, 2025 Ga. App. LEXIS 517 (2025).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one

who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as they disbursed to themselves, and to hold the attorneys in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-5-4).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 86 et seq., 182 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 57 et seq., 76 et seq., 284 et seq.

57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Resignation or removal of executor, administrator, guardian, or trustee, before final administration or before termination of trust, as affecting his compensation, 94 A.L.R. 1101; 96 A.L.R.3d 1102.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-5-23. Authority of conservator; cooperation with guardian or other interested parties.

(a) Unless inconsistent with the terms of any court order relating to the conservatorship, a conservator without court order may:

(1) Make reasonable disbursements from the annual income or, if applicable, from the annual budget amount that has been approved by the court pursuant to Code Section 29-5-30 for the support, care, education, health, and welfare of the ward and those persons who are entitled to be supported by the ward;

(2) Enter into contracts for labor or service upon such terms as the conservator may deem best, but only to the extent that the annual compensation payable under such contracts, when combined with other anticipated disbursements, does not exceed the amount of the annual income or, if applicable, the annual budget amount that has been approved by the court pursuant to Code Section 29-5-30;

(3) Borrow money for one year or less and bind the ward or the ward's property, but only if the amount of the annual payments, when combined with other anticipated disbursements, does not exceed the amount of the annual income or, if applicable, the annual budget

amount that has been approved by the court pursuant to Code Section 29-5-30 and only if done for purposes of paying the ward's debts, repairing the ward's dwelling place, or providing for the support, care, education, health, or welfare of the ward and the persons who are entitled to be supported by the ward;

(4) Receive, collect, and hold the ward's property, additions to the ward's property, and all related records;

(5) Retain the property received by the conservator upon the creation of the conservatorship in accordance with the provisions of Code Section 29-5-31;

(6) Bring, defend, or participate in legal, equitable, or administrative proceedings, including alternative dispute resolution, as are appropriate for the support, care, education, health, or welfare of the ward in the name of or on behalf of the ward;

(7) Fulfill, as far as possible, or, to the extent permitted by law, disaffirm the executory contracts and comply with the executed contracts of the ward;

(8) Revoke a revocable trust set up by the ward or exercise such other powers of revocation, amendment, or withdrawal that are exercisable by the ward, but only if the governing instrument expressly allows a conservator to revoke the trust or exercise the powers;

(9) Examine the will and any other estate planning documents of the ward;

(10) Appoint an attorney in fact to act for the conservator when the conservator is unable to act; provided, however, that the conservator and the conservator's sureties shall be bound for the acts of the attorney as if the acts were the personal acts of the conservator;

(11) Invest the ward's property pursuant to the provisions of Code Sections 29-5-32 and 29-5-33;

(12) Sell the ward's stocks and bonds pursuant to the provisions of subsection (b) of Code Section 29-5-35;

(13) Compromise any contested or doubtful claim for or against the ward if the proposed gross settlement is in the amount of $25,000.00 or less, provided that, as used in this paragraph, the term "gross settlement" means the present value of all amounts paid or to be paid in settlement of the claim, including cash, medical expenses, expenses of litigation, attorney's fees, and any amounts allocated to a structured settlement or other similar financial arrangement; and

(14) Release the debtor and compromise all debts in the amount of $25,000.00 or less when the collection of the debt is doubtful.

(b)(1) In the petition for appointment, or at any time during the conservatorship, the conservator may request the continuing power:

(A) To invest the ward's property in investments other than those authorized in Code Section 29-5-32, pursuant to the provisions of Code Section 29-5-34, without further court approval of any investment;

(B) To sell, rent, lease, exchange, or otherwise dispose of any or all of the ward's real or personal property without complying with the provisions of Code Section 29-5-35 other than the provisions for additional bond set forth in subsection (e) of Code Section 29-5-35;

(C) To continue the operation of any farm or business in which the ward has an interest; or

(D) To access the digital assets of the ward, pursuant to Code Section 53-13-20.

(2) Unless the request for the powers described in paragraph (1) of this subsection is made in the petition for the initial appointment of the conservator, the court shall order a hearing as the court deems appropriate. Notice shall be given by personal service to the ward and a guardian ad litem appointed for the ward. Notice shall be given by first-class mail to the guardian of the ward, if any; the surety on the conservator's bond; and to the following relatives of the ward whose whereabouts are known:

(A) The spouse of the ward; and

(B) All adult children of the ward; or

(C) If there is no adult child, then at least two adults in the following order of priority:

(i) Lineal descendants of the ward;

(ii) Parents and siblings of the ward; and

(iii) Friends of the ward.

(c) At the time of the appointment of the conservator or at any time thereafter, and after appointment of a guardian ad litem for the ward and a hearing as the court deems appropriate, any of the following powers may be specifically granted to the conservator on a case-by-case basis, upon notice as the court shall determine:

(1) To make disbursements that exceed by no more than a specific amount the annual income or, if applicable, the annual budget amount that has been approved by the court pursuant to Code Section 29-5-30 for the support, care, education, health, and welfare of the ward and those persons who are entitled to be supported by the ward;

(2) To enter into contracts for labor or service for which the compensation payable under such contracts, when combined with other disbursements from the estate, exceeds the annual income or, if applicable, the annual budget amount that has been approved by the court pursuant to Code Section 29-5-30;

(3) To make specific investments of the ward's property that do not comply with the provisions of Code Section 29-5-32, pursuant to the provisions of Code Section 29-5-34;

(4) To sell, rent, lease, exchange, or otherwise dispose of specific items of the ward's real or personal property without complying with the provisions of Code Section 29-5-35 other than the provisions for additional bond set forth in subsection (e) of Code Section 29-5-35;

(5) To compromise a contested or doubtful claim for or against the ward if the proposed gross settlement is more than $25,000.00, provided that, as used in this paragraph, the term "gross settlement" means the present value of all amounts paid or to be paid in settlement of the claim, including cash, medical expenses, expenses of litigation, attorney's fees, and any amounts allocated to a structured settlement or other similar financial arrangement;

(6) To release the debtor and compromise all debts for which the collection is doubtful when the amount of the debt is $25,000.00 or more;

(7) To use the ward's property to erect a dwelling for the ward or make an addition or renovation to the ward's dwelling place;

(8) To establish or add property to a trust for the benefit of the ward and, if applicable, those individuals who are entitled to support from the ward; provided, however, unless otherwise provided by court order pursuant to Code Section 29-5-36, the trust must provide that the ward may revoke the trust if the ward is restored to capacity and the trust shall terminate upon the ward's death and any property remaining in the trust shall be paid to the ward's estate;

(9) To disclaim or renounce any property or interest in property of the ward in accordance with the provisions of Code Section 53-1-20;

(10) To access the digital assets of the ward pursuant to Code Section 53-13-20;

(11) To engage in estate planning for the ward pursuant to the provisions of Code Section 29-5-36; and

(12) To perform such other acts as may be in the best interest of the ward.

(d) In granting any of the powers described in subsections (b) and (c) of this Code section, the court shall consider the views of the guardian, if available, or, if there is no guardian, of others who have custody of the ward.

(e) In performing any of the acts described in this Code section, the conservator shall endeavor to cooperate with the guardian or, if there is no guardian, with others who have custody of the ward.

History.

Code 1981, § 29-5-23, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2018, p. 1089, § 6/SB 301; Ga. L. 2019, p. 693, § 17/HB 70; Ga. L. 2022, p. 207, § 6/HB 620; Ga. L. 2025, p. 402, § 19/HB 36, effective July 1, 2025; Ga. L. 2026, p. 1069, § 29(5)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, rewrote paragraph (a)(13), which read: "Compromise any contested or doubtful claim for or against the ward if the proposed gross settlement as defined in Code Section 29-3-3 is in the amount of $25,000.00 or less; and"; and rewrote paragraph (c)(5), which read: "To compromise a contested or doubtful claim for or against the ward if the proposed gross settlement as defined in Code Section 29-3-3 is more than $25,000.00;".

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "as used in" for "for purposes of" in paragraphs (a)(13) and (c)(5).

Cross references.

Revised Uniform Fiduciary Access to Digital Assets Act, § 53-13-1 et seq.

Law reviews.

For note discussing and comparing the prudent man rule and the legal list rule in trustee investment, see 15 Mercer L. Rev. 530 (1964).

For article, "The Child as a Party in Interest in Custody Proceedings," see 10 Ga. St. B.J. 577 (1974).

For article, "The Scope of Permissible Investments by Fiduciaries Under Georgia Law," see 19 Ga. St. B.J. 6 (1982).

For annual survey of law of wills, trusts, and administration of estates, see 38 Mercer L. Rev. 417 (1986).

For annual survey of wills, trusts, and administration of estates, see 42 Mercer L. Rev. 491 (1990).

For article, "Wills, Trusts & Administration of Estates," see 53 Mercer L. Rev. 499 (2001).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

JUDICIAL DECISIONS

Analysis

General Consideration
Authority of Probate Judge
Notice
Claims Subject to Compromise
Effect of Compromise

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Laws 1809, Cobb's 1851 Digest, p. 315, former Code 1859, p. 37, § 1, former Code 1868, §§ 1815, 1828, former Code 1873, §§ 1824, 1838, 2539, former Code 1882, §§ 1824, 2537, 2538, 2539, former Code 1895, §§ 2541, 2555, 2571, former Civil Code 1895, §§ 3432, 4630, former Civil Code 1910, §§ 3060, 3065, 3074, 4004, 4005, 4008, 5176, former Code 1933, §§ 49-202, 49-204, 49-213, 49-215, 49-216, 49-217, 49-219, 49-221, 49-226, and § 49-603, as it read prior to revision by Ga. L. 1980, p. 1661, § 1, and former O.C.G.A. §§ 29-2-16 and 29-2-20 are included in the annotations for this Code section.

Primarily income, and not corpus, of ward's property is to be expended for the purpose of education, maintenance, and making necessary repairs on the ward's property. Little v. West, 145 Ga.

General Consideration (Cont'd)

563, 89 S.E. 682, 1916 Ga. LEXIS 403 (1916) (decided under former Civil Code 1910, § 3060).

Guardian is entitled to charge a ward with necessary medical expenses incurred. Poole v. Wilkinson, 42 Ga. 539, 1871 Ga. LEXIS 100 (1871) (decided under former Code 1868, § 1815).

Guardian entitled to reasonable attorney's fees incurred in suits for collection of moneys to which ward was entitled. Royston v. Royston, 29 Ga. 82, 1859 Ga. LEXIS 289 (1859) (decided under former Ga. L. 1859, p. 37, § 1); Zellner v. Cleveland, 69 Ga. 631, 1882 Ga. LEXIS 281 (1882) (decided under former Code 1882, § 1824).

Expenses incurred in opposition to ward's petition for restoration. — Where ward's mental condition is in doubt, and guardian acts in good faith in opposing ward's petition for restoration, the guardian is entitled to recover reasonable and necessary expenses so incurred, including attorney fees. Woodruff v. Trust Co., 233 Ga. 135, 210 S.E.2d 321, 1974 Ga. LEXIS 700 (1974) (decided under former Code 1933, § 49-202).

Guardian entitled to reimbursement for payment of taxes. — Where real estate of ward is impressed by liens for municipal taxes and street pavement assessments, and the guardian pays them off, the guardian will be allowed, in an equitable accounting, to encroach upon corpus of estate for reimbursement, where there are not sufficient funds arising from income. English v. English, 149 Ga. 404, 100 S.E. 362, 1919 Ga. LEXIS 256 (1919) (decided under former Civil Code 1910, § 3060).

Determination of necessities. — For a determination of what are necessities where representations are made by ward to guardian, see Little v. West, 145 Ga. 563, 89 S.E. 682, 1916 Ga. LEXIS 403 (1916) (decided under former Civil Code 1910, § 3060).

Permanent improvements. — Guardian not authorized to sell or encumber property of ward for purpose of erecting permanent improvements on it; or, if the guardian erects permanent improvements on it with the guardian's own money, the guardian cannot obtain a legal order of the ordinary (now judge of probate court), or court of ordinary (now probate court), to sell it for reimbursement of guardian's expenses. Burke & Williams v. Mackenzie, 124 Ga. 248, 52 S.E. 653, 1905 Ga. LEXIS 697 (1905) (decided under former Civil Code 1895, § 2541); Little v. West, 145 Ga. 563, 89 S.E. 682, 1916 Ga. LEXIS 403 (1916) (decided under former Civil Code 1910, § 3060); Sturgis v. Davis, 157 Ga. 352, 121 S.E. 318, 1924 Ga. LEXIS 46 (1924) (decided under former Civil Code 1910, § 3060).

Equity jurisdiction of estates of wards of chancery is broad, comprehensive, and plenary. Turner v. Prigmore, 202 Ga. 377, 43 S.E.2d 259, 1947 Ga. LEXIS 440 (1947) (decided prior to 1958 amendment of former Code 1933, § 49-204).

Guardian may convey estate for years. — By complying with statutory provisions, guardians can convey an estate for years, after due advertisement and proper application to superior court (now within jurisdiction of probate court), and order of the judge thereon, for purpose of reinvestment. Shell Petro. Corp. v. Jackson, 47 Ga. App. 667, 171 S.E. 171, 1933 Ga. App. LEXIS 595 (1933) (decided under former Code 1933, § 49-204).

Lease of estate for years is in effect a sale. — Sale of lands by guardian for reinvestment may be made at public or private sale under direction of judge of superior court (now within jurisdiction of judge of probate court) and the lease of an estate for years of lands is in effect the sale of an estate for years therein. Shell Petro. Corp. v. Jackson, 47 Ga. App. 667, 171 S.E. 171, 1933 Ga. App. LEXIS 595 (1933) (decided under former Code 1933, § 49-204).

Order of court authorizing long-term lease with option to buy ward's land was valid. Union Camp Corp. v. Youmans, 227 Ga. 687, 182 S.E.2d 468, 1971 Ga. LEXIS 818 (1971) (decided under former Code 1933, § 49-204).

Guardian not to allow conflict of interest. — A guardian may not act in

such a way that the guardian's own personal interest may come in conflict with interest of ward with respect to estate of latter. Allen v. Wade, 203 Ga. 753, 48 S.E.2d 538, 1948 Ga. LEXIS 519 (1948) (decided under former Code 1933, § 49-204).

Negotiations for sale prior to obtaining court order allowed. — Guardians can, before they obtain an order of court, enter into negotiations looking to private sale or lease of an estate for years, and such action on their part would not be contrary to public policy nor illegal. Shell Petro. Corp. v. Jackson, 47 Ga. App. 667, 171 S.E. 171, 1933 Ga. App. LEXIS 595 (1933) (decided under former Code 1933, § 49-204).

Purchaser claiming title due to guardian's sale must show order. — Purchaser of real estate claiming title by virtue of guardian's sale must show order of ordinary (now judge of probate court) granting to guardian leave to sell it. Wells v. Chaffin, 60 Ga. 677, 1878 Ga. LEXIS 590 (1878) (decided under former law).

Sale by will not applicable. — Former Code 1933, § 49-208 (former O.C.G.A. § 29-2-7) had no application to sale under power conferred by will. Harwell v. Foster, 102 Ga. 38, 28 S.E. 967, 1897 Ga. LEXIS 446 (1897) (decided under former Civil Code 1895, § 4630).

Superior court shall determine necessity of order and validity of claim. — The superior court shall try both issue of necessity of order, and whether property is held adversely. Hull v. Watkins, 134 Ga. 779, 68 S.E. 506, 1910 Ga. LEXIS 346 (1910) (decided under former Civil Code 1910, § 5176).

Validity of claim not dependent upon giving of bond. — It is not necessary to validity of claim of land at executor's or administrator's sale that bond and security should be given. Falls v. Griffith, 25 Ga. 72, 1858 Ga. LEXIS 16 (1858) (decided under Laws 1809, Cobb's 1851 Digest, p. 315).

Finding a purchaser for property was a service within meaning of former Code 1933, § 49-213 (former O.C.G.A. § 29-2-11). Turner v. Prigmore, 202 Ga. 377, 43 S.E.2d 259, 1947 Ga. LEXIS 440 (1947) (decided under former Code 1933, § 49-213).

Reference to county in former Code 1933, § 49-213 (former O.C.G.A. § 29-2-11) referred to county wherein jurisdiction of guardianship laid. Turner v. Prigmore, 202 Ga. 377, 43 S.E.2d 259, 1947 Ga. LEXIS 440 (1947) (decided under former Code 1933, § 49-213).

For limitation of authority of testamentary guardian of incompetent to whom life estate has been devised, see Greer v. Greer, 218 Ga. 416, 128 S.E.2d 51, 1962 Ga. LEXIS 518 (1962) (decided under former Code 1933, § 49-213).

For a discussion of liability of bank which receives fruits of misappropriation by trustee, see Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former Code 1933, §§ 49-215, 49-217).

Former Civil Code 1910, § 3432 (former O.C.G.A. § 29-2-14) was inapplicable to exchange of lands. Mills v. Geer, 111 Ga. 275, 36 S.E. 673, 1900 Ga. LEXIS 530 (1900) (decided under former Civil Code 1895, § 3432).

Guardian acted in fiduciary capacity and was bound to utmost good faith with court and ward in interest of latter in proceeding under former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14). American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Proceeding does not require appointment of guardian ad litem. — Petition of guardian to invest funds of ward under this law is an ex parte proceeding of the ward acting through the guardian; it does not require appointment of guardian ad litem for ward. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Investment by guardian in violation of former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14) was a breach of guardian's statutory bond that would authorize suit to recover amount from guardian and guardian's surety. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

General Consideration (Cont'd)

For a discussion of liability of guardian for real estate investments without court order, see Paulk v. Roberts, 42 Ga. App. 79, 155 S.E. 55, 1930 Ga. App. LEXIS 238 (1930) (decided under former Civil Code 1910, § 4008).

Compromises of claims and compromises of debts distinguished. — Former Code 1933, §§ 49-219 and 49-221 (former O.C.G.A. §§ 29-2-16 and 29-2-18) were for purpose of distinguishing when guardian can compromise contested or doubtful claim of ward, and when the guardian can compromise a doubtful debt of ward; requirements for compromising a claim and for compromising a debt are different, and are set forth in separate statutes. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, §§ 49-219 and 49-221).

Former Civil Code 1910, § 4004 (former O.C.G.A. § 29-2-16) did not authorize rescission of contracts. Jones v. Ragan, 136 Ga. 653, 71 S.E. 1098, 1911 Ga. LEXIS 166 (1911) (decided under former Civil Code 1910, § 4004).

Subject matter to be compromised is claims whose justice and legality may be questioned. Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2537).

Compromise need not be approved by probate judge. — There is no requirement that a compromise be approved by the ordinary (now judge of probate court), as is the case with doubtful debts under former Code 1933, § 49-221 (former O.C.G.A. § 29-2-18) referring to liquidated contractual demands. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

Executor's authority need not be revoked to attack fraudulent agreement. — Where executor has exceeded authority in entering agreement, the executor's authority need not be revoked in order to attack such agreement. Empire Life Ins. Co. v. Mason, 140 Ga. 141, 78 S.E. 935, 1913 Ga. LEXIS 59 (1913) (decided at time when law included guardians, administrators, executors and other fiduciaries in its grant of authority to compromise claims; decided under former Civil Code 1910, § 4004).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as they disbursed to themselves and to hold them in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-2-16).

For general discussion of former Code 1882, § 2538 (former O.C.G.A. § 29-2-17), see Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2538).

On necessity of order of ordinary (now judge of probate court), see Jones v. Ragan, 136 Ga. 653, 71 S.E. 1098, 1911 Ga. LEXIS 166 (1911) (decided under former Civil Code 1910, § 4005).

Compliance with statute necessary for validity of compromise order. — The ordinary's (now judge of probate court) direction to compromise doubtful debt belonging to estate was worth nothing to executor unless it appeared that requirements of former Code 1873, § 2539 (former O.C.G.A. § 29-2-18) had been complied with. Ponce v. Wiley, 62 Ga. 118, 1878 Ga. LEXIS 309 (1878) (decided under former Code 1873, § 2539, which included guardians, administrators, executors and other fiduciaries in its grant of authority to compromise debts).

Subject matter to be compromised is debts, true and real, but doubtful as to solvency. Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 2539).

"Debt" means that fixed and specific amount is owing. — Distinguishing characteristic of word debt is that fixed and specific amount is owing and no future valuation is required to settle it. Campbell v. Atlanta Coach Co.,

58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Guardians, acting en autre droit, are generally held personally liable on promissory notes, because they have no authority to bind ex directo the persons for whom, or for whose benefit, or for whose estate they act; and hence to give any validity to a note they must be deemed personally bound as makers. Lovelace v. Smith, 39 Ga. 130, 1869 Ga. LEXIS 192 (1869) (decided under former Code 1868, § 1828); Howard v. Cassels, 105 Ga. 412, 31 S.E. 562, 1898 Ga. LEXIS 526 (1898) (decided under former Code 1895, § 2555); Lokey v. Trust Co. Bank, 198 Ga. App. 803, 402 S.E.2d 803, 1991 Ga. App. LEXIS 285 (1991) (decided under former O.C.G.A. § 29-2-20).

Deed to secure debt executed by the guardians could not be enforced against minor wards since the guardian did not obtain court approval before obtaining the loan. United Cos. Lending Corp. v. Coates, 238 Ga. App. 716, 520 S.E.2d 236 (decided under former O.C.G.A. § 29-2-20).

Loan of ward's money upon security deed to real estate. — A guardian cannot lend money of ward upon security deed to real estate unless guardian is authorized to do so by order of superior court. Cochran v. Spinks, 180 Ga. 623, 180 S.E. 221, 1935 Ga. LEXIS 510 (1935) (decided prior to amendment of former Code 1933, § 49-226).

Contract for maintenance and education not binding without prior approval. — Without approval of the ordinary (now judge of probate court), contract entered into by guardian to pay another for maintenance and education of ward cannot support judgment binding corpus of ward's estate. McQueen v. Fisher, 22 Ga. App. 394, 95 S.E. 1004, 1918 Ga. App. LEXIS 359 (1918) (decided under former Civil Code 1910, § 3074).

Effects of guardian lending money to oneself as individual and appointment of guardian ad litem, see Cochran v. Spinks, 180 Ga. 623, 180 S.E. 221, 1935 Ga. LEXIS 510 (1935) (decided under former Code 1933, § 49-226).

Power to contract, conferred by will, is controlled by will. — Where power to contract was conferred by will, validity of contract made by guardian depends on that instrument, and effect of judgment rendered on such contract is determined, not by the law regulating power of guardians, but by powers given guardian by the will. Howard v. Cassels, 105 Ga. 412, 31 S.E. 562, 1898 Ga. LEXIS 526 (1898) (decided under former Civil Code 1895, § 2555).

Guardian empowered to appoint agent. — Guardian had power to appoint agent to act for guardian during absence in confederate army, and any act of agent within scope of agent's authority would be as valid as that of guardian. Tarpley v. McWhorter, 56 Ga. 410, 1876 Ga. LEXIS 308 (1876) (decided under former Code 1873, § 1838).

Guardian is entitled to possession of ward's effects. — Guardian of person and property of a lunatic is entitled to retain possession and control of ward's effects so long as guardianship continues; and to deprive the guardian of such possession and control before ward is restored to sanity, it is necessary that the guardian's letters be revoked and another guardian appointed. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se breach of the bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-603).

Guardian cannot maintain divorce proceedings. — Suit for divorce instituted by guardian in behalf of one who has been adjudicated insane cannot be maintained in this state; the right to bring and prosecute such an action being strictly personal, and not within authority conferred by law upon a guardian. Phillips v. Phillips, 203 Ga. 106, 45 S.E.2d 621, 1947 Ga. LEXIS 579 (1947) (decided under former Code 1933, § 49-603).

Proceeding by next friend for waste with proceeding to remove guardian. — If a next friend suing in behalf of a lunatic can maintain an action for waste

General Consideration (Cont'd)

committed by the guardian, or recover money in the guardian's hands, it can be done only in connection with a proceeding to remove the guardian and revoke guardianship letters. Bonner v. Evans, 89 Ga. 656, 15 S.E. 906, 1892 Ga. LEXIS 421 (1892) (decided under prior law).

Authority of Probate Judge

Probate judge may ratify certain actions of guardian. — Where trustee has acted fairly and properly without previous consent of the ordinary (now judge of probate court), and where prompt and regular annual returns of the trustee's actions in that behalf have been made, the ordinary (now judge), by approving such returns, may ratify the action. Dowling v. Feeley, 72 Ga. 557, 1884 Ga. LEXIS 295 (1884) (decided under former Code 1882, § 1824); Shipp v. McCowen, 147 Ga. 711, 95 S.E. 251, 1918 Ga. LEXIS 119 (1918) (decided under former Civil Code 1910, § 3060).

Probate judge may consent to expenditures exceeding profits. — Ordinary (now judge of probate court) may consent to expenditures exceeding annual profits of ward's estate for expenses of maintenance and education by approving the regular annual returns of the guardian, which show on their face that expenses have exceeded income. Cook v. Rainey, 61 Ga. 452, 1878 Ga. LEXIS 150 (1878) (decided under former Code 1873, § 1824); Sturgis v. Davis, 157 Ga. 352, 121 S.E. 318, 1924 Ga. LEXIS 46 (1924) (decided under former Civil Code 1910, § 3060); Banister v. Bagley, 56 Ga. App. 615, 193 S.E. 480, 1937 Ga. App. LEXIS 180 (1937) (decided under former Code 1933, § 49-202); Bailey v. McElroy, 61 Ga. App. 367, 6 S.E.2d 140, 1939 Ga. App. LEXIS 301 (1939) (decided under former Code 1933, § 49-202).

Probate judge cannot delegate discretion. — Discretion to encroach upon corpus for maintenance and education of ward is confined to the ordinary (now judge of probate court) and the ordinary cannot relegate it to another. Shipp v. McCowen, 147 Ga. 711, 95 S.E. 251, 1918 Ga. LEXIS 119 (1918) (decided under former Civil Code 1910, § 3060).

Notice

Notice requirement is jurisdictional. — Requirement of former Code 1933, §§ 49-204 and 49-205 (former O.C.G.A. §§ 29-2-4 and 29-2-5) as to citation and notice to ward prior to leave to sell, exchange or encumber the ward's property is jurisdictional, and the ordinary (now judge of probate court) acts without jurisdiction by granting an order to sell without the required notice having been given. Fuller v. Dillon, 220 Ga. 36, 136 S.E.2d 733, 1964 Ga. LEXIS 444 (1964) (decided under former Code 1933, § 49-204).

Showing lack of notice rebuts presumption of validity of sale. — Though a judgment of an ordinary (now judge of probate court) granting leave to sell being regular upon its face is presumptively valid, such presumption is only prima facie and may be rebutted by evidence showing that jurisdictional fact of publication of notice had not been accomplished at time of grant of order. Fuller v. Dillon, 220 Ga. 36, 136 S.E.2d 733, 1964 Ga. LEXIS 444 (1964) (decided under former Code 1933, § 49-204).

Adequacy of notice under former O.C.G.A. § 29-2-4. — See Union Camp Corp. v. Youmans, 227 Ga. 687, 182 S.E.2d 468, 1971 Ga. LEXIS 818 (1971) (decided under former Code 1933, § 49-204).

Ward may appear by next friend. — Former Code 1933, § 49-204 (former O.C.G.A. § 29-2-4) contemplated right of ward to be heard, and where ward was incompetent to appear in person, the ward had right to appear by next friend. Fuller v. Dillon, 220 Ga. 36, 136 S.E.2d 733, 1964 Ga. LEXIS 444 (1964) (decided under former Code 1933, § 49-204).

Claims Subject to Compromise

"Claim" embraces assertion of liability to party making it to pay sum of money. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

"Claims" is sufficiently broad to include a tort action. Macris v. Laughlin

Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

"Claims" includes demands arising out of tort. — "Claims" as used in former Code 1933, § 49-219 (former O.C.G.A. § 29-2-16) had a technical meaning and implied that a right is in dispute, including a demand arising out of tort. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Wrongful death action was a property right and could be compromised or settled by a duly appointed guardian of property pursuant to former O.C.G.A. § 29-2-16. Hay v. Norfolk S. Ry., 879 F. Supp. 1192, 1994 U.S. Dist. LEXIS 20331 (N.D. Ga. 1994) (decided under former O.C.G.A. § 29-2-16).

Effect of Compromise

Guardian may negotiate complete settlement, which is conclusive until set aside in direct proceeding brought for that purpose. Macris v. Laughlin Insulation Co., 124 Ga. App. 573, 185 S.E.2d 413, 1971 Ga. App. LEXIS 1029 (1971) (decided under former Code 1933, § 49-221).

Compromise settlement is conclusive until set aside. — Compromise settlement of doubtful "claim" made by guardian is conclusive until set aside in direct proceeding in which guardian is a necessary party. Campbell v. Atlanta Coach Co., 58 Ga. App. 824, 200 S.E. 203, 1938 Ga. App. LEXIS 144, transferred, 186 Ga. 77, 196 S.E. 769, 1938 Ga. LEXIS 541 (1938) (decided under former Code 1933, § 49-221).

Probate court's jurisdiction to approve the settlement of a malpractice claim and to protect the best interests of the incapacitated ward conferred upon that court the authority to require that the ward's attorneys pay into the registry of court such settlement funds as they disbursed to themselves, and to hold the attorneys in contempt for their refusal to do so. Gnann v. Woodall, 270 Ga. 516, 511 S.E.2d 188, 1999 Ga. LEXIS 50 (1999) (decided under former O.C.G.A. § 29-5-4).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 86 et seq., 201 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 15, 16, 57 et seq., 76 et seq., 281.

57 C.J.S., Mental Health, §§ 164 et seq., 173 et seq.

ALR.

Constitutionality of statute authorizing guardian to sell or lease land of ward, 4 A.L.R. 1552.

Right of guardian to expend principal of ward's estate for maintenance and support, 5 A.L.R. 632.

Power of court to authorize guardian to borrow ward's money, 30 A.L.R. 461.

Right of guardian who promises to provide out of own estate for ward to allowance out of ward's estate, 56 A.L.R. 536.

Right of guardian to allowance for expenditures prior to appointment, 67 A.L.R. 1405.

Right of trustee, executor, administrator, or guardian to purchase property of estate or trust at sale brought about by third person, 77 A.L.R. 1513.

Character of claims or obligations contemplated by statutes expressly empowering executors, administrators, or guardians to borrow money, 85 A.L.R. 215.

Liability of trustee, guardian, executor, or administrator for loss of funds invested, as affected by order of court authorizing the investment, 88 A.L.R. 325.

Power of guardian to sell ward's property without order of court, 108 A.L.R. 936.

Right of trustee or guardian to retain unauthorized securities held by testator or creator of trust, 122 A.L.R. 801; 135 A.L.R. 1528.

Effect of beneficiary's consent to, acquiescence in, or ratification of, improper investments or loans (including failure to invest) by trustee or other fiduciary, 128 A.L.R. 4.

Guardian's sale of ward's property initi-

ated before, but not finally concluded until after, ward's attainment of majority, 141 A.L.R. 1022.

Power of guardian or committee to compromise liquidated contract claim or money judgment, and of courts to authorize or approve such a compromise, 155 A.L.R. 196.

Construction and effect of instrument authorizing or directing trustee or executor to retain investments received under such instrument, 47 A.L.R.2d 187.

Power of guardian representing unborn future interest holders to consent to invasion of trust corpus, 49 A.L.R.2d 1095.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

Power of court or guardian to make noncharitable gifts or allowances out of funds of incompetent ward, 24 A.L.R.3d 863.

Amount of attorneys' compensation in matters involving guardianship and trusts, 57 A.L.R.3d 550.

Right of guardian or committee of incompetent to incur obligations so as to bind incompetent or his estate, or to make expenditures, without prior approval by court, 63 A.L.R.3d 780.

29-5-24. Forfeiture of rights by conservator; disclosure of conflicts of interest; substantial conflicts of interest.

(a) The appointment of a conservator shall not automatically cause the conservator to forfeit any rights to property.

(b) The conservator must disclose promptly any conflict of interest between the conservator and the ward when it arises or becomes known to the conservator. The conservator must seek the court's determination as to whether the conflict is insubstantial or whether it is in the best interest of the ward for the conservator to continue to serve and not forfeit any property right. If the court finds that the conflict of interest is substantial or contrary to the best interest of the ward, the conservator may either resign or forfeit the property interest that is the source of the conflict.

(c) A transaction affected by a substantial conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator or the spouse, descendant, agent, or lawyer of the conservator or a corporation or other enterprise in which the conservator has a significant beneficial interest.

History.
Code 1981, § 29-5-24, enacted by Ga. L. 2004, p. 161, § 1.

29-5-25. Oath or affirmation required of conservator.

Before entering upon the duties of the appointment, every conservator appointed pursuant to the terms of this chapter shall take an oath or affirmation before the court to perform well and truly the duties required of a conservator and to account faithfully for the estate. The oath or affirmation of a conservator may be subscribed before the judge or clerk of any probate court of this state. The judge of the probate court

who appoints the conservator shall have the authority to grant a commission to a judge or clerk of any court of record of any other state to administer the oath or affirmation.

History.
Code 1981, § 29-5-25, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 36, 37, 142.
ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.
Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

ARTICLE 4

PROPERTY OBLIGATIONS OF CONSERVATOR

29-5-30. Inventory of ward's property; plan for managing, expending, and distributing ward's property.

(a) Within two months of appointment, the conservator shall file with the court and provide to the ward's guardian, if any, an inventory of the ward's property and a plan for managing, expending, and distributing the property.

(b) The inventory shall describe all the assets and liabilities of the ward and shall include a list of all the personal and real property owned by the ward and describe how the property is titled. When the inventory is returned to the court, the conservator shall swear or affirm, in addition to the usual oath on making returns, that the inventory contains a true statement of all the assets and liabilities of the ward known to the conservator.

(c) The plan for managing, expending, and distributing the ward's property must be based on the actual needs of the ward and take into consideration the best interest of the ward. The conservator shall include in the plan an estimate of the duration of the conservatorship, projections for expenses and resources, and any proposals to change the title of any of the assets in the conservatorship estate. The plan and any proposed budget for the expenditure of funds in excess of the anticipated income from the property must be approved by the court. With each annual return filed thereafter, the conservator shall file with the court and provide to the guardian, if any, an updated plan pursuant to the provisions of this subsection.

History.
Code 1981, § 29-5-30, enacted by Ga. L. 2004, p. 161, § 1.
Law reviews.
For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 85, 211 et seq.
ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.
Subsequent appointment of guardian as curing invalidity of prior sale of ward's property, 2 A.L.R. 1565.

29-5-31. Retention of property; exchange or conversion of stocks or securities.

(a) A conservator may retain the property received by the conservator on the creation of the conservatorship, including, in the case of a corporate fiduciary, stock or other securities of its own issue, even though the property may not otherwise be a legal investment and shall not be liable for the retention, except for gross neglect. In the case of corporate securities, the conservator may likewise retain any securities into which the securities originally received may be converted or which may be derived therefrom as a result of merger, consolidation, stock dividends, splits, liquidations, and similar procedures; and the conservator may exercise by purchase or otherwise any rights, warrants, or conversion features attaching to any such securities.

(b) In the case of a corporate fiduciary, the authority granted in subsection (a) of this Code section shall apply to the exchange or conversion of stock or securities of the corporate fiduciary's own issue, whether or not any new stock or securities received in exchange therefor are substantially equivalent to those originally held; and such authority shall also apply to the continued retention of all new stock and securities resulting from merger, consolidation, stock dividends, splits, liquidations, and similar procedures and received by virtue of such conversion or exchange of stock or securities of the corporate fiduciary's own issue, whether or not the new stock or securities are substantially equivalent to those originally received by the fiduciary. The foregoing authority shall have reference, inter alia, to the exchange of such stock or securities for stock or securities of any holding company which owns stock or other interests in one or more other corporations including the corporate fiduciary, whether the holding company is newly formed or already existing, and whether or not any of the corporations own assets identical or similar to the assets of or carry on business identical or similar to the corporation whose stock or securities were previously received by the fiduciary and the continued retention of

stock or securities, or both, of the holding company; and such authority shall apply regardless of whether any of the corporations have officers, directors, employees, agents, or trustees in common with the corporation whose stock or securities were previously received by the fiduciary.

History.
Code 1981, § 29-5-31, enacted by Ga. L. 2004, p. 161, § 1.

29-5-32. Investment of funds.

A conservator is authorized to invest estate funds in the following and shall not otherwise be liable for such investment, except in the case of gross neglect:

(1) Bonds issued by any county or municipality of this state which have been validated as required by law for the validation of county and municipal bonds;

(2) Bonds issued by any county board of education under Subpart 1 of Part 3 of Article 9 of Chapter 2 of Title 20 for the purpose of building and equipping schoolhouses, which bonds have been validated and confirmed as required under Part 1 of Article 2 of Chapter 82 of Title 36;

(3) Bonds and other securities issued by this state or by the Board of Regents of the University System of Georgia;

(4) Bonds or other obligations issued by the United States government and bonds of any corporation created by an act of Congress, the bonds of which are guaranteed by the United States government;

(5) Interest-bearing deposits in any financial institution located in this state, to the extent the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or comparable insurance;

(6) Bonds or other obligations issued by a housing authority pursuant to Article 1 of Chapter 3 of Title 8 or issued by any public housing authority or agency of the United States when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, as authorized by Code Section 8-3-81;

(7) Bonds or other obligations issued by a housing authority in connection with a redevelopment program pursuant to Chapter 4 of Title 8, as authorized by Code Section 8-4-11;

(8) Reserved;

(9) Reserved;

(10) Bonds issued by the Georgia Highway Authority, pursuant to Code Section 32-10-30, as authorized by Code Section 32-10-45;

(11) Bonds or other obligations issued by a municipality or county pursuant to Chapter 61 of Title 36 or by any urban redevelopment agency or housing authority vested with urban redevelopment project powers under Code Section 36-61-17, provided that such bonds or other obligations are secured by an agreement between the issuer and the federal government in accordance with Code Section 36-61-13, as authorized by Code Section 36-61-13;

(12) Reserved;

(13) Farm loan bonds issued by federal land banks or joint-stock land banks under the Federal Farm Loan Act, 12 U.S.C. Sections 2001, et seq., and any notes, bonds, debentures, or other similar obligations, consolidated or otherwise, issued by farm credit institutions pursuant to the Farm Credit Act of 1971, 12 U.S.C. Sections 2001, et seq.;

(14) Real property loans:

(A) Which are not in default;

(B) Which are secured by mortgages or deeds to secure debt conveying a first security title to improve real property;

(C) Which are insured pursuant to the National Housing Act, 12 U.S.C. Sections 1701, et seq.; and

(D) With respect to which loans, on or after default, pursuant to such insurance, debentures in at least the full amount of unpaid principal are issuable, which debentures are fully and unconditionally guaranteed both as to principal and interest by the United States; and

(15) Any other investments which are designated under the laws of this state as lawful or legal investments for guardians or conservators.

History.

Code 1981, § 29-5-32, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2010, p. 579, § 15/SB 131; Ga. L. 2013, p. 141, § 29/HB 79; Ga. L. 2014, p. 866, § 29/SB 340; Ga. L. 2024, p. 922, § 3-4/SB 341, effective May 6, 2024.

Amendments.

The 2024 amendment, effective May 6, 2024, substituted "Reserved" for "Bonds issued by the Georgia Education Authority, pursuant to Part 3 of Article 11 of Chapter 2 of Title 20, as authorized by Code Section 20-2-570;" in paragraph (8).

Law reviews.

For note discussing and comparing the prudent man rule and the legal list rule in trustee investment, see 15 Mercer L. Rev. 530 (1964).

For article, "The Scope of Permissible Investments by Fiduciaries Under Georgia Law," see 19 Ga. St. B.J. 6 (1982).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 3432, former Civil Code 1910, § 4008, and former Code 1933, §§ 49-215, 49-216 and 49-217 are included in the annotations for this Code section.

For a discussion of liability of bank which receives fruits of misappropriation by trustee, see Georgia R.R. Bank & Trust Co. v. Liberty Nat'l Bank & Trust Co., 180 Ga. 4, 177 S.E. 803, 1934 Ga. LEXIS 443 (1934) (decided under former Code 1933, §§ 49-215, 49-217).

Former Civil Code 1910, § 3432 (former O.C.G.A. § 29-2-14) was inapplicable to exchange of lands. Mills v. Geer, 111 Ga. 275, 36 S.E. 673, 1900 Ga. LEXIS 530 (1900) (decided under former Civil Code 1895, § 3432).

Guardian acted in fiduciary capacity and was bound to utmost good faith with court and ward in interest of latter in proceeding under former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14). American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

Investment by guardian in violation of former Code 1933, § 49-216 (former O.C.G.A. § 29-2-14) was a breach of guardian's statutory bond that would authorize suit to recover amount from guardian and guardian's surety. American Sur. Co. v. Adams, 190 Ga. 575, 10 S.E.2d 30, 1940 Ga. LEXIS 520 (1940) (decided under former Code 1933, § 49-216).

For a discussion of liability of guardian for real estate investments without court order, see Paulk v. Roberts, 42 Ga. App. 79, 155 S.E. 55, 1930 Ga. App. LEXIS 238 (1930) (decided under former Civil Code 1910, § 4008).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 86 et seq., 129 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 116 et seq.

ALR.

Power of court to authorize guardian to borrow ward's money, 30 A.L.R. 461.

Right of trustee, executor, administrator, or guardian to purchase property of estate or trust at sale brought about by third person, 77 A.L.R. 1513.

Effect of beneficiary's consent to, acquiescence in, or ratification of, improper investments or loans (including failure to invest) by trustee or other fiduciary, 128 A.L.R. 4.

Guardian's liability for interest on ward's funds, 72 A.L.R.2d 757.

29-5-33. Investments in direct or general obligations issued by the federal government or certain agencies thereof.

(a) Whenever by law or by court order the conservator is authorized, permitted, required, or directed to invest funds in direct and general obligations of the United States government, obligations unconditionally guaranteed by the United States government, or obligations of the agencies of the United States government enumerated in Code Section 29-5-32, the conservator may invest in and hold such obligations either directly or in the form of securities or other interests in any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Sections 80a-1, et seq., so long as:

(1) The portfolio of such investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations;

(2) Such investment company or investment trust takes delivery of such collateral, either directly or through an authorized custodian; and

(3) Such investment company or investment trust is operated so as to provide a constant net asset value or price per share.

(b) The authority granted in this Code section shall be applicable notwithstanding that a corporate fiduciary or an affiliate of the corporate fiduciary provides services to the investment company or investment trust as investment adviser, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise and receives compensation for such services.

History.
Code 1981, § 29-5-33, enacted by Ga. L. 2004, p. 161, § 1.

29-5-34. Standard for investment decisions; acquisition and retention of property.

(a) After receiving court approval as required in subsections (b) and (c) of Code Section 29-5-23, in making investments and in acquiring and retaining those investments and managing property of the ward, the conservator shall exercise the judgment and care, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the account. In making such investment decisions, a conservator may consider the general economic conditions, the anticipated tax consequences of the investments, the anticipated duration of the account, and the needs of the ward and those entitled to support from the ward.

(b) Within the limitations of the standard provided in subsection (a) of this Code section and with prior approval by the court in accordance with Code Section 29-5-23, a conservator is authorized to acquire and retain every kind of property, including real, personal, or mixed and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, including the securities of or other interests in any open-end or closed-end management investments company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. Sections 80a-1, et seq. The propriety of an investment is to be determined by what the conservator knew or should have known at the time of the decision about the inherent

nature and expected performance of a particular investment, including probable yield, the attributes of the portfolio, the general economy, and the needs of the ward and those entitled to support from the ward as they existed at the time of the decision. Any determination of liability for investment performance shall consider not only the performance of a particular investment but also the performance of the ward's portfolio as a whole. Within the limitations of such standard, a conservator may retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase.

(c) A conservator that is a financial institution, trust company, national or state bank, savings bank, or savings and loan association described in Code Section 7-1-242 shall not be precluded from acquiring and retaining securities of or other interests in an investment company or investment trust because the bank or trust company or an affiliate provides services to the investment company or investment trust as investment adviser, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise and receives compensation for such services.

History.
Code 1981, § 29-5-34, enacted by Ga. L. 2004, p. 161, § 1.

29-5-35. Sale or other disposition of ward's property; accounting for proceeds; authority of emergency or temporary substitute conservators.

(a) A conservator may sell perishable property of the ward, property of the ward that is liable to deteriorate from keeping, or property of the ward that is expensive to keep, as early as practicable and in such manner as the court shall determine is in the best interest of the ward, after such notice and opportunity for hearing, if any, as the court shall deem practicable under the circumstances.

(b) A conservator may sell stocks or bonds of the ward that are either listed or admitted to unlisted trading privileges upon any stock exchange or quoted regularly in any newspaper having a general circulation in Georgia at a sales price not less than the stock exchange bid price or the published bid price at the time of sale and pay reasonable brokerage commissions not in excess of those customarily charged by stock exchange members.

(c) Except as otherwise provided in subsections (a) and (b) of this Code section, a conservator may petition the court to sell, rent, lease, exchange, or otherwise dispose of property of the ward, whether real or personal or mixed. The petition shall set forth the property involved and the interests therein, the specific purpose of the transaction, the proposed price, the anticipated net proceeds of the sale, all other terms

or conditions proposed for the transaction, and that the proposed transaction is in the best interest of the ward.

(d) Upon the filing of the petition, the court shall appoint a guardian ad litem for the ward. The petition and notice shall be served personally on the ward and the guardian ad litem.

(e) If no written objection by a person notified pursuant to subsection (d) of this Code section is filed within 30 days following the mailing of notice or service upon the guardian ad litem, the court shall order such sale summarily in the manner and terms petitioned; provided, however, that, if real property is to be converted to personal property, the court shall order the conservator to post additional bond to cover the amount of the anticipated net proceeds of the sale prior to the closing of the sale. If an objection is filed, the court shall hear the matter and grant or deny the petition for sale or make such other order as is in the best interest of the ward, which may require the sale to be private or at public auction, including confirmation of the sale by the court or otherwise.

(f) A conservator shall make a full return to the court within 30 days of every sale, specifying the property sold, the purchasers, and the amounts received, together with the terms of the sale.

(g) The recital in the conservator's deed of a compliance with legal provisions shall be prima-facie evidence of the facts recited.

(h) Where a conservator sells real property under the provisions of this Code section, liens thereon may be divested and transferred to the proceeds of the sale as a condition of the sale.

(i) An emergency or temporary substitute conservator is authorized to petition the court for leave to sell or otherwise deal with the property of the estate only if good cause is shown for not waiting until a different type of conservatorship is created or the conservatorship is terminated.

History.

Code 1981, § 29-5-35, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2026, p. 1069, § 54(1)(O)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in the first sentence in subsection (e).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Laws 1809, Cobb's 1851 Digest, p. 315, former Civil Code 1895, § 4630, and former Civil Code 1910, § 5176 are included in the annotations for this Code section.

Sale by will not applicable. — Former Code 1933, § 49-208 (former O.C.G.A. § 29-2-7) had no application to

sale under power conferred by will. Harwell v. Foster, 102 Ga. 38, 28 S.E. 967, 1897 Ga. LEXIS 446 (1897) (decided under former Civil Code 1895, § 4630).

Superior court shall determine necessity of order and validity of claim. — The superior court shall try both issue of necessity of order, and whether property is held adversely. Hull v. Watkins, 134 Ga. 779, 68 S.E. 506, 1910 Ga. LEXIS 346 (1910) (decided under former Civil Code 1910, § 5176).

Validity of claim not dependent upon giving of bond. — It is not necessary to validity of claim of land at executor's or administrator's sale that bond and security should be given. Falls v. Griffith, 25 Ga. 72, 1858 Ga. LEXIS 16 (1858) (decided under Laws 1809, Cobb's 1851 Digest, p. 315).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 141 et seq.

ALR.

Constitutionality of statute authorizing guardian to sell or lease land of ward, 4 A.L.R. 1552.

29-5-36. Estate plan for ward; appointment of guardian ad litem; considerations prior to property transfer.

(a) After notice to interested parties and other persons as the court may direct, and upon a showing that the ward will probably remain in need of a conservator throughout the ward's lifetime and that it is in the best interest of the ward, the court may order the conservator to apply such principal or income of the ward as is not required for the support, care, education, health, and welfare of the ward and such individuals who are entitled to support from the ward toward the establishment or continuation of an estate plan for the ward and make transfers of the ward's personal or real property, outright or in trust, provided that the court finds that a competent, reasonable person in the ward's circumstances would make such transfers and there is no evidence that the ward, if not in need of a conservator, would not adopt such an estate plan.

(b) Prior to authorizing such transfers, the court shall appoint a guardian ad litem for the ward and shall consider:

(1) The composition and value of the entire estate of the ward, other known sources of support available to the ward and individuals who are entitled to be supported by the ward, and the income produced thereby;

(2) The probable expenses for the support, care, education, health, or welfare of the ward and such individuals who are entitled to be supported by the ward for the remainder of the ward's lifetime in the standard of living to which the ward and the other individuals have become accustomed;

(3) The identity of the proposed transferees and, in particular,

whether they are natural objects of the ward's bounty by relationship or prior behavior of the ward;

(4) The purpose and estate planning benefit to be derived by the transfer as well as the possible harm to any interested party; and

(5) Any previous history or predisposition toward making similar transfers by the ward.

History.
Code 1981, § 29-5-36, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

Law reviews.
For annual survey of law of wills, trusts, and administration of estates, see 38 Mercer L. Rev. 417 (1986).

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

ARTICLE 5

CONSERVATOR'S BOND AND OTHER OBLIGATIONS

29-5-40. Bond requirement; exception; recording of bonds.

(a) A conservator appointed by the court, including a conservator appointed in a final order accepting the transfer of a conservatorship proceeding from another state issued under subsection (e) of Code Section 29-11-21, shall give bond with good and sufficient security.

(b) A financial institution, trust company, national or state bank, savings bank, or savings and loan association described in Code Section 7-1-242 that seeks to qualify as a conservator is not required to give bond for the faithful performance of its duties unless its combined capital, surplus, and undivided profits are less than $3 million as reflected in its last statements signed by the Comptroller of the Currency of the United States or the commissioner of banking and finance.

(c) The clerk of the court shall record bonds in books kept for that purpose and shall retain custody of the bonds.

History.
Code 1981, § 29-5-40, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 18/HB 70.

Law reviews.
For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

JUDICIAL DECISIONS

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's

bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

29-5-41. Requirements of bond; term; value; substantial compliance sufficient.

(a) The bond of a conservator shall be:

(1) Secured by an individual who is a domiciliary of this state or by a licensed commercial surety authorized to transact business in this state;

(2) Payable to the court for the benefit of the ward;

(3) Conditioned upon the faithful discharge of the conservator's duty, as such is required by law; and

(4) Attested by the judge or clerk of the court.

(b) The court may order a conservator who is required to give bond to post bond for a period of time greater than one year, as may be appropriate in the circumstances. A surety on a bond posted pursuant to this subsection shall not be relieved of liability merely because of the expiration of the term of the bond but shall be subject to the provisions of law for the discharge of a surety applicable to other bonds.

(c) The bond shall be in a value equal to double the estimated value of the ward's estate; provided, however, that the bond shall be in an amount equal to the estimated value of the estate if secured by a licensed commercial surety authorized to transact business in this state. The value of the estate for purposes of the bond shall be determined without regard to the value of any real property or improvements thereon; but, upon conversion of the real property into personal property, a bond shall be given based upon the value of the estate including the value of the personal property into which the real property was converted.

(d) Substantial compliance with these requirements for the bond shall be deemed sufficient; and no bond shall be declared invalid by reason of any variation from these requirements as to payee, amount, or condition, where the manifest intention was to give bond as conservator and a breach of the fiduciary's duty as such has been proved.

History.

Code 1981, § 29-5-41, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

Cross references.

Time limitation on bringing of actions against guardians, § 9-3-27.

Statute of limitations for prosecution of guardian for theft by conversion of property of ward, § 17-3-2.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2528, former Code 1873, § 1812, and former Code 1933, § 49-113 are included in the annotations for this Code section.

Only substantial compliance with statutes in execution of bonds required. — Policy of the law as to all bonds required by statute, and especially as to bonds of guardians, administrators, and like trustees, is to disregard mere formalities, and to require only substantial compliance to secure all statutory remedies to persons injured by their breach. United States Fid. & Guar. Co. v. Davis, 2 Ga. App. 525, 58 S.E. 777, 1907 Ga. App. LEXIS 445 (1907) (decided under former Civil Code 1895, § 2528).

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Grant of letters without bond not void without notice. — In all cases of appointment by ordinary (now judge of probate court) of guardian of a minor — whether the clerk of the superior court or some other proper person — bond should be required; but the grant of letters without taking bond would not be void as against a bona fide purchaser under the guardian, without notice of want of a bond. Cuyler v. Wayne, 64 Ga. 78, 1879 Ga. LEXIS 11 (1879) (decided under former Code 1873, § 1812).

Commingling of funds and failure to account is breach. — Deposit of ward's funds to individual account of guardian, and failure to account therefor, is per se a breach of bond. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

Void sale does not amount to breach. — Where sale of realty conducted by guardian is illegal and void, title to property sold does not pass, and heirs and distributees may assert their title to property so sold, so that there is no such loss to them as would amount to breach of bond of administrator and render surety thereon liable. Hawes v. Standard Accident Ins. Co., 54 Ga. App. 776, 189 S.E. 59, 1936 Ga. App. LEXIS 756 (1936) (decided under former Code 1933, § 49-113).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.

Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

Liability of guardian for loss of funds deposited in bank in form which discloses trust or fiduciary character, 90 A.L.R. 641.

Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

29-5-42. Reduction of bond.

If the value of the ward's bonded estate decreases, the court may permit

a corresponding reduction in the value of the bond, but this reduction does not affect the liability of the surety for prior waste or misconduct of the conservator.

History.
Code 1981, § 29-5-42, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 67, 185 et seq.
C.J.S.
39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.
Official bond of executor, administrator, guardian, or trustee as covering appeal taken by him, 132 A.L.R. 1280.

29-5-43. Additional bond or security; notice; revocation of letters of conservatorship; other powers of court.

(a) Whenever it comes to the knowledge of the court, either by annual returns or otherwise that:

(1) Additional personal property has accrued to the ward by descent, gift, or otherwise;

(2) For any other reason the bond or security of the conservator fails to comply with the minimum statutory bond amount set forth in Code Section 29-5-40; or

(3) The bond or security is otherwise insufficient in the judgment of the court,

the court shall give notice to the conservator to appear and give additional bond or security. Notice shall be mailed by first-class mail to the conservator and to the surety on the conservator's bond. If the conservator fails to comply with the notice, the court may revoke the letters of conservatorship in accordance with Code Section 29-5-92.

(b) When it comes to the knowledge of the court that the surety on the conservator's bond has died, become insolvent, or removed from this state or if from other cause the security becomes insufficient, the court may give notice to the conservator to appear and give other and sufficient security. Notice shall be mailed by first-class mail to the conservator and to the surety on the conservator's bond. If the conservator fails to comply with the notice, the court may revoke the letters of conservatorship in accordance with Code Section 29-5-92.

(c) With respect to any bond filed with a conservatorship order from another state that has been registered with and recorded by the court under Code Section 29-11-31, in addition to any action the court may

take under this article or under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the insufficiency of such bond under subsection (a) or (b) of this Code section, stating the reasons therefor.

History.
Code 1981, § 29-5-43, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 19/HB 70.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1882, §§ 1814, 1815, former Civil Code 1910, §§ 3049, 3050, and former Code 1933, §§ 49-115 and 49-116 are included in the annotations for this Code section.

Additional bond is discretionary and cumulative. — Additional bond required by former Code 1882, § 1814 (former O.C.G.A. § 29-4-14), upon other property coming in, was discretionary with the ordinary (now judge of probate court) and, if required, would be cumulative and not exclusive as to such assets. Huson v. Green, 88 Ga. 722, 16 S.E. 255, 1892 Ga. LEXIS 90 (1892) (decided under former Code 1882, § 1814).

Additional bond is cumulative. Remington v. Hopson, 137 Ga. 95, 72 S.E. 918, 1911 Ga. LEXIS 311 (1911) (decided under former Civil Code 1910, § 3049).

Additional bond is cumulative; new sureties become cosureties. — Where additional security was required of guardian by court pursuant to former Code 1933, § 49-116 (former O.C.G.A. § 29-4-15), second bond is cumulative of first, and new sureties become cosureties with those on first bond. Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-116).

New sureties become cosureties on first bond for waste. — Where guardian's bond was executed for specific amount, and subsequently one of the sureties died, and, in proceeding under former Civil Code 1910, § 3050 (former O.C.G.A. § 29-4-15), guardian executed second bond with new sureties, the sureties upon such bond were cosureties with those on first bond for any past or future waste. Remington v. Hopson, 137 Ga. 95, 72 S.E. 918, 1911 Ga. LEXIS 311 (1911) (decided under former Civil Code 1910, § 3050).

Death of only surety will not abate letters of guardianship. — Where guardian has been regularly appointed and has given bond, death of only surety on such bond will not abate letters of guardianship and render any act of guardian thereafter illegal and void. Prine v. Mapp, 80 Ga. 137, 5 S.E. 66, 1887 Ga. LEXIS 345 (1887) (decided under former Code 1882, § 1815).

Purchaser not affected by failure to require additional security. — If upon death of surety on guardian's bond, the ordinary (now judge of probate court) fails to require new bond, and guardian continues to act as such and ordinary recognizes appointment and receives the guardian's returns, a purchaser at a guardian's sale will not be affected by failure of ordinary to require additional security of guardian. Prine v. Mapp, 80 Ga. 137, 5 S.E. 66, 1887 Ga. LEXIS 345 (1887) (decided under former Code 1882, § 1815).

Proceedings for removal are against guardian as individual. — Proceedings to remove guardian and revoke guardian's letters under former Code 1933, §§ 49-232, 49-115, or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15) were proceedings against the guardian as an individual, and not against estate or trust the guardian represents; and where the guardian was removed and letters revoked, it is proper that the guardian appeal therefrom as an individual. Bruce v. Dunn, 52 Ga. App.

758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, §§ 49-115 and 49-116).

Removed guardian may appeal to superior court. — When guardian is removed and guardian's letters revoked, upon rule issued by ordinary (now judge of probate court) under former Code 1933, §§ 49-232, 49-115, or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), after hearing on the ordinary's answer to such rule, the guardian may appeal to the superior court. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, §§ 49-115 and 49-116).

Proceeding under former Code 1933, § 49-116 (former O.C.G.A. § 29-4-15) can be instituted only by court. — See Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-116).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 13, 14, 36, 37, 51 et seq., 284 et seq.

ALR.
Leave of court as prerequisite to action on statutory bond, 2 A.L.R. 563.

29-5-44. Payment of bond premium.

(a) A conservator who is required to give bond, and who has given as security on the bond one or more licensed commercial sureties, may pay any bond premium from the estate.

(b) When the guardian is required to give bond pursuant to Code Section 29-4-30, the conservator shall, upon the request of the guardian, pay any bond premium from the estate.

History.
Code 1981, § 29-5-44, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 20/HB 70.

RESEARCH REFERENCES

ALR.
Liability of guardian for loss of funds deposited in bank in form which discloses trust or fiduciary character, 90 A.L.R. 641.

29-5-45. Liability of surety in event conservatorship is void.

If the appointment of a conservator for any cause is declared void, the surety of that conservator shall nevertheless be responsible on the bond for any property received by the conservator.

History.
Code 1981, § 29-5-45, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1895, § 2554 and former Code 1933, § 49-225 are included in the annotations for this Code section.

There were no exceptions to rule established by former Code 1933, § 49-225 (former O.C.G.A. § 29-2-47). Clark v. Great Am. Ins. Co., 387 F.2d 710, 1967 U.S. App. LEXIS 4103 (5th Cir. 1967), cert. denied, 393 U.S. 825, 89 S. Ct. 86, 21 L. Ed. 2d 95, 1968 U.S. LEXIS 657 (1968) (decided under former Code 1933, § 49-225).

Sureties upon bond are estopped to deny guardianship of one who was guardian by estoppel. Griffin v. Collins, 125 Ga. 159, 53 S.E. 1004, 1906 Ga. LEXIS 82 (1906) See also Griffin v. Collins, 122 Ga. 102, 49 S.E. 827, 1905 Ga. LEXIS 121 (1905) (decided under former Civil Code 1895, § 2554).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 284 et seq.

29-5-46. Joint and several liability of conservator and surety.

The conservator and any surety shall be held and deemed joint and several obligors and may be subjected jointly and severally to liability in the same action. When a conservator moves beyond the limits of this state, dies, and leaves an unrepresented estate, or is in a position that an attachment may be issued as against a debtor, any party in interest or any person having demands against that conservator in the conservator's representative capacity may institute an action against any one or more of the sureties on the bond of the conservator in the first instance, without first obtaining a judgment against the conservator in that person's representative capacity.

History.
Code 1981, § 29-5-46, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Construction. — Plain text of statute indicates that a plaintiff may (i.e., is permitted to) institute a direct action against only a surety without obtaining a prior or contemporaneous judgment against the conservator only in the situations spelled out in the second sentence. Thus, in all situations other than those specified in the second sentence, a judgment against the conservator "must" be obtained, and—pursuant to the first sentence of the statute—that judgment may be obtained in the same action (as opposed to a prior, separate action). Simmons v. Harleysville Ins. Co., No. 4:18-cv-00055, 2021 U.S. Dist. LEXIS 92540 (S.D. Ga. 2021).

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

29-5-47. Levy upon property; writ of execution.

(a) When a judgment has been obtained against the conservator or the surety on the bond of a conservator, or both, a levy may be made upon any property of any defendant in fi. fa.

(b) The court shall be authorized to enter a judgment and to issue a writ of execution against the conservator and surety on the bond and shall be authorized to grant judgment and execution in favor of the surety against the conservator upon payment of the judgment by the surety.

History.
Code 1981, § 29-5-47, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Civil Code 1895, § 3504 is included in the annotations for this Code section.

For former Civil Code 1895, § 3504 (former O.C.G.A. § 29-2-51) prior to 1958 amendment permitting levy of execution against any defendant in fieri facias, see Bailey v. McAlpin, 122 Ga. 616, 50 S.E. 388, 1905 Ga. LEXIS 284 (1905) (decided under former Civil Code 1895, § 3504).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 202, 242, 243, 284 et seq.

29-5-48. Order of levy against property.

In all cases of judgments recovered against a conservator or any surety of a conservator, the execution shall first be levied on the property of the surety and no levy shall be made on the property of the conservator until there is a return of nulla bona as to the surety.

History.
Code 1981, § 29-5-48, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former Civil Code 1895, § 3504 is included in the annotations for this Code section.

For former Civil Code 1895, § 3504 (former O.C.G.A. § 29-2-51) prior to 1958 amendment permitting levy of execution against any defendant in fieri facias, see Bailey v. McAlpin, 122 Ga. 616, 50 S.E. 388, 1905 Ga. LEXIS 284 (1905) (decided under former Civil Code 1895, § 3504).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 202, 242, 243, 284 et seq.

29-5-49. Release from surety obligations; hearing; order; appointment of new surety; liability; accounting requirement.

(a) The surety on the bond of any conservator or, if the surety is dead, the surety's personal representative, may at any time petition the court regarding any misconduct of the conservator in the discharge of the conservator's trust or to show the court his or her desire for any reason to be relieved as surety. The death of a surety shall be a sufficient ground for the discharge of the surety from future liability.

(b) Upon a petition by the surety or the surety's personal representative, the court shall cite the conservator to appear and show cause, if any, why the surety should not be discharged. After hearing the parties and the evidence, the court, in its discretion, may issue an order discharging the surety from all future liability and require the conservator to give new and sufficient security or be removed.

(c) If new security is given, the discharged surety shall be discharged only from liability for future misconduct of the conservator from the time the new security is given. The new surety shall be liable for past as well as future misconduct of the conservator.

(d) If new security is not given and the conservator is removed, the discharged surety shall be bound for a true accounting of the conservator with the successor conservator or with the ward if no other conservator is appointed. In all cases where letters of conservatorship are revoked, any surety on the bond shall be liable for all acts of the conservator in relation to the trust up until the time of the settlement with the new conservator or the ward.

History.
Code 1981, § 29-5-49, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

Cross references.
Appointment of emergency guardian, § 29-4-15.

Law reviews.
For annual survey article on wills, trusts and administration of estates, see 50 Mercer L. Rev. 381 (1998).

JUDICIAL DECISIONS

Analysis

General Consideration

LIABILITIES OF DISCHARGED AND SECOND SURETY
PUNITIVE DAMAGES NOT COVERED

General Consideration

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Laws 1810, Cobb's 1851 Digest, p. 317, former Code 1873, § 1817, former Code 1882, § 1817, former Civil Code 1895, § 2533, former Civil Code 1910, § 3052, former Code 1933, § 49-233, and former O.C.G.A. § 29-2-52 are included in the annotations for this Code section.

Only surety or representative can institute proceeding. — Proceeding under former Code 1933, § 49-233 (former O.C.G.A. § 29-2-52) could be instituted only by surety, or, if surety was dead, by the surety's representative. Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-233).

Principal and surety cannot by agreement release surety, even with approval of court. Great Am. Indem. Co. v. Jeffries, 65 Ga. App. 686, 16 S.E.2d 135, 1941 Ga. App. LEXIS 369 (1941) (decided under former Code 1933, § 49-233).

Guardian must be cited before surety can be discharged. — Surety on a guardian's bond can obtain no discharge without a petition and without having an ordinary (now judge of probate court) to cite guardian to appear and show cause against application. DuPont v. Mayo, 56 Ga. 304, 1876 Ga. LEXIS 275 (1876) (decided under former Code 1873, § 1817).

Two distinct contingencies whereby surety may seek discharge. — Under former Civil Code 1910, § 3052 (former O.C.G.A. § 29-2-52), surety on guardian's bond could obtain relief in two distinct contingencies; first, in case of misconduct of guardian in discharge of trust; second, when for any other reason, the surety desires to be relieved. Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919). See also National Surety Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1910, § 3052).

Preremoval misconduct. — Former O.C.G.A. § 29-2-52 did not require the court, based on the guardian's preremoval misconduct, to grant a surety's petition for relief from its obligations under bonds, and thereby discharge the surety from any liability for the guardian's misconduct. Osborne Bonding & Sur. Co. v. Glaze, 230 Ga. App. 895, 497 S.E.2d 612 (decided under former O.C.G.A. § 29-2-52).

Acts or omissions pertaining to mismanagement of estate constitute misconduct. — Under former Code 1933, § 49-233 (former O.C.G.A. § 29-2-52) all acts, whether of commission or omission, which pertain to mismanagement of estate by guardian or administrator, constituted misconduct and could authorize discharge of surety. Spradley v. St. Paul Fire & Marine Ins. Co., 108 Ga. App. 865, 134 S.E.2d 850, 1964 Ga. App. LEXIS 1043 (1964) (decided under former Code 1933, § 49-233).

Words, "any misconduct of his principal [guardian] in discharge of his trust," are exhaustive of all acts, whether of commission or omission, which pertain to guardian's mismanagement of estate, or nonperformance of any duties devolving upon him in his office. National Sur. Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1895, § 2533); Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919) (decided under former Civil Code 1910, § 3052).

Acts of guardian authorized discharge of surety. — See Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919) (decided under former Civil Code 1910, § 3052).

Discharge prevents proceedings against continuing guardian's acts prior to discharge. — Outgoing surety cannot by proceedings instituted subsequent to discharge, interfere with guardian who is continued in outgoing surety's office, in discharge of the surety's duties, because of acts of mismanagement

General Consideration (Cont'd)

and failure to comply with requirements of law relative to the surety's duties which occurred prior to discharge of first surety. Hooks v. Fidelity & Deposit Co., 135 Ga. 396, 69 S.E. 484, 1910 Ga. LEXIS 553 (1910) (decided under former Civil Code 1910, § 3052).

Reasons other than official misconduct for which surety might seek discharge. — A guardian's want of personal integrity, lack of business capacity, extravagant or reckless living, indulgence in vicious or immoral habits, criminality, and scores of other things which might be suggested, would certainly afford good reasons for a desire to be relieved as surety. National Sur. Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1895, § 2533); Means v. American Bonding Co., 23 Ga. App. 453, 98 S.E. 399, 1919 Ga. App. LEXIS 155 (1919) (decided under former Civil Code 1910, § 3052).

Surety seeking discharge against continuing guardian is not entitled to accounting. — Surety is not entitled to seek in a petition for discharge an accounting from guardian who, by providing new security, continues in a trust capacity. Spradley v. St. Paul Fire & Marine Ins. Co., 108 Ga. App. 865, 134 S.E.2d 850, 1964 Ga. App. LEXIS 1043 (1964) (decided under former Code 1933, § 49-233).

Discharged surety not entitled to require payment of ward's funds into court by continuing guardian. Hooks v. Fidelity & Deposit Co., 135 Ga. 396, 69 S.E. 484, 1910 Ga. LEXIS 553 (1910) (decided under former Civil Code 1910, § 3052).

Surety need not wait until liable for waste or mismanagement. — Surety not bound to wait until liability for actual waste or mismanagement arises. The surety may reasonably anticipate same and move for relief at that time. National Sur. Co. v. Morris, 111 Ga. 307, 36 S.E. 690, 1900 Ga. LEXIS 533 (1900) (decided under former Civil Code 1895, § 2533).

Surety need not show actual loss by guardian's misconduct. — To state a cause of action for discharge under former Code 1933, § 49-233 (former O.C.G.A. § 29-2-52), it was not necessary that surety show actual loss had accrued to estate by reason of official misconduct of the principal, it being sufficient to show that guardian or administrator has refused to comply with the law, thereby raising reasonable apprehension of future loss. Spradley v. St. Paul Fire & Marine Ins. Co., 108 Ga. App. 865, 134 S.E.2d 850, 1964 Ga. App. LEXIS 1043 (1964) (decided under former Code 1933, § 49-233).

Liabilities of Discharged and Second Surety

Effect of discharge on liabilities of new and old sureties. — Discharge of sureties upon guardian's bond releases them from all future responsibility. New sureties are bound for all past and future waste. Justices of Inferior Court ex rel. Woods v. Woods, 1 Ga. 84, 1846 Ga. LEXIS 43 (1846) (decided under Laws 1810, Cobb's 1851 Digest, p. 317).

Liability is between second surety and discharged surety. — Second surety's liability for guardian's past defaults is primary as between himself and discharged surety. Tittle v. Bennett, 94 Ga. 405, 21 S.E. 62, 1894 Ga. LEXIS 94 (1894) (decided under former Code 1882, § 1817).

Discharged and new sureties both primarily liable to wards. — Liability of discharged surety and second surety is not joint, but several, both being primarily liable to wards, and as between themselves, the second surety is primarily liable. Sutton v. Williams, 77 Ga. 570, 1 S.E. 175, 1887 Ga. LEXIS 137 (1887) (decided under former Code 1882, § 1817).

Punitive Damages Not Covered

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself

was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 294 et seq., 305 et seq.

ALR.
Liability of attorney for loss or waste of funds of minor, 62 A.L.R. 910.

29-5-49.1. Communication with other states on conservatorship.

With respect to a conservatorship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-31, in addition to any action such court of this state may take under this article or under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any proceeding relating to the conservatorship initiated in this state under this article, stating the reasons therefor.

History.
Code 1981, § 29-5-49.1, enacted by Ga. L. 2019, p. 693, § 21/HB 70.

ARTICLE 6

COMPENSATION OF CONSERVATORS

29-5-50. Amount of compensation; multiple conservators; forfeiture; renunciation.

(a) Other than an emergency conservator or a temporary substitute conservator, a conservator shall be entitled to compensation for services rendered equal to:

(1) Two and one-half percent commission on all sums of money received by the conservator on account of the estate, except on money loaned by and repaid to the conservator, and 2 1/2 percent commission on all sums paid out by the conservator;

(2) An additional commission equal to one-half of 1 percent computed on the market value of the estate as of the last day of the reporting period. This commission shall be proportionately reduced for any reporting period of less than 12 months;

(3) Ten percent commission on the amount of interest earned if it is earned during the course of the conservatorship. The conservator shall receive interest on money loaned by the conservator in that capacity and shall include the interest on the money loaned on the

return to the court so as to become chargeable with the interest as a part of the corpus of the estate;

(4) Reasonable compensation, as determined in the discretion of the court and after such notice, if any, as the court shall direct, for the delivery over of property in kind, not exceeding 3 percent of the appraised value and, in cases where there has been no appraisal, not over 3 percent of the fair value as found by the court, irrespective of whether delivery over in kind is made pursuant to proceedings for that purpose in the court and irrespective of whether the property, except money, is tangible or intangible or personal or real; and

(5) In the discretion of the court, compensation for working land for the benefit of the parties in interest, but not to exceed 10 percent of the annual income of the managed property.

(b) Whenever any portion of the dividends, interest, or rents payable to a conservator is required by law of the United States or other governmental unit to be withheld by the person paying the same for income tax purposes, the amount withheld shall be deemed to have been collected by the conservator.

(c) Where some or all of the estate passes through the hands of several conservators by reason of the death, removal, or resignation of the first qualified conservator or otherwise, the estate shall not be subject to diminution by charges of commission of each successive conservator holding and receiving in the same right but rather commissions for receiving the estate shall be paid to the first conservator who receives the property for the benefit of the estate or that person's representative, and commissions for paying out shall be paid to the conservator who actually distributes the fund. No commissions shall be paid for handing over the fund to a successor conservator. If there is more than one conservator serving simultaneously, the division of the compensation allowed each conservator shall be according to the services rendered by each conservator.

(d) A conservator shall not be entitled to a commission for any sums paid to any conservator of the estate as commissions or other compensation.

(e) Conservators who fail to make annual returns as required by law shall forfeit all commission for transactions during the year within which no return is made unless the court, upon cause shown, shall by special order entered on the record, relieve the conservator from the forfeiture.

(f) A conservator may renounce his or her right to all or any part of the compensation to which the conservator is entitled under this Code section.

History.
Code 1981, § 29-5-50, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.
For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

JUDICIAL DECISIONS

Stocks and bonds not "sums of money." — A probate court properly ordered a guardian to repay to an estate's administrator commissions the guardian had received on stocks and bonds, as they were not "sums of money" under former O.C.G.A. § 29-2-42(a) (now O.C.G.A. § 29-5-50). In re Estate of Miraglia, 290 Ga. App. 28, 658 S.E.2d 777, 2008 Ga. App. LEXIS 229 (2008), cert. denied, No. S08C1169, 2008 Ga. LEXIS 632 (Ga. July 7, 2008).

Prejudgment interest. — When a guardian disputed whether the guardian was owed commissions for stocks and bonds under former O.C.G.A. § 29-2-42(a) (now O.C.G.A. § 29-5-50), not the amount paid for such commissions, the estate's administrator was entitled to prejudgment interest under O.C.G.A. § 7-4-15; the fact that the guardian disputed liability at trial did not convert the claim into a claim for an uncertain and, therefore, unliquidated amount. In re Estate of Miraglia, 290 Ga. App. 28, 658 S.E.2d 777, 2008 Ga. App. LEXIS 229 (2008), cert. denied, No. S08C1169, 2008 Ga. LEXIS 632 (Ga. July 7, 2008).

Conservator forfeited commission based on conservator's admitted mismanagement of ward's accounts. — Probate court was authorized to disallow a commission taken by a conservator in the amount of $7,382 based on the conservator's admitted failure to file correct annual returns, commingling of funds, and other mismanagement pursuant to O.C.G.A. § 29-5-50(e). In re Hudson, 300 Ga. App. 340, 685 S.E.2d 323, 2009 Ga. App. LEXIS 1124 (2009).

29-5-51. Allowance for reasonable expenses.

Conservators shall be allowed reasonable expenses incurred in the administration of the estate, including without limitation expenses for travel, employing counsel and other agents, and the expenses and premiums incurred in securing a bond. Such reasonable expenses shall be determined after notice, if any, as the court shall direct. The conservator's commissions are part of the expense of administering the estate and may be charged against the corpus of the estate as well as the income of the estate.

History.
Code 1981, § 29-5-51, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

29-5-52. Petition for additional compensation by conservator; procedural requirements.

(a) A conservator may petition the court for compensation that is greater than the commissions allowed under Code Section 29-5-50. Service of notice of the petition for extra compensation shall be made to the ward and to a guardian ad litem appointed for the ward. Service shall be made in the manner described in Chapter 9 of this title and shall direct the parties served to file any written objections to the

petition for extra compensation with the court within ten days from the date of service.

(b) After hearing any objection filed by or on behalf of the ward, the court shall allow such extra compensation as the court deems reasonable. The allowance of extra compensation shall be conclusive as to all parties in interest.

History.
Code 1981, § 29-5-52, enacted by Ga. L. 2004, p. 161, § 1.

29-5-53. Compensation from corporation or other business enterprise; effect on receipt of additional compensation under Code Section 29-5-52; purpose.

(a) Any conservator who is a domiciliary of this state may receive compensation for services, as specified in this subsection, from a corporation or other business enterprise where the estate of the ward owns an interest in the corporation or other business enterprise, provided that:

(1) The services furnished by the conservator to the corporation or other business enterprise are of a managerial, executive, or business advisory nature;

(2) The compensation received for the services is reasonable; and

(3) The services are performed and the conservator is paid pursuant to a contract executed by the conservator and the corporation or business enterprise, which contract is approved by a majority of those members of the board of directors or other similar governing authority of the corporation or business enterprise who are not officers or employees of the conservator and who are not related to the conservator and provided the contract is approved by the court of the county which has jurisdiction over the conservatorship.

(b) Any conservator receiving compensation from a corporation or other business enterprise for services to it as described in subsection (a) of this Code section shall not receive extra compensation in respect to such services as provided in Code Section 29-5-52; provided, however, that nothing in this Code section shall prohibit the receipt by the conservator of extra compensation for services rendered in respect to other assets or matters involving the estate.

(c) Nothing in this Code section shall prohibit the receipt by a conservator of normal commissions and compensation for the usual services performed by a conservator pursuant to law.

(d) The purpose of this Code section is to enable additional compensation to be paid to a conservator for business management and

advisory services to corporations and business enterprises pursuant to a contract without the necessity of petitioning for extra compensation pursuant to Code Section 29-5-52.

History.
Code 1981, § 29-5-53, enacted by Ga. L. 2004, p. 161, § 1.

29-5-54. Application for compensation by emergency or temporary substitute conservator; reduction of compensation to conservator.

An emergency conservator or temporary substitute conservator may apply to the court for reasonable compensation after notice to interested parties in compliance with Chapter 9 of this title. The court shall award reasonable compensation to an emergency conservator or temporary substitute conservator and such compensation shall be the only compensation or commission paid to the emergency conservator or temporary substitute conservator for services performed in that capacity. For good cause, including but not limited to services performed and compensation awarded to an emergency conservator or temporary substitute conservator, the court may reduce the compensation due the conservator under other provisions of this article.

History.
Code 1981, § 29-5-54, enacted by Ga. L. 2004, p. 161, § 1.

ARTICLE 7

ACCOUNTING FOR ASSETS

29-5-60. Annual filing of verified return; change of reporting period; production of documents; effect of failure to file return.

(a) Each year, within 60 days of the anniversary date of qualification, every conservator shall file with the court a verified return consisting of a statement of the receipts and expenditures of the conservatorship during the year preceding the anniversary date of qualification, an updated inventory consisting of a statement of the assets and liabilities of the estate as of the anniversary date of qualification, an updated plan for managing, expending, and distributing the ward's property, a note or memorandum of any other fact necessary to show the true condition of the estate, and a statement of the current amount of the bond. The conservator shall mail a copy of the return by first-class mail to the surety on the conservator's bond, the ward, and the ward's guardian, if any.

(b) Upon petition of the conservator or upon the court's own motion, the court may change the reporting period from the year immediately preceding the anniversary date of qualification to the year immediately preceding a date ordered by the court. In lieu of changing the reporting date, the court is authorized to accept a return for filing even if the return does not cover the appropriate reporting period; however, such acceptance shall not change the reporting period established by either the anniversary date of qualification or a subsequent order of the court, unless the court also enters an order changing the reporting date.

(c) The court shall carefully examine each return of a conservator and, upon petition of any interested person or upon the court's own motion, may require the conservator to produce the original documents that support the return. Except as otherwise provided in this subsection, if no objection is filed within 30 days of the time the return is filed, the court shall record the return within 60 days of its filing. The return shall be kept on file in the court. The recorded return shall be prima-facie evidence of its correctness. If there is an objection to the return or if the court on its own motion determines that the conservator may have wasted the property of the ward or failed in any manner to comply with applicable law, the court shall hold a hearing or take such other action as the court deems appropriate.

(d) The court shall keep a docket of conservators liable to file returns. Upon the failure of any conservator to file any return by the time frame required by law, the court shall cite the conservator to appear and show reason for the delay. A conservator who fails to file an annual return as required by law shall forfeit all commissions and other compensation for the year within which no return is filed unless otherwise ordered by the court. A willful and continued failure to file a return shall be good cause for removal.

History.

Code 1981, § 29-5-60, enacted by Ga. L. 2004, p. 161, § 1.

Law reviews.

For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1855-56, p. 147, § 1, former Code 1868, § 1807, former Code 1882, § 1816, former Civil Code 1910, § 3051, former Code 1933, §§ 49-231 and 49-232, and former O.C.G.A. § 29-2-45 are included in the annotations for this Code section.

Guardian failing to make annual return forfeits annual commission. — Under former O.C.G.A. §§ 29-2-44 and 53-6-146, guardians and administrators who fail to make annual returns as

required by law forfeit their commissions for those years unless the judge of the probate court orders them relieved of this forfeiture. Fuller v. Moister, 246 Ga. 397, 271 S.E.2d 622, 1980 Ga. LEXIS 1122 (1980) (decided under former Code 1933, § 49-231).

Failure entails burden of proving faithful discharge of duties. — Failure of executor or guardian to make returns is an omission of duty, and therefore a breach of trust, and puts upon the executor the burden of proving to satisfaction of court that the executor discharged trust with fidelity. Wellborn v. Rogers, 24 Ga. 558, 1858 Ga. LEXIS 248 (1858) (decided under Ga. L. 1855-56, p. 147, § 1).

Failure to make returns of interest does not demonstrate fraud. — Failure of guardian to make returns of interest accumulated in guardian's hands is not by itself sufficient to authorize finding of fraud and charging of compound interest. Royston v. Royston, 29 Ga. 82, 1859 Ga. LEXIS 289 (1859) (decided under Ga. L. 1855-56, p. 147, § 1).

Former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45) was to be liberally construed in favor of incompetent ward. Aiken v. Mitchell, 66 Ga. App. 309, 18 S.E.2d 219, 1941 Ga. App. LEXIS 204 (1941) (decided under former Code 1933, § 49-232).

Former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45) was applicable to guardians of incompetent veterans of World War I and other persons of unsound mind. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

"Unfit" is not limited nor is scope of inquiry. — "Unfit," as used in former Code 1933, § 49-232 (former O.C.G.A. § 29-2-45), was not limited to physical, mental, or moral conditions, and the statute laid down no limitations on scope of inquiry as to fitness and capacity of a guardian. Morse v. Caldwell, 55 Ga. App. 804, 191 S.E. 479, 1937 Ga. App. LEXIS 511 (1937) (decided under former Code 1933, § 49-232).

Guardian's failure to file annual returns was evidence that the guardian's fiduciary duties were breached and such evidence supported removal. Gary v. Weiner, 233 Ga. App. 284, 503 S.E.2d 898 (decided under former O.C.G.A. § 29-2-45).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-232 is included in the annotations for this Code section.

Use of estate funds should accompany petition to revoke guardianship. — One who has been adjudged insane and confined to state mental hospital and who desires to use funds in estate for purpose of proving that sanity has been restored, should properly proceed by making application to ordinary (now judge of probate court) for revocation of letters of guardianship. 1952-53 Ga. Op. Att'y Gen. 373 (decided under former Code 1933, § 49-232).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 162 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 211 et seq.

ALR.

Resignation or removal of executor, administrator, guardian, or trustee, before final administration or before termination of trust, as affecting his compensation, 94 A.L.R. 1101; 96 A.L.R.3d 1102.

Liability of guardian, or his surety, as affected by agreement by which he limits his control over funds or investments, 102 A.L.R. 1108.

Improper handling of funds, invest-

ments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

29-5-61. Interim settlement of accounts; reporting and requirements of report; procedure for objecting.

(a) At any time after the six-month period following qualification, but not more frequently than once every 24 months, a conservator may petition the court for an interim settlement of accounts. The court shall appoint a guardian ad litem for the ward upon the filing of the petition for an interim settlement of accounts.

(b) The petition for an interim settlement of accounts shall be accompanied by a report which shall set forth all of the information required by law in annual returns and, in addition thereto, shall show:

(1) The period which the report covers;

(2) The name and address of the ward, the name and address of the ward's guardian, if any, and the name of the surety on the conservator's bond, with the amount of the bond; and

(3) Such other facts as the court may require.

(c) The court, upon the petition for an interim settlement of accounts being filed, shall issue a citation and shall require any objections to be filed in accordance with Chapter 9 of this title. The ward and the guardian ad litem shall be served personally, and the ward's guardian, if any, and the surety of the conservator's bond shall be served by first-class mail.

History.
Code 1981, § 29-5-61, enacted by Ga. L. 2004, p. 161, § 1.

29-5-62. Objections and hearing on interim settlement of accounts.

Any interested person may file an objection to the conservator's interim settlement of accounts. Upon receipt of objections or upon the court's own motion, the court shall hold a hearing in which it shall consider all objections, hear evidence, and determine whether the conservator shall be discharged from liability for the period covered by the interim settlement of accounts.

History.
Code 1981, § 29-5-62, enacted by Ga. L. 2004, p. 161, § 1.

29-5-63. Judgment against conservator and surety.

If the court finds that the conservator is liable to the ward, the court shall enter a judgment against the conservator and any surety in the amount of such liability.

History.
Code 1981, § 29-5-63, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

ARTICLE 8

MODIFICATION AND TERMINATION OF CONSERVATORSHIP

29-5-70. Proceedings regarding denial of rights or privileges of ward; notice; successive petitions.

(a) Upon the petition of any interested person, including the ward, or upon the court's own motion, the court may conduct a judicial inquiry into whether the ward is being denied a right or privilege provided for by this chapter and may issue appropriate orders. Except for good cause shown, the court shall order that notice of the inquiry be given, in whatever form the court deems appropriate, to the ward, the conservator, the ward's legal counsel, if any, and the ward's guardian, if any. The court, in its discretion, may appoint legal counsel for the ward or a guardian ad litem, or both.

(b) No petition alleging that the ward is being unjustly denied a right or privilege provided for by this chapter shall be allowed by the court within two years after the denial or dismissal on the merits of a petition alleging that the ward is being unjustly denied substantially the same right or privilege unless the petitioner shows a significant change in the condition or circumstances of the ward.

History.
Code 1981, § 29-5-70, enacted by Ga. L. 2004, p. 161, § 1.

29-5-71. Modification of conservatorship; petition requirements; notice; evaluation; hearing; other requirements; burden of proof; successive petitions; return of property.

(a) Upon the petition of any interested person, including the ward, or upon the court's own motion, the court may modify the conservatorship by adjusting the duties or powers of the conservator, as defined in Code Sections 29-5-22 and 29-5-23, or the powers of the ward, as defined in Code Sections 29-5-20 and 29-5-21, or by making other appropriate adjustments to reflect the extent of the current capacity of the ward or other circumstances of the conservatorship. Except for good cause shown, the court shall order that notice of the petition be given, in whatever form the court deems appropriate, to the ward, the conservator, the ward's legal counsel, if any, and the ward's guardian, if any. In any proceeding under this Code section that would expand or increase the powers of the conservator or further restrict the rights of the ward, the court shall appoint legal counsel for the ward. In all other cases, the court, in its discretion, may appoint legal counsel for the ward or a guardian ad litem, or both.

(b) If the petition for modification alleges a significant change in the capacity of the ward, it must be supported either by the affidavits of two persons who have knowledge of the ward, one of whom may be the petitioner, or of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the supporting facts and determinations. If, after reviewing the petition and the affidavits, the court determines that there is no probable cause to believe that there has been a significant change in the capacity of the ward, the court shall dismiss the petition. If the petition is not dismissed, the court shall order that an evaluation be conducted, in accordance with the provisions of subsection (d) of Code Section 29-5-11. If, after reviewing the evaluation report, the court finds that there is no probable cause to believe that there has been a significant change in the capacity of the ward, the court shall dismiss the petition. If the petition is not dismissed, the court shall schedule a hearing, with such notice as the court deems appropriate.

(c) If the petition for modification does not allege a significant change in the capacity of the ward, the court in its discretion may modify the conservatorship upon a showing that the modification is in the ward's best interest; provided, however, that the court may order compliance

with any of the provisions of subsection (b) of this Code section prior to granting the petition for modification.

(d) In any proceeding under this Code section that would expand or increase the powers of the conservator or further restrict the powers of the ward, the burden is on the petitioner to show by clear and convincing evidence that the modification is in the ward's best interest. In any proceeding under this Code section that would restrict the powers of the conservator or restore powers to the ward, the burden is on the petitioner to show by a preponderance of the evidence that the modification is in the ward's best interest.

(e) No petition for modification shall be allowed by the court within two years after the denial or dismissal on the merits of a petition for substantially the same modification unless the petitioner shows a significant change in the condition or circumstances of the ward.

History.

Code 1981, § 29-5-71, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 551, § 2/SB 134; Ga. L. 2025, p. 402, § 20/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," in the first sentence of subsection (b).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2011, "Code Sections" was substituted for "Code" near the middle of the first sentence of subsection (a).

Editor's notes.

Ga. L. 2011, p. 551, § 2/SB 134, which amended this Code section, purported to amend Code Section 24-5-71 but actually amended Code Section 29-5-71.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-5-9 are included in the annotations for this Code section.

Petition premised on former O.C.G.A. § 29-5-9(b) that merely set forth facts concerning the state of the ward's health and finances but did not evidence a significant change in the extent of the ward's incapacity or circumstances since the appointment of the guardian was properly dismissed without conducting an evidentiary hearing. In re Pitts, 219 Ga. App. 15, 463 S.E.2d 550, 1995 Ga. App. LEXIS 913 (1995) (decided under former O.C.G.A. § 29-5-9).

Medical evidence. — The admission of medical evidence which was used in a prior proceeding was not barred by former O.C.G.A. § 29-5-9(b). In re Vincent, 240 Ga. App. 876, 525 S.E.2d 409 (decided under former O.C.G.A. § 29-5-9).

The trial court did not err in admitting the examining doctor's testimony even though the ward's attorneys were not permitted in the room during the ward's evaluation. In re Vincent, 240 Ga. App. 876, 525 S.E.2d 409 (decided under former O.C.G.A. § 29-5-9).

RESEARCH REFERENCES

C.J.S.

57 C.J.S., Mental Health, § 168 et seq.

ALR.

Jurisdiction of court after adjudication

of restoration to competency, as regards claims against former incompetent, 128 A.L.R. 1386.

29-5-72. Termination of conservatorship; petition requirements; notice; evaluation; hearing; other requirements; burden of proof; successive petitions; return of property; death of ward intestate.

(a) Upon the petition of any interested person, including the ward, or upon the court's own motion, and upon a proper showing that the need for a conservatorship has ended, the court may terminate the conservatorship and restore all personal and property rights to the ward. Except for good cause shown, the court shall order that notice of the petition be given, in whatever form the court deems appropriate, to the ward, the conservator, the ward's legal counsel, and the ward's guardian, if any. The court shall appoint legal counsel for the ward and may, in its discretion, appoint a guardian ad litem.

(b) A petition for termination must be supported either by the affidavits of two persons who have knowledge of the ward, one of whom may be the petitioner, or of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the supporting facts and determinations. If, after reviewing the petition and the affidavits, the court determines that there is no probable cause to believe that the conservatorship should be terminated, the court shall dismiss the petition. If the petition is not dismissed, the court shall order that an evaluation be conducted in accordance with the provisions of subsection (d) of Code Section 29-5-11. If, after reviewing the evaluation report, the court finds that there is no probable cause to believe that the conservatorship should be terminated, the court shall dismiss the petition. If the petition is not dismissed, the court shall schedule a hearing with such notice as the court deems appropriate.

(c) In any proceeding under this Code section the burden is on the petitioner to show by a preponderance of the evidence that there is no longer a need for the conservatorship.

(d) No petition for termination of a conservatorship shall be allowed by the court within two years after the denial or dismissal on the merits of a petition for termination of the conservatorship unless the petitioner shows a significant change in the condition or circumstances of the ward.

(e) The death of the ward automatically terminates the conservatorship except for purposes of the final settlement of the petition for letters of discharge, as provided in Code Section 29-5-81.

(f) Upon termination of the conservatorship, the conservator shall deliver any money or property of the ward to the former ward or, if the ward is deceased, to the ward's personal representative.

(g) When a ward for whom the county administrator, county conservator, or county guardian has been previously appointed as conservator dies intestate, the conservator shall proceed to distribute the ward's estate in the same manner as if the conservator had been appointed administrator of the estate. The sureties on the conservator's bond shall be responsible for the conservator's faithful administration and distribution of the estate.

History.

Code 1981, § 29-5-72, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2006, p. 805, § 15/SB 534; Ga. L. 2025, p. 402, § 21/HB 36, effective July 1, 2025; Ga. L. 2025, p. 713, § 6/SB 98, effective July 1, 2025.

Amendments.

The first 2025 amendment, effective July 1, 2025, inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," in the first sentence of subsection (b).

The second 2025 amendment, effective July 1, 2025, inserted ", county conservator," in the first sentence of subsection (g).

Law reviews.

For article with annual survey on wills, trusts, guardianships, and fiduciary administration, see 73 Mercer L. Rev. 281 (2021).

JUDICIAL DECISIONS

Notice by publication sufficient. — Constructive notice by publication of a conservator's petition for final settlement and discharge from the conservatorship under O.C.G.A. §§ 29-5-80(a) and 29-5-81(b) did not violate the due process rights of a child of the ward who stood to benefit from the ward's will; the child did not have a legally protected interest in the discharge proceedings. Ray v. Stewart, 287 Ga. 789, 700 S.E.2d 367, 2010 Ga. LEXIS 604 (2010).

Probable cause hearing. — Probate court should have held a probable cause hearing on the petition to terminate guardianship pursuant to O.C.G.A. §§ 29-4-42(b) and 29-5-72(b) as there was conflicting evidence regarding the ward's capacity to make or communicate decisions by a psychologist and a social worker. In re Loftus, 331 Ga. App. 329, 771 S.E.2d 38, 2015 Ga. App. LEXIS 151 (2015).

RESEARCH REFERENCES

C.J.S.

57 C.J.S., Mental Health, § 168 et seq.

ALR.

Jurisdiction of court after adjudication of restoration to competency, as regards claims against former incompetent, 128 A.L.R. 1386.

Burden and Sufficiency of Proof for Termination of Conservatorship of Adult, 74 A.L.R.7th 7.

Burden and sufficiency of proof for termination of conservatorship of adult, 74 A.L.R.7th 7.

ARTICLE 9

DISMISSAL OF CONSERVATOR

29-5-80. Petition for dismissal of conservator; requirements; notice; order; liability.

(a) Upon the termination of the conservatorship or the resignation of the conservator, the conservator may petition the court for an order dismissing the conservator from office. The petition shall include a final return to the court which covers the period from the latest annual return filed by the conservator. The final return shall contain the information required for annual returns and shall otherwise comply with the provisions of Code Section 29-5-60. Notice shall be published one time in the newspaper in which sheriff's advertisements are published in the county in which the petition is filed and shall state that any objection must be made in writing and shall designate the date on or before which objections must be filed in the court, which shall not be less than 30 days from the date of publication. The court shall examine any objections filed.

(b) If no objection is filed or if, upon hearing any objection, the court is satisfied that the order dismissing the conservator from office is appropriate, the court shall enter an order dismissing the conservator from office. Such order shall not bar an action against the conservator or the conservator's surety.

History.

Code 1981, § 29-5-80, enacted by Ga. L. 2004, p. 161, § 1.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2004, "less than 30 days" was substituted for "less then 30 days" in the fourth sentence in subsection (a).

JUDICIAL DECISIONS

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Notice by publication. — Constructive notice by publication of a conservator's petition for final settlement and discharge from the conservatorship under O.C.G.A. §§ 29-5-80(a) and 29-5-81(b) did not violate the due process rights of a child of the ward who stood to benefit from the ward's will; the child did

not have a legally protected interest in the discharge proceedings. Ray v. Stewart, 287 Ga. 789, 700 S.E.2d 367, 2010 Ga. LEXIS 604 (2010).

29-5-81. Final settlement of accounts; appearance by conservator, ward, or others; notice; return of property.

(a) A ward who has been restored to capacity, the personal representative of a deceased ward, a successor conservator, or any interested person may petition the court for an order requiring a conservator or that conservator's personal representative to appear and submit to a final settlement of the conservator's accounts. Alternatively, the court on its own motion may issue such an order. The settlement period shall begin from the commencement of the conservatorship or the end of the period covered by the last interim settlement of accounts. If the conservator fails or refuses to appear as cited, the court may proceed without the appearance of the conservator. If the conservator has been required to give bond, the surety on the bond shall be bound by the settlement if the surety is given notice by first-class mail of the settlement proceeding.

(b) A conservator, a former conservator, the conservator of a conservator, or the personal representative of a deceased conservator shall be allowed to cite the ward, the ward's personal representative, or a successor conservator to appear and be present at a final settlement of the conservator's accounts and discharge from liability in the manner provided in this Code section. The settlement period shall begin with the period of time from the commencement of the conservatorship or the end of the period covered by the last interim settlement of accounts. Notice by first-class mail of the settlement proceeding must be given to the surety on the conservator's bond and to the ward's guardian, if any. If the ward has not been restored to capacity or if the conservator is the ward's personal representative, the court shall appoint a guardian ad litem for the ward who shall be served personally.

(c) Upon the return of a notice referred to in subsections (a) and (b) of this Code section, the court shall proceed to examine all returns and accounts of the conservator during the settlement period and to hear any objection to the settlement and discharge.

(d) The court shall order any property in the hands of the conservator to be delivered to the ward, the ward's personal representative, or to the successor conservator and shall issue a judgment, writ of fieri facias, and execution thereon for any sums found to be due from the conservator. If the court is satisfied that the conservator has faithfully and honestly discharged the office, an order shall be entered releasing and discharging the conservator from all liability.

History.
Code 1981, § 29-5-81, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1863, § 1790, former Code 1873, § 1839, former Code 1882, § 1839, and former Code 1933, § 49-301, are included in the annotations for this Code section.

Constitutionality. — Davis v. Harper, 54 Ga. 180, 1875 Ga. LEXIS 115 (1875) (decided under former Code 1873, § 1839).

Ward seeking accounting must apply to probate court. — Where duly qualified guardian had not filed for approval any annual returns, ward should have applied to ordinary (now judge of probate court), instead of superior court, for accounting which ward was seeking. Moon v. Moon, 215 Ga. 110, 109 S.E.2d 39, 1959 Ga. LEXIS 403 (1959) (decided under former Code 1933, § 49-301).

Of age ward can cite former guardian for settlement. — Upon arriving at age, ward can cite former guardian, to appear before ordinary (now judge of probate court) for settlement of the guardian's accounts, whether the guardian was, in fact, guardian at the time of such citation and hearing or not. Hood v. Perry, 73 Ga. 319, 1884 Ga. LEXIS 122 (1884) (decided under former Code 1882, § 1839).

Relationship of guardian and ward does not terminate for settlement purposes when ward reaches majority. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

When ward reaches majority, relationship of guardian and ward continues only for purposes of settlement. Donehoo v. Commercial Bank & Trust Co., 124 Ga. App. 588, 184 S.E.2d 690, 1971 Ga. App. LEXIS 1036 (1971) (decided under former Code 1933, § 49-301).

Ward is not barred by statute of limitations in seeking accounting and settlement with guardian. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

Approval not conclusive when given when ward was minor. — Approval of returns by probate court when ward was an infant is not conclusive against ward. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

Application to executor of deceased guardian. — See Cunningham v. Schley, 34 Ga. 395, 1866 Ga. LEXIS 110 (1866) (decided under former Code 1863, § 1790).

Citation for settlement of non-resident guardian. — A guardian who has obtained letters of guardianship in one county but lives in another county becomes a quasi officer of the appointing court and may be cited by ordinary (now judge of probate court) of that county. Usry v. Usry, 82 Ga. 198, 8 S.E. 60, 1888 Ga. LEXIS 387 (1888) (decided under former Code 1882, § 1839).

Citation of non-resident guardian when not subject to court's jurisdiction. — An ordinary (now judge of probate court) does not have jurisdiction to cite for settlement a guardian who was not appointed by the judge and who had never, in any way, been subject to jurisdiction of such judge and acknowledgment of service of citation was no waiver of jurisdiction where guardian did not appear or plead to the citation. Jackson v. Hitchcock, 48 Ga. 491, 1873 Ga. LEXIS 99 (1873) (decided under former Code 1873, § 1839).

Pleading which attacks approved returns of guardian must be specific. Pettigrew v. Williams, 65 Ga. App. 576, 16 S.E.2d 120, 1941 Ga. App. LEXIS 356 (1941) (decided under former Code 1933, § 49-301).

Petitions in substantial compliance with law. — See Weldon v. Patrick, 69 Ga. 724, 1882 Ga. LEXIS 305 (1882) (decided under former Code 1882, § 1839); De Loach v. Waters, 54 Ga. App. 386, 188 S.E.

58, 1936 Ga. App. LEXIS 590 (1936) (decided under former Code 1933, § 49-301).

Action for breach of fiduciary duty was litigated by consent in an accounting proceeding. — Although the record showed that a conservator did not bring a claim pursuant to O.C.G.A. § 29-5-93(a)(4) in writing, but sought only an accounting pursuant to O.C.G.A. § 29-5-81, the conservator did not object when the administrator raised the issue at the hearing. As a result, the issue of whether the conservator breached the conservator's fiduciary duty was litigated by the implied consent of the parties pursuant to O.C.G.A. § 9-11-15(b). In re Hudson, 300 Ga. App. 340, 685 S.E.2d 323, 2009 Ga. App. LEXIS 1124 (2009).

Conflict of interest when the same person is conservator and executrix. — Subsection (b) of this statute resolved any potential conflict of interest when the ward's child served both as conservator and as executrix of the parent's will by requiring the appointment of a guardian ad litem to represent the deceased adult ward and to protect the ward's property rights. The guardian ad litem was served personally and reviewed and approved the conservator's final report. Ray v. Stewart, 287 Ga. 789, 700 S.E.2d 367, 2010 Ga. LEXIS 604 (2010).

Notice by publication. — Constructive notice by publication of a conservator's petition for final settlement and discharge from the conservatorship under O.C.G.A. §§ 29-5-80(a) and 29-5-81(b) did not violate the due process rights of a child of the ward who stood to benefit from the ward's will; the child did not have a legally protected interest in the discharge proceedings. Ray v. Stewart, 287 Ga. 789, 700 S.E.2d 367, 2010 Ga. LEXIS 604 (2010).

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 162 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 211 et seq.

ALR.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

ARTICLE 10

REMOVAL OF CONSERVATOR FOR OTHER REASONS

29-5-90. Resignation of conservator; required showing; alternative conservator; notice; hearing; other requirements; order.

(a) A conservator or the duly authorized guardian, conservator, or attorney in fact of a conservator, acting on behalf of the conservator, may resign upon petition to the court showing to the satisfaction of the court that:

(1) The conservator is unable to continue serving due to age, illness, infirmity, or other good cause;

(2) Greater burdens have devolved upon the office of conservator than those that were originally contemplated or should have been contemplated when the conservator was qualified and the additional burdens work a hardship upon the conservator;

(3) Disagreement exists between the ward and the conservator or between the guardian and the conservator in respect of the conservator's management of the ward's property, which disagreement and conflict appear to be detrimental to the ward;

(4) The resignation of the conservator will result in or permit substantial financial benefit to the ward; or

(5) The resignation would not be disadvantageous to the ward.

(b) The petition for resignation shall include the name of a suitable person who is willing to accept the conservatorship.

(c) The court shall appoint legal counsel for the ward and personal service of the petition for resignation shall be made upon the ward and the ward's legal counsel. Service shall be made by first-class mail to the guardian of the ward, if any, the surety on the conservator's bond, and to the following persons whose whereabouts are known and who must be persons other than the resigning conservator or the proposed successor conservator:

(1) The spouse of the ward; and

(2) All adult children of the ward; or

(3) If there is no adult child, then at least two adults in the following order of priority:

(A) Lineal descendants of the ward;

(B) Parents and siblings of the ward; and

(C) Friends of the ward.

(d) If, after such hearing as the court deems appropriate, the court is satisfied that the petition for the resignation of the conservator and the appointment of the successor conservator should be granted, the court shall enter an order appointing the successor conservator in accordance with the provisions of Code Section 29-5-101 and shall accept the resignation, subject to the resigning conservator turning over to the successor conservator all property of the ward held by the conservator.

History. Code 1981, § 29-5-90, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 79 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 36, 37, 42 et seq.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-5-91. Appointment of successor upon death of conservator; notice; hearing; other requirements; order.

(a) In the event of the death of a conservator and upon the petition of an interested person or upon the court's own motion, the court shall appoint a successor conservator. The court shall appoint legal counsel for the ward and personal service of the petition shall be made upon the ward and the ward's legal counsel. Notice shall be given by first-class mail to the guardian of the ward, if any, the surety on the conservator's bond, the personal representative of the deceased conservator, if any, and to the following persons whose whereabouts are known and who must be persons other than the proposed successor conservator:

(1) The spouse of the ward; and

(2) All adult children of the ward; or

(3) If there is no adult child, then at least two adults in the following order of priority:

(A) Lineal descendants of the ward;

(B) Parents and siblings of the ward; and

(C) Friends of the ward.

(b) After such hearing as the court deems appropriate, the court

shall enter an order appointing a successor conservator in accordance with the provisions of Code Section 29-5-101 and requiring the personal representative of the deceased conservator to turn over to the successor conservator all property of the ward held by the conservator.

History.
Code 1981, § 29-5-91, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

29-5-92. Revocation or suspension of conservatorship; investigation and powers of court; effect on other proceedings.

(a) Upon the petition of any interested person or whenever it appears to the court that good cause may exist to revoke or suspend the letters of conservatorship or to impose sanctions, the court shall cite the conservator to answer the charge. The court shall investigate the allegations and may require such accounting as the court deems appropriate. The court may appoint a temporary substitute conservator to take possession of and administer the ward's property during the investigation.

(b) Upon investigation, the court may, in its discretion:

(1) Revoke or suspend the letters of conservatorship;

(2) Require additional security;

(3) Require the conservator to appear and submit to a settlement of accounts following the procedure set forth in Code Section 29-5-81, whether or not the conservator has first resigned or been removed and whether or not a successor conservator has been appointed;

(4) Reduce or deny compensation to the conservator or impose any other sanction or sanctions as the court deems appropriate; and

(5) Issue such other orders as in the court's judgment are appropriate under the circumstances of the case.

(c) The revocation or suspension of letters of conservatorship shall not abate any action pending for or against the conservator. The successor conservator shall be made a party to the action in the manner provided in Code Section 9-11-25.

History.
Code 1981, § 29-5-92, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Consent to consideration of grounds for revocation. — Guardian of the property testified that the guardian was in court to explain to the court what the documentation in the court file showed had occurred, to explain further with some facts that were not in the file, and to respond to the answer of the guardian ad litem; the guardian testified about the grounds for the guardian's revocation, later considered by the court in its revocation order, and it followed that the guardian expressly or by implication consented to the consideration of those grounds in the order revoking the guardian's letters. In re Longino, 281 Ga. App. 599, 636 S.E.2d 683, 2006 Ga. App. LEXIS 1114 (2006), cert. denied, No. S07C0223, 2007 Ga. LEXIS 92 (Ga. Jan. 8, 2007).

Revocation proper. — Revocation of a guardian of the property's letters of guardianship under former O.C.G.A. §§ 29-2-45(a) and 29-5-9(a)(1) (see now O.C.G.A. § 29-5-92), was proper as the guardian was issued a citation notifying the guardian that the guardian might not be acting in the ward's best interest, the citation gave the guardian sufficient notice to enable the guardian to answer the charges, and the guardian testified that the guardian was going to respond to a guardian ad litem's report; there was evidence that: (1) the 90-year-old ward had over $2,000,000 in assets, but was not getting the care the ward needed as the assets were frozen in litigation over the guardian's efforts to void or move a trust; (2) there was evidence that the guardian used or intended to use the guardian's position to place the guardian as the sole trustee; and (3) the guardian had informed the probate court that the guardian did not consider the guardian's brother to be trustworthy, yet the guardian proposed that the brother be appointed as the guardian of the property. In re Longino, 281 Ga. App. 599, 636 S.E.2d 683, 2006 Ga. App. LEXIS 1114 (2006), cert. denied, No. S07C0223, 2007 Ga. LEXIS 92 (Ga. Jan. 8, 2007).

Liability for punitive damages. — Conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

29-5-93. Cause of action for breach of conservator's duties; remedies available to ward.

(a) If a conservator commits a breach of fiduciary duty or threatens to commit a breach of fiduciary duty, a ward or an interested person on behalf of the ward shall have a cause of action as appropriate:

(1) To recover damages;

(2) To compel performance of the conservator's duties;

(3) To enjoin the commission of a breach of fiduciary duty; or

(4) To compel the redress of a breach of fiduciary duty by payment of money or otherwise.

(b) When the ward's assets are misapplied and can be traced into the hands of persons who have notice of the misapplication, a trust shall attach to the assets.

(c) The provision of remedies for breach of fiduciary duty by this Code section does not prevent resort to any other appropriate remedy provided by statute or common law.

History.
Code 1981, § 29-5-93, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Civil Code 1910, § 3051, former Code 1933, § 49-232, and former O.C.G.A. § 29-2-45 are included in the annotations for this Code section.

Religious belief of guardian does not render guardian unfit to discharge guardianship. Maxey v. Bell, 41 Ga. 183, 1870 Ga. LEXIS 57 (1870) (decided under former Civil Code 1910, § 3051).

Suit against guardian for waste permitted if regarding revocation of guardianship. — Suit by next friend in behalf of ward for waste committed by guardian, or recovery of money in guardian's hands, can be brought only in connection with a proceeding to remove guardian and revoke guardian's letters. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Proceedings are against guardian as an individual, not against estate. — Proceedings to remove guardian and revoke guardian's letters, under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), were proceedings against guardian as an individual, and not against the estate or trust guardian represents; and where guardian was removed as guardian and guardian's letters revoked, it was proper that guardian appeal therefrom as an individual. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

On question of removal, interest of ward governs, rather than that of guardian. Morse v. Caldwell, 55 Ga. App. 804, 191 S.E. 479, 1937 Ga. App. LEXIS 511 (1937) (decided under former Code 1933, § 49-232).

Burden of proof rests upon party attacking guardian's conduct. Dillon v. Sills, 54 Ga. App. 299, 187 S.E. 725, 1936 Ga. App. LEXIS 546 (1936) (decided under former Code 1933, § 49-232).

Guardian who has been removed may appeal to superior court. — Where guardian was removed and guardian's letters revoked, upon rule issued by the ordinary (now judge of probate court), under former Code 1933, §§ 49-232, 49-115 or 49-116 (former O.C.G.A. §§ 29-2-45, 29-4-14, or 29-4-15), after hearing on guardian's answer to such rule, guardian may appeal to superior court. Bruce v. Dunn, 52 Ga. App. 758, 184 S.E. 361, 1936 Ga. App. LEXIS 240 (1936) (decided under former Code 1933, § 49-232).

Revocation of letters of guardianship. — Where court of ordinary (now probate court) rendered decision revoking letters of guardianship, an appeal will lie from such decision to superior court, though no issue of fact be involved. Teasley v. Vickery, 133 Ga. 721, 66 S.E. 918, 1910 Ga. LEXIS 34 (1910) (decided under former Civil Code 1910, § 3051).

For jurisdiction over removal proceedings where guardian and ward have moved from county of original appointment, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App.

LEXIS 465 (1936) (decided under former Code 1933, § 49-232).

Guardian's failure to file annual returns was evidence that the guardian's fiduciary duties were breached and such evidence supported removal. Gary v. Weiner, 233 Ga. App. 284, 503 S.E.2d 898 (decided under former O.C.G.A. § 29-2-45).

Action for breach of fiduciary duty litigated by implied consent although not raised in the pleadings. — Although the record showed that a conservator did not bring a claim pursuant to O.C.G.A. § 29-5-93(a)(4) in writing, but sought only an accounting pursuant to O.C.G.A. § 29-5-81, the conservator did not object when the administrator raised the issue at the hearing. As a result, the issue of whether the conservator breached the conservator's fiduciary duty was litigated by the implied consent of the parties pursuant to O.C.G.A. § 9-11-15(b). In re Hudson, 300 Ga. App. 340, 685 S.E.2d 323, 2009 Ga. App. LEXIS 1124 (2009).

Conservator's liability for punitive damages. — Judgment that a conservator's bond covered punitive damages even though such damages were not expressly provided for under O.C.G.A. § 29-5-40 et seq. or under the provisions of the bond itself was reversed because a conservator's bond pursuant to O.C.G.A. § 29-5-40 et seq. does not cover punitive damages. In re Estate of Gladstone, 303 Ga. 547, 814 S.E.2d 1, 2018 Ga. LEXIS 292 (2018).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, an opinion under former Code 1933, § 49-232 is included in the annotations for this Code section.

Use of estate funds should accompany petition to revoke guardianship. — One who has been adjudged insane and confined to state mental hospital and who desires to use funds in estate for purpose of proving that sanity has been restored, should properly proceed by making application to ordinary (now judge of probate court) for revocation of letters of guardianship. 1952-53 Ga. Op. Att'y Gen. 373 (decided under former Code 1933, § 49-232).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 160 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 4, 79 et seq., 256, 257.

ALR.

Liability of guardian, or his surety, as affected by agreement by which he limits his control over funds or investments, 102 A.L.R. 1108.

Improper handling of funds, investments, or assets as ground for removal of guardian of infant or incompetent, 128 A.L.R. 535.

29-5-94. Statute of limitations.

All actions against a conservator, except on a conservator's bond, shall be brought within six years of the termination of the conservatorship of the ward, except as provided in Code Section 9-3-90.

History.

Code 1981, § 29-5-94, enacted by Ga. L. 2004, p. 161, § 1.

ARTICLE 11

TEMPORARY SUBSTITUTE CONSERVATOR

29-5-100. Appointment of temporary substitute conservator; length of appointment; powers; notice; removal.

(a) Upon its own motion or upon the petition of any interested party, including the ward, the court may appoint a temporary substitute conservator for a ward if it appears to the court that the best interest of the ward requires immediate action.

(b) The temporary substitute conservator shall be appointed for a specified period not to exceed 120 days.

(c) The court shall appoint as temporary substitute conservator the county conservator or some other appropriate person who shall serve the best interest of the ward.

(d) Except as otherwise ordered by the court, a temporary substitute conservator has the powers set forth in the order of appointment. The authority of the previously appointed conservator is suspended for as long as the temporary substitute conservator has authority.

(e) Notice of the appointment of a temporary substitute conservator shall be served personally on the ward. Notice of the appointment shall be served personally on the previously appointed conservator at the last address provided by that conservator to the court. Notice of the appointment shall be mailed by first-class mail to the surety of the previously appointed conservator and to the ward's guardian, if any.

(f) The court may remove the temporary substitute conservator at any time. A temporary substitute conservator shall make any report and shall give any bond the court deems appropriate. In all other respects, the provisions of this chapter apply to the temporary substitute conservator.

History.
Code 1981, § 29-5-100, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 713, § 7/SB 98, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, substituted "conservator" for "guardian" in subsection (c).

29-5-101. Appointment of successor conservator; notice; hearing; other requirements; order.

(a) The court shall appoint a successor conservator upon the resignation, death, or revocation of the letters of the conservator if the appointment of a successor conservator is in the best interest of the ward. The court shall select the successor conservator in the manner provided in Code Section 29-5-3.

(b) The court shall appoint legal counsel for the ward. In the event of the resignation or death of the conservator, notice of the proceeding for appointment of a successor conservator shall be given as provided in Code Sections 29-5-90 and 29-5-91. In all other cases, notice of the proceeding for appointment of a successor conservator shall be served personally on the ward and the ward's legal counsel. Notice shall be made by first-class mail to the guardian of the ward, if any, and to the following persons whose whereabouts are known and who must be persons other than the proposed successor conservator:

(1) The spouse of the ward; and

(2) All adult children of the ward; or

(3) If there is no adult child, then at least two adults in the following order of priority:

(A) Lineal descendants of the ward;

(B) Parents and siblings of the ward; and

(C) Friends of the ward.

(c) After such hearing as the court deems appropriate, the court shall enter an order appointing the successor conservator and requiring that bond be posted in the amount set out in Code Section 29-5-40.

History.
Code 1981, § 29-5-101, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 are included in the annotations for this Code section.

Guardian must present suitable successor who is willing to accept. — Before guardian is permitted to resign the guardian must present a fit and suitable person to the ordinary (now judge of probate court) as successor who is willing to accept. Bryce v. Wynn, 50 Ga. 332, 1873 Ga. LEXIS 266 (1873) (decided under former Code 1873, § 1848); King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, §§ 56, 85.

C.J.S.
39 C.J.S., Guardian and Ward, §§ 20 et seq., 24 et seq., 36, 37, 49, 50, 282.

ALR.
Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or

one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

29-5-102. Delivery of property; annual return; liability of surety.

Upon the appointment of a successor conservator, the predecessor conservator or the personal representative of a deceased predecessor conservator shall deliver to the successor conservator all property of the ward held by the conservator and shall submit a final return covering the period since the conservator's last annual return. The surety of the predecessor conservator shall be liable for all acts of the conservator in relation to the ward's property up to the time of the receipt of all of the ward's property by the successor conservator.

History.

Code 1981, § 29-5-102, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Code 1873, § 1848 and former Code 1882, § 1848 are included in the annotations for this Code section.

Debts due to guardian individually cannot be left to successor. — Guardian cannot discharge trust by turning over to successor debts due to the guardian individually from successor. Such is the rule, though successor be solvent at time, if, owing to the successor's subsequent insolvency, the ward is injured by settlement. Manning v. Manning, 61 Ga. 137, 1878 Ga. LEXIS 49 (1878) (decided under former Code 1873, § 1848); Maynard v. Cleveland, 76 Ga. 52, 1885 Ga. LEXIS 23 (1885) (decided under former Code 1882, § 1848).

Order permitting resignation is not judgment that full settlement and accounting have been made. King v. Hughes, 52 Ga. 600, 1874 Ga. LEXIS 363 (1874) (decided under former Code 1873, § 1848).

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, §§ 56, 85.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 42 et seq., 76 et seq., 211 et seq., 282 et seq.

ALR.

Construction and application of statutes authorizing the appointment of trust company as guardian, trustee, or administrator upon application or consent of one acting as such (or as executor), or one entitled to appointment as such, 105 A.L.R. 1199.

Right of appeal from order on application for removal of personal representative, guardian, or trustee, 37 A.L.R.2d 751.

ARTICLE 12

APPELLATE PROCEEDINGS

29-5-110. Right of ward to appeal; procedure; appointment of emergency conservator.

(a) Except as provided in Article 6 of Chapter 9 of Title 15, the ward, individually or by the ward's legal counsel, representative, or guardian ad litem, or the petitioner may appeal any final order of the court to the superior court in the county in which the proceedings were held. The appeal shall be in the same manner as other appeals from the probate court to the superior court but shall be heard as expeditiously as possible. The appeal shall be de novo unless by agreement the parties specifically limit the issues. The ward shall retain the right to counsel or to have counsel appointed; provided, however, that, if counsel was appointed by the probate court, the appointment shall continue on appeal to the superior court. The burden of proof shall be upon the petitioner and the standard used by the court in reaching its decision shall be clear and convincing evidence.

(b) All rights of appeal from the superior court shall be as provided by law.

(c) The filing of an appeal to the superior court from the judgment of the probate court shall act as a supersedeas.

(d) Pending any appeal, the superior court or a probate court that is described in paragraph (2) of Code Section 15-9-120 may appoint an emergency conservator with powers and duties as are described in Code Section 29-5-16; provided, however, that such emergency conservator may be appointed only upon the filing of an affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health licensed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43, or a licensed clinical social worker, setting forth the existence of the emergency circumstances described in subsection (d) of Code Section 29-5-14 and after a hearing at which other evidence may be presented. The appointment of an emergency conservator is not appealable.

History.

Code 1981, § 29-5-110, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 402, § 22/HB 36, effective July 1, 2025; Ga. L. 2026, p. 1069, § 29(6)/HB 1268, effective July 1, 2026.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "a physician assistant licensed under Chapter 34 of Title 43, a nurse practitioner or clinical nurse specialist in psychiatric/mental health li-

censed or registered under Chapter 26 of Title 43, a professional counselor licensed under Chapter 10A of Title 43," and inserted a comma following "social worker" in the first sentence of subsection (d).

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in the fourth sentence in subsection (a).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under former O.C.G.A. § 29-5-11 is included in the annotations for this Code section.

Standing to appeal. — When the probate court granted a petition for guardianship submitted by one spouse, the superior court correctly dismissed an appeal by the adult children of the petitioned spouse. The dismissal was based on the failure of the adult children to file a petition for guardianship under former O.C.G.A. § 29-5-6 and their lack of any status under former O.C.G.A. § 29-5-11(a). Twitty v. Akers, 218 Ga. App. 467, 462 S.E.2d 418, 1995 Ga. App. LEXIS 777 (1995), cert. denied, No. S96C0020, 1995 Ga. LEXIS 1226 (Ga. Dec. 1, 1995) (decided under former O.C.G.A. § 29-5-11).

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes. — In light of the similarity of the statutory provisions, opinions under former O.C.G.A. § 29-5-11 are included in the annotations for this Code section.

Authority to appoint emergency guardian pending appeal. — Under former O.C.G.A. § 29-5-11(d), the probate courts which are authorized to hold jury trials under Ga. L. 1986, p. 982, will not be authorized to appoint an emergency guardian pending appeal. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-11).

Payment of costs upon appeal of emergency orders. — An appeal from those emergency guardianship orders which can be considered "final orders" will act as supersedeas upon payment of the costs by the appellant. 1986 Op. Att'y Gen. No. U86-18 (decided under former O.C.G.A. § 29-5-11).

ARTICLE 13

FOREIGN CONSERVATORSHIPS

PART 1

GENERAL PROVISIONS

29-5-120. Removal to jurisdiction where ward resides; appointment of guardian ad litem; bond; authority; liability; retention of jurisdiction.

(a) A conservator may petition to remove the conservatorship to the jurisdiction of the court of the county in this state in which the ward resides.

(b) Upon the filing of a petition to remove the conservatorship to another county in this state, the court shall appoint a guardian ad litem for the ward. The court of the county in which the conservator was

appointed shall grant the petition for removal only if the court determines that the removal is in the best interest of the ward.

(c) Before the removal of the conservatorship to another county in this state, the conservator must give bond and good security to the court of such county as if the conservator had been first appointed by that court, and a certificate to this effect shall be filed in the court in which the conservator was appointed. The conservator shall file with the court of the county to which the conservatorship is to be removed certified copies of all the records pertaining to the conservatorship.

(d) Following removal of a conservatorship to another county in this state, the court to which the conservatorship is removed shall have the same jurisdiction over the conservator as if the conservator had been first appointed in that county, and every case growing out of or affecting the conservatorship shall be heard and tried only in the county to which the conservatorship has been removed.

(e) The sureties on the conservator's first bond shall be liable only for misconduct of the conservator up until the giving of new bond and security. The sureties on the new bond shall be liable for both past and future misconduct of the conservator.

(f) The court in which an action or proceeding is pending or which has issued an order for a settlement of accounts, removal, or sanction of a conservator shall retain jurisdiction of such matters even though the conservatorship has been removed to another county.

History.
Code 1981, § 29-5-120, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under Ga. L. 1812, Cobb's 1851 Digest, p. 318 and Code 1933, § 49-239 are included in the annotations for this Code section.

Compliance discharges surety from further liability on account of guardian. — When provisions of the Act of 1812 (former O.C.G.A. § 29-2-70) are fully complied with, sureties on first bond are discharged from all further liability on account of their principal. Justices of Inferior Court ex rel. Selman v. Selman, 6 Ga. 432, 1849 Ga. LEXIS 58 (1849) (decided under Ga. L. 1812, Cobb's 1851 Digest, p. 318).

For jurisdiction over removal and new appointments where guardian moves from county without removing trust, see Fouts v. Flythe, 54 Ga. App. 108, 187 S.E. 160, 1936 Ga. App. LEXIS 465 (1936) (decided under former Code 1933, § 49-239).

RESEARCH REFERENCES

ALR.
Guardianship of incompetent or infant as affecting venue of action, 11 A.L.R. 167.

PART 2

TRANSFER OF CONSERVATORSHIP

29-5-125 through 29-5-128. [Reserved].

History.
Code 1981, §§ 29-5-125 through 29-5-128, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; repealed by Ga. L. 2016, p. 563, § 3/HB 954, effective July 1, 2016.
Editor's notes.
Ga. L. 2016, p. 563, § 3/HB 954, reserved the designation of this part, effective July 1, 2016.
The former part, relating to transfer of conservatorship, consisted of Code Sections 29-5-125 through 29-5-128.

PART 3

TRANSFER OF CONSERVATORSHIP

29-5-130 through 29-5-134. [Reserved].

History.
Ga. L. 2004, p. 161, § 1; repealed by Ga. L. 2016, p. 563, § 3/HB 954, effective July 1, 2016.
Editor's notes.
Ga. L. 2016, p. 563, § 3/HB 954, reserved the designation of this part, effective July 1, 2016.
The former part, relating to transfer of conservatorship, consisted of Code Sections 29-5-130 through 29-5-134.

PART 4

FOREIGN CONSERVATOR

29-5-135. Sale of ward's property.

(a) As used in this part, the term "foreign conservator" means a conservator or other person who has been given responsibility by a court of competent jurisdiction in another state or territory governed by the Constitution of the United States for the care of the property of an incapacitated adult, referred to as the ward, and whose conservatorship has not been transferred to and accepted in this state pursuant to the provisions of Article 3 of Chapter 11 of this title.

(b) Any foreign conservator of a ward who resides in any other state and who is authorized to sell and convey property of the ward may sell property of the ward which is in this state, under the rules and regulations prescribed for the sale of real estate by conservators of this state, provided that the foreign conservator must file and have recorded in the court or other proper court, at the time of petitioning for sale, an authenticated copy of the letters of appointment and must also file with the court or other proper authority bond with good and sufficient

security, in double the value of the property to be sold, for the faithful execution of the conservatorship as provided by law.

History.
Code 1981, § 29-5-135, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2016, p. 563, § 5/HB 954; Ga. L. 2026, p. 1069, § 54(2)(S)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "As used in" for "For purposes of" in subsection (a).

29-5-136. Right to bring action.

A foreign conservator may institute an action in any court in this state to enforce any right or to recover any property belonging to the ward or accruing to the foreign conservator in his or her capacity as conservator.

History.
Code 1981, § 29-5-136, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, a decision under Ga. L. 1850, Cobb's 1851 Digest, p. 341 is included in the annotations for this Code section.

Actions ex contractu and ex delicto not distinguished. — Georgia Laws 1850, Cobb's 1851 Digest, p. 341 does not warrant distinction between actions ex contractu and actions ex delicto. Averitt v. Pope, 30 Ga. 660, 1860 Ga. LEXIS 163 (1860) (decided under Ga. L. 1850, Cobb's 1851 Digest, p. 341).

RESEARCH REFERENCES

Am. Jur. 2d.
39 Am. Jur. 2d, Guardian and Ward, § 152 et seq.

C.J.S.
39 C.J.S., Guardian and Ward, § 256 et seq.

ALR.
Capacity of guardian to sue or to be sued outside state where appointed, 94 A.L.R.2d 162.

29-5-137. Filing of letters of conservatorship.

Pending an action brought by a foreign conservator pursuant to Code Section 29-5-136, an authenticated copy of the letters of conservatorship shall be filed with the clerk of the court to become a part of the record, if the case is pending in a court of record, or filed with the papers, if the action is a summary proceeding.

History.
Code 1981, § 29-5-137, enacted by Ga. L. 2004, p. 161, § 1.

29-5-138. Submission to jurisdiction; registration of conservatorship order.

(a) A foreign conservator submits personally to the jurisdiction of the courts of this state in any proceeding relating to the conservatorship by:

(1) Receiving payment of money or taking delivery of personal property in this state belonging to the ward;

(2) Doing any act as a conservator in this state that would have given this state jurisdiction over the actor as an individual; or

(3) Registering the conservatorship order in this state pursuant to Code Section 29-11-31.

(b) With respect to a conservatorship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-31, in addition to any action such court of this state may take under this part or under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any proceeding relating to the conservatorship initiated in this state under subsection (a) of this Code section, stating the reasons therefor.

History. Code 1981, § 29-5-138, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 22/HB 70.

29-5-139. Rights of interested parties prior to sale of ward's assets; court communication with appointing foreign court.

(a) Any resident of this state who is interested as a creditor, heir, putative heir, or will beneficiary of a ward for whom a foreign conservator has been appointed may apply to the proper court to compel the foreign conservator to protect that interest according to equity and good conscience before selling the ward's assets or removing the ward's assets beyond the limits of this state.

(b) With respect to a conservatorship order from another state that has been registered with and recorded by a court of this state under Code Section 29-11-31, in addition to any action such court of this state may take under this part or under subsection (b) of Code Section 29-11-32, such court of this state may communicate with the appointing court in such other state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the application to compel such foreign conservator to protect an interest under subsection (a) of this Code section, stating the reasons therefor.

History.
Code 1981, § 29-5-139, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 23/HB 70.

29-5-140. Payments to foreign conservator on debts or return of property belonging to ward.

(a) A person who is indebted to or has possession of tangible or intangible property of a ward may pay the debt or deliver the property to a foreign conservator of the ward. Payment of the debt or delivery of the property may be made upon proof of appointment and proof that the foreign conservator has been appointed and is entitled to debt payment or to receive delivery of the property.

(b) Payment of the debt or delivery of the property in response to the demand discharges the debtor or possessor, unless the debtor or possessor has knowledge of proceedings for the appointment of a guardian, conservator, or other protective proceeding in this state.

History.
Code 1981, § 29-5-140, enacted by Ga. L. 2004, p. 161, § 1.

CHAPTER 6

PROBATE COURT JUDGES AS CUSTODIANS

Sec.		Sec.	
29-6-1.	Judges of probate courts as custodians of certain funds; authority to collect debts.	29-6-6.	Requirement to deposit excess funds in FDIC insured account.
29-6-2.	Employment of counsel; payment of counsel's fees.	29-6-7.	[Reserved] Compensation of judges.
29-6-3.	Record-keeping requirements of probate judge.	29-6-8.	Bonding requirements.
29-6-4.	Expenditures by probate judge.	29-6-9.	Circumstances under which custodial property shall be returned.
29-6-5.	Ordering of conservatorship.		

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

RESEARCH REFERENCES

Am. Jur. 2d.

39 Am. Jur. 2d, Guardian and Ward, § 99 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, §§ 59, 81, 110, 262, 263.

29-6-1. Judges of probate courts as custodians of certain funds; authority to collect debts.

The judges of the probate courts are, in their discretion, made the legal custodians and distributors of all moneys up to $25,000.00 due and owing to any minor or adult who is in need of a conservator but who has no legal and qualified conservator; and the judges are authorized to receive and collect all such moneys arising from insurance policies, benefit societies, legacies, inheritances, or any other source. Without any appointment or qualifying order, the judge is authorized to take charge of the moneys or funds of the minor or adult by virtue of the judge's office as judge of the probate court in the county of residence of the minor or adult; provided, however, that notice shall be given to the living parents of a minor, if any, or the guardian of an adult, if any. The certificate of the judge that no legally qualified conservator has been appointed shall be conclusive and shall be sufficient authority to justify any debtor in making payment on claims made by the judge.

History.
Code 1981, § 29-6-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 16/SB 534; Ga. L. 2025, p. 806, § 19/HB 327, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, in the first sentence, substituted "$25,000.00" for "$15,000.00" and deleted "incapacitated" preceding "adult."

JUDICIAL DECISIONS

Immunity extends to counties. — Trial court properly applied sovereign immunity to bar the plaintiff's claims against the county because the plaintiff's pleadings did not establish that there was a contract between the county and the bank intended for the plaintiff's benefit. Small v. Chatham County, 360 Ga. App. 500, 861 S.E.2d 437, 2021 Ga. App. LEXIS 377 (2021).

29-6-2. Employment of counsel; payment of counsel's fees.

The judge of the probate court is authorized, in the judge's discretion, to employ counsel to bring an action to recover any amount due to a minor or adult described in Code Section 29-6-1, in the minor's or adult's name or in the name of the judge as custodian, in any court having jurisdiction thereof. The judge of the probate court shall have authority to pay to counsel a reasonable fee out of the funds collected for counsel's services in the proceeding which were necessary to enforce the right of the minor or adult.

History.
Code 1981, § 29-6-2, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, §§ 115, 226, 227, 274.

29-6-3. Record-keeping requirements of probate judge.

It shall be the duty of the judge of the probate court to keep a properly indexed complete record of all money received by the judge for minors or adults by virtue of the judge's services under Code Section 29-6-1. The record shall show from what source the funds were derived and to whom and for what the money was paid. The record shall be open for inspection by the public.

History.
Code 1981, § 29-6-3, enacted by Ga. L. 2004, p. 161, § 1.

29-6-4. Expenditures by probate judge.

The judge of the probate court who, pursuant to Code Section 29-6-1, receives funds due and owing a minor or adult is authorized and

directed to pay from the funds so received whatever amount the judge may think necessary for the support, care, education, health, and welfare of the minor or adult, as well as the funeral and burial expenses of the minor or adult, in case of the individual's death, as in the judge's opinion may be proper and right. The expenditures made by the judge shall be final and no liability shall attach to the judge or the judge's bond by reason of the expenditures when made in good faith.

History.
Code 1981, § 29-6-4, enacted by Ga. L. 2004, p. 161, § 1.

29-6-5. Ordering of conservatorship.

In appropriate cases, the judge of the probate court who holds property or funds pursuant to this chapter may order that a conservatorship be established in accordance with the provisions of Chapter 3 or 5 of this title and shall distribute any or all of such property or funds to the conservator.

History.
Code 1981, § 29-6-5, enacted by Ga. L. 2004, p. 161, § 1.

29-6-6. Requirement to deposit excess funds in FDIC insured account.

When any funds due and owing a minor or adult come into the hands of the judge of the probate court and the funds are not needed for the support, care, education, health, and welfare of the minor or adult, it shall be the duty of the judge to place the funds in an account insured by the Federal Deposit Insurance Corporation in the name of the judge as custodian for the minor or adult. There shall be no further liability against the judge or the judge's bond when the deposit is made in good faith.

History.
Code 1981, § 29-6-6, enacted by Ga. L. 2004, p. 161, § 1.

29-6-7. [Reserved] Compensation of judges.

History.
Code 1981, § 29-6-7, enacted by Ga. L. 2004, p. 161, § 1; repealed by Ga. L. 2024, p. 537, § 5/SB 232, effective January 1, 2025.

Editor's notes.
Ga. L. 2024, p. 537, § 5/SB 232, reserved the designation of this Code section, effective January 1, 2025.

29-6-8. Bonding requirements.

Judges of the probate courts shall be held accountable on their official

bonds for the faithful discharge of their duties pursuant to Code Section 29-6-1 as custodians and for the proper distribution of funds coming into their hands as such custodians. It is the judge's responsibility to increase his or her official bond if necessary.

History.
Code 1981, § 29-6-8, enacted by Ga. L. 2004, p. 161, § 1.

JUDICIAL DECISIONS

Immunity extends to counties. — Trial court properly applied sovereign immunity to bar the plaintiff's claims against the county because the plaintiff's pleadings did not establish that there was a contract between the county and the bank intended for the plaintiff's benefit. Small v. Chatham County, 360 Ga. App. 500, 861 S.E.2d 437, 2021 Ga. App. LEXIS 377 (2021).

29-6-9. Circumstances under which custodial property shall be returned.

The judge shall turn over all custodial property held pursuant to this chapter to:

(1) A conservator if the custodial funds exceed $15,000.00;

(2) A minor upon reaching the age of majority;

(3) A former incapacitated adult upon restoration to capacity;

(4) The personal representative of a deceased minor or incapacitated adult; or

(5) The Department of Revenue four years after the death of a minor or incapacitated adult if no proceedings are commenced on that individual's estate or four years after the date a minor who cannot be located would have reached the age of majority.

History.
Code 1981, § 29-6-9, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 17/SB 534.

CHAPTER 7

VETERANS AFFAIRS GUARDIANS

Sec.		Sec.	
29-7-1.	Definitions.	29-7-12.	Expenditure of ward's estate; insurance; title to new property.
29-7-2.	Proceedings involving secretary or department as a party in interest; notice.	29-7-13.	Annual accounting requirements.
29-7-3.	Manner of appointment.	29-7-14.	Failure to file an annual accounting.
29-7-4.	Appointment for mentally incompetent ward; authority of court.	29-7-15.	Compensation; reimbursement for premium on bond.
29-7-5.	Appointment for minor.	29-7-16.	Discharge upon death, age of majority, or competency of ward; role of county guardian.
29-7-6.	Notice.	29-7-17.	Application of other laws; right to appeal.
29-7-7.	Petition for appointment; preferences.	29-7-18.	Construction.
29-7-8.	Qualifications.		
29-7-9.	Eligibility for service; discharge.		
29-7-10.	Bond requirements; discharge of surety on bond.		
29-7-11.	Investment of surplus funds.		

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

29-7-1. Definitions.

As used in this chapter, the term:

(1) "Benefits" means all moneys paid or payable by the United States through the United States Department of Veterans Affairs.

(2) "Department" means the United States Department of Veterans Affairs, its predecessors, or its successors.

(3) "Estate" means income on hand and assets acquired partially or wholly with income.

(4) "Income" means moneys received from the United States Department of Veterans Affairs and revenue or profit from any property wholly or partially acquired therewith.

(5) "Person" means an individual, a partnership, a corporation, or an association.

(6) "Secretary" means the secretary of veterans affairs of the United States Department of Veterans Affairs or the secretary's successor.

(7) "VA guardian" means a person appointed pursuant to the provisions of this chapter.

(8) "Ward" means a beneficiary of the United States Department of Veterans Affairs.

History.
Code 1981, § 29-7-1, enacted by Ga. L. 2004, p. 161, § 1.

29-7-2. Proceedings involving secretary or department as a party in interest; notice.

(a) The secretary shall be a party in interest in any proceedings for the appointment or discharge of a VA guardian and in any proceedings involving the administration of the estate of the ward. Written notice of the time and place for hearing on any petition or pleading or in connection with any proceeding pertaining to a VA guardianship pursuant to this chapter shall be given by certified mail or statutory overnight delivery to the office of the department having jurisdiction over the area in which the ward resides. The notice shall include a copy of the petition or other pleadings and shall be given so as to arrive in due course of mailing not less than 15 days before the date of a hearing or other proceedings, unless otherwise provided in this chapter.

(b) In any proceeding involving a guardianship or conservatorship established pursuant to any other chapter of this title, the office of the department having jurisdiction over the area in which the ward resides may, by giving written notice to the court having jurisdiction over such proceedings and to the guardian or conservator or proposed guardian or conservator, become a party in interest as to the guardianship or conservatorship or proposed guardianship or conservatorship and shall thereafter be entitled to notice as if a guardianship or conservatorship was originally established under this chapter.

(c) The court shall mail to the department office a copy of each order entered in any VA guardianship or other guardianship or conservatorship proceeding wherein the secretary is an interested party.

History.
Code 1981, § 29-7-2, enacted by Ga. L. 2004, p. 161, § 1.

29-7-3. Manner of appointment.

Whenever, pursuant to any law of the United States or regulation of the department, the secretary requires, prior to payment of benefits, that a VA guardian be appointed for a ward, the appointment shall be made in the manner provided in this chapter.

History.
Code 1981, § 29-7-3, enacted by Ga. L. 2004, p. 161, § 1.

29-7-4. Appointment for mentally incompetent ward; authority of court.

Where a petition is filed for the appointment of a VA guardian for a mentally incompetent ward, a certificate of the secretary or the secretary's duly authorized representative stating that such individual has been rated incompetent by the department on examination in accordance with the laws and regulations governing the department and that the appointment of a VA guardian is a condition precedent to the payment of any moneys due such ward by the department shall be prima-facie evidence of the necessity for the appointment of a VA guardian. The courts are authorized to appoint a VA guardian for an incompetent ward entitled to any benefits which may be payable to a ward by the department.

History.
Code 1981, § 29-7-4, enacted by Ga. L. 2004, p. 161, § 1.

29-7-5. Appointment for minor.

Where a petition is filed for the appointment of a VA guardian for a minor, a certificate of the secretary or the secretary's authorized representative setting forth the age of the minor as shown by the records of the department and the fact that the appointment of a VA guardian is a condition precedent to the payment of any moneys due the minor by the department shall be prima-facie evidence of the necessity for the appointment of a VA guardian.

History.
Code 1981, § 29-7-5, enacted by Ga. L. 2004, p. 161, § 1.

29-7-6. Notice.

Upon a petition for the appointment of a VA guardian, notice shall be given to the department office having jurisdiction over the area in which the ward resides, to the proposed ward, and to two adult relatives of the proposed ward by certified mail or statutory overnight delivery by the court. If two adult relatives of the proposed ward cannot be located, notice to one adult relative shall be sufficient. If no adult relative can be located, the court shall give notice of the petition in the newspaper in which legal advertisements of the county in which the ward resides are published once a week for two weeks. After notice has been given or published, the letters of guardianship may, in the discretion of the court, be granted to the petitioner or to some other suitable person. If

all parties entitled to notice waive further notice and consent to the notice instanter, the court may, in its discretion, grant letters of guardianship instanter to the petitioner.

History.
Code 1981, § 29-7-6, enacted by Ga. L. 2004, p. 161, § 1.

29-7-7. Petition for appointment; preferences.

(a) A petition for the appointment of a VA guardian may be filed in the court having jurisdiction by or on behalf of the department or any person designated by the secretary or the secretary's representative.

(b) The petition shall set forth:

(1) The name, age, and place of residence of the ward;

(2) The names and places of residence of the nearest two adult relatives, if known;

(3) The fact that the ward is entitled to receive moneys payable by or through the department;

(4) The amount of money then due and the amount of probable future payments;

(5) The name and address of the person or institution, if any, having actual custody of the ward;

(6) In the case of a mentally incompetent ward, that the ward has been rated incompetent on examination by the department in accordance with the laws and regulations governing the department; and

(7) The name and address of the person or institution sought to be appointed as VA guardian of the ward and the relationship, if any, of the proposed VA guardian to the ward.

(c) Preferences for appointment of a VA guardian shall be as provided in Code Section 29-5-3.

History.
Code 1981, § 29-7-7, enacted by Ga. L. 2004, p. 161, § 1.

29-7-8. Qualifications.

Before making an appointment under this chapter, the court hearing the petition shall be satisfied that the VA guardian whose appointment is sought is a fit and proper person to be appointed. The nomination of a person by the department shall be prima-facie evidence of the person's fitness. A qualified individual shall ordinarily be preferred for appoint-

ment as VA guardian, but the court may, in the court's discretion, appoint any qualified person as VA guardian.

History.
Code 1981, § 29-7-8, enacted by Ga. L. 2004, p. 161, § 1.

29-7-9. Eligibility for service; discharge.

(a) The following persons and entities may serve as VA guardians subject to the restrictions listed:

(1) An individual deemed fit and proper by the court may be a VA guardian of that individual's children, parents, and grandparents without limitation;

(2) A bank or trust company doing business in this state may serve as a VA guardian under this chapter for an unlimited number of beneficiaries;

(3) A person appointed while serving as county guardian in any county in this state may serve as a VA guardian under this chapter for an unlimited number of beneficiaries; or

(4) Any other person, provided that any person who is currently serving as the VA guardian for ten or more wards must so state in that person's petition to be appointed as the VA guardian for additional wards, and provided, further, the department shall have the right to direct the court in writing to deny the petition.

(b) Upon presentation of a petition by the department alleging that the VA guardian is acting in a fiduciary capacity in violation of this Code section and requesting the discharge of that VA guardian, the court upon proof substantiating the petition shall:

(1) Require a final accounting immediately from a sufficient number of VA guardianships, in reverse chronological order, to bring the VA guardian within compliance of this Code section;

(2) Require final settlements of accounts immediately on the VA guardianships described in paragraph (1) of this subsection; and

(3) Discharge the VA guardian in cases as the court deems proper.

History.
Code 1981, § 29-7-9, enacted by Ga. L. 2004, p. 161, § 1.

29-7-10. Bond requirements; discharge of surety on bond.

(a) A bank or trust company doing business in this state shall not be

required to file a bond for any VA guardianship unless required by the department.

(b) Any other person serving as a VA guardian shall execute and file a bond, to be approved by the court, in an amount not less than the sum of the value of the estate, other than real property, at the time of the last accounting and funds estimated to become payable during the ensuing year, which bond shall be a security bond made by a solvent and acceptable surety company in the form required for bonds of guardians or conservators appointed under the general guardianship or conservatorship laws and shall be conditioned as are such bonds. After each annual accounting, the court shall review the amount of the bond and shall order such increase or decrease as shall be warranted by the accounting. No reduction in the bond amount shall affect the liability of the surety for past waste or misconduct of the VA guardian.

(c) A surety on a bond posted pursuant to this Code section shall not be relieved from liability merely because of the expiration of the term of the bond but shall be subject to provisions of law for discharge of a surety applicable to other bonds.

History.
Code 1981, § 29-7-10, enacted by Ga. L. 2004, p. 161, § 1.

29-7-11. Investment of surplus funds.

Every VA guardian shall invest the surplus funds of the ward's estate in such securities or property as authorized under the laws of this state but only upon prior order of the court; except that the funds may be invested, without prior court authorization, in direct unconditional interest-bearing obligations of this state or of the United States or in obligations the interest and principal of which are unconditionally guaranteed by the United States. A signed duplicate or certified copy of the petition for authority to invest surplus funds shall be furnished the proper area office of the department, and notice of hearing on the petition shall be given said office in the case of a VA guardian's account.

History.
Code 1981, § 29-7-11, enacted by Ga. L. 2004, p. 161, § 1.

29-7-12. Expenditure of ward's estate; insurance; title to new property.

(a) A VA guardian shall not apply any portion of the estate of the ward for the support, maintenance, or education of any person other than the ward, the ward's spouse, and the children of the ward who are legally dependent on the ward, except upon order of the court after a

hearing, notice of which has been given by certified mail or statutory overnight delivery to the department not less than 30 days prior to a hearing on the petition, unless the department consents in writing to the petition, in which case no hearing need be had.

(b) No VA guardian shall name himself or herself as beneficiary of any insurance policy which insures the life of the ward. As to any insurance policy that is purchased after establishment of the VA guardianship where premiums are or have been paid from benefits, the VA guardian shall ensure that the beneficiary named is the estate of the ward.

(c) All property of a ward having a VA guardian which is purchased with benefits shall be titled in the name of the current VA guardian or any successor VA guardian for (name of ward), a beneficiary of the department, further indicating the fact of VA guardianship and the name of the beneficiary on any documents of title. Any such assets which should be prudently insured shall be insured with a policy of insurance denominated in the same manner.

History.
Code 1981, § 29-7-12, enacted by Ga. L. 2004, p. 161, § 1.

29-7-13. Annual accounting requirements.

Every VA guardian shall file with the court annually, in the same manner as provided under the general law for conservators, a full, true, and accurate accounting, on oath, of all moneys received by the VA guardian and disbursements of all moneys, showing the balance in the VA guardian's hands at the date of the accounting and how it is invested. The VA guardian shall list in each accounting all the investments of the ward's funds, showing the amount of each investment, the date made, the interest rate, the date of maturity, the dates and amounts of any liquidations, and the dates and amounts of interest payments. A certified copy of each of accounting filed with the court shall be sent by the court within ten days after the accounting is filed to the office of the department having jurisdiction over the area in which the court is located. Each accounting shall include a computation of commissions allowed and taken during the period covered by the accounting. No accounting shall be allowed or admitted to record for a period of 60 days following the date of filing the accounting.

History.
Code 1981, § 29-7-13, enacted by Ga. L. 2004, p. 161, § 1.

29-7-14. Failure to file an annual accounting.

If any VA guardian fails to file the accounting required by Code Section 29-7-13, the failure shall be grounds for removal. If any VA guardian fails to file any accounting within 30 days after demand is made by the court to do so, the court shall notify the surety for the VA guardian of the failure by certified mail or statutory overnight delivery. Thereafter, on motion of any interested party, including the surety, or on its own motion, the court may enter an order removing the VA guardian without further notice or hearing. Every VA guardian who fails or refuses to file the accounting by the due date shall receive no commission or compensation for any service during that year unless by special order of the court the VA guardian is exonerated from all fault.

History.
Code 1981, § 29-7-14, enacted by Ga. L. 2004, p. 161, § 1.

29-7-15. Compensation; reimbursement for premium on bond.

(a) As compensation for service, a VA guardian shall earn a commission of 5 percent on all income of the ward coming into the VA guardian's hands during any months while the VA guardian serves. If the ward receives at least $350.00 per month, the minimum fee shall be $35.00 per month.

(b) In the event the ward's monthly service connected disability compensation payment from the department is discontinued or suspended, the VA guardian, subject to court approval which shall be given unless it appears to the court that the estate is unfairly prejudiced or the payment would be a manifest injustice, shall be entitled to 5 percent additional commission on all sums paid out by the VA guardian from the time the disability compensation payment is discontinued or suspended until the time the disability compensation payment is resumed.

(c) In the event that extraordinary services are rendered by the VA guardian, the court, upon petition and after hearing thereon, may authorize additional compensation payable from the estate of the ward. Notice of the petition and hearing shall be given by certified mail or statutory overnight delivery to the department office having jurisdiction over the area in which the ward resides not less than 30 days prior to the hearing on the petition. No compensation shall be allowed on the corpus of an estate received from a previous VA guardian.

(d) A VA guardian shall be allowed to pay from the ward's estate reasonable premiums for any corporate surety on the VA guardian's bond.

History.
Code 1981, § 29-7-15, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 18/SB 534.

29-7-16. Discharge upon death, age of majority, or competency of ward; role of county guardian.

(a) A VA guardian, upon filing a petition and making satisfactory accounting, shall be discharged when the ward dies, reaches the age of majority, or is declared competent by the department or the court.

(b) A county guardian who ceases to serve as county guardian continues to serve as a VA guardian at the pleasure of the court for which the VA guardian formerly served as county guardian. The court may at any time require the VA guardian's final accounting and discharge as to any or all VA guardianships which the VA guardian accepted as county guardian, whereupon the court shall appoint as successor VA guardian the new county guardian or other person as shall be requested by the department. A former county guardian may file a petition with the court, a copy of which shall be served by certified mail or statutory overnight delivery upon the area office of the department, together with the VA guardian's final accounting, as to any or all VA guardianships; whereupon the court shall appoint as the VA guardian's successor the new county guardian or other person as shall be designated by the department.

History.
Code 1981, § 29-7-16, enacted by Ga. L. 2004, p. 161, § 1.

29-7-17. Application of other laws; right to appeal.

Except where inconsistent with this chapter, the general guardianship and conservatorship laws of this state and the laws establishing the practice in such matters, including the rights of appeal, shall be applicable to wards and their estates governed by this chapter.

History.
Code 1981, § 29-7-17, enacted by Ga. L. 2004, p. 161, § 1.

29-7-18. Construction.

This chapter shall be construed liberally to secure the beneficial intents and purposes thereof and shall apply only to beneficiaries of the department who are entitled to benefits from the department.

History.
Code 1981, § 29-7-18, enacted by Ga. L. 2004, p. 161, § 1.

CHAPTER 8

COUNTY GUARDIANS

Sec.		Sec.	
29-8-1.	County administrators as ex officio county guardians and ex officio county conservators.		and rights of county guardian.
29-8-2.	Bond requirements.	29-8-4.	Additional bond or security.
29-8-3.	Letters of guardianship or conservatorship; liability	29-8-5.	Revocation.
		29-8-6.	Designation as county conservator.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, § 234.

29-8-1. County administrators as ex officio county guardians and ex officio county conservators.

County administrators as provided for in Article 5 of Chapter 6 of Title 53 are ex officio county guardians and ex officio county conservators and shall serve as guardians or conservators, respectively, in all cases where appointed by the court.

History.

Code 1981, § 29-8-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2025, p. 713, § 8/SB 98, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted "and ex officio county conservators" and ", respectively,".

29-8-2. Bond requirements.

In addition to the bond required in Code Section 53-6-41, county conservators shall give an additional bond with good security, to be judged by the court, in the sum of $5,000.00. Such additional bond shall be payable to the court for the benefit of all concerned, shall be attested by the judge or clerk of the court, and shall be conditioned upon the faithful discharge of the county conservator's duty as such, as required by law. Actions on the bond may be brought by any person aggrieved by the misconduct of the county conservator, as provided by law for actions on the bonds of other conservators.

History.
Code 1981, § 29-8-2, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 752, § 29/HB 142; Ga. L. 2025, p. 713, § 9/SB 98, effective July 1, 2025.
Amendments.
The 2025 amendment, effective July 1, 2025, substituted "conservators shall give an additional bond" for "guardians shall give another bond" in the first sentence; rewrote the former second and third sentences, which read: "The bond shall be payable to the court for the benefit of all concerned. It shall be attested by the judge or clerk of the court and shall be conditioned upon the faithful discharge of the county guardian's duty as such, as required by law."; and, in the last sentence, substituted "conservator," for "guardian," and "conservators" for "guardians."

29-8-3. Letters of guardianship or conservatorship; liability and rights of county guardian.

The court shall grant to the county guardian separate letters of guardianship and to the county conservator separate letters of conservatorship upon each appointment. The county guardian and county conservator shall be subject to all liabilities and entitled to all the rights and emoluments provided for other guardians or conservators, respectively, and shall be governed by the law provided for other guardians or conservators, respectively.

History.
Code 1981, § 29-8-3, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 713, § 10/SB 98, effective July 1, 2025.
Amendments.
The 2025 amendment, effective July 1, 2025, substituted "and to the county conservator separate letters of" for "or" in the first sentence; and, in the second sentence, inserted "and county conservator", ", respectively,", and ", respectively".

29-8-4. Additional bond or security.

(a) If in the opinion of the court it shall become necessary for the good of any conservatorship placed or about to be placed in the hands of the county conservator for the county conservator to give additional security on the bond or to give additional bond with security, the court shall have the authority to fix the amount of the bond and shall cite the county conservator to appear and show cause, if any, why the additional bond or additional security should not be given.

(b) If upon the hearing the county conservator fails to show good cause why the additional bond or additional security should not be given, the court shall issue an order fixing the amount of the bond and direct the county conservator to give additional security on or before a certain date, which date shall be within 30 days of the date of the order.

(c) Should the county conservator fail, refuse, or neglect to give additional bond or additional security on or before the date fixed in the order of the court and fail to show good cause why further time should be allowed, it shall be the duty of the court to remove the county

conservator and to appoint another county conservator for the unexpired term of office. The order of removal shall be recorded as provided for the order of appointment.

History.
Code 1981, § 29-8-4, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2025, p. 713, § 11/SB 98, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, substituted "county conservator" for "county guardian" in three places in subsection (a), in two places in subsection (b), and in three places in subsection (c).

29-8-5. Revocation.

The court may, for good cause shown, as provided in Code Section 29-4-52 or 29-5-92, respectively, revoke the letters of guardianship or conservatorship of the county guardian or county conservator, require additional security on the county conservator's bond, or issue any other order as is expedient and necessary for the good of any particular guardianship or conservatorship in the hands of the county guardian or county conservator.

History.
Code 1981, § 29-8-5, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2006, p. 805, § 19/SB 534; Ga. L. 2025, p. 713, § 12/SB 98, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, rewrote this Code section.

29-8-6. Designation as county conservator.

On and after July 1, 2025, except as otherwise ordered by the court, in any matter related to a conservatorship provided for in this title wherein an individual designated as county guardian is serving as a conservator pursuant to this title, the designation of such individual shall by operation of law be county conservator; provided, however, that, in such instances, no additional bond as provided for in Code Section 29-8-2 shall be required unless ordered by the court for good cause shown.

History.
Code 1981, § 29-8-6, enacted by Ga. L. 2025, p. 713, § 13/SB 98, effective July 1, 2025.

Effective date.
This Code section became effective July 1, 2025.

CHAPTER 9

COURT PROCEEDINGS

Sec.		Sec.	
29-9-1.	Application of chapter.	29-9-10.	Oath by Department of Human Services delegate.
29-9-2.	Guardianship or conservatorship proceedings; appointment of guardian ad litem; representation of persons not sui juris; requirements for petitions.	29-9-11.	Verification of petitions and returns; consolidation and transfer of proceedings.
29-9-3.	Assessment and payment of costs; considerations; enforcement.	29-9-12.	Issuance and requirements of citations.
29-9-4.	Personal service requirements.	29-9-13.	Timing for objections and hearings.
29-9-5.	Service upon person outside of state or of unknown address.	29-9-13.1.	Authentication of documents.
29-9-6.	Service upon conservator or guardian.	29-9-14.	Court ordered hearings.
29-9-7.	Additional notice, service, or time to respond to proceedings.	29-9-15.	Compensation of legal counsel or guardian ad litem.
29-9-8.	Waiver or acknowledgment of service or notice.	29-9-16.	Compensation of evaluator.
29-9-9.	Oaths, affirmations, and affidavits.	29-9-17.	Court ordered instruction for conservator or guardian.
		29-9-18.	Seal of conservatorship or guardianship records; procedure for disclosure of records.
		29-9-19.	Criminal history records checks.

Editor's notes.

Ga. L. 2004, p. 161, § 16, not codified by the General Assembly, provides, in part: "all appointments of guardians of the person or property made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

RESEARCH REFERENCES

Am. Jur. Trials.

138 Am. Jur. Trials, Guardianships, § 15 et seq.

C.J.S.

39 C.J.S., Guardian and Ward, § 256 et seq.

29-9-1. Application of chapter.

Except as otherwise specifically provided by law, the provisions of this chapter shall apply to any proceeding in the court that arises under this title. Compliance with the provisions of this chapter shall be deemed to be sufficient for proceedings in the court arising under this title, except as otherwise provided in Chapter 11 of Title 9, Chapter 9 of Title 15, and Chapter 11 of this title.

History. Code 1981, § 29-9-1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 24/HB 70.

29-9-2. Guardianship or conservatorship proceedings; appointment of guardian ad litem; representation of persons not sui juris; requirements for petitions.

(a)(1) The court, in its discretion, may at any time appoint a guardian ad litem to represent the interests of a minor, a proposed ward, or a ward in proceedings relating to the guardianship or conservatorship of that individual. However, the appointment of a guardian ad litem does not supersede any specific requirement for that individual to be served either by personal service or in the manner provided by subsection (a) of Code Section 15-9-17, and the guardian ad litem may not waive personal service for that individual.

(2) Except as provided in paragraph (1) of this subsection, when a person who is entitled to notice under any provision of this title is not sui juris, the interests of such person shall be represented in the proceeding by a guardian ad litem; provided, however, that the court may determine for the purpose of the particular proceeding that the natural guardian, if any, or the testamentary guardian, if any, or the duly constituted conservator, if any, or the duly constituted guardian, if any, has no conflict of interest and thus may represent for the purpose of the proceeding a person who is not sui juris. Service upon or notice to a guardian ad litem shall constitute service upon or notice to such person who is not sui juris, and except as provided in subsection (a) of Code Section 15-9-17, no additional service upon or notice to such person shall be required. Waivers, acknowledgments, consents, answers, objections, or other documents executed by a guardian ad litem shall, except as otherwise provided in Code Section 15-9-17, be binding upon the person represented. The guardian ad litem may represent a single person or more than one person or a class of persons with common or nonadverse interests.

(3) Whenever a guardian ad litem is appointed, the court may limit the appointment, may remove the guardian ad litem, or may at any time for cause appoint a successor guardian ad litem.

(4)(A) In every petition filed in the court, the petitioner shall identify each person who requires a guardian ad litem and the name and address of any person who is acting as conservator or guardian of the party. A copy of the letters appointing the conservator or guardian shall be attached to the petition or the petition shall allege such facts as shall show the authority of such conservator or guardian to act.

(B) The authority of a conservator or guardian to act may be established under subparagraph (A) of this paragraph by showing:

(i) Compliance by a foreign guardian of a minor with the filing requirements of subsection (b) of Code Section 29-2-74 or of Code Section 29-2-76;

(ii) Compliance by a foreign conservator of the property of a minor with the filing requirements of subsection (b) of Code Section 29-3-115 or of Code Section 29-3-117;

(iii) Compliance by a foreign guardian of an adult with the filing requirements of subsection (b) of Code Section 29-4-95 or of Code Section 29-4-97;

(iv) Compliance by a foreign conservator of the property of an adult with the filing requirements of subsection (b) of Code Section 29-5-135 or of Code Section 29-5-137; or

(v) The registration and recording of a guardianship order or conservatorship order from another state under Article 4 of Chapter 11 of this title.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, the court may take judicial notice of the issuance of the letters appointing such conservator or guardian, and of the authority of such conservator or guardian to act, in the manner provided by Chapter 2 of Title 24.

(b) A person who is appointed as counsel for a ward, proposed ward, or alleged incapacitated person is not eligible to be appointed as guardian ad litem for the same individual, and a person who is appointed as guardian ad litem for a ward, proposed ward, or alleged incapacitated person is not eligible to be appointed as counsel for the same individual.

History.
Code 1981, § 29-9-2, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 25/HB 70.

Law reviews.
For annual survey on wills, trusts, guardianships, and fiduciary administration, see 69 Mercer L. Rev. 341 (2017).

29-9-3. Assessment and payment of costs; considerations; enforcement.

(a) Except as otherwise ordered by the court under paragraph (2) of subsection (a) of Code Section 29-4-10, under paragraph (2) of subsection (a) of Code Section 29-5-10, or under subsection (b) of Code Section 29-11-16, and except as otherwise provided in subsection (a) of Code Section 9-12-135, all costs of court under Code Sections 15-9-60 and 15-9-126 or other applicable law and all compensation, fees, and expenses awarded by the court under subsections (a) and (b) of Code

Section 29-9-15, under Code Section 29-9-16, or under subsection (b) of Code Section 29-9-18, may be assessed and shall be paid as directed by the court in the exercise of its sound discretion and as the court may deem to be in the best interest of the minor, proposed ward, or ward who is the subject of the particular proceeding as provided in subsections (b) and (c) of this Code section.

(b) In any proceeding for the appointment of a guardian or conservator pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, the costs, compensation, fees, and expenses provided for by subsection (a) of this Code section may be assessed and shall be paid as directed by the court in the exercise of its sound discretion and as the court may deem to be in the best interest of the minor, proposed ward, or ward who is the subject of the proceeding, considering the following:

(1) The estate of the minor or ward for whom a guardian or conservator is appointed in such proceeding;

(2) The conduct of the petitioners in any such proceeding in which no guardianship order or conservatorship order is entered by the court;

(3) Whether such costs, compensation, fees, and expenses shall be paid by the county of the court exercising jurisdiction over such proceeding, provided that the judge who actually presided over the hearing includes a finding in the order that the party against whom such costs, compensation, fees, and expenses are cast pursuant to paragraph (1), (2), or (4) of this subsection appears to lack sufficient assets to defray such costs, compensation, fees, and expenses;

(4) The conduct of any party or other person subject to the jurisdiction of the court who has been the perpetrator of abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward, provided that the judge who actually presided over the hearing includes a finding in the order determining that such abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward has occurred and identifying the perpetrator thereof; or

(5) Any property, fund, or proceeds recovered on behalf of or in favor of the minor or ward.

(c) In all proceedings pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title other than for the appointment of a guardian or conservator, the costs, compensation, fees, and expenses provided for by subsection (a) of this Code section may be assessed and shall be paid as directed by the court in the exercise of its sound discretion and as the court may deem to be in the best interest of the minor, proposed ward, or ward who is the subject of the particular proceeding, considering the following:

(1) The estate of the minor or ward for whom a guardian or conservator has been appointed in any such proceeding, if the court finds that the proceeding was brought in the best interest of the minor or ward;

(2) The conduct of the petitioners or movants in any such proceeding;

(3) The conduct of a guardian or conservator or the surety on such guardian's or conservator's bond, subject to other applicable law governing the liability of sureties on such bonds, in any such proceeding, if:

(A) Such guardian or conservator admits to a violation of any obligation of such guardian or conservator in such guardian's or conservator's representative capacity under this title or other applicable law;

(B) The court finds that such guardian or conservator has committed a breach of fiduciary duty or has threatened to commit a breach of fiduciary duty;

(C) The court revokes or suspends such guardian's letters of guardianship or such conservator's letters of conservatorship or imposes sanctions upon such guardian or conservator in such proceeding; or

(D) The court otherwise finds that such guardian or conservator has committed misconduct or has acted contrary to the best interest of the minor or ward;

(4) Whether such costs, compensation, fees, and expenses shall be paid by the county of the court exercising jurisdiction over any such proceeding, provided that the judge who actually presided over the hearing includes a finding in the order that the party against whom such costs, compensation, fees, and expenses are cast pursuant to paragraph (1), (2), (3), or (5) of this subsection appears to lack sufficient assets to defray such costs, compensation, fees, and expenses;

(5) The conduct of any party or other person subject to the jurisdiction of the court who has been the perpetrator of abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward, provided that the judge who actually presided over the hearing includes a finding in the order determining that such abuse, neglect, or exploitation against the person or property of the minor, proposed ward, or ward has occurred and identifying the perpetrator thereof; or

(6) Any property, fund, or proceeds recovered on behalf of or in favor of the minor or ward.

(d) An award of costs, compensation, fees, and expenses under this Code section may be enforced by a judgment, writ of fieri facias, execution, or attachment for contempt.

(e) As used in paragraph (4) of subsection (b) and paragraph (5) of subsection (c) of this Code section, the term "abuse, neglect, or exploitation" shall include, but shall not be limited to, the following when committed by an identified perpetrator against the person or property of the minor, proposed ward, or ward:

(1) Conduct for which an additional civil penalty has been imposed under Code Section 10-1-851 after consideration of the factors enumerated in Code Section 10-1-852;

(2) Conduct giving rise to a cause of action under Code Section 10-1-853;

(3) Abuse, child abuse, coercion, deception, emotional abuse, exploitation, isolation, sexual abuse, or sexual exploitation as such terms are defined in Code Sections 15-11-2, 16-5-100, 16-5-102.1, 30-5-3, and 49-5-40;

(4) Trafficking of persons for labor or sexual servitude as prohibited by Code Section 16-5-46;

(5) Conduct in violation of Code Section 16-5-70, 16-5-72, 16-5-102, 16-12-1, 16-12-100.1, 16-12-100.2, or 30-5-8;

(6) Conduct constituting neglect within the meaning of Code Section 16-5-101 or 30-5-3;

(7) A serious violent felony as such term is defined in Code Section 17-10-6.1;

(8) A sexual offense as such term is defined in Code Section 17-10-6.2; and

(9) Conduct giving rise to a report, investigation, or hearing in accordance with Code Section 30-5-4, 30-5-5, or 31-7-9. For purposes of this paragraph, a probate court acting under this Code section is a court of competent jurisdiction as provided for in subsection (a) of Code Section 30-5-7.

History.

Code 1981, § 29-9-3, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 26/HB 70; Ga. L. 2022, p. 198, § 2/HB 464; Ga. L. 2026, p. 1069, § 29(7)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, in subsection (e), substituted "As used in" for "For purposes of" and inserted "the term".

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 71 Mercer L. Rev. 327 (2019).

For annual survey on wills, trusts,

guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

JUDICIAL DECISIONS

Error in permitting appointment as attorney and guardian ad litem. — In light of the clear statutory language in this statute prohibiting an attorney from acting as both an advocate and a guardian ad litem (GAL), as well as the importance of the right to cross-examination, the trial court erred by treating the attorney as both the attorney and the GAL, thereby prohibiting the ward's grandmother from questioning the GAL. In re Estate of Thompson, 332 Ga. App. 774, 775 S.E.2d 158, 2015 Ga. App. LEXIS 401 (2015).

29-9-4. Personal service requirements.

(a) Except as otherwise provided by law, a party in interest who is a resident of this state is entitled to personal service of any petition and citation for proceedings that are subject to the provisions of this chapter.

(b) Except as otherwise provided in this Code section, personal service shall be made by delivery of a copy of the petition and citation by the sheriff or some other lawful officer at least ten days before the hearing except that, if waived in writing, the ten-day provision shall not apply. An entry of service shall be made on the original and the copy for the party served.

(c) A party who is in the military service may be served by any commissioned officer who shall file with the court a certificate stating that copies of the petition and citation were served in person.

(d) Individuals who are not sui juris shall be served as provided in this chapter or as provided in Code Section 15-9-17.

(e) When personal service is required by this Code section, unless otherwise directed by the court, service may be made by registered or certified mail or statutory overnight delivery if the petitioner so requests in the petition. The court shall cause a copy of the petition and the citation to be sent by registered or certified mail or statutory overnight delivery with return receipt requested and with delivery restricted to addressee only. If the return receipt is not signed by the addressee, dated at least ten days before the date specified in the citation, and received by the court before the date specified in the citation for the filing of objections, service shall be made as otherwise required by this Code section.

History.
Code 1981, § 29-9-4, enacted by Ga. L. 2004, p. 161, § 1.

29-9-5. Service upon person outside of state or of unknown address.

(a) Except as otherwise provided by law or directed by the probate judge pursuant to Code Section 29-9-6, the provisions of this Code section shall apply in cases when a person to be served has a known current residence address outside this state or whose current address is unknown.

(b) Unless all persons have known current residence addresses, the court shall order service to be perfected by publication of the citation in the newspaper in which the sheriff's advertisements are published in the county in which the petition is filed. The citation shall be published once a week for four weeks prior to the date on which objections must be filed. The records of the court shall show the persons notified and the character of the notice given. The published citation shall be directed to the person to be served.

(c) If the current residence address of a person is known, service shall be made by mailing by first-class mail a copy of the petition and the citation.

(d) When service by publication is ordered pursuant to this Code section, compliance with the provisions of this Code section relating to a person to be notified who is known but whose current residence address is unknown shall be equivalent to personal service of a copy of the petition and citation when the fact appears in the records of the court showing the persons notified and the character of the notice given. In the case of a known person whose current residence address is unknown, that person's name shall appear in the records of the court, and the records shall show service by publication as to that person in compliance with this Code section. In any case in which service by publication is granted, one order for publication shall be sufficient and the published citation shall be directed as provided in subsection (b) of this Code section.

History.
Code 1981, § 29-9-5, enacted by Ga. L. 2004, p. 161, § 1.

29-9-6. Service upon conservator or guardian.

If one or more unsuccessful attempts at personal service are made by the sheriff or deputy upon a conservator or guardian appointed in this state at the last known address of the conservator or guardian that appears in the court records and it appears to the court that further attempts are likely to be futile, then service shall be sufficient upon the conservator or guardian if the citation is mailed by first-class mail to the last known address of the conservator or guardian.

History.
Code 1981, § 29-9-6, enacted by Ga. L. 2004, p. 161, § 1.

29-9-7. Additional notice, service, or time to respond to proceedings.

(a) The probate judge may direct any additional service or notice or extend the time to respond to any proceedings covered by this title as the judge may determine to be proper in the interest of due process and reasonable opportunity for any party or interest to be heard.

(b) If a petition for appointment of a guardian or conservator is filed and the petition lists any state in which the proposed ward was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of the petition or ending within the six months prior to the filing of the petition pursuant to paragraph (17) of subsection (b) of Code Section 29-4-10 or paragraph (19) of subsection (b) of Code Section 29-5-10, in addition to any other notice requirements, notice shall be given by the court to those persons who reside in such other state who are named in the petition pursuant to paragraphs (7) through (9) of subsection (b) of Code Section 29-4-10 or paragraphs (8) through (10) of subsection (b) of Code Section 29-5-10 in such additional manner as the court determines might be reasonably calculated to give actual notice to such persons. Such additional manner may include the publication of notice in the county of such other state in which the proposed ward was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of the petition.

History.
Code 1981, § 29-9-7, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2013, p. 884, § 3/HB 446.

29-9-8. Waiver or acknowledgment of service or notice.

(a) Service or notice may be waived or acknowledged before or after the filing of the petition. The waiver or acknowledgment of service shall be in writing, signed by the person to be served or some person competent to do so, shall be sworn before the court or a notary public, and shall be filed with the court.

(b) The written consent of a party to the granting of any relief or the entry of any order sought in a proceeding, whether executed before or after the filing of the petition, shall constitute a waiver and acknowledgment of notice and service of the proceedings, waiver of citation, entry of appearance, answer admitting all allegations of facts set forth in the petition as true and correct, and consent to the granting of the relief or the order sought.

(c) A person in military service, regardless of age, shall be permitted to make any waiver, acknowledgment, or consent described in this Code section.

History.
Code 1981, § 29-9-8, enacted by Ga. L. 2004, p. 161, § 1.

29-9-9. Oaths, affirmations, and affidavits.

An oath or affirmation or affidavit required or allowed to be made before or attested by a notary public may be made before any notary public or other officer authorized to administer oaths by the state in which the oath or affirmation or affidavit is made. The oath or affirmation or affidavit, if made outside this state, shall have the same force and effect as if it had been made before an officer of this state authorized to administer oaths. The official attestation of the officer before whom the oath or affirmation or affidavit is made shall be prima-facie evidence of the official character of the officer and that the officer was authorized by law to administer oaths.

History.
Code 1981, § 29-9-9, enacted by Ga. L. 2004, p. 161, § 1.

29-9-10. Oath by Department of Human Services delegate.

When appointed pursuant to subsection (b.1) of Code Section 29-4-3, a duly appointed delegate of the Department of Human Services is authorized to take the oath of guardianship before the judge of any probate court of this state.

History.
Code 1981, § 29-9-10, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 509, § 4/HB 394; Ga. L. 2009, p. 453, § 2-2/HB 228.

Editor's notes.
Ga. L. 2005, p. 509, § 9/HB 394, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2005, and all appointments of guardians of the person made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

29-9-11. Verification of petitions and returns; consolidation and transfer of proceedings.

(a) Every petition and return filed in the court shall be verified by an oath sworn to or affirmed before the court or a notary public.

(b) Where appropriate, petitions for separate appointments, such as the appointment of a guardian and a conservator or the appointment of a guardian and an emergency guardian, may be consolidated into one petition and the filing and giving of notice of the petitions may occur simultaneously.

(c) If the petition for the appointment of a guardian or a conservator of a minor is originally filed in the court of the county in which the minor is found, on motion of either party, if found by such court to be appropriate, the case may be transferred to the court of the county of the minor's domicile.

(d) If the petition for the appointment of a guardian or a conservator of a proposed ward is originally filed in the court of the county in which the proposed ward is found or in which jurisdiction is otherwise proper under Code Section 29-11-12, on motion of either party, if found by such court to be appropriate and unless otherwise provided by Chapter 11 of this title, the case may be transferred to the court of the county of the proposed ward's domicile.

History.
Code 1981, § 29-9-11, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 27/HB 70.

29-9-12. Issuance and requirements of citations.

(a) For purposes of this Code section, the terms "citation" and "notice" shall have the same meaning unless the context otherwise requires.

(b) Upon the filing of a petition, a citation shall be issued addressed to the persons required to be served or entitled to notice; provided, however, if all parties have acknowledged service and assented to the petition, no citation need issue. The citation shall state that any objection must be made in writing and shall designate the date on or before which objections must be filed in the court. The citation shall also state whether the hearing shall take place on a certain date or be specially scheduled for a later date. With respect to all proceedings under this title, the citation, if any, may state that if no objections are filed, the petition may be granted without a hearing.

History.
Code 1981, § 29-9-12, enacted by Ga. L. 2004, p. 161, § 1.

29-9-13. Timing for objections and hearings.

(a) Except as otherwise provided by law or directed by the judge with respect to any particular proceeding, the date on or before which any objection is required to be filed shall be not less than ten days after the date the person is personally served. For persons within the United States who are served by registered or certified mail or statutory overnight delivery, return receipt requested, the date on or before any objection is required to be filed shall not be less than 14 days from the date of mailing or delivering; provided, however, that, if a return receipt from any recipient is received by the court within 14 days from the date

of mailing or delivering, the date on or before which any objection is required to be filed by such recipient shall be ten days from the date of receipt as shown on the return receipt. For a person outside the United States who is served by registered or certified mail or statutory overnight delivery, return receipt requested, the date on or before any objection is required to be filed shall not be less than 30 days from the date the citation is mailed or delivered; provided, however, that, if the return receipt from any recipient is received by the court during such 30 day period the date on or before which any objection is required to be filed by such recipient shall not be earlier than ten days from the date of receipt shown on such return receipt. For a person served by publication, the date on or before which any objection is required to be filed shall be no sooner than the first day of the week following publication once each week for four weeks.

(b) Except as otherwise provided by law or directed by the judge with respect to any particular proceeding, the date on which any required hearing shall be held shall be the date by which any objection is required to be filed or such later date as the court may specify. When the matter is set for hearing on a date that was not specified in the citation, the court shall send by first-class mail a notice of the time of the hearing to the petitioner and all parties who have served responses at the addresses given by each of them in their pleadings.

(c) Notwithstanding the other provisions of this Code section, the date by which objections must be filed or on which the hearing shall be held shall be no earlier than ten days after the date of service on any person who is entitled to personal service.

History.

Code 1981, § 29-9-13, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2005, p. 60, § 29/HB 95; Ga. L. 2006, p. 805, § 20/SB 534; Ga. L. 2026, p. 1069, § 54(1)(P)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in the second and third sentences in subsection (a).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2004, Code Section 29-9-13, as enacted by Ga. L. 2004, p. 161, § 1, was redesignated as Code Section 29-9-13.1.

29-9-13.1. Authentication of documents.

Whenever it is required that a document that is to be filed in the court be authenticated or exemplified, such requirement shall be met by complying with the provisions of Code Section 24-9-922 and paragraphs (1) through (4) of Code Section 24-9-902, and such full faith and credit shall be given to the document as is provided in such Code sections.

History.
Code 1981, § 29-9-13.1, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2011, p. 99, § 41/HB 24; Ga. L. 2012, p. 775, § 29/HB 942; Ga. L. 2019, p. 693, § 28/HB 70.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 2004, Code Section 29-9-13, as enacted by Ga. L. 2004, p. 161, § 1, was redesignated as Code Section 29-9-13.1.
Editor's notes.
Ga. L. 2011, p. 99, § 101/HB 24, not codified by the General Assembly, provides that this Act shall apply to any motion made or hearing or trial commenced on or after January 1, 2013.
Law reviews.
For article, "Evidence," see 27 Ga. St. U.L. Rev. 1 (2010).
For article on the 2011 amendment of this Code section, see 28 Ga. St. U.L. Rev. 1 (2011).

29-9-14. Court ordered hearings.

The court on its own motion may order a hearing on any matter related to a conservatorship or guardianship even if no objection is filed.

History.
Code 1981, § 29-9-14, enacted by Ga. L. 2004, p. 161, § 1.

RESEARCH REFERENCES

C.J.S.
39 C.J.S., Guardian and Ward, § 271.

29-9-15. Compensation of legal counsel or guardian ad litem.

(a) In connection with any proceeding brought pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, unless voluntarily waived, the court shall award reasonable fees and expenses, commensurate with the tasks performed and time devoted to the proceeding, including any appeals, to any legal counsel or guardian ad litem who is appointed by the court pursuant to the provisions of said chapters or Code Section 29-9-2.

(b) In connection with any proceeding brought pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, unless voluntarily waived, the court may award reasonable fees and expenses, commensurate with the tasks performed and time devoted to the proceeding, including any appeals, to any legal counsel who is retained by or on behalf of a minor, a proposed ward, a ward, the petitioner or petitioners, or any other party to any proceeding brought pursuant to the provisions of said chapters as directed by the court in the exercise of its sound discretion and as the court may deem to be in the best interest of the minor, proposed ward, or ward who is the subject of the particular proceeding.

(c) All fees and expenses awarded under subsection (a) or (b) of this

Code section shall be assessed and paid in accordance with the provisions of Code Section 29-9-3.

History.

Code 1981, § 29-9-15, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 29/HB 70; Ga. L. 2020, p. 493, § 29/SB 429; Ga. L. 2025, p. 806, § 20/HB 327, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "chapters as directed" for "chapters. As directed" in subsection (b).

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 71 Mercer L. Rev. 327 (2019).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-5-13 are included in the annotations for this Code section.

"Expenses" in former O.C.G.A. § 29-5-13(a) are not expenses of litigation but rather are tantamount to "costs" incurred in a judicial proceeding brought pursuant to former O.C.G.A. § 29-5-1 et seq. In re Olliff, 184 Ga. App. 846, 363 S.E.2d 158, 1987 Ga. App. LEXIS 2416 (1987), aff'd, 258 Ga. 157, 366 S.E.2d 289, 1988 Ga. LEXIS 93 (1988) (decided under former O.C.G.A. § 29-5-13).

Individual who successfully defended against a petition for guardianship was not entitled to recover expenses and attorney's fees under former O.C.G.A. § 29-5-13. In re Olliff, 184 Ga. App. 846, 363 S.E.2d 158, 1987 Ga. App. LEXIS 2416 (1987), aff'd, 258 Ga. 157, 366 S.E.2d 289, 1988 Ga. LEXIS 93 (1988) (decided under former O.C.G.A. § 29-5-13).

Private counsel not entitled to attorney fees. — Probate court did not err in finding that O.C.G.A. § 29-9-15 did not authorize the payment of attorney fees from the estate of a ward to privately retained counsel because, under the plain language of the statute, only those appointed by the court in a guardianship or conservatorship proceeding would be awarded reasonable fees; there was no statutory authority to support a claim for attorney fees from the estate of a ward, except for those fees incurred by a court appointed legal counsel or a guardian ad litem; and it was undisputed that neither petitioners' counsel nor the ward's private counsel were appointed by the probate court. In re Estate of Phillips, 350 Ga. App. 889, 830 S.E.2d 398, 2019 Ga. App. LEXIS 393 (2019).

RESEARCH REFERENCES

C.J.S.

39 C.J.S., Guardian and Ward, §§ 115, 226, 227, 274.

29-9-16. Compensation of evaluator.

(a) For the evaluation or examination required by subsection (d) of Code Section 29-4-11, subsection (c) of Code Section 29-4-15, subsection (b) of Code Section 29-4-42, subsection (d) of Code Section 29-5-11, subsection (c) of Code Section 29-5-15, or subsection (b) of Code Section 29-5-71, the evaluating physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker shall

receive a reasonable fee commensurate with the task performed, plus actual expenses.

(b) In the event the attendance of the evaluating physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker shall be required by the court for a hearing under subsection (d) of Code Section 29-4-12, subsection (a) of Code Section 29-4-16, subsection (b) of Code Section 29-4-42, subsection (d) of Code Section 29-5-12, subsection (a) of Code Section 29-5-16, or subsection (b) of Code Section 29-5-71, other than pursuant to a subpoena requested by a party to the proceeding, the evaluating physician, psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or licensed clinical social worker shall receive a reasonable fee commensurate with the task performed, plus actual expenses.

(c) All fees and expenses payable under subsection (a) or (b) of this Code section shall be assessed by the court and paid in accordance with the provisions of Code Section 29-9-3.

History.

Code 1981, § 29-9-16, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2019, p. 693, § 30/HB 70; Ga. L. 2025, p. 402, § 23/HB 36, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "psychologist, physician assistant, nurse practitioner, clinical nurse specialist in psychiatric/mental health, professional counselor, or" for "psychologist, or" once in subsection (a) and twice in subsection (b).

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 71 Mercer L. Rev. 327 (2019).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former O.C.G.A. § 29-5-13 are included in the annotations for this Code section.

"Expenses" in former O.C.G.A. § 29-5-13(a) are not expenses of litigation but rather are tantamount to "costs" incurred in a judicial proceeding brought pursuant to former O.C.G.A. § 29-5-1 et seq. In re Olliff, 184 Ga. App. 846, 363 S.E.2d 158, 1987 Ga. App. LEXIS 2416 (1987), aff'd, 258 Ga. 157, 366 S.E.2d 289, 1988 Ga. LEXIS 93 (1988) (decided under former O.C.G.A. § 29-5-13).

Individual who successfully defended against a petition for guardianship was not entitled to recover expenses and attorney's fees under former O.C.G.A. § 29-5-13. In re Olliff, 184 Ga. App. 846, 363 S.E.2d 158, 1987 Ga. App. LEXIS 2416 (1987), aff'd, 258 Ga. 157, 366 S.E.2d 289, 1988 Ga. LEXIS 93 (1988) (decided under former O.C.G.A. § 29-5-13).

29-9-17. Court ordered instruction for conservator or guardian.

At the time of appointment and at any time throughout the conservatorship or guardianship, the court may order the conservator or guardian to undergo such instruction as the court deems appropriate.

History.
Code 1981, § 29-9-17, enacted by Ga. L. 2004, p. 161, § 1.

29-9-18. Seal of conservatorship or guardianship records; procedure for disclosure of records.

(a) All of the records relating to any minor or adult guardianship or conservatorship granted under this title and all of the records relating to any adult guardianship or conservatorship transferred or accepted under Article 3 of Chapter 11 of this title shall be kept sealed, except for a record of the names and addresses of the minor, ward, and guardian or conservator and their legal counsel of record and the dates of filing, granting, terminating, transferring, and accepting the guardianship or conservatorship. The sealed records may be examined by the ward and the ward's legal counsel; the minor, the minor's parents, and the minor's legal counsel; the guardian or conservator and the guardian's or conservator's legal counsel; and any surety for the guardian or conservator and legal counsel for the surety at any time.

(b) Except as otherwise provided in subsection (b) of Code Section 29-11-5 and in subsection (c) of this Code section, a request by other interested parties to examine the sealed records shall be by petition to the court, and the ward and guardian or conservator shall have at least 30 days' prior written notice of a hearing on the petition; provided, however, that for good cause shown to the court, the court may shorten such notice period or grant the petition without notice. The matter shall come before the court in chambers. The order allowing access shall be granted upon a finding that the public interest in granting access to the sealed records clearly outweighs the harm otherwise resulting to the privacy of the person in interest, and the court shall limit the portion of the file to which access is granted to that which is required to meet the legitimate needs of the petitioner. The court, in its discretion, may assess and award costs, compensation, fees, and expenses for a proceeding under this subsection in accordance with the provisions of Code Section 29-9-3.

(c) To the extent reasonably required to facilitate any communication or fulfill any request to take any action pursuant to Chapter 11 of this title, a court of this state may disclose the records referred to in subsection (a) of this Code section to a court of another state.

History.
Code 1981, § 29-9-18, enacted by Ga. L. 2004, p. 161, § 1; Ga. L. 2008, p. 715, § 7/SB 508; Ga. L. 2019, p. 693, § 31/HB 70.

Law reviews.
For survey article on wills, trusts, guardianships, and fiduciary administration, see 60 Mercer L. Rev. 417 (2008).

For annual survey on trial practice and procedure, see 61 Mercer L. Rev. 363 (2009).

For annual survey on wills, trusts,

guardianships, and fiduciary administration, see 61 Mercer L. Rev. 385 (2009).

29-9-19. Criminal history records checks.

(a) As used in this Code section, the term "criminal history record information" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, accusations, information, or other formal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release.

(b) The court may require a petitioner seeking to become a guardian or conservator, or a nominated guardian or conservator if such person is different from the petitioner, to submit to a criminal history records check. The petitioner or nominee shall submit his or her fingerprints to the Georgia Crime Information Center with the appropriate fee. The Georgia Crime Information Center shall promptly transmit the fingerprints to the Federal Bureau of Investigation for a search of its records and shall obtain a report containing criminal history record information. The Georgia Crime Information Center shall also promptly conduct a search of its records and any records to which it has access. The Georgia Crime Information Center shall provide a report of the petitioner's or nominee's criminal history record information to the court for its consideration in determining the suitability of the petitioner or nominee to serve as a guardian or conservator.

History.

Code 1981, § 29-9-19, enacted by Ga. L. 2012, p. 83, § 3/HB 247.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 64 Mercer L. Rev. 325 (2012).

CHAPTER 10

PUBLIC GUARDIANS

Sec.		Sec.	
29-10-1.	"Public guardian" defined.	29-10-7.	Record keeping, reporting, ward visits, and other obligations; limitation on number of wards.
29-10-2.	Oath of guardianship.		
29-10-3.	Qualifications, training, and other requirements.		
29-10-4.	Registration with the probate court; registration lists.	29-10-8.	Additional bond or security.
		29-10-9.	Revocation.
		29-10-10.	Compensation.
29-10-5.	Bond.	29-10-11.	Appropriation and administration of state funds to provide compensation.
29-10-6.	Letters of guardianship; rights and liabilities.		

Editor's notes.

Ga. L. 2005, p. 509, § 9/HB 394, not codified by the General Assembly, provides: "This Act shall become effective on July 1, 2005, and all appointments of guardians of the person made pursuant to former Title 29 shall continue in effect and shall thereafter be governed by the provisions of this Act."

29-10-1. "Public guardian" defined.

As used in this chapter, the term "public guardian" means an individual or private entity, including a nonprofit entity, who meets the qualifications required in this chapter and has registered with and been duly approved by the probate court to serve as a public guardian of an adult pursuant to Code Section 29-4-3.

History.

Code 1981, § 29-10-1, enacted by Ga. L. 2005, p. 509, § 5/HB 394.

29-10-2. Oath of guardianship.

When appointed pursuant to subsection (b.1) of Code Section 29-4-3, a public guardian is authorized to take the oath of guardianship before the judge of any probate court of this state. In the event of a public guardian that is a private entity, the employee or agent of such entity who will have direct contact with the ward shall take the oath required by this Code section.

History.

Code 1981, § 29-10-2, enacted by Ga. L. 2005, p. 509, § 5/HB 394.

29-10-3. Qualifications, training, and other requirements.

(a) To be eligible to serve as a public guardian, an individual must:

(1) Be at least 18 years of age;

(2) Submit to a criminal background check with satisfactory results as prescribed by the Division of Aging Services of the Department of Human Services;

(3) Submit to an investigation of the individual's credit history as prescribed by the Division of Aging Services of the Department of Human Services;

(4) Attend and complete at least 20 hours of training approved by the Division of Aging Services of the Department of Human Services, including but not limited to training conducted by such division, a professional association, or by the probate court;

(5) Demonstrate competency, education, and experience in guardianships, social work, or case management; and fiduciary integrity to perform the duties of a public guardian;

(6) Demonstrate competency and ability to carry out the values of the ward; and

(7) Agree to abide by the provisions of this chapter and to serve when appointed as public guardian without the ability to decline, except as provided for in Chapter 4 of this title.

(b) To be eligible to serve as a public guardian, an entity must:

(1) Maintain an appropriate level of liability insurance covering all employees and agents who will have direct contact with a ward in an amount or amounts approved by the probate court;

(2) Maintain a record for each employee and agent who will have direct contact with a ward and ensure that each such employee and agent submits to and meets the requirements of subsection (a) of this Code section;

(3) Submit to an investigation of the entity's financial records; and

(4) Agree to abide by the provisions of this chapter and to serve when appointed as public guardian without the ability to decline, except as provided for in Chapter 4 of this title.

(c) An individual or entity shall submit all required documentation as specified by the probate court to show that such individual or entity and such entity's employees and agents meet the requirements of this Code section.

(d) After completion of the initial training, a public guardian or employee or agent of a public guardian who will have direct contact with a ward, if an entity, must complete at least 20 additional hours of training every two years. The initial and subsequent training shall include, but not be limited to, instruction in:

(1) Basic principles of guardianship;

(2) Rights of the ward;

(3) Alternatives to guardianship;

(4) Court procedures;

(5) Legal duties, responsibilities, and roles of guardians;

(6) Fiduciary responsibilities, record keeping, reporting, administrative duties, intake process, and planning;

(7) Availability of resources, public benefits, and social services;

(8) Health care and end-of-life planning;

(9) Mental, developmental, and physical disabilities;

(10) Communications;

(11) Case management; and

(12) Property management.

(e) Any costs incurred by a public guardian to comply with these requirements shall be at the expense of the individual or private entity and shall not be paid with the assets of any ward.

History. Code 1981, § 29-10-3, enacted by Ga. L. 2005, p. 509, § 5/HB 394; Ga. L. 2009, p. 453, § 2-2/HB 228.

29-10-4. Registration with the probate court; registration lists.

(a) An individual who meets the requirements of Code Section 29-10-3 may be registered as a public guardian in the probate court of the county in which he or she is domiciled upon approval by the probate court. Such individual may also be registered in the probate court of other counties within a reasonable distance of the county in which he or she is domiciled as approved by such other probate courts.

(b) A private entity that meets the requirements of Code Section 29-10-3 may be registered as a public guardian in the probate court of any county upon approval by such probate court.

(c) The probate court of a county shall have the sole discretion regarding the approval and registration of public guardians. Each probate court shall maintain a list of public guardians who have been registered and approved in its county. The Division of Aging Services of the Department of Human Services shall maintain a master list of registered public guardians throughout the state; and the probate courts shall submit, on January 1 and July 1 of each year or more often as required by the division, the list of registered public guardians in each county to the Division of Aging Services.

(d) The Division of Aging Services of the Department of Human Services shall develop a standard form that may be used by probate courts in registering public guardians.

History.
Code 1981, § 29-10-4, enacted by Ga. L. 2005, p. 509, § 5/HB 394; Ga. L. 2009, p. 453, § 2-2/HB 228.

29-10-5. Bond.

A public guardian shall give bond with good security, to be judged by the court, in a sum of not less than $10,000.00. The bond shall be payable to the court for the benefit of all concerned. It shall be attested by the judge or clerk of the court and shall be conditioned upon the faithful discharge of the public guardian's duty as such, as required by law.

History.
Code 1981, § 29-10-5, enacted by Ga. L. 2005, p. 509, § 5/HB 394; Ga. L. 2006, p. 805, § 21/SB 534.
Law reviews.
For annual survey of wills, trusts, guardianships, and fiduciary administration, see 58 Mercer L. Rev. 423 (2006).

29-10-6. Letters of guardianship; rights and liabilities.

The court shall grant to the public guardian separate letters of guardianship upon each appointment. The public guardian shall be subject to all liabilities and entitled to all the rights and emoluments provided for other guardians and shall be governed by the law provided for other guardians.

History.
Code 1981, § 29-10-6, enacted by Ga. L. 2005, p. 509, § 5/HB 394.

29-10-7. Record keeping, reporting, ward visits, and other obligations; limitation on number of wards.

(a) A public guardian shall keep and maintain proper financial, case control, and statistical records on all matters in which the public guardian serves as guardian.

(b) No report or disclosure of the ward's personal or medical records shall be made except as required or authorized by law.

(c) A public guardian shall file an annual report with the probate court on the operations of the public guardian for the preceding year, in writing, by August 1.

(d) Within six months of appointment as a public guardian, such public guardian shall submit to the probate court for placement in the ward's guardianship file a report on the public guardian's efforts to

locate a family member or friend or other individual included in subsection (b) of Code Section 29-4-3 to act as the guardian of the ward and a report on the ward's potential to be restored to capacity.

(e) The public guardian or employee or agent of a public guardian, if a private entity, shall visit the ward at least four times per year and more often as necessary.

(f) A public guardian who is an individual shall serve no more than five wards at any one time. A public guardian that is an entity shall serve no more than 30 wards at any one time. In the discretion of the probate court, these maximum ratios may be increased or decreased for a particular public guardian, in light of all relevant circumstances.

(g) Public guardians, county guardians, and county conservators shall be required to work cooperatively together when appointed for the same ward.

History.
Code 1981, § 29-10-7, enacted by Ga. L. 2005, p. 509, § 5/HB 394; Ga. L. 2025, p. 713, § 14/SB 98, effective July 1, 2025.

Amendments.
The 2025 amendment, effective July 1, 2025, inserted "county" preceding "conservators" in subsection (g).

29-10-8. Additional bond or security.

(a) The probate court may require a public guardian to give additional security on the bond or to give an additional bond with security. The court shall have the authority to fix the amount of the bond and shall cite the public guardian to appear and show cause, if any, why the additional bond or security should not be given.

(b) If upon the hearing the public guardian fails to show good cause why the additional bond or additional security should not be given, the court shall issue an order fixing the amount of the bond and direct the public guardian to give additional security on or before a certain date, which date shall be within 30 days of the date of the order.

(c) Should the public guardian fail, refuse, or neglect to give additional bond or additional security on or before the date fixed in the order of the court and fail to show good cause why further time should be allowed, it shall be the duty of the court to remove the public guardian and to appoint another public guardian for the unexpired term of office. The order of removal shall be recorded as provided for the order of appointment.

History.
Code 1981, § 29-10-8, enacted by Ga. L. 2005, p. 509, § 5/HB 394.

29-10-9. Revocation.

The court may, for good cause shown, revoke the letters of guardianship of the public guardian, require additional security on the public guardian's bond, or issue any other order as is expedient and necessary for the good of any particular guardianship in the hands of the public guardian.

History.
Code 1981, § 29-10-9, enacted by Ga. L. 2005, p. 509, § 5/HB 394.

29-10-10. Compensation.

Public guardians shall receive compensation for their services in accordance with the provisions of Chapter 4 of this title. However, for wards who have insufficient resources or income to pay the compensation provided for in Chapter 4 of this title, at the discretion of the probate court judge, a request for payment for the public guardian to the Division of Aging Services of the Department of Human Services, as provided for in Code Section 29-10-11, shall be made. A public guardian shall be paid the compensation provided for in Chapter 4 of this title pursuant to Code Section 29-10-11 to the extent that the available funds can meet that expense or, at the discretion of the judge, the public guardian's actual expenses may be reimbursed from the funds pursuant to Code Section 29-10-11.

History.
Code 1981, § 29-10-10, enacted by Ga. L. 2005, p. 509, § 5/HB 394; Ga. L. 2009, p. 453, § 2-2/HB 228.

29-10-11. Appropriation and administration of state funds to provide compensation.

(a) The General Assembly is authorized to appropriate state funds, by line item appropriation, for the purpose of providing compensation to public guardians for services to wards who have insufficient resources or income to pay the compensation provided for in Chapter 4 of this title.

(b) Any such funds appropriated shall be administered by the Division of Aging Services of the Department of Human Services and paid, if funds are available, upon submission of appropriate documentation by the probate court pursuant to Code Section 29-10-10.

History.
Code 1981, § 29-10-11, enacted by Ga. L. 2005, p. 509, § 5/HB 394; Ga. L. 2009, p. 453, § 2-2/HB 228.

CHAPTER 11

UNIFORM ADULT GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS JURISDICTION

Article 1

General Provisions

Sec.

29-11-1. Short title.
29-11-2. Definitions.
29-11-3. Treatment of foreign countries.
29-11-4. Communication with out of state courts.
29-11-5. Appropriate requests to and from courts of other jurisdictions.
29-11-6. Procedure for testimony of out of state witnesses.

Article 2

Jurisdiction

29-11-10. Determination of connection with state.
29-11-11. Exclusive jurisdiction for appointment.
29-11-12. Requirements for jurisdiction.
29-11-13. Special jurisdiction.
29-11-14. Termination or expiration of special jurisdiction.
29-11-15. Authority to decline exercise of jurisdiction; factors for determining appropriateness of forum.
29-11-16. Authority related to jurisdiction acquired by unjustifiable conduct.
29-11-17. Additional notice and service requirements for out-of-state respondents.
29-11-18. Multiple court jurisdictional rules.

Article 3

Transfers

29-11-20. Transfer of guardianship or conservatorship to another state; notice; hearing; provisional orders.
29-11-21. Petition for acceptance; notice; hearing; provisional and final orders; modification to conform to law.

Article 4

Registration and Enforcement

29-11-30. Registration, recording, and treatment of guardianship order from another state.
29-11-31. Registration, recording, and treatment of conservatorship order from another state.
29-11-32. Exercise of powers authorized; enforcement.

Article 5

Uniformity

29-11-40. Promotion of uniformity.
29-11-41. Construction with federal law.
29-11-42. Application.

Law reviews.

For annual survey of wills, trusts, guardianships, and fiduciary administration, see 68 Mercer L. Rev. 321 (2016).

For article, "2019 Legislative Review," see 24 Ga. St. B.J. 28 (2019).

RESEARCH REFERENCES

Am. Jur. Trials.
138 Am. Jur. Trials, Guardianships, § 60.

ALR.
Burden and sufficiency of proof for termination of conservatorship of adult, 74 A.L.R.7th 7.

ARTICLE 1

GENERAL PROVISIONS

29-11-1. Short title.

This chapter shall be known and may be cited as the "Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act."

History.
Code 1981, § 29-11-1, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

Law reviews.
For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

29-11-2. Definitions.

As used in this chapter, the term:

(1) "Conservatorship order" means an order appointing a conservator or other order related to management of an adult's property.

(2) "Conservatorship proceeding" means a judicial proceeding in which a conservatorship order is sought or has been issued.

(3) "Emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf.

(4) "Guardianship order" means an order appointing a guardian.

(5) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(6) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a conservatorship order or the appointment of a guardian or, if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

(7) "Incapacitated person" means an adult for whom a guardian has been appointed, including a ward, as defined in paragraph (27) of Code Section 29-1-1.

(8) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship proceeding or conservatorship proceeding.

(9) "Person," except in the term "incapacitated person" or "protected person," means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(10) "Protected person" means an adult for whom a conservatorship order has been issued, including a ward, as defined in paragraph (27) of Code Section 29-1-1.

(11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(12) "Respondent" means an adult for whom a conservatorship order or the appointment of a guardian is sought, including a proposed ward as defined in paragraph (16) of Code Section 29-1-1.

(13) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

History.
Code 1981, § 29-11-2, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

JUDICIAL DECISIONS

Determination of significant-connection state. — Georgia Court of Appeals held that when determining whether a state is a significant-connection state under O.C.G.A. § 29-11-10, the trial court must set out upon the record the essential reasoning that forms the basis for the trial court's exercise of discretion. Steen-Jorgensen v. Huff, 352 Ga. App. 727, 835 S.E.2d 707, 2019 Ga. App. LEXIS 630 (2019).

29-11-3. Treatment of foreign countries.

A court of this state may treat a foreign country as if it were a state for the purpose of applying this article and Articles 2, 3, and 5 of this chapter.

History.
Code 1981, § 29-11-3, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-4. Communication with out of state courts.

(a) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection (b) of this Code section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

History.
Code 1981, § 29-11-4, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-5. Appropriate requests to and from courts of other jurisdictions.

(a) In a guardianship proceeding or conservatorship proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

(1) Hold an evidentiary hearing;

(2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) Order that an evaluation or assessment be made of the respondent;

(4) Order any appropriate investigation of a person involved in a proceeding;

(5) Forward to the court of this state a certified copy of the transcript or other record of a hearing under paragraph (1) of this subsection or any other proceeding, any evidence otherwise produced under paragraph (2) of this subsection, and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4) of this subsection;

(6) Issue any order necessary to assure the appearance in the

proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated person or protected person; or

(7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. 160.103, as amended.

(b) If a court of another state in which a guardianship proceeding or conservatorship proceeding is pending requests a court of this state to do any action included in subsection (a) of this Code section, such court of this state shall have jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

History.
Code 1981, § 29-11-5, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-6. Procedure for testimony of out of state witnesses.

(a) In a guardianship proceeding or conservatorship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship proceeding or conservatorship proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

History.
Code 1981, § 29-11-6, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

ARTICLE 2

JURISDICTION

29-11-10. Determination of connection with state.

In determining under Code Section 29-11-12 and subsection (e) of Code Section 29-11-20 whether a respondent has a significant connection with a particular state, the court shall consider:

(1) The location of the respondent's family and other persons

required to be notified of the guardianship proceeding or conservatorship proceeding;

(2) The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) The location of the respondent's property;

(4) The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, and receipt of services; and

(5) The extent to which the respondent considers or, in the absence of an impairment of mental faculties, would consider himself or herself to have a significant connection with the state.

History.
Code 1981, § 29-11-10, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

JUDICIAL DECISIONS

Determination of significant-connection state. Georgia Court of Appeals held that when determining whether a state is a significant-connection state under O.C.G.A. § 29-11-10, the trial court must set out upon the record the essential reasoning that forms the basis for the trial court's exercise of discretion. Steen-Jorgensen v. Huff, 352 Ga. App. 727, 835 S.E.2d 707, 2019 Ga. App. LEXIS 630 (2019).

29-11-11. Exclusive jurisdiction for appointment.

This article provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a conservatorship order for an adult.

History.
Code 1981, § 29-11-11, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-12. Requirements for jurisdiction.

A court of this state has jurisdiction to appoint a guardian or issue a conservatorship order for a respondent if:

(1) This state is the respondent's home state;

(2) On the date the petition is filed, this state is a significant-connection state and:

(A) The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(B) The respondent has a home state, a petition for an appoint-

ment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:

(i) A petition for an appointment or order is not filed in the respondent's home state;

(ii) An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) The court in this state concludes that it is an appropriate forum under the factors set forth in Code Section 29-11-15;

(3) This state does not have jurisdiction under either paragraph (1) or (2) of this Code section, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the Constitutions of this state and the United States; or

(4) The requirements for special jurisdiction under Code Section 29-11-13 are met.

History.

Code 1981, § 29-11-12, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

Law reviews.

For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

JUDICIAL DECISIONS

Three step approach to jurisdiction. — Article 2 of the Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act, O.C.G.A. § 29-11-1 et seq., creates a three-tiered approach to jurisdictional issues between states, and under that approach, the state court that may have jurisdiction would be, in order of priority: 1) the court in the respondent's home state; 2) the court of a state with which the respondent has a significant connection; or 3) a third state that is neither the home state nor a significant-connection state. These tiers are established in four paragraphs of O.C.G.A. § 29-11-12, which specify several circumstances under which a Georgia court has jurisdiction to appoint a guardian or issue a conservatorship order for a respondent. In re Estate of Hanson, 357 Ga. App. 199, 848 S.E.2d 204, 2020 Ga. App. LEXIS 507 (2020), cert. denied, No. S21C0400, 2021 Ga. LEXIS 411 (Ga. June 1, 2021).

In subparagraph (2)(B), the three requirements are stated in the conjunctive, meaning that all three must be true to satisfy the statute. In re Estate of Hanson, 357 Ga. App. 199, 848 S.E.2d 204, 2020 Ga. App. LEXIS 507 (2020), cert. denied, No. S21C0400, 2021 Ga. LEXIS 411 (Ga. June 1, 2021).

Court declined to exercise jurisdiction. — The judgment declining to exercise jurisdiction over the appointment of a guardian and/or conservator for a parent with dementia was vacated because the superior court set out the basic facts of the case, listed the nine factors set forth in subsection (c), and concluded that North Carolina was a more appropriate forum, yet it neither applied the enumerated factors to the facts nor indicated which factors

supported the court's decision or were disregarded. Steen-Jorgensen v. Huff, 352 Ga. App. 727, 835 S.E.2d 707, 2019 Ga. App. LEXIS 630 (2019).

Court lacked jurisdiction. — In a case of first impression under the Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act, O.C.G.A. § 29-11-1 et seq., the probate court plainly erred in concluding that the court had jurisdiction to enter orders for a nontemporary guardianship and a conservatorship over non-Georgia property of a Florida resident after the Florida resident suffered a traumatic brain injury. In re Estate of Hanson, 357 Ga. App. 199, 848 S.E.2d 204, 2020 Ga. App. LEXIS 507 (2020), cert. denied, No. S21C0400, 2021 Ga. LEXIS 411 (Ga. June 1, 2021).

29-11-13. Special jurisdiction.

(a) A court of this state lacking jurisdiction under paragraphs (1) through (3) of Code Section 29-11-12 has special jurisdiction to do any of the following:

(1) Appoint a guardian in an emergency for a term not exceeding 90 days for a respondent who is physically present in this state;

(2) Issue a conservatorship order with respect to real or tangible personal property located in this state; or

(3) Appoint a guardian or conservator for an incapacitated person or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to Code Section 29-11-20.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

History.
Code 1981, § 29-11-13, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

JUDICIAL DECISIONS

Ninety day limitation. — Based on the plain language of this statute, the probate court was limited to appointing a guardian for a term not exceeding 90 days and to ordering a conservatorship regarding property located only in this state. In re Estate of Hanson, 357 Ga. App. 199, 848 S.E.2d 204, 2020 Ga. App. LEXIS 507 (2020), cert. denied, No. S21C0400, 2021 Ga. LEXIS 411 (Ga. June 1, 2021).

29-11-14. Termination or expiration of special jurisdiction.

Except as otherwise provided in Code Section 29-11-13, a court that has appointed a guardian or issued a conservatorship order consistent with this chapter shall have exclusive and continuing jurisdiction over the

proceeding until it is terminated by the court or the appointment or order expires by its own terms.

History.
Code 1981, § 29-11-14, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

JUDICIAL DECISIONS

Until final order in guardianship issued, probate court retained jurisdiction. — In a case involving the transfer of a guardianship over an adult ward, because the Fulton County probate court issued only a provisional order transferring the ward's guardianship to Missouri but never issued a final order terminating the guardianship as required by O.C.G.A. § 29-11-20(f), the probate court retained jurisdiction over the case despite the Missouri court's acceptance of the transfer. In re Estate of Taylor, 377 Ga. App. 314, 922 S.E.2d 476, 2025 Ga. App. LEXIS 465 (2025).

29-11-15. Authority to decline exercise of jurisdiction; factors for determining appropriateness of forum.

(a) A court of this state having jurisdiction under Code Section 29-11-12 to appoint a guardian or conservator may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a court of this state declines to exercise its jurisdiction under subsection (a) of this Code section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a conservatorship order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) Any expressed preference of the respondent;

(2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) The length of time the respondent was physically present in or was a legal resident of this or another state;

(4) The distance of the respondent from the court in each state;

(5) The financial circumstances of the respondent's estate;

(6) The nature and location of the evidence;

(7) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) The familiarity of the court of each state with the facts and issues in the proceeding; and

(9) If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

History.
Code 1981, § 29-11-15, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

JUDICIAL DECISIONS

Application of factors necessary. — The judgment declining to exercise jurisdiction over the appointment of a guardian and/or conservator for a parent with dementia was vacated because the superior court set out the basic facts of the case, listed the nine factors set forth in subsection (c), and concluded that North Carolina was a more appropriate forum, yet it neither applied the enumerated factors to the facts nor indicated which factors supported the court's decision or were disregarded. Steen-Jorgensen v. Huff, 352 Ga. App. 727, 835 S.E.2d 707, 2019 Ga. App. LEXIS 630 (2019).

29-11-16. Authority related to jurisdiction acquired by unjustifiable conduct.

(a) If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a conservatorship order because of unjustifiable conduct, the court may:

(1) Decline to exercise jurisdiction;

(2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a conservatorship order is filed in a court of another state having jurisdiction; or

(3) Continue to exercise jurisdiction after considering:

(A) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(B) Whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection (c) of Code Section 29-11-15; and

(C) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of Code Section 29-11-12.

(b) If a court of this state determines that it acquired jurisdiction to

appoint a guardian or issue a conservatorship order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this chapter.

History.
Code 1981, § 29-11-16, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

Law reviews.
For article, "Guardianship and Conservatorship 101," see 28 Ga. St. B.J. 16 (2022).

29-11-17. Additional notice and service requirements for out-of-state respondents.

(a) If a petition for the appointment of a guardian or issuance of a conservatorship order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition must be given to those persons that would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

(b) If compliance with the notice requirements under subsection (a) of this Code section would require personal service on any person outside this state, a court of competent jurisdiction in this state may order that such person be served by registered or certified mail or statutory overnight delivery, in the manner provided in subsection (e) of Code Section 29-9-4, or by a special process server, if the petitioner so requests in the petition or on the court's own motion.

(c) If compliance with the notice requirements under subsection (a) of this Code section would require service on any person outside this state that is not sui juris, such person shall be served in a manner provided in subsection (d) of Code Section 29-9-4.

History.
Code 1981, § 29-11-17, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-18. Multiple court jurisdictional rules.

Except for a petition for the appointment of a guardian in an emergency or issuance of a conservatorship order limited to property located in this state under paragraph (1) or (2) of subsection (a) of Code Section

29-11-13, if a petition for the appointment of a guardian or issuance of a conservatorship order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules shall apply:

(1) If the court in this state has jurisdiction under Code Section 29-11-12, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to Code Section 29-11-12 before the appointment or issuance of the order; and

(2) If the court in this state does not have jurisdiction under Code Section 29-11-12, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

History.
Code 1981, § 29-11-18, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

ARTICLE 3

TRANSFERS

29-11-20. Transfer of guardianship or conservatorship to another state; notice; hearing; provisional orders.

(a) A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under subsection (a) of this Code section shall be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated person or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this Code section.

(d) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) The protected person is physically present in or is reasonably expected to move permanently to the other state or the protected person has a significant connection to the other state considering the factors in Code Section 29-11-10;

(2) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) Adequate arrangements will be made for management of the protected person's property.

(f) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to Code Section 29-11-21; and

(2) The documents required to terminate a guardianship or conservatorship in this state.

History.
Code 1981, § 29-11-20, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

JUDICIAL DECISIONS

Until final order in guardianship issued, probate court retained jurisdiction. — In a case involving the transfer of a guardianship over an adult ward, because the Fulton County probate court issued only a provisional order transferring the ward's guardianship to Missouri but never issued a final order terminating the guardianship as required by O.C.G.A. § 29-11-20(f), the probate court retained jurisdiction over the case despite the Missouri court's acceptance of the transfer. In re Estate of Taylor, 377 Ga. App. 314, 922 S.E.2d 476, 2025 Ga. App. LEXIS 465 (2025).

29-11-21. Petition for acceptance; notice; hearing; provisional and final orders; modification to conform to law.

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to Code Section 29-11-20, the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under subsection (a) of this Code section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a conservatorship order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(c) On the court's own motion or on request of the guardian or conservator, the incapacitated person or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this Code section.

(d) The court shall issue an order provisionally granting a petition filed under subsection (a) of this Code section unless:

(1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated person or protected person; or

(2) The guardian or conservator is ineligible for appointment in this state.

(e) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to Code Section 29-11-20 transferring the proceeding to this state.

(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this Code section, the court shall recognize a guardianship order or conservatorship order from the other state, including the determination of the incapacitated person's or protected person's incapacity and the appointment of the guardian or conservator.

(h) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does

not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under Article 2 of Chapter 4 and Article 2 of Chapter 5 of this title if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

History.
Code 1981, § 29-11-21, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

ARTICLE 4

REGISTRATION AND ENFORCEMENT

29-11-30. Registration, recording, and treatment of guardianship order from another state.

(a) If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, certified copies of the order and letters of office.

(b) Upon registration of a guardianship order from another state in the manner provided in subsection (a) of this Code section, the probate court of this state in which such guardianship order is registered shall:

(1) Record the certified copies of the order and letters of office in the book required to be kept by subparagraph (a)(8)(B) of Code Section 15-9-37; and

(2) Treat the registered and recorded order as a filed foreign judgment as provided in Code Section 9-12-132.

(c)(1) The provisions of this Code section shall apply only if the other state has adopted the "Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act" in substantially the same form as this chapter.

(2) The provisions of paragraph (2) of subsection (b) of this Code section shall apply only if the other state has adopted the "Uniform Enforcement of Foreign Judgments Law" in substantially the same form as Article 6 of Chapter 12 of Title 9.

History.
Code 1981, § 29-11-30, enacted by Ga. L. 2016, p. 563, § 1/HB 954; Ga. L. 2019, p. 693, § 32/HB 70.

Editor's notes.
The Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act, referred to in this Code section, is codified at O.C.G.A. § 29-11-1 et seq.

29-11-31. Registration, recording, and treatment of conservatorship order from another state.

(a) If a conservator has been appointed in another state and a petition for a conservatorship order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the conservatorship order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

(b) Upon registration of a conservatorship order from another state in the manner provided in subsection (a) of this Code section, the probate court of this state in which such conservatorship order is registered shall:

(1) Record the certified copies of the order and letters of office in the book required to be kept by subparagraph (a)(8)(B) of Code Section 15-9-37;

(2) Record the certified copy of any bond in the books required to be kept by subparagraph (a)(8)(C) of Code Section 15-9-37 and by subsection (c) of Code Section 29-5-40; and

(3) Treat the registered and recorded order as a filed foreign judgment as provided in Code Section 9-12-132.

(c)(1) The provisions of this Code section shall apply only if the other state has adopted the "Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act" in substantially the same form as this chapter.

(2) The provisions of paragraph (3) of subsection (b) of this Code section shall apply only if the other state has adopted the "Uniform Enforcement of Foreign Judgments Law" in substantially the same form as Article 6 of Chapter 12 of Title 9.

History.
Code 1981, § 29-11-31, enacted by Ga. L. 2016, p. 563, § 1/HB 954; Ga. L. 2019, p. 693, § 33/HB 70.

Editor's notes.
The Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act, referred to in this Code section, is codified at O.C.G.A. § 29-11-1 et seq.

29-11-32. Exercise of powers authorized; enforcement.

(a) Upon registration and recording of a guardianship order or conservatorship order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A court of this state may grant any relief available under this chapter, Article 4 of Chapter 4 of this title, Part 4 of Article 9 of Chapter 4 of this title, Article 5 of Chapter 5 of this title, Part 4 of Article 13 of Chapter 5 of this title, and other law of this state to enforce a registered and recorded order.

(c)(1) The provisions of subsections (a) and (b) of Code Section 9-12-133 shall not apply to this article.

(2) Unless otherwise required by this chapter, service of notice shall not be required under this article as a condition precedent to the registration and recording of a guardianship order from another state under Code Section 29-11-30 or of a conservatorship order from another state under Code Section 29-11-31; provided, however, that the judge of a court of this state may direct such service or notice of such registration and recording as the judge may determine to be proper.

History.
Code 1981, § 29-11-32, enacted by Ga. L. 2016, p. 563, § 1/HB 954; Ga. L. 2019, p. 693, § 34/HB 70.

ARTICLE 5

UNIFORMITY

29-11-40. Promotion of uniformity.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History.
Code 1981, § 29-11-40, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-41. Construction with federal law.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of

that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

History.
Code 1981, § 29-11-41, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

29-11-42. Application.

(a) This chapter shall apply to guardianship proceedings and conservatorship proceedings begun on or after July 1, 2016.

(b) Articles 1, 3, and 4 of this chapter and Code Sections 29-11-40 and 29-11-41 shall apply to proceedings begun before July 1, 2016, regardless of whether a guardianship order or conservatorship order has been issued.

History.
Code 1981, § 29-11-42, enacted by Ga. L. 2016, p. 563, § 1/HB 954.

TITLE 30

HANDICAPPED PERSONS

Chap.

1. General Provisions, 30-1-1 through 30-1-6.
2. Georgia Industries for the Blind, 30-2-1 through 30-2-9.
3. Access to and Use of Public Facilities by Persons with Disabilities, 30-3-1 through 30-3-9.
4. Rights of Persons with Disabilities, 30-4-1 through 30-4-5.
5. Protection of Disabled Adults and Elder Persons, 30-5-1 through 30-5-11.
6. Personal Assistance Program for Persons with Disabilities, 30-6-1 through 30-6-5.
7. Blind Persons' Literacy Rights and Education, 30-7-1 through 30-7-4.
8. Georgia Council on Developmental Disabilities, 30-8-1.
9. Georgia Achieving a Better Life Experience (ABLE), 30-9-1 through 30-9-16.
10. Community Trusts, 30-10-1 through 30-10-9.

Cross references.

Continuation of trusts for institutions for the blind and the deaf, § 20-2-18.

Special education services, § 20-2-152.

Funds for operation of schools for deaf and blind persons, § 20-2-302.

Use of school buses to provide transportation for persons with disabilities, § 20-2-1074.

Aid to disabled or illiterate in voter registration process, § 21-2-220.

Assisting electors who cannot read English or who have disabilities, § 21-2-409.

Central registry for traumatic brain and spinal cord injuries, § 31-18-1 et seq.

Georgia Equal Employment for Persons With Disabilities Code, § 34-6A-1 et seq.

License plates for disabled veterans, § 40-2-69 et seq.

License plates for disabled persons generally, § 40-2-74.

Regulation of business of hearing aid dealers and dispensers, § 43-20-1 et seq.

Licensing of occupational therapists, § 43-28-1 et seq.

Financial assistance for transportation services for the elderly and persons with disabilities, § 49-2-13.1.

Aid to the Blind Act, § 49-4-50 et seq.

Delivery of deaf-blind services and techniques leading to maximum independence, § 49-9-21.

RESEARCH REFERENCES

ALR.

Construction and effect of state legislation forbidding discrimination in housing on account of physical handicap, 28 A.L.R.4th 685.

CHAPTER 1

GENERAL PROVISIONS

Sec.		Sec.	
30-1-1.	"Deaf person" defined.	30-1-5.	Georgia Commission for the Deaf or Hard of Hearing; creation; membership; duties; powers; multiagency task force; stakeholder advisory committee.
30-1-2.	Public employment of physically disabled persons.	30-1-6.	American Sign Language.
30-1-3.	Identifications carried by persons suffering from blackouts or forms of unconsciousness; law enforcement duties; penalty.		
30-1-4.	[Reserved] Council on the Deaf.		

30-1-1. "Deaf person" defined.

As used in this title, the term "deaf person" means any person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding oral communications spoken in a normal conversational tone.

History.
Ga. L. 1980, p. 1131, § 1.
Cross references.
Hearing screenings for newborns, § 31-1-3.2.

RESEARCH REFERENCES

ALR.
To what extent are federal entities subject to suit under § 504(a) of Rehabilitation Act (29 USCA § 794(a)), which prohibits any program or activity conducted by any executive agency or the postal service from discriminating on basis of disability, 146 A.L.R. Fed. 319.

30-1-2. Public employment of physically disabled persons.

It is the policy of this state that blind, visually disabled, deaf, and otherwise physically disabled persons shall be employed in the service of the state or political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as able-bodied persons, unless it is shown that the particular disability prevents the performance of the work involved.

History.
Ga. L. 1975, p. 1639, § 1; Ga. L. 1995, p. 1302, § 14.
Cross references.
State employees to furnish certificate of medical and physical fitness, § 45-2-40 et seq.

RESEARCH REFERENCES

Am. Jur. 2d.
63C Am. Jur. 2d, Public Officers and Employees, §§ 44, 52, 56. 67B Am. Jur. 2d, Schools, § 139 et seq.
C.J.S.
13 C.J.S., Carriers, § 80. 14A C.J.S., Civil Rights, § 285 et seq. 67 C.J.S., Officers and Public Employees, § 19 et seq. 78 C.J.S., Schools and School Districts, § 304 et seq.

30-1-3. Identifications carried by persons suffering from blackouts or forms of unconsciousness; law enforcement duties; penalty.

(a) Any person who suffers from epilepsy, diabetes, a cardiac condition, or any other type of illness which causes temporary blackouts, semiconscious periods, or complete unconsciousness is authorized to wear an identification bracelet or metal tag or carry an identification card with the person's name, type of illness, physician's name, and medication required engraved, stamped, or imprinted thereon.

(b) Before any person who is found in a semiconscious or unconscious condition may be charged with a crime, it shall be the duty of all law enforcement officers in this state to make a diligent effort to determine if such person is an epileptic or diabetic or a person who is suffering from any other type of illness which would cause semiconsciousness or unconsciousness. If any law enforcement officer shall determine that such a person is actually suffering from an affliction which would cause semiconsciousness or unconsciousness, it shall be his duty to notify such person's physician immediately or to have such person immediately transported to a physician or to some facility where the services of a physician are available.

(c) Any person who willfully and knowingly falsifies such identification or deliberately misrepresents such an illness shall be guilty of a misdemeanor.

History.
Ga. L. 1965, p. 176, §§ 1-3.

JUDICIAL DECISIONS

Intoxication or drug overdose not included. — Under the principle of ejusdem generis, statute cannot be construed to include intoxication and drug overdose under the general phrase "any other type of illness." Lively v. Trust, 184 Ga. App. 361, 361 S.E.2d 516, 1987 Ga. App. LEXIS 2233 (1987).

RESEARCH REFERENCES

Am. Jur. 2d.
56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 265. 57A Am. Jur. 2d, Negligence, § 105.
C.J.S.
63 C.J.S., Municipal Corporations, § 627 et seq. 65 C.J.S., Negligence, §§ 35, 67 et seq., 78 et seq.
U.L.A.
Uniform Duties to Disabled Persons Act (U.L.A.) §§ 2, 3.

30-1-4. [Reserved] Council on the Deaf.

History.
Ga. L. 1978, p. 2150; Ga. L. 1982, p. 3, § 30; Ga. L. 1982, p. 833, § 2; Ga. L. 1983, p. 3, § 21; Ga. L. 1993, p. 91, § 30; Ga. L. 2000, p. 1137, § 4; repealed by Ga. L. 2001, p. 873, § 9, effective July 1, 2001.

Editor's notes.
Ga. L. 2001, p. 873, § 9, reserved the designation of this Code section, effective July 1, 2001.

30-1-5. Georgia Commission for the Deaf or Hard of Hearing; creation; membership; duties; powers; multiagency task force; stakeholder advisory committee.

(a) As used in this Code section, the term:

(1) "American Sign Language" means a completely visual language with its own pragmatics, syntax, and semantics. Conceptual information expressed in American Sign Language is the same as in Spoken English but is expressed using signs and nonmanual markers.

(2) "Birth to literacy plan" means a longitudinal plan developed and implemented by the multiagency task force created pursuant to subsection (c) of this Code section to ensure that each child who is deaf or hard of hearing develops his or her maximal language and literacy abilities. This plan may include, but is not limited to, a child's Individualized Family Service Plan and Individualized Education Program.

(3) "Commission" means the Georgia Commission for the Deaf or Hard of Hearing.

(4) "Deaf or hard of hearing" means possession of hearing levels, absent the aid of a hearing device, that in any way impedes an individual's ability to perceive sound.

(5) "Home language" means a language that is most commonly spoken by members of a family for everyday interactions at home, including English and all foreign languages.

(6) "Individualized Education Program" means a written education plan for children in special education, from age three through

high school graduation or a maximum age of 22, that is meant to address each child's unique learning issues and include specific educational goals. The plan shall be created through a team effort and reviewed periodically.

(7) "Individualized Family Service Plan" means a plan for special services for young children, from birth to age three, with developmental delays. The plan is developed with the service coordinator, the family, and other professionals. The plan is set up to identify individual supports and services that will enhance the child's development. The plan must include an assessment of the child's present level of development, a statement of goals, and support services that will be put in place to achieve those goals, and the date services begin.

(8) "Language" means the age appropriate development of human communication, spoken, written, or signed, consisting of the use of words and signs in a structured and conventional way.

(9) "Literacy" means age appropriate, on-grade-level development of the comprehension and production of written text in English.

(10) "Nonmanual markers" means various facial expressions, head tilting, shoulder raising, mouthing, and similar signals added to hand signs to create meaning.

(11) "Spoken English" means when the English language is produced by one's voice for the purpose of linking words together to convey meaning that can also be written. Spoken English is perceived through listening and speech reading.

(b)(1)(A) There is created the Georgia Commission for the Deaf or Hard of Hearing, which shall consist of 12 members. Ten of the members shall be appointed by the Governor as follows: one member shall be deaf or hard of hearing whose primary language is American Sign Language, one member shall be deaf or hard of hearing whose primary languages are Spoken English and American Sign Language, one member shall be deaf-blind, one member shall be deaf or hard of hearing whose primary language is Spoken English, one member who became deaf after the age of 18 years, one member shall be a parent of a child who uses Spoken English exclusively, one member shall be a parent of a child who uses American Sign Language, one member shall be an otolaryngologist or audiologist who serves people who are deaf or hard of hearing, one member shall be a private provider of services for people who are deaf or hard of hearing, and one member shall be involved with programs that serve people who are deaf or hard of hearing. An additional two members shall be appointed as follows: one member shall be appointed by the Senate Committee on Assignments, and one member shall be appointed by the Speaker of the House of

Representatives. Each commission member shall serve for a three-year term and until a successor is appointed and qualified. No member shall serve more than two consecutive terms. Any vacancy on the commission for any reason other than expiration of term shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(B) The commission shall select one member as chairperson.

(C) The commission shall be attached to the Department of Human Services for administrative purposes only as provided by Code Section 50-4-3.

(2) Members of the commission shall serve as such without compensation.

(3) The commission shall serve as the principal agency of the state to advocate on behalf of deaf or hard of hearing persons by working to ensure those persons have equal access to the services, programs, and opportunities available to others.

(4) The commission shall:

(A) Assist deaf or hard of hearing persons and parents of such persons who are students in advocating for equal access to services, programs, and opportunities;

(B) Advise the Governor, General Assembly, commissioner of human services, and commissioner of community health on the development of policies, programs, and services affecting deaf or hard of hearing persons and on the use of appropriate federal and state moneys for such purposes;

(C) Create a public awareness of the special needs and potential of deaf or hard of hearing persons;

(D) Provide the Governor, General Assembly, commissioner of human services, and commissioner of community health with a review of ongoing services, programs, and proposed legislation affecting deaf or hard of hearing persons;

(E) Advise the Governor, General Assembly, commissioner of human services, and commissioner of community health on statutes, rules, and policies necessary to ensure that deaf or hard of hearing persons have equal access to benefits and services provided to individuals in this state;

(F) Recommend to the Governor, General Assembly, commissioner of human services, and commissioner of community health legislation designed to improve the economic and social conditions of deaf or hard of hearing persons in this state;

(G) Propose solutions to problems of deaf or hard of hearing persons in the areas of education, employment, human rights, human services, health, housing, and other related programs;

(H) Work with other state and federal agencies and private organizations to promote economic development for deaf or hard of hearing persons; and

(I) Coordinate its efforts with other state and local agencies serving deaf or hard of hearing persons.

(5) The commission may appoint, subject to the availability of funds and approval of the Governor, an executive director who must be experienced in administrative activities and familiar with the problems and needs of deaf or hard of hearing persons. The commission may delegate to the executive director any powers and duties under this subsection that do not require commission approval. The executive director may be removed at any time by a majority vote of the commission. The executive director shall coordinate the provision of necessary support services to the commission with the Department of Human Services. Subject to availability of funds, the executive director may employ and direct staff necessary to carry out commission mandates, policies, activities, and objectives.

(6) The commission may contract in its own name. Contracts must be approved by a majority of the members of the commission and executed by the chairperson and the executive director. The commission may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this subsection.

(7) The commission may prepare and distribute periodic reports to the Governor, General Assembly, commissioner of human services, and commissioner of community health concerning the activities of the commission and the needs and concerns of deaf or hard of hearing persons.

(c)(1) There is created within the Georgia Commission for the Deaf or Hard of Hearing a multiagency task force for the purposes of establishing a system of collaborative governance responsible for making recommendations to the General Assembly and the Governor regarding essential improvements to the state-wide system of developmental and educational services that support age-appropriate language and literacy proficiency for children who are deaf or hard of hearing from birth to third grade; engaging with stakeholders at the Department of Public Health, the Department of Early Care and Learning, and the Department of Education to ensure a seamless, integrated system of care from birth to literacy for children who are deaf or hard of hearing; and developing and supporting interagency

practices and policies that support the implementation of individualized birth to literacy plans for each child who is deaf or hard of hearing.

(2) The multiagency task force shall consist of eight members appointed by the Georgia Commission for the Deaf or Hard of Hearing. Such appointed members shall include: the chairperson of the commission, one member from the Department of Education with direct authority over deaf education in the state, one member from the Department of Public Health with direct authority over the early intervention program, one member from the Department of Early Care and Learning with direct authority over the preschool program, the coordinator of the early hearing detection and intervention program administered by the Department of Public Health, one member from the Department of Public Health with direct responsibility of current data management systems which track and monitor early identification and intervention for deaf or hard of hearing children, one member from the Department of Education with direct responsibility of current data management systems which track, monitor, and assess deaf or hard of hearing children, and one member from the State Board of Education. Each task force member shall serve for a three-year term and until a successor is appointed and qualified. No member shall serve more than two consecutive terms. Any vacancy on the task force for any reason other than expiration of term shall be filled in the same manner as the original appointment for the remainder of the unexpired term. A quorum of the task force shall be two-thirds of the members of the task force. Action of the task force shall require a two-thirds' vote of the entire task force membership.

(3) The task force may appoint, subject to the availability of funds and approval of the chairperson, an executive director who must be experienced in administrative activities and familiar with the individualized needs of children who are deaf or hard of hearing. The task force may delegate to the executive director any powers and duties required to facilitate the task force's policies, activities, and objectives. The executive director may be removed, at any time, by a majority vote of the task force. The executive director shall coordinate with the Department of Human Services to provide necessary support services to the task force.

(4) The chairperson shall call an organizational meeting of the task force on or before August 1, 2018.

(d)(1) There is created a stakeholder advisory committee to provide information and guidance to the task force created pursuant to subsection (c) of this Code section.

(2) The stakeholder advisory committee shall consist of 13 mem-

bers appointed by the commission based upon the following criteria for each member:

(A) A parent of a child, under ten years of age, who is deaf or hard of hearing and who uses American Sign Language;

(B) A parent of a child, under ten years of age, who is deaf or hard of hearing and who uses Spoken English exclusively;

(C) A parent of a child, under ten years of age, who is deaf or hard of hearing and for whom English is a second language;

(D) An adult who is deaf or hard of hearing who uses American Sign Language;

(E) An adult who is deaf or hard of hearing who uses Spoken English exclusively;

(F) A certified early intervention specialist who works with children from birth to three years of age using American Sign Language;

(G) A certified early intervention specialist who works with children from birth to three years of age using Spoken English exclusively;

(H) A certified early intervention specialist with experience in non-Metro Atlanta areas;

(I) A certified teacher who uses Spoken English exclusively during instruction for deaf or hard of hearing children in pre-kindergarten through third grade in non-Metro Atlanta school systems;

(J) A certified teacher who uses both American Sign Language and Spoken English during instruction for deaf or hard of hearing children between pre-kindergarten through third grade;

(K) A certified deaf teacher who uses American Sign Language during instruction for deaf or hard of hearing children in pre-kindergarten through third grade in a state school for the deaf;

(L) A certified teacher who uses Spoken English exclusively during instruction for deaf or hard of hearing children in pre-kindergarten through third grade in Metro Atlanta school systems; and

(M) A pediatric audiologist with knowledge of language development who provides audiological assessment and management for hearing aids, cochlear implants, and bone-conduction aids for children who are deaf or hard of hearing.

(3) Each committee member shall serve for a three-year term and until a successor is appointed and qualified. No member shall serve

more than two consecutive terms. Any vacancy on the committee for any reason other than expiration of term shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Seven members of the committee shall constitute a quorum. Action of the committee shall require a two-thirds' vote of the entire committee membership.

(e) The task force, with counsel from the stakeholder advisory committee, shall provide the commission:

(1) A list of developmental milestones necessary for progressing toward age-appropriate language, including American Sign Language, Spoken English, and home language milestones, and English literacy proficiency by the end of third grade for deaf or hard of hearing children;

(2) A comprehensive and accurate resource, web based and print based, for use by parents and professionals to monitor the individual progress of children who are deaf or hard of hearing toward age-appropriate language as chosen by a parent or guardian, including American Sign Language, Spoken English, home language, and English literacy proficiency, by the end of third grade;

(3) A list of currently available assessments appropriate for evaluating an individual child's progress toward age-appropriate language as chosen by a parent or guardian, including American Sign Language, Spoken English, home language, and English literacy proficiency, by the end of third grade, and a standard administration schedule for each type of assessment. There shall be, at a minimum, one language assessment every six months and one literacy assessment every six months beginning at the date of enrollment in early intervention or school; and

(4) An individual report of a child's current functioning, developed in collaboration with professionals and the parents or caregivers, that will be used for the purpose of supporting a child's progress toward age-appropriate language as chosen by a parent or guardian and English literacy proficiency by the end of third grade.

(f) The recommendations provided for in subsection (e) of this Code section shall require a two-thirds' affirmative vote of the entire task force membership prior to implementation. It is the intent of the General Assembly that all costs associated with the implementation of such recommendations shall be funded, as available, by the funds designated to the Department of Public Health, the Department of Early Care and Learning, and the Department of Education, or local school systems.

(g)(1) The Georgia Technology Authority, in conjunction with the Department of Public Health, the Department of Early Care and

Learning, and the Department of Education, shall establish a process by which early intervention, early learning, and school age educational data for children who are deaf or hard of hearing will be shared among agencies and used to gauge the progress of age-appropriate and on-grade-level student performance from birth through high school graduation for every child who is deaf or hard of hearing. This data shall be used to align early intervention and educational services and performance for children who are deaf or hard of hearing. Interagency data management shall allow for the sharing of demographic information and other data among agencies to ensure a seamless and integrated service delivery from birth through high school graduation. Parents or guardians may opt out of the data management, if desired.

(2) In order to identify and monitor the language and literacy progress of all children in Georgia who are diagnosed as deaf or hard of hearing on or after August 1, 2018, all such children shall receive Georgia Testing Identification Numbers (GTIDs) from the Department of Education once the Department of Public Health receives an official diagnosis of hearing loss from a certified audiologist. The Department of Public Health shall be responsible for requesting GTIDs from the Department of Education on a monthly schedule. The Department of Public Health shall be responsible for entering the GTIDs into the Early Hearing Detection and Intervention Database used to monitor children who are deaf or hard of hearing. At the time of transition, the Department of Public Health shall be responsible for sharing GTIDs and language and literacy data with the Department of Early Care and Learning and the Department of Education to ensure a seamless and integrated service delivery from Part C to Part B of the federal Individuals with Disabilities Education Act (IDEA). Any gathering and sharing of data under this provision shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), Family Education Rights and Privacy Act (FERPA), and IDEA, and any other applicable federal or state law.

(h) A report detailing the provision of early intervention and school-age services and the language and literacy outcomes for children who are deaf or hard of hearing between the ages of birth and eight years shall be completed on or before September 1, 2019, and a similar report shall be completed on or before September 1 every year thereafter. Such report shall be jointly authored by the Department of Public Health, the Department of Early Care and Learning, and the Department of Education and approved by the commission and the advisory committee. The commission shall make the report available to the public on its website and present this report to the Governor and General Assembly no later than September 15, 2019, and every September 15 thereafter.

History.
Code 1981, § 30-1-5, enacted by Ga. L. 1989, p. 1636, § 1; Ga. L. 2007, p. 241, § 1/HB 655; Ga. L. 2009, p. 453, §§ 2-2, 2-4/HB 228; Ga. L. 2018, p. 899, § 1/HB 844; Ga. L. 2026, p. 1069, § 30(1)/HB 1268, effective July 1, 2026.
Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "web based and print based" for "web-based and print-based" in paragraph (e)(2); and, in paragraph (g)(2), inserted "federal" in the fourth sentence, and substituted "shall comply with the federal" for "must comply with" in the fifth sentence.
Cross references.
Special education services, § 20-2-152.
Deaf Child's Bill of Rights Act, § 20-2-152.1.
Law reviews.
For article, "Privacy for Student-Patients: A Call to Action," see 73 Emory L.J. 83 (2023).

30-1-6. American Sign Language.

The General Assembly finds that:

(1) American Sign Language is a fully developed, autonomous, natural language with distinct grammar, syntax, and symbols, and is one of hundreds of signed languages of the world; and

(2) American Sign Language is the fourth most commonly used language in the United States and Canada.

History.
Code 1981, § 30-1-6, enacted by Ga. L. 2007, p. 290, § 2/SB 170.
Editor's notes.
The former Code section, relating to assaulting, beating, harassing, or injuring guide or dogs assisting disabled persons, was based on Code 1981, § 30-1-6, enacted by Ga. L. 1996, p. 665, § 1, and was repealed and reserved by Ga. L. 2004, p. 936, § 1/HB 211, effective July 1, 2024. For present comparable provisions, see Code Section 16-11-107.1.

CHAPTER 2

GEORGIA INDUSTRIES FOR THE BLIND

Sec.		Sec.	
30-2-1.	Creation.		dents to permit work to be done in homes of workers.
30-2-2.	Purpose.	30-2-7.	Compensation of workers; observance of and payment for state holidays.
30-2-3.	Supervision; acquisition or lease of property.	30-2-8.	Promotion, demotion, layoff, transfer, and resignation of employees.
30-2-4.	Superintendents; responsibilities of Georgia Vocational Rehabilitation Agency; purchase preference.	30-2-9.	Surplus funds retained as working capital.
30-2-5.	Articles to be manufactured.		
30-2-6.	Authority of superinten-		

Cross references.
Blindness education, screening, and treatment program, § 31-1-23.
Aid to the Blind Act, § 49-4-50 et seq.

OPINIONS OF THE ATTORNEY GENERAL

Applicability of federal law to the Factory (now Industries) for the Blind. — See 1948-49 Ga. Op. Att'y Gen. 723.

30-2-1. Creation.

There is created the Georgia Industries for the Blind.

History.
Ga. L. 1937, p. 579, § 1; Ga. L. 1982, p. 830, § 1.

30-2-2. Purpose.

The purpose of the industries is to furnish to those citizens of Georgia who are blind or who have not more than 10 percent vision a means of supporting themselves; to furnish an opportunity for those who are mentally gifted to earn a living by working in short shifts as well as to develop their talents for literature, poetry, music, or otherwise; and to furnish a home to workers who desire it.

History.
Ga. L. 1937, p. 579, § 2; Ga. L. 1982, p. 830, § 1.

30-2-3. Supervision; acquisition or lease of property.

(a) The industries shall be state institutions under the direction and supervision of the Georgia Vocational Rehabilitation Agency.

(b) The Georgia Vocational Rehabilitation Agency is authorized to provide the property necessary for the industries. The Georgia Vocational Rehabilitation Agency may acquire real property through the State Properties Commission pursuant to Code Section 50-16-38 or the agency may enter into rental agreements in order to acquire the needed space.

History.

Ga. L. 1937, p. 579, § 5; Ga. L. 1949, p. 544, § 3; Ga. L. 1960, p. 172, § 1; Ga. L. 1972, p. 1015, § 1220; Ga. L. 1982, p. 830, § 1; Ga. L. 1984, p. 1017, § 1; Ga. L. 2000, p. 1137, § 5.1; Ga. L. 2012, p. 303, § 4/HB 1146.

OPINIONS OF THE ATTORNEY GENERAL

Industries are department of state and subject to Workers' Compensation Act. — It is clear that the factory (now industries) is a department of the State of Georgia, and subject to provisions of the Workers' Compensation Act, (see now O.C.G.A. § 34-9-1 et seq. 1948-49 Ga. Op. Att'y Gen. 723.

Industries excluded from provisions of Fair Labor Standards Act. — The factory (now industries) designated by and made a state institution by the General Assembly of Georgia is excluded from provisions of the federal Fair Labor Standards Act, 29 U.S.C. § 201 et seq. 1948-49 Ga. Op. Att'y Gen. 723.

30-2-4. Superintendents; responsibilities of Georgia Vocational Rehabilitation Agency; purchase preference.

(a) There shall be superintendents for the industries. Preference shall be given to blind persons with the skill and experience to perform such jobs. The Georgia Vocational Rehabilitation Agency PC23 shall provide for the equipment, maintenance, and management of the industries; shall provide for the selection and eligibility of applicants for admission to an industry; shall provide for the sale of supplies manufactured at the industries to the departments of the state, its subdivisions, and institutions, and to the federal government and other states and to individual and corporate dealers in such supplies; shall provide for housing, rationing, hours of labor, scale of pay, or division of profits, subject to this chapter; and shall provide all other rules for the proper management of the industries not in conflict with this chapter. The department shall procure necessary machinery, equipment, and furnishings for the industries; shall make contracts for power, lighting, and heating; and shall arrange for all other things necessary and proper for the conduct of the industries.

(b) All departments, subdivisions, and institutions of the State of

Georgia are directed to give preference in purchases to goods manufactured at the industries, provided said goods are of equal quality and competitive in price.

History.
Ga. L. 1937, p. 579, § 6; Ga. L. 1960, p. 172, § 2; Ga. L. 1982, p. 830, § 1.

30-2-5. Articles to be manufactured.

The plan of operation of the industries shall be to manufacture supplies such as brooms, brushes, mops, mattresses, desks, and office, school, and other furniture which are in the capacity of the blind to make and which are extensively used by the various departments of the state, its political subdivisions, and its educational, penal, and other institutions; provided, however, that this enumeration is partial and not exclusive of articles that may be manufactured in the industries.

History.
Ga. L. 1937, p. 579, § 2; Ga. L. 1982, p. 830, § 1.

30-2-6. Authority of superintendents to permit work to be done in homes of workers.

Where, in the opinion of the industry superintendents, any part of the work necessary to the production of any commodity can be practically and satisfactorily done in the home of the worker, as in the hemming of towels or other needlework, the superintendents shall have authority to permit and to arrange for such work to be so done.

History.
Ga. L. 1937, p. 579, § 7; Ga. L. 1982, p. 830, § 1.

30-2-7. Compensation of workers; observance of and payment for state holidays.

(a) Each worker in an industry who is otherwise entitled to share in the benefits provided for blind persons under Articles 1 and 3 of Chapter 4 of Title 49 shall, in addition to the amount received as compensation for his or her services in the industry, receive from the Department of Human Services such amount of public assistance as shall be determined in accordance with the regulations approved by the commissioner of human services.

(b) All workers in the industries shall observe all holidays observed by other departments and agencies of the state government and shall receive their proportionate compensation for each holiday so observed. If any worker shall be compensated in such a manner that his or her

daily compensation is not fixed, but rather is based upon a production basis, he or she shall receive by way of compensation for such observance of state holidays the average daily production compensation received by him or her during the immediately preceding 30 day period, holidays and Sundays excluded. The Georgia Vocational Rehabilitation Agency is authorized and directed to pay such compensation from the funds appropriated to and available for the agency.

History.
Ga. L. 1937, p. 579, § 8; Ga. L. 1963, p. 137, § 1; Ga. L. 1982, p. 830, § 1; Ga. L. 2000, p. 1137, § 5.2; Ga. L. 2009, p. 453, §§ 2-2, 2-4/HB 228; Ga. L. 2012, p. 303, § 5/HB 1146.

Cross references.
Public and legal holidays, § 1-4-1.

30-2-8. Promotion, demotion, layoff, transfer, and resignation of employees.

Whenever the skill and experience of two employees are relatively equal, seniority shall control in all questions of promotion, demotion, or layoff. When skill and merit are relatively equal between employees, the employee with the greater seniority shall have the first right to obtain or refuse any transfer. When any worker in the industries leaves to accept other employment outside the industries, he shall have the right to return to the industries within one year from the date of leaving and resume his former seniority and employee privileges.

History.
Ga. L. 1960, p. 172, § 3; Ga. L. 1982, p. 830, § 1.

30-2-9. Surplus funds retained as working capital.

Surplus funds designated as reserve funds accruing at the industries in any fiscal year shall not lapse to the state treasury but may be reserved by the industries as working capital.

History.
Ga. L. 1970, p. 557, § 1; Ga. L. 1980, p. 759, § 1; Ga. L. 1982, p. 830, § 1; Ga. L. 2000, p. 1137, § 5.3.

CHAPTER 3

ACCESS TO AND USE OF PUBLIC FACILITIES BY PERSONS WITH DISABILITIES

Sec.		Sec.	
30-3-1.	Purpose.	30-3-5.	Specific amenities required to be provided.
30-3-2.	Definitions.	30-3-6.	Parking lot spaces.
30-3-3.	Applicable standards and specifications; granting of exemptions.	30-3-7.	Administration and enforcement of chapter.
30-3-4.	Covered multifamily dwellings; building entrance on accessible route required; applicable standards and specifications.	30-3-8.	Penalty.
		30-3-9.	Effectiveness of chapter in relation to federal law.

Cross references.

Financial assistance for transportation services for elderly and disabled persons, § 49-2-13.1.

Editor's notes.

Ga. L. 1981, p. 1469, set forth a resolution as to enactment, adoption, and promulgation of ordinances and resolutions by political subdivisions "with a view towards making it as easy as possible for handicapped persons to live in a manner similar to other citizens of this state with particular emphasis on residences for handicapped citizens."

The former chapter, relating to access to and use of public buildings by physically handicapped persons, consisted of Code Sections 30-3-1 through 30-3-19. That chapter was based on Ga. L. 1972, p. 750, §§ 1, 2, and 5 through 22; Ga. L. 1977, p. 552, §§ 1, 2, and 4 through 6; Ga. L. 1981, p. 1779, § 10; and Ga. L. 1982, p. 3, § 30, and was repealed by Ga. L. 1984, p. 1255, § 1, effective July 1, 1984.

Administrative rules and regulations.

Access To and Use of Public Facilities by Handicapped Persons, Official Compilation of the Rules and Regulations of the State of Georgia, Rules of Comptroller General, Office of Commissioner of Insurance, Safety Fire Commissioner, and Industrial Loan Commissioner, Rules of Safety Fire Commissioner, Rule 120-3-20-.01 et seq.

Law reviews.

For note, "Breaking the Binary: Desegregation of Bathrooms," see 36 Ga. St. U.L. Rev. 381 (2020).

OPINIONS OF THE ATTORNEY GENERAL

Waiver of standards. — Standards may be waived by the appropriate authority upon a showing of impracticality or lack of necessity. 1984 Op. Att'y Gen. No. 84-61.

Extent of accessibility in buildings. — Every floor or every room of every building subject to this chapter must be accessible to the handicapped, provided that the floor or room in question is used by the public or might be a place of employment for an elderly or handicapped citizen. 1984 Op. Att'y Gen. No. 84-61.

Bathroom accessibility. — If on every floor made accessible to the handicapped, one bathroom is made accessible to the handicapped, all other bathrooms on that floor must also be made accessible to the handicapped, unless the requirement is waived. 1984 Op. Att'y Gen. No. 84-61.

Elevators. — An elevator is not required in all buildings subject to this chapter which are two stories or more in height, although as a practical matter the requirement of handicap accessibility will

often have to be met by the installation of elevators. 1984 Op. Att'y Gen. No. 84-61.

Hospital rooms. — The "temporary lodging unit" exemption in former O.C.G.A. § 30-3-2(5) (see now O.C.G.A. § 30-2-5(8)) could properly be relied upon by a private hospital, although care should be taken to ensure that a patient was placed in a disabled access room or ward if the patient or the patient's visitors were disabled. 1984 Op. Att'y Gen. No. 84-61.

Jail cells. — Although the "temporary lodging unit exemption" by its terms does not apply to government funded facilities, including jails and hospitals, a jail cell is not "used by the public" and so does not fall within the general terms of this chapter. 1984 Op. Att'y Gen. No. 84-61.

Places of worship are not exempt from the requirements of this chapter. 1995 Op. Att'y Gen. No. 95-20.

RESEARCH REFERENCES

ALR.

Validity and construction of state statutes requiring construction of handicapped access facilities in buildings open to public, 82 A.L.R.4th 121.

Service Animals Under Americans with Disabilities Act, 42 U.S.C.A. §§ 12101 et seq., 53 A.L.R. Fed. 3d 1.

Actions Brought Under Americans with Disabilities Act, 42 U.S.C.A. § § 12101 et seq. — Supreme Court Cases, 83 A.L.R. Fed. 3d 2.

30-3-1. Purpose.

The provisions of this chapter are enacted to further the policy of the State of Georgia to encourage and enable persons with disabilities or elderly persons to participate fully in the social and economic life of Georgia and to encourage and promote their education and rehabilitation. It is the intent of this chapter to eliminate, insofar as possible, unnecessary physical barriers encountered by persons with disabilities or elderly persons whose ability to participate in the social and economic life of this state is needlessly restricted when such persons cannot readily use government buildings, public buildings, and facilities used by the public.

History.

Code 1981, § 30-3-1, enacted by Ga. L. 1984, p. 1255, § 1; Ga. L. 1995, p. 1302, § 1.

Cross references.

Selection of polling places so as to allow access to disabled voters, § 21-2-265.

Duty of common carrier to receive passengers, § 46-9-130.

Law reviews.

For comment, "Clicks, Bricks, and Politics: Website Accessibility Under Title II and Title III of the Americans with Disabilities Act," see 73 Mercer L. Rev. 693 (2022).

For article, "Accommodations: Making Practicing Law Easier for Individuals with Disabilities or Other Special Needs," see 28 Ga. St. B.J. 22 (2023).

For comment, "Virtually Inaccessible: Resolving ADA Title III Standing in Click-and-Mortar Cases," see 72 Emory L.J. 675 (2023).

RESEARCH REFERENCES

Am. Jur. Trials.

Defense of Claim Brought Under the Americans with Disabilities Act, 49 Am. Jur. Trials 171.

ALR.

Validity, construction, and application of § 302 of Americans with Disabilities Act (42 U.S.C. § 12182), prohibiting discrimination on basis of disability by owners or operators of places of public accommodation, 136 A.L.R. Fed 1.

What constitutes federal financial assistance for purposes of § 504 of Rehabilitation Act (29 USCA § 794), which prohibits any program or activity receiving federal financial assistance from discriminating on basis of disability, 147 A.L.R. Fed. 205.

When is individual regarded as having or perceived to have impairment within meaning of Americans with Disabilities Act (42 USCA § 12102(2)(c)), 148 A.L.R. Fed. 305.

When does a public entity discriminate against individuals in its provision of services, programs, or activities under the Americans with Disabilities Act, 42 USCA § 12132, 163 A.L.R. Fed. 339.

Web site as "public accommodation" for purposes of federal or state civil rights statutes, 7 A.L.R.7th 1.

30-3-2. Definitions.

As used in this chapter, the term:

(1) "ADAAG" means the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities issued by the United States Architectural and Transportation Barriers Compliance Board as set forth in the Federal Register.

(2) "Adaptable" includes:

(A) Features provided for but not actually installed. Such adaptability makes it possible for the feature required by ADAAG to be added for the occupant without major structural alteration;

(B) Items not installed at the time of construction under the adaptable provisions of ADAAG, and items installed which might need to be removed to provide access, must be installed or removed by the owner at the owner's expense when the dwelling is rented to a person with disabilities, within 30 days after his or her application for occupancy is approved by the owner.

(3) "American National Standards Institute specifications (ANSI standards)" means sections 3 and 4 of the American National Standards Institute specifications A117.1-1986 for making buildings and facilities accessible to and usable by individuals with disabilities.

(4) "Commissioner" means the Safety Fire Commissioner provided for in Chapter 2 of Title 25.

(5) "Covered multifamily dwelling" means a building which had first occupancy after March 31, 1993, and consists of four or more units and has an elevator or the ground floor units of a building which consists of four or more units and does not have an elevator.

(6) "Facilities" shall include, but is not limited to, walkways, sidewalks, curbings, parking lots, parks, stadiums, coliseums, and any other manmade or developed area used by the public.

(7) "Government buildings" means all buildings, structures, streets, sidewalks, walkways, and access thereto, which are used by the public or in which persons with disabilities or elderly persons may be employed, that are constructed, leased, or renovated in whole or in part by use of state, county, or municipal funds or the funds of any political subdivisions of the state, and, to the extent not required otherwise by federal law or regulations and not beyond the power of the state to regulate, all buildings and structures used by the public which are constructed or renovated in whole or in part by use of federal funds.

(8) "Public buildings" means all buildings, structures, streets, sidewalks, walkways, and access thereto, which are used by the public or in which persons with disabilities or elderly persons may be employed, that are constructed or renovated by the use of private funds, including rental apartment complexes of 20 units or more and temporary lodging facilities of 20 units or more, but excluding covered multifamily dwellings; provided, however, that this chapter shall require fully accessible or adaptable units in only 2 percent of the total rental apartments, or a minimum of one, whichever is greater, and this chapter shall apply to only 5 percent of the total temporary lodging units, or a minimum of one, whichever is greater; provided, further, that this chapter shall not apply to a private single-family residence or to duplexes or any complex containing fewer than 20 units, or to residential condominiums. Fifty percent of the fully accessible or adaptable rental apartment units required by this paragraph shall be adaptable for a roll-in shower stall.

(9) "Reasonable number" for all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1995, as used in Code Section 30-3-4, shall mean the minimum number as established by ADAAG.

(10) "Reasonable number" for all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1987, but before July 1, 1995, as used in Code Section 30-3-4 shall be defined for each of the following standards to mean:

(A) "Accessible parking spaces for persons with disabilities (ANSI 4.6.1) in a reasonable number" shall be determined as follows:

Total number of parking spaces	Number of designated accessible parking spaces
1-400	A minimum number of 1 space or 2 percent of the total provided, whichever is greater

401 and greater	8 spaces plus 1 percent of the total provided above 401

(B) "Accessible entrances (ANSI 4.14) in a reasonable number" means that all primary entrances usually considered as major points of pedestrian flow must be accessible to and usable by persons with disabilities;

(C) "Accessible toilet rooms, bathrooms, bathing facilities, and shower rooms (ANSI 4.22) in a reasonable number" means that for every floor which is to be made accessible to and usable by persons with disabilities at least one toilet room, bathroom, bathing facility, and shower room at a reasonable location shall conform to ANSI 4.22; and

(D) "Accessible seating, tables, and work surfaces (ANSI 4.30) in a reasonable number" means the following:

Total number	Number of accessible spaces required
Up to 50	2 spaces for wheelchair users adjacent to each other
51-400	4 spaces including 2 adjacent to each other
401 and above	An even number of spaces not less than 1 percent of the total number located throughout all price ranges or locations, or both

(11) "Renovation" means:

(A) If any specific component of an elevator is replaced or moved from its existing location to a different location, then the specific component shall be required to meet the ANSI A117.1 Standard, as specified in this Code section, as it applies to that specific component, including an accessible route as defined in the ANSI A117.1 Standard;

(B) Any component of a building, structure, or facility, which is replaced, except for the purpose of repair, or moved, shall be required to meet the ANSI A117.1 Standard as specified in this Code section, including an accessible route as defined in the ANSI A117.1 Standard; or

(C) The resurfacing, restriping, or repainting of any parking facility, whether or not such resurfacing, restriping, or repainting is

required to have a permit from the appropriate political subdivision.

History.

Code 1981, § 30-3-2, enacted by Ga. L. 1984, p. 1255, § 1; Ga. L. 1985, p. 863, § 1; Ga. L. 1987, p. 1425, § 1; Ga. L. 1988, p. 1556, § 1; Ga. L. 1992, p. 2461, §§ 1, 2; Ga. L. 1995, p. 1302, § 1; Ga. L. 2026, p. 1069, § 30(2)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "includes" for "is further explained as follows" in paragraph (2) and substituted "Features" for "Adaptable refers to features" at the beginning of subparagraph (2)(A).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1986, in paragraph (3) (now paragraph (6)) "is" was substituted for "are".

Pursuant to Code Section 28-9-5, in 1987, former subparagraph (6)(F) was redesignated as subparagraph (6)(D) (now subparagraph (10)(D)) and "this Code section" was substituted for "Code Section 30-3-2" in subparagraphs (7)(A) and (7)(B) (now subparagraphs (11)(A) and (11)(B)).

Pursuant to Code Section 28-9-5, in 1988, a comma was added following "structure" in subparagraph (7)(B) (now subparagraph (11)(B)).

Pursuant to Code Section 28-9-5, in 1995, "provided" was deleted following "total provided" in the second column of the second entry in subparagraph (10)(A).

OPINIONS OF THE ATTORNEY GENERAL

Cap on fully accessible or adaptable apartment units. — Covered multifamily dwellings are not subject to the 2 percent cap on fully accessible or adaptable rental apartment complexes of 20 units or more as provided in O.C.G.A. § 30-3-2(8). 1997 Op. Att'y Gen. No. U97-24.

RESEARCH REFERENCES

Am. Jur. 2d.

13 Am. Jur. 2d, Buildings, §§ 1, 12 et seq.

30-3-3. Applicable standards and specifications; granting of exemptions.

All government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1995, shall comply with the rules and regulations adopted by the Commissioner which meet ADAAG and establish the minimum state standards for accessibility. All government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1984, but before July 1, 1987, shall comply with the American National Standards Institute specifications A117.1-1980 or A117.1-1986 for making buildings and facilities accessible to and usable by people with disabilities except as otherwise provided in paragraph (10) of Code Section 30-3-2; and all government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1987, but before July 1, 1995, shall comply with the American National Standards

Institute specifications A117.1-1986 for making buildings and facilities accessible to and usable by people with disabilities except as otherwise provided in paragraph (10) or subparagraph (C) of paragraph (11) of Code Section 30-3-2; provided, however, that nothing in this Code section is intended to require the addition of an elevator where none exists or is planned, solely for the purpose of providing an accessible route between floor levels; provided, further, that the Safety Fire Commissioner or, where applicable, the Board of Regents of the University System of Georgia or the local governing authority having jurisdiction over the buildings in question upon receipt of a sworn written statement from the person who owns or controls the use of any government building, public building, or facility subject to the requirements of this chapter and after taking all circumstances into consideration may determine that full compliance with any particular standard or specification set forth in this chapter is impractical, whereupon there shall be substantial compliance with the standards or specifications to the maximum extent practical and, within 45 days of such determination, a written record shall be made by the Safety Fire Commissioner or, where applicable, the board of regents or the local governing authority having jurisdiction over the buildings in question, setting forth the reasons why it is impractical for the person subject to this chapter to comply fully with the particular standard or specification and also setting forth the extent to which the government building, public building, or facility shall conform with the standard or specification. The Safety Fire Commissioner or, where applicable, the board of regents or the local governing authority having jurisdiction over the buildings in question shall be responsible for making a final determination as to whether or not an exemption shall be granted.

History.
Code 1981, § 30-3-3, enacted by Ga. L. 1984, p. 1255, § 1; Ga. L. 1985, p. 149, § 30; Ga. L. 1985, p. 863, § 2; Ga. L. 1986, p. 10, § 30; Ga. L. 1987, p. 1425, § 1; Ga. L. 1988, p. 1556, § 2; Ga. L. 1995, p. 1302, § 1.

RESEARCH REFERENCES

Am. Jur. 2d.
56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, §§ 504, 505.

30-3-4. Covered multifamily dwellings; building entrance on accessible route required; applicable standards and specifications.

(a) Covered multifamily dwellings constructed for first occupancy after March 31, 1993, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. For purposes of this Code section, a covered multifamily dwelling shall be

deemed to be designed and constructed for first occupancy on or before March 31, 1993, if it is occupied by that date or if the last building permit or renewal thereof for the covered multifamily dwellings is issued by a local government on or before January 31, 1993. The burden of establishing impracticality because of terrain or unusual site characteristics shall be in accordance with the guidelines established under the federal Fair Housing Amendments Act of 1988, Public Law 100-430.

(b) All covered multifamily dwellings constructed for first occupancy after March 31, 1993, with a building entrance on an accessible route shall be designed and constructed:

(1) In such a manner that:

(A) The public and common use areas are readily accessible to and usable by persons with disabilities;

(B) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons with disabilities in wheelchairs; and

(C) All premises within covered multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the covered dwelling unit;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall, and shower seat, where such facilities are provided; and

(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space; or

(2) To conform to the appropriate standards and requirements of Code Sections 30-3-3 and 30-3-5.

History.

Code 1981, § 30-3-3.1, enacted by Ga. L. 1992, p. 2461, § 3; Code 1981, § 30-3-4, as redesignated by Ga. L. 1995, p. 1302, § 1.

Editor's notes.

Ga. L. 1995, p. 1302, § 1, effective July 1, 1995, redesignated former Code Section 30-3-4 as present Code Section 30-3-5.

U.S. Code.

The reference to the federal Fair Housing Amendments Act of 1988, Public Law 100-430 in this Code section is codified at 28 U.S.C. § 2341, 2342; 42 U.S.C. §§ 3602, 3604, 3605, 3608, 3610-3614, 3614a-3616, 3617-3619.

OPINIONS OF THE ATTORNEY GENERAL

Cap on fully accessible or adaptable apartment units. — Covered multifamily dwellings are not subject to the 2 percent cap on fully accessible or

adaptable rental apartment complexes of 20 units or more as provided in O.C.G.A. § 30-3-2(8). 1997 Op. Att'y Gen. No. U97-24.

30-3-5. Specific amenities required to be provided.

All government buildings, public buildings, and facilities receiving permits for construction or renovation after July 1, 1987, but before July 1, 1995, shall comply with the American National Standards Institute specifications A117.1-1986 for making buildings and facilities accessible to and usable by individuals with disabilities, except as otherwise provided in paragraph (10) and subparagraph (C) of paragraph (11) of Code Section 30-3-2 and except that nothing in this Code section is intended to require the addition of an elevator where none exists or is planned, solely for the purpose of providing an accessible route between floor levels and, without limiting the generality of the foregoing, shall provide the following amenities for persons with disabilities, as appropriate:

(1) Accessible parking spaces in a reasonable number of which not less than 30 percent of or a minimum of one, whichever is greater, shall have an aisle width in compliance with American National Standards Institute specifications A117.1-1986 (A4.6.2);

(2) Accessible entrances in a reasonable number;

(3) Accessible toilet rooms, bathrooms, bathing facilities, and shower rooms in a reasonable number; and

(4) Accessible seating, tables, and work surfaces in a reasonable number.

History.
Code 1981, § 30-3-4, enacted by Ga. L. 1984, p. 1255, § 1; Ga. L. 1985, p. 863, § 3; Ga. L. 1987, p. 1425, § 1; Ga. L. 1988, p. 1556, § 3; Code 1981, § 30-3-5, as redesignated by Ga. L. 1995, p. 1302, § 1.

Cross references.
Standards for construction of curb ramps, § 32-4-94.

Editor's notes.
Ga. L. 1995, p. 1302, § 1, effective July 1, 1995, redesignated former Code Section 30-3-5 as present Code Section 30-3-7.

RESEARCH REFERENCES

ALR.
Liability for injury to elevator passenger as affected by the fact that sides of car are open and unprotected, 57 A.L.R. 259.

What is "passenger elevator" within safety statute or regulation, 77 A.L.R.2d 477.

30-3-6. Parking lot spaces.

(a) In addition to any other requirement under this chapter, all

parking lots for more than 40 vehicles receiving permits for construction after July 1, 1987, but before July 1, 1995, shall include at least one parking space for persons with disabilities accessible to a passenger van having an overall height not exceeding 108 inches, with additional side-loading mechanism clearance in compliance with American National Standards Institute specifications A117.1-1986 (A4.6.2); and each such parking space shall be at a grade not exceeding 2 percent and shall not require the use of an unattended fare gate mechanism which blocks access to or exit from such space unless gate-opening mechanisms are provided at a height accessible to a van driver.

(b) Compliance with this Code section may be waived under the same conditions as provided in Code Section 30-3-3.

History.
Code 1981, § 30-3-4.1, enacted by Ga. L. 1987, p. 1425, § 1; Ga. L. 1988, p. 1556, § 4; Code 1981, § 30-3-6, as redesignated by Ga. L. 1995, p. 1302, § 1.

Cross references.
Parking Law for Persons with Disabilities, § 40-6-220 et seq.

Editor's notes.
Ga. L. 1995, p. 1302, § 1, effective July 1, 1995, redesignated former Code Section 30-3-6 as present Code Section 30-3-8.

30-3-7. Administration and enforcement of chapter.

(a)(1) Except for buildings under the jurisdiction of the Board of Regents of the University System of Georgia, all buildings subject to the jurisdiction of the Safety Fire Commissioner pursuant to Code Section 25-2-12 and subsection (c) of Code Section 25-2-13 shall be subject to the jurisdiction of the Safety Fire Commissioner for purposes of enforcement of this chapter.

(2) With respect to any such building, the Safety Fire Commissioner shall have the following powers and duties:

(A) No such building shall be built in this state by any private person or corporation or public entity unless it conforms to the requirements of Code Sections 30-3-3 and 30-3-5 and its plans and specifications have been approved by the Commissioner as provided in this subparagraph. All plans and specifications shall identify the architect or engineer who prepared them in a manner acceptable to the Commissioner. The Commissioner shall approve the plans and specifications only if they conform to the requirements of this chapter. The Commissioner shall not require any additional fee for each submission of plans or specifications other than the standard fee required by Code Section 25-2-4.1. No local governing authority shall issue any building permit for any building subject to this subsection without proof of the approval required by this subparagraph;

(B) In any case where the Commissioner denies approval under subparagraph (A) of this paragraph or an exemption under subparagraph (C) of this paragraph, the rights and remedies of the person submitting the same shall be those provided by Chapter 2 of Title 33;

(C) Upon a showing that full compliance with any particular requirement or requirements is impractical or not necessary to accomplish the purposes of this chapter, the Commissioner may exempt a building from full compliance with the requirement or requirements and approve plans and specifications which do not conform, or which only partially conform, to the requirement or requirements.

(b) The board of regents shall be responsible for the administration and enforcement of this chapter with respect to all buildings and facilities under its jurisdiction. No construction plans for any such building or facility shall be approved by the board of regents for any construction within the University System of Georgia unless the building or facility conforms to Code Sections 30-3-3 and 30-3-5 and unless the architect or engineer responsible for preparation of said plans and specifications affixes that person's seal on such plans. The affixing of the seal of an architect or engineer to said plans shall constitute a certification that to the best of that person's knowledge, information, and belief they have been prepared in conformity with Code Sections 30-3-3 and 30-3-5. A certificate of compliance may be displayed on said plans in lieu of the architect's or engineer's seal. The builder, developer, contractor, or building owner following said plans shall require an architect's or engineer's seal or a certificate of compliance to be displayed on the plans before starting construction.

(c) Local governing authorities shall be responsible for the administration and enforcement of this chapter with regard to all government and public buildings and facilities which are not under the jurisdiction of the Safety Fire Commissioner or board of regents, pursuant to subsections (a) and (b) of this Code section and which are under the jurisdiction of such local governing authorities. No building permit for any such building or facility shall be approved by any local governing authority for any private person, corporation, partnership, association, or public entity unless the plans and specifications conform to the requirements of Code Sections 30-3-3 and 30-3-5 and unless the architect or engineer responsible for preparation of said plans and specifications affixes that person's seal on such plans. The affixing of the seal of an architect or engineer to said plans shall constitute a certification that to the best of that person's knowledge, information, and belief they have been prepared in conformity with Code Sections 30-3-3 and 30-3-5. A certificate of compliance may be displayed on said

plans in lieu of the architect's or engineer's seal. The builder, developer, contractor, or building owner following said plans shall require such a seal or a certificate of compliance on the plans before starting construction. All construction plans must display such a certificate of compliance, or a seal provided by the architect or engineer, for all construction in local governing jurisdictions which do not require building permits. In all areas where local governing authority building permits are not required, the builder, developer, contractor, or building owner following said plans shall require such an architect's or engineer's seal or a certificate of compliance to be displayed on the plans before starting construction.

(d) In the performance of their responsibilities under this chapter, all state rehabilitation agencies and appropriate elected or appointed officials shall be required to cooperate with and assist the Safety Fire Commissioner, the board of regents, and the appropriate local building code officials or local fire department, or any combination thereof, having jurisdiction over the buildings in question.

(e) The Safety Fire Commissioner, the board of regents, and the local building code officials or the local fire department, or any combination thereof, having jurisdiction over the buildings in question shall from time to time inform, in writing, professional organizations and others of this chapter and its application.

(f)(1) The Safety Fire Commissioner, the board of regents, and the local governing authority having jurisdiction over the buildings in question shall have all necessary powers to require compliance with their rules, regulations, and procedures, and modifications thereof and substitutions therefor, including powers to institute and prosecute proceedings in the superior court to compel compliance, and shall not be required to pay any entry or filing fee in connection with the institution of such proceedings.

(2) No person, firm, or corporation shall be subject to a complaint for not complying with the provisions of subparagraph (C) of paragraph (11) of Code Section 30-3-2 unless 90 days have passed since such person, firm, or corporation has been notified by certified mail or statutory overnight delivery of the alleged violation of the provisions of subparagraph (C) of paragraph (11) of Code Section 30-3-2. Such notification shall include a warning of an impending complaint if the alleged violation is not corrected before the expiration of the 90 day warning period. The 90 day warning period shall not apply to any structure or facility other than parking lots nor to any part of this chapter other than subparagraph (C) of paragraph (11) of Code Section 30-3-2.

(g) The Safety Fire Commissioner, the board of regents, and the local governing authority having jurisdiction over the buildings in question,

after consultation with state rehabilitation agencies and other sources as they might determine, are authorized to promulgate such rules, regulations, and procedures as might reasonably be required to implement and enforce their responsibilities under this chapter. Such rules, regulations, and procedures shall not be less restrictive than those established by the Commissioner.

(h) The Safety Fire Commissioner, the board of regents, and the local governing authority having jurisdiction over the buildings in question, after consultation with state rehabilitation agencies, are also authorized to waive any of the standards and specifications presently set forth in this chapter and to substitute in lieu thereof standards or specifications consistent in effect to such standards or specifications heretofore adopted by the American Standards Association, Inc.

History.

Code 1981, § 30-3-5, enacted by Ga. L. 1984, p. 1255, § 1; Ga. L. 1985, p. 149, § 30; Ga. L. 1985, p. 863, § 4; Ga. L. 1988, p. 1556, § 5; Code 1981, § 30-3-7, as redesignated by Ga. L. 1995, p. 1302, § 1; Ga. L. 2000, p. 1589, § 3.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1985, in the second sentence of subsection (b), "Code Sections" was substituted for "Code Section".

Pursuant to Code Section 28-9-5, in 1988, "subparagraph (A) of this paragraph" and "subparagraph (C) of this paragraph" were substituted for "subparagraph (2)(A) of this subsection" and "subparagraph (2)(C) of this subsection", respectively, in subparagraph (a)(2)(B).

Editor's notes.

Ga. L. 1995, p. 1302, § 1, effective July 1, 1995, redesignated former Code Section 30-3-7 as present Code Section 30-3-9.

30-3-8. Penalty.

Any person, firm, or corporation who violates this chapter, or who causes another person, firm, or corporation to violate this chapter, or who fails or refuses to comply with any regulation promulgated under this chapter shall be guilty of a misdemeanor.

History.

Code 1981, § 30-3-6, enacted by Ga. L. 1984, p. 1255, § 1; Code 1981, § 30-3-8, as redesignated by Ga. L. 1995, p. 1302, § 1.

JUDICIAL DECISIONS

Owner's statutory duty unmet; prior use does not excuse noncompliance. — Where a disabled individual's prior use does not confer equal knowledge of a specific defect as possessed by the property owner, the owner's statutory duty to maintain a safe, defect-free handicap access ramp under the statute remains unfulfilled. Failure to comply with the detailed regulations and guidelines—resulting in a static dangerous defect—constitutes a violation of the mandate, irrespective of prior usage by the disabled individual. Val D'Aosta Co. v. Cross, 241 Ga. App. 583, 526 S.E.2d 580, 1999 Ga. App. LEXIS 1592 (1999).

30-3-9. Effectiveness of chapter in relation to federal law.

(a) Any provision of this chapter which affords persons with disabilities greater access than is required by federal law shall be fully effective.

(b) Except as otherwise provided in subsection (a) of this Code section, to the extent that the provisions of this chapter are in conflict with the provisions of the federal Fair Housing Amendments Act of 1988, Public Law 100-430, and the regulations and guidelines promulgated pursuant to such federal act, the provisions of such federal act and regulations and guidelines shall control; but nothing in this subsection shall operate to defeat the intention of subsection (a) of this Code section.

History.

Code 1981, § 30-3-7, enacted by Ga. L. 1992, p. 2461, § 4; Code 1981, § 30-3-9, as redesignated by Ga. L. 1995, p. 1302, § 1.

U.S. Code.

The reference to the federal Fair Housing Amendments Act of 1988, Public Law 100-430 in subsection (b) is codified at 28 U.S.C. §§ 2341, 2342; 42 U.S.C. §§ 3602, 3604, 3605, 3608, 3610—3614, 3614a—3616, 3617—3619.

CHAPTER 4

RIGHTS OF PERSONS WITH DISABILITIES

Sec.
30-4-1. Definitions.
30-4-2. Right to equal public accommodations; right to be accompanied by service dog; right to request removal of service dog; service dog rights and protections.
30-4-3. Right to housing accommodations.
30-4-4. Denial of or interference with admittance to or enjoyment of facilities or exercise of rights; penalties.
30-4-5. Prohibition on discrimination against legally blind in matters of child custody, guardianship, foster care, visitation, placement, and adoption; regulation.

RESEARCH REFERENCES

ALR.

Release of Claim Against School District for Violation of Rights of Student with Disability, 56 A.L.R.7th 3.

Service Animals Under Americans with Disabilities Act, 42 U.S.C.A. §§ 12101 et seq., 53 A.L.R. Fed. 3d 1.

Actions Brought Under Americans with Disabilities Act, 42 U.S.C.A. § § 12101 et seq. — Supreme Court Cases, 83 A.L.R. Fed. 3d 2.

30-4-1. Definitions.

As used in this chapter, the term:

(1) "Activities of daily living" means tasks that are essential, routine, and provide for an individual's basic needs, including, but not limited to, eating, toileting, grooming, dressing, shaving, walking, transferring, and other functions necessary for independent living.

(2) "Housing accommodations" means any real property or portion thereof which is used or occupied, or intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings but shall not include any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) "Owner training" means training of a dog to become a service dog by an owner who is a physically or mentally impaired person by teaching the dog to perform the specific tasks that directly assist such owner and directly relate to such owner's specific disability and to take a specific action when needed to assist the person.

(4) "Physically or mentally impaired person" means any person, regardless of age, who, regardless of the cause, nature, or extent, is

rendered substantially limited or unable to perform one or more activities of daily living over an extended period of time as a result of developmental deficiencies, the aging process, learning disabilities, physical injury or disease, cognitive impairments, or psychological disabilities.

(5) "Service dog" means any domestic canine that has been individually trained to do work or perform tasks that directly assist a physically or mentally impaired person and directly relate to such person's specific disability and to take a specific action when needed to assist the person, or if still in training, that is operating under the guidance of a trainer. Such term shall not include a dog that has not been trained to do a specific job or task or that solely provides comfort, companionship, or emotional support to a person, regardless of such person's disability status.

(6) "Trainer" means a service dog owner with a disability who is involved in the training process of his or her service dog or an individual who is competent to train service animals and is involved in such processes.

History.

Code 1981, § 30-4-1, enacted by Ga. L. 2000, p. 1350, § 1; Ga. L. 2026, p. 278, § 4/HB 668, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, added paragraph (1); redesignated former paragraph (1) as present paragraph (2); deleted former paragraph (2), which read: "'Physically disabled person' means any person, regardless of age, who is subject to a physiological defect or deficiency regardless of its cause, nature, or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or to perform any related function."; and added paragraphs (3) through (6).

Editor's notes.

Ga. L. 2000, p. 1350, § 1, redesignated former Code Section 30-4-1 as present Code Section 30-4-2.

Ga. L. 2026, p. 278, § 1/HB 668, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Mara Jade Act.'"

30-4-2. Right to equal public accommodations; right to be accompanied by service dog; right to request removal of service dog; service dog rights and protections.

(a) Physically or mentally impaired persons are entitled to full and equal accommodations, advantages, facilities, and privileges on all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation and at hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(b)(1) Every physically or mentally impaired person shall have the

right to be accompanied by a service dog, especially trained for the purpose, in any of the places listed in subsection (a) of this Code section without being required to pay an extra charge for the service dog; provided, however, that he or she shall be liable for any damage done to the premises or facilities by such service dog. In addition, if such physically or mentally impaired person is a student at a private or public school in this state, such person shall have the right to be accompanied by a service dog subject to liability for damage as provided in the preceding sentence.

(2) Every person engaged in the training of a service dog for the purpose of accompanying a person as provided in paragraph (1) of this subsection shall have the same right to be accompanied by such service dog being trained as the physically or mentally impaired person has under paragraph (1) of this subsection, so long as such trainer is engaged in owner training or is identified as an agent or employee of a school for service dogs.

(3) Every person engaged in the raising of a dog for training as a service dog for the purpose of accompanying a person as provided in paragraph (1) of this subsection and every physically or mentally impaired person who is engaged in owner training of his or her dog as a service dog shall have the same right to be accompanied by such dog being raised for training or in owner training as the physically or mentally impaired person has under paragraph (1) of this subsection, so long as:

(A) The trainer notifies an onsite manager that a service dog in training is being brought onto the premises;

(B) Each trainer or puppy raiser during the training of a service dog is liable for any damage done to persons, premises, or facilities by that service dog in training;

(C) Such dog is under the control of the person raising such dog at all times and such control includes that such dog is on a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service dog's safe, effective performance of work or tasks, in which case the service dog must be otherwise under the handler's control through the use of voice control, signals, or other effective means;

(D) Such dog is at least six months of age and is reliably housebroken; and

(E) Such dog is wearing a collar, leash, or other appropriate apparel or device that identifies such dog as being trained as a service dog.

(c) If a person engaged in the raising and training of a service dog does not uphold the requirements of paragraph (3) of subsection (b) of this Code section, then business and public entities shall have the right to ask the person to remove the service dog in training. In such instance, the staff of the business or public entity shall offer the person with the disability the opportunity to obtain goods or services without the dog's presence.

(d) Service dogs in training shall have the same rights and protections under the law as working service dogs.

(e) Every totally or partially blind person operating a vending stand shall have the right to be accompanied by a trained service dog on the entire premises of his or her vending operation.

History.

Ga. L. 1955, p. 155, § 1; Ga. L. 1975, p. 1639, § 1; Ga. L. 1980, p. 1131, § 1; Ga. L. 1991, p. 616, § 1; Ga. L. 1994, p. 1405, § 1; Ga. L. 1995, p. 10, § 30; Ga. L. 1995, p. 1302, § 16; Ga. L. 1998, p. 512, § 1; Code 1981, § 30-4-2, as redesignated by Ga. L. 2000, p. 1350, § 1; Ga. L. 2007, p. 316, § 1/HB 366; Ga. L. 2026, p. 278, § 5/HB 668, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, rewrote this Code section.

Cross references.

Right of way of blind pedestrian, § 40-6-94.

Parking Law for Persons with Disabilities, § 40-6-220 et seq.

Duty of common carrier to receive passengers, § 46-9-130,

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1995, "persons with visual disabilities" was substituted for "visually persons with disabilities" near the beginning of subsection (a).

Editor's notes.

Ga. L. 2000, p. 1350, § 1, redesignated former Code Section 30-4-2 as present Code Section 30-4-3.

Ga. L. 2026, p. 278, § 1/HB 668, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Mara Jade Act.'"

JUDICIAL DECISIONS

Denial of access to lodging. — Based on the innkeeper's refusal to provide lodging for the disabled individual and the individual's service dog, the individual's proposed amended complaint stated valid claims for damages under O.C.G.A. §§ 30-4-2 and 43-21-3; the amendment was not futile, and leave to amend pursuant to Fed. R. Civ. P. 15(a) was granted. Amick v. BM & KM, Inc., 275 F. Supp. 2d 1378, 2003 U.S. Dist. LEXIS 18620 (N.D. Ga. 2003).

RESEARCH REFERENCES

Am. Jur. 2d.

14 Am. Jur. 2d, Carriers, § 234. 40A Am. Jur. 2d, Hotels, Motels, and Restaurants, §§ 52, 54.

ALR.

Validity, construction, and application of § 302 of Americans with Disabilities Act (42 USCS § 12182), prohibiting discrimination on basis of disability by owners or operators of places of public accommodation, 136 A.L.R. Fed 1.

Web site as "public accommodation" for purposes of federal or state civil rights statutes, 7 A.L.R.7th 1.

30-4-3. Right to housing accommodations.

(a) Physically or mentally impaired persons shall be entitled to rent, lease, or purchase, as other members of the general public, all housing accommodations offered for rent, lease, or other compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(b) Every physically or mentally impaired person who has a service dog or who obtains a service dog and every person engaged in the training of a service dog shall be entitled to full and equal access to all housing accommodations provided for in this Code section, and he or she shall not be required to pay extra compensation for such service dog. However, he or she shall be liable for any damage done to the premises by such service dog.

(c) Nothing in this Code section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way or provide a higher degree of care for a physically or mentally impaired person than for a person who is not physically or mentally impaired.

History.

Ga. L. 1955, p. 155, § 1; Ga. L. 1975, p. 1639, § 1; Ga. L. 1980, p. 1131, § 1; Ga. L. 1995, p. 1302, § 14; Ga. L. 1996, p. 665, § 2; Ga. L. 1998, p. 512, § 2; Code 1981, § 30-4-3, as redesignated by Ga. L. 2000, p. 1350, § 1; Ga. L. 2026, p. 278, § 6/HB 668, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, substituted "Physically or mentally impaired" for "Blind persons, visually disabled persons, physically disabled persons, and deaf" at the beginning of subsection (a); in subsection (b), substituted "physically or mentally impaired" for "totally or partially blind person, every physically disabled person, and every deaf" near the beginning and deleted "guide dog or" preceding "service dog" in five places; and, in subsection (c), substituted "physically or mentally impaired" for "blind, visually disabled, physically disabled, or deaf" near the middle and for "so disabled" at the end.

Cross references.

Discrimination in sale, lease, financing, of housing (Georgia Fair Housing Act), § 8-3-200 et seq.

Editor's notes.

Ga. L. 2000, p. 1350, § 1, redesignated former Code Section 30-4-3 as present Code Section 30-4-4.

Ga. L. 2026, p. 278, § 1/HB 668, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Mara Jade Act.'"

RESEARCH REFERENCES

Am. Jur. 2d.

40A Am. Jur. 2d, Housing Laws and Urban Redevelopment, § 30.

ALR.

Construction and application of § 804(f) of Fair Housing Act (42 USCA § 3604(f)), prohibiting discrimination in housing because of individual's disability, 148 A.L.R. Fed. 1.

30-4-4. Denial of or interference with admittance to or enjoyment of facilities or exercise of rights; penalties.

(a) Any person, firm, or corporation, or the agent of any person, firm, or corporation, who denies or interferes with admittance to or enjoyment of the facilities enumerated in this chapter or otherwise interferes with the rights of a physically or mentally impaired person or person engaged in the training or raising of a service dog as provided by this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine not to exceed $2,000.00, confinement for not more than 30 days, or both.

(b) Any individual who deliberately misrepresents himself or herself as qualified to use a service dog or train or raise service dogs for the purpose of obtaining accommodations or securing rights under this chapter shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be punished by a fine not to exceed $2,000.00, confinement for not more than 30 days, or both.

History.

Ga. L. 1955, p. 155, § 2; Ga. L. 1975, p. 1639, § 2; Ga. L. 1980, p. 1131, § 2; Code 1981, § 30-4-4, as redesignated by Ga. L. 2000, p. 1350, § 1; Ga. L. 2007, p. 316, § 2/HB 366; Ga. L. 2026, p. 278, § 7/HB 668, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, designated the existing provisions of this Code section as subsection (a); in subsection (a), inserted the first occurrence of "or" following "firm,", substituted "physically or mentally impaired" for "totally or partially blind person, physically disabled person, or deaf", deleted "guide dog or" preceding "service dog", and substituted "confinement" for "imprisonment"; and added subsection (b).

Editor's notes.

Ga. L. 2026, p. 278, § 1/HB 668, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Mara Jade Act.'"

Law reviews.

For note, "No Pets Allowed: The Need to Address Increasing Abuses of Assistance Animal Regulations Under Federal Law," see 36 Ga. St. U.L. Rev. 939 (2020).

RESEARCH REFERENCES

Am. Jur. 2d.

27A Am. Jur. 2d, Entertainment and Sports Law, § 44 et seq.

30-4-5. Prohibition on discrimination against legally blind in matters of child custody, guardianship, foster care, visitation, placement, and adoption; regulation.

(a) As used in this Code section, the term:

(1) "Department" means the Department of Human Services.

(2) "Legally blind" means:

(A) Having vision that is 20/200 or less in the best corrected eye; or

(B) Having vision that subtends an angle of not greater than 20 degrees in the best corrected eye.

(3) "Supportive parenting services" means services that may assist a legally blind parent or prospective legally blind parent in the effective use of nonvisual techniques and other alternative methods to enable the parent or prospective legally blind parent to successfully discharge parental responsibilities.

(b)(1) Neither a court, the department, nor a child-placing agency shall deny a party child placement, child custody, visitation, guardianship, foster care, or adoption solely because the party is legally blind, but may consider such factors as provided in paragraph (3) of subsection (a) of Code Section 19-9-3.

(2) Where a parent or prospective parent's disability of being legally blind is alleged to have a detrimental impact on a child, the party raising the allegation shall bear the burden of proving by a preponderance of the evidence that the parent's or prospective parent's disability of being legally blind is endangering or will likely endanger the health, safety, or welfare of the child. If this burden is met, such parent or prospective parent shall have the opportunity to demonstrate how the implementation of supportive parenting services can alleviate parental care concerns, and the court may require such services with an opportunity to review the continuation of such services within a reasonable period of time.

(3) Where a court determines that a legally blind parent's right to custody, visitation, foster care, guardianship, or adoption should be denied or limited in any manner, the court shall make specific findings stating the basis for such a determination and why the provision of supportive parenting services is not a reasonable accommodation to prevent such denial or limitation.

(c) The department shall promulgate rules or regulations not later than December 31, 2019, implementing the provisions of this Code section.

History.

Code 1981, § 30-4-5, enacted by Ga. L. 2019, p. 459, § 2/HB 79.

Editor's notes.

Ga. L. 2019, p. 459, § 1/HB 79, not codified by the General Assembly, provides: "(a) The Georgia General Assembly finds that:

"(1) Blind individuals continue to face unfair societal biases regarding their ability to successfully provide parental care;

"(2) Blind individuals face unfair societal biases in family and dependency law proceedings, public and private adoption, guardianship, and foster care proceedings;

"(3) Children of blind individuals are being unnecessarily removed or restricted from parental care; and

"(4) Children are being denied the opportunity to enjoy loving homes with blind parents or other blind caretakers.

"(b) The purpose of this Act is to protect the best interests of children parented by blind individuals or children who could be parented by blind individuals through the establishment of procedural safeguards that require adherence to due process and equal protection rights of blind parents in the context of child welfare, foster care, adoption, and family law."

CHAPTER 5

PROTECTION OF DISABLED ADULTS AND ELDER PERSONS

Sec.	
30-5-1.	Short title.
30-5-2.	Legislative purpose.
30-5-3.	Definitions.
30-5-4.	Reporting of need for protective services; manner and contents of report; immunity from civil or criminal liability; privileged communications.
30-5-4.1.	Discrimination and retaliation relating to reports of need for protective services.
30-5-5.	Investigation of reports; provision of protective services; interference with investigation or provision of services; orders granting immediate access.
30-5-6.	Cooperation of other public agencies with director; power of director to contract for provision of medical evaluations; regulations.
30-5-7.	Confidentiality of records; exceptions.
30-5-8.	Penalty.
30-5-9.	Applicability to employment relationship.
30-5-10.	Cooperative effort in development of programs relating to abuse and exploitation of disabled adults, elder persons, and residents of long-term care facilities.
30-5-11.	Adult Abuse, Neglect, and Exploitation Multidisciplinary Team; establishment; membership; duties; memorandum of understanding; confidentiality requirements; reporting and reviews.

Cross references.

Trafficking of a disabled adult, elder person, or resident; penalty, § 16-5-102.1.

Residential care facilities for the elderly authorities, § 31-7-110 et seq.

Reporting abuse or exploitation of residents in long-term care facilities, § 31-8-80 et seq.

Adult Day Center for Aging Adults Licensure Act, § 49-6-80 et seq.

Alzheimer's and Related Dementias State Plan, § 49-6-90 et seq.

Law reviews.

For article, "The United Nations Convention on the Rights of Persons with Disabilities and its Implications for the Rights of Elderly People under International Law," see 25 Ga. St. U.L. Rev. 527 (2009).

For article, "Disability Rights, Disability Discrimination, and Social Insurance," see 25 Ga. St. U.L. Rev. 575 (2009).

For article, "'Simplify You, Classify You': Stigma, Stereotypes and Civil Rights in Disability Classification Systems," see 25 Ga. St. U.L. Rev. 607 (2009).

RESEARCH REFERENCES

Am. Jur. 2d.

40A Am. Jur. 2d., Hospitals and Asylums, § 32.

Am. Jur. Proof of Facts.

Wrongful Confinement to a Mental Health or Developmental Disabilities, 44 POF3d 217.

Proof of Abuse, Neglect or Exploitation of Older Persons, 53 POF3d 1.

30-5-1. Short title.

This chapter shall be known and may be cited as the "Disabled Adults and Elder Persons Protection Act."

History.
Ga. L. 1981, p. 1320, § 1; Ga. L. 1997, p. 700, § 2.

Cross references.
Financial protections for elderly or disabled adults, § 10-5-100 et seq.

RESEARCH REFERENCES

ALR.
Validity, construction, and application of state civil and criminal elder abuse laws, 113 A.L.R.5th 431.

Remedies available under Americans with Disabilities Act (42 USCS § 12101 et seq.), 136 A.L.R. Fed 63.

To what extent are federal entities subject to suit under § 504(a) of Rehabilitation Act (29 USCA § 794(a)), which prohibits any program or activity conducted by any executive agency or the postal service from discriminating on basis of disability, 146 A.L.R. Fed. 319.

When is individual regarded as having or perceived to have impairment within meaning of Americans with Disabilities Act (42 USCA § 12102(2)(c)), 148 A.L.R. Fed. 305.

When does a public entity discriminate against individuals in its provision of services, programs, or activities under the Americans with Disabilities Act, 42 USCA § 12132, 163 A.L.R. Fed. 339.

30-5-2. Legislative purpose.

The purpose of this chapter is to provide protective services for abused, neglected, or exploited disabled adults and elder persons. It is not the purpose of this chapter to place restrictions upon the personal liberty of disabled adults or elder persons, but this chapter should be liberally construed to assure the availability of protective services to all disabled adults and elder persons in need of them.

History.
Ga. L. 1981, p. 1320, § 2; Ga. L. 1997, p. 700, § 2.

Cross references.
Bill of rights for residents of long-term care facilities, § 31-8-100 et seq.

JUDICIAL DECISIONS

Construction of former O.C.G.A. § 30-5-8. — The trial court mistakenly denied the defendant's motion to quash the indictment charging exploitation of a disabled adult under the Disabled Adults and Elder Persons Protection Act (O.C.G.A. § 30-5-1 et seq.). The court misapplied former O.C.G.A. § 30-5-8(a), which, when reasonably interpreted, was not intended to cover sexual acts. Instead, the statute was meant to address only specifically defined non-sexual acts, with increased penalties reflecting the legislature's intent to protect disabled persons from abuse, neglect, and exploitation as outlined in O.C.G.A. § 30-5-3. Smith v. State, 311 Ga. App. 757, 717 S.E.2d 280, 2011 Ga. App. LEXIS 841 (2011) (decided prior to 2013 amendment, which deleted former O.C.G.A. § 30-5-8(a)).

No application to two-party financial transactions. — Court was unconvinced that the Disabled Adults and Elder Persons Protection Act, O.C.G.A. § 30-5-1 et seq., was designed to apply to a two-party financial transaction, which served as the basis of the creditors' claim.

Thompson v. Hornyak (In re Hornyak), No. 08-70254-MGD, No. 08-09048, 2010 Bankr. LEXIS 1419 (Bankr. N.D. Ga. 2010).

30-5-3. Definitions.

As used in this chapter, the term:

(1) "Abuse" means the willful infliction of physical pain, physical injury, sexual abuse, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person.

(1.1) "Adult Abuse, Neglect, and Exploitation Multidisciplinary Team" means the multiagency team established in each judicial circuit in this state pursuant to Code Section 30-5-11.

(2) "Caretaker" means a person who has the responsibility for the care of a disabled adult or elder person as a result of family relationship, contract, voluntary assumption of that responsibility, or by operation of law.

(3) "Department" means the Department of Human Services.

(4) "Director" means the director of the Division of Aging Services of the Department of Human Services, or the director's designee.

(5) "Disabled adult" means a person 18 years of age or older who is not a resident, but who:

(A) Is mentally or physically incapacitated;

(B) Has Alzheimer's disease, as defined in Code Section 31-8-180; or

(C) Has dementia, as defined in Code Section 16-5-100.

(6) "Elder person" means a person 65 years of age or older who is not a resident.

(7) "Essential services" means social, medical, psychiatric, or legal services necessary to safeguard the disabled adult's or elder person's rights and resources and to maintain the physical and mental well-being of such person. These services shall include, but not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, and protection from health and safety hazards but shall not include the taking into physical custody of a disabled adult or elder person without that person's consent.

(8) "Exploitation" means the illegal or improper use of a disabled adult or elder person or that person's resources through undue influence, coercion, harassment, duress, deception, false representa-

tion, false pretense, or other similar means for one's own or another's profit or advantage.

(9) "Fiduciary" shall have the same meaning as set forth in Code Section 7-1-4.

(10) "Financial institution" shall have the same meaning as set forth in Code Section 7-1-4.

(11) "Investment company" means an individual or a corporation, a partnership, a limited liability corporation, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated that:

(A) Is engaged or proposes to engage in the business of effecting transactions in securities;

(B) Is engaged or proposes to engage in the business of issuing securities, or has been engaged in such business and has any certificates outstanding; or

(C) Is engaged or holds itself out to be in the business of advising others, either directly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as a part of a regular business, issues or promulgates analysis or reports concerning securities.

(12) "Long-term care facility" shall have the same meaning as set forth in Code Section 31-8-81.

(13) "Mentally or physically incapacitated" means an impairment which substantially affects an individual's ability to:

(A) Provide personal protection;

(B) Provide necessities, including but not limited to food, shelter, clothing, medical, or other health care;

(C) Carry out the activities of daily living; or

(D) Manage his or her resources.

(14) "Neglect" means the absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a disabled adult or elder person.

(15) "Protective services" means services necessary to protect a disabled adult or elder person from abuse, neglect, or exploitation. Such services shall include, but not be limited to, evaluation of the need for services and mobilization of essential services on behalf of a disabled adult or elder person.

(16) "Resident" shall have the same meaning as set forth in Code Section 31-8-81.

(17) "Security" shall have the same meaning as set forth in Code Section 10-5-2.

(18) "Sexual abuse" means the coercion for the purpose of self-gratification by a guardian or other person supervising the welfare or having immediate charge, control, or custody of a disabled adult or elder person to engage in any of the following conduct:

(A) Lewd exhibition of the genitals or pubic area of any person;

(B) Flagellation or torture by or upon a person who is unclothed or partially unclothed;

(C) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is unclothed or partially clothed unless physical restraint is medically indicated;

(D) Physical contact in an act of sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;

(E) Defecation or urination for the purpose of sexual stimulation of the viewer; or

(F) Penetration of the vagina or rectum by any object except when done as part of a recognized medical or nursing procedure.

History.

Ga. L. 1981, p. 1320, § 3; Ga. L. 1997, p. 700, § 2; Ga. L. 2000, p. 136, § 30; Ga. L. 2005, p. 509, § 6/HB 394; Ga. L. 2007, p. 219, § 1/HB 233; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2009, p. 725, § 1/HB 457; Ga. L. 2013, p. 524, § 1-5/HB 78; Ga. L. 2015, p. 598, § 1-6/HB 72; Ga. L. 2018, p. 602, § 1/HB 635.

Law reviews.

For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 63 (2015).

JUDICIAL DECISIONS

Evidence sufficient for conviction. — Evidence was sufficient to support the defendant's convictions for unlawful abuse, neglect, or exploitation of an elder person and unauthorized practice of law, in violation of O.C.G.A. §§ 15-19-51(a)(7) and former 30-5-8(a)(1), because the defendant befriended an 89-year-old widower, falsified identification as an attorney, and eventually obtained the widower's car, jewelry, use of the widower's credit cards for unauthorized purposes, and the defendant also forged documents and coerced the widower into changing other documents regarding the widower's estate; the widower was within the definition of "elder person" under O.C.G.A. § 30-5-3(7.1) (now paragraph (6)), and the acts were within the definition of "exploitation" pursuant to § 30-5-3(9) (now paragraph (8)). Marks v. State, 280 Ga. 70, 623 S.E.2d 504, 2005 Ga. LEXIS 861 (2005) (decided prior to 2013 amendment, which deleted former subsection (a)).

Sufficient evidence supported the appellant's convictions on two counts of exploitation of elder person, two counts of theft

by taking, and 11 counts of financial-transaction-card fraud based on at least circumstantial evidence that the appellant's parent did not authorize the appellant's near total depletion of various financial accounts by transfers to the appellant's account, ATM withdrawals, money sent to another country, and buying online merchandise, furniture, and jewelry. Anderson v. State, 350 Ga. App. 369, 829 S.E.2d 453, 2019 Ga. App. LEXIS 310 (2019).

Sufficient evidence supported the defendant's conviction of neglect of a disabled person based on the defendant failing to obtain proper medical care for the victim's multiple head lacerations and pressure ulcers, the defendant acknowledging that the defendant voluntarily offered some level of care to the victim, and the defendant's interference with others' efforts to seek treatment for the victim. Woods v. State, 361 Ga. App. 259, 863 S.E.2d 738, 2021 Ga. App. LEXIS 468 (2021).

Construction with other law. — In a wrongful death action filed by a decedent-lessee's administrator in which the decedent was killed when crossing a public highway that the lessor did not control, the lessor was properly granted summary judgment, as the administrator failed to show that the lessor was negligent per se, violated former O.C.G.A. § 30-5-8, or that the lessor breached either a common law or private duty owed to the lessee. Walton v. UCC X, Inc., 282 Ga. App. 847, 640 S.E.2d 325, 2006 Ga. App. LEXIS 1457 (2006), cert. denied, No. S07C0591, 2007 Ga. LEXIS 279 (Ga. Mar. 26, 2007) (decided prior to 2013 amendment, which deleted former subsection (a)).

Construction of former O.C.G.A. § 30-5-8. — The trial court mistakenly denied the defendant's motion to quash the indictment charging exploitation of a disabled adult under the Disabled Adults and Elder Persons Protection Act, (O.C.G.A. § 30-5-1 et seq.). The court misapplied former O.C.G.A. § 30-5-8(a), which, when reasonably interpreted, was not intended to cover sexual acts. Instead, the statute was meant to address only specifically defined non-sexual acts, with increased penalties reflecting the legislature's intent to protect disabled persons from abuse, neglect, and exploitation as outlined in O.C.G.A. § 30-5-3. Smith v. State, 311 Ga. App. 757, 717 S.E.2d 280, 2011 Ga. App. LEXIS 841 (2011) (decided prior to 2013 amendment, which deleted former O.C.G.A. § 30-5-8(a)).

"Elder person". — Creditor did not qualify as an elder person after the creditor testified that the creditor was sixty-eight years old at the time of trial; therefore, at the time the loan was procured, in March of 2006, the creditor was sixty-four years of age. Under the definition section of the Disabled Adults and Elder Persons Protection Act, O.C.G.A. § 30-5-1 et seq., an elder person is defined as a person sixty-five years of age or older under O.C.G.A. § 30-5-3(7.1) (now paragraph (6)). Thompson v. Hornyak (In re Hornyak), No. 08-70254-MGD, No. 08-09048, 2010 Bankr. LEXIS 1419 (Bankr. N.D. Ga. 2010).

Evidence of disabled adult. — The trial court properly rejected the defendant's motion to quash the indictment charging exploitation of a disabled adult under the Disabled Adults and Elder Persons Protection Act (O.C.G.A. § 30-5-1 et seq.).The court found substantial evidence that the victim was disabled, noting that the individual had a limited reading ability (equivalent to a first- or second-grade level), could not comprehend monetary denominations, was unable to perform daily personal care tasks, and had an IQ of 30—well below the threshold for borderline intellectual functioning. These factors supported the determination that the victim met the statute's definition of "disabled." Smith v. State, 311 Ga. App. 757, 717 S.E.2d 280, 2011 Ga. App. LEXIS 841 (2011).

30-5-4. Reporting of need for protective services; manner and contents of report; immunity from civil or criminal liability; privileged communications.

(a)(1)(A) The following persons having reasonable cause to believe that a disabled adult or elder person has been the victim of abuse, other than by accidental means, or has been neglected or exploited shall report or cause reports to be made in accordance with the provisions of this Code section:

(i) Any person required to report child abuse as provided in subsection (c) of Code Section 19-7-5;

(ii) Physical therapists;

(iii) Occupational therapists;

(iv) Day-care personnel;

(v) Coroners;

(vi) Medical examiners;

(vii) Emergency medical services personnel, as such term is defined in Code Section 31-11-49;

(viii) Any person who has been certified as an emergency medical technician, cardiac technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;

(ix) Employees of a public or private agency engaged in professional health related services to elder persons or disabled adults; and

(x) Clergy members.

(B) Any employee of a financial institution or investment company having reasonable cause to believe that a disabled adult or elder person has been exploited shall report or cause reports to be made in accordance with the provisions of this Code section; provided, however, that this obligation shall not apply to any employee of a financial institution or investment company while that employee is acting as a fiduciary, but only for such assets that the employee is holding or managing in a fiduciary capacity.

(C) When the person having a reasonable cause to believe that a disabled adult or elder person is in need of protective services performs services as a member of the staff of a hospital, social agency, financial institution, or similar facility, such person shall notify the person in charge of the facility and such person or that person's designee shall report or cause reports to be made in accordance with the provisions of this Code section.

(2) Any other person having a reasonable cause to believe that a disabled adult or elder person is in need of protective services or has been the victim of abuse, neglect, or exploitation may report such information as provided in this Code section.

(b)(1)(A) A report that a disabled adult or elder person is in need of protective services or has been the victim of abuse, neglect, or exploitation shall be made to an adult protection agency providing protective services as designated by the department and to an appropriate law enforcement agency or prosecuting attorney. If a report of a disabled adult or elder person abuse, neglect, or exploitation is made to an adult protection agency or independently discovered by the agency, then the agency shall immediately make a reasonable determination based on available information as to whether the incident alleges actions by an individual, other than the disabled adult or elder person, that constitute a crime and include such information in their report. If a crime is suspected, the report shall immediately be forwarded to the appropriate law enforcement agency or prosecuting attorney. During an adult protection agency's investigation, it shall be under a continuing obligation to immediately report the discovery of any evidence that may constitute a crime.

(B) If the disabled adult or person is 65 years of age or older and is a resident, a report shall be made in accordance with Article 4 of Chapter 8 of Title 31. If a report made in accordance with the provisions of this Code section alleges that the abuse or exploitation occurred within a long-term care facility, such report shall be investigated in accordance with Articles 3 and 4 of Chapter 8 of Title 31.

(2) Reporting required by subparagraph (A) of paragraph (1) of this subsection may be made by oral or written communication. Such report shall include the name and address of the disabled adult or elder person and should include the name and address of the disabled adult's or elder person's caretaker, the age of the disabled adult or elder person, the nature and extent of the disabled adult's or elder person's injury or condition resulting from abuse, exploitation, or neglect, and other pertinent information.

(3) When a report of a disabled adult's or elder person's abuse, neglect, or exploitation is originally reported to a law enforcement agency, it shall be forwarded by such agency to the director or his or her designee within 24 hours of receipt.

(c) Anyone who makes a report pursuant to this chapter, who testifies in any judicial proceeding arising from the report, who provides protective services, who participates in a required investigation, or who

participates on an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team under the provisions of this chapter shall be immune from any civil liability or criminal prosecution on account of such report or testimony or participation, unless such person acted in bad faith, with a malicious purpose, or was a party to such crime or fraud. Any financial institution or investment company, including without limitation officers and directors thereof, that is an employer of anyone who makes a report pursuant to this chapter in his or her capacity as an employee, or who testifies in any judicial proceeding arising from a report made in his or her capacity as an employee, or who participates in a required investigation under the provisions of this chapter in his or her capacity as an employee, shall be immune from any civil liability or criminal prosecution on account of such report or testimony or participation of its employee, unless such financial institution or investment company knew or should have known that the employee acted in bad faith or with a malicious purpose and failed to take reasonable and available measures to prevent such employee from acting in bad faith or with a malicious purpose. The immunity described in this subsection shall apply not only with respect to the acts of making a report, testifying in a judicial proceeding arising from a report, providing protective services, or participating in a required investigation but also shall apply with respect to the content of the information communicated in such acts.

(d) Any suspected abuse, neglect, exploitation, or need for protective services which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse, neglect, exploitation, or need for protective services has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report such matters confided to him or her solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about abuse, neglect, exploitation, or the need for protective services from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of such matters from the confession of the perpetrator.

History.

Ga. L. 1981, p. 1320, § 4; Ga. L. 1984, p. 785, § 1; Ga. L. 1992, p. 6, § 30; Ga. L. 1996, p. 1608, § 1; Ga. L. 1997, p. 700, § 2; Ga. L. 2000, p. 1085, § 6; Ga. L. 2013, p. 524, § 1-6/HB 78; Ga. L. 2015, p. 598, § 1-7/HB 72; Ga. L. 2018, p. 602, § 2/HB 635.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1997, a comma was deleted following "investigation" in the last sentence of subsection (c).

Law reviews.

For note on 2000 amendment of this

Code section, see 17 Ga. St. U.L. Rev. 93 (2000).

For article on the 2015 amendment of this Code section, see 32 Ga. St. U.L. Rev. 63 (2015).

30-5-4.1. Discrimination and retaliation relating to reports of need for protective services.

No person shall discriminate or retaliate in any manner against:

(1) Any person who makes a report pursuant to this chapter, who testifies in any judicial proceeding arising from the report, who provides protective services, who participates in an investigation, or who participates on an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team under the provisions of this chapter; or

(2) Any disabled adult or elder person who is the subject of a report.

History.
Code 1981, § 30-5-4.1, enacted by Ga. L. 2020, p. 95, § 1/HB 987.

30-5-5. Investigation of reports; provision of protective services; interference with investigation or provision of services; orders granting immediate access.

(a) When the director receives a report that a disabled adult or elder person is in need of protective services, he or she shall conduct or have conducted a prompt and thorough investigation to determine whether the disabled adult or elder person is in need of protective services and what services are needed. The investigation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. Within ten days after receipt of the report, the director shall acknowledge receipt of the report, in writing, to the person making the report.

(b) Any person conducting an investigation required by this Code section who is unable to gain access to the disabled adult or elder person as a result of interference by another person may petition the court for an order authorizing the investigation and prohibiting interference therewith, which petition shall allege specific facts in support thereof. A hearing upon such petition and notice thereof shall be carried out pursuant to subsection (f) of this Code section. If as a result of the hearing the court finds probable cause to believe that the person named in the petition is a disabled adult in need of protective services or an elder person needing protective services and that any other person is interfering with the conduct of an investigation required under this Code section, the court may issue an order authorizing that investigation and prohibiting interference therewith by any person.

(c) If as a result of an investigation conducted under this chapter the

director determines that a disabled adult or elder person is in need of protective services, the director shall immediately provide or arrange for protective services for any disabled adult or elder person who consents thereto.

(d) Any person providing protective services as authorized by subsection (c) of this Code section who determines that another person is interfering with the provision of such services may petition the court for an order authorizing such services and prohibiting interference therewith. Such petition shall allege specific facts in support thereof, including, but not limited to, the results of any investigation required to be made under this chapter. A hearing upon such petition and notice thereof shall be carried out pursuant to subsection (f) of this Code section. If as a result of the hearing the court finds by clear and convincing evidence that the person named in the petition is a disabled adult in need of protective services or an elder person needing protective services and that any other person is interfering with the provision of such services, the court may issue an order authorizing the provision of such services and prohibiting the interference therewith by any person.

(e) Protective services may not be provided under this chapter to any person who does not consent to such services or who, having consented, withdraws such consent. Nothing in this chapter shall prohibit the department from petitioning for the appointment of a guardian for a disabled adult or elder person pursuant to Chapters 4 and 5 of Title 29.

(f) A hearing on any petition filed under this Code section shall be held no sooner than five and no later than ten days after such petition is filed, unless a continuance is granted. At least three days prior to such hearing, notice thereof shall be served on the petitioner and notice and copy of the petition shall be served on the person alleged to be a disabled adult in need of protective services or an elder person needing protective services and on such person or persons named in the petition as interfering with the investigation or with the provision of protective services, as applicable. Notice shall be served either in person or by first-class mail. Any person willfully violating any order issued pursuant to this Code section shall be in contempt of the court issuing such order and may be punished accordingly by the judge of that court.

(g) The expenses of the court and the hearing officer for any hearing conducted under this Code section shall be the same as those provided in Code Section 37-3-122 and shall be paid as provided therein. A disabled adult or elder person shall be deemed to be a patient under Code Section 37-3-122 only for purposes of determining hearing expenses thereunder. Nothing in this Code section shall authorize the payment of attorney's fees for any hearing conducted under this Code section.

(h) Notwithstanding any other provisions of this Code section, if the director or adult protection agency employee receives a report or gains

knowledge that a disabled adult or elder person is in need of protective services and such disabled adult or elder person may be in imminent danger resulting from abuse, exploitation, or neglect, the director or designee of the director may file a petition with the probate or superior court stating the grounds on which the director or designee of the director believes that the disabled adult or elder person may be in imminent danger and seeking immediate access to such person. The judge, in his or her discretion, may issue an ex parte order requiring the caretaker or any other person at the place where the disabled adult or elder person resides to afford an adult protection agency employee immediate access to such person to determine the person's well-being. If the adult protection agency employee is denied access to the disabled adult or elder person, the employee shall contact immediately a law enforcement officer to assist the employee in enforcing such order. Any person willfully violating any order issued pursuant to this subsection shall be in contempt of the court issuing such order and may be punished accordingly by the judge of the court. The adult protection agency employee shall conduct a brief investigation to determine the condition of the disabled adult or elder person.

(i) In any case in which the judge of the court is unable to hear a case brought under this chapter within the time required for such hearing, such judge shall appoint a person to serve and exercise all the jurisdiction of the court in such case. Any person so appointed shall be a member of the State Bar of Georgia and be otherwise qualified for his or her duties by training and experience. Such appointment may be made on a case-by-case basis or by making a standing appointment of one or more persons. Any person receiving such standing appointment shall serve at the pleasure of the judge making the appointment or said judge's successor in office to hear such cases if and when necessary. The compensation of a person so appointed shall be as agreed upon by the judge who makes the appointment and the person appointed, with the approval of the governing authority of the county for which such person is appointed, and shall be paid from the county funds of such county. All fees collected for the services of such appointed person shall be paid into the general funds of the county served.

(j) As used in this Code section, the term "court" means the probate court for the county of residence of the disabled adult or elder person or the county in which such person is found.

History.

Ga. L. 1981, p. 1320, § 5; Ga. L. 1984, p. 785, § 2; Ga. L. 1985, p. 149, § 30; Ga. L. 1997, p. 700, § 2; Ga. L. 1999, p. 562, § 6; Ga. L. 2004, p. 161, § 6; Ga. L. 2005, p. 509, § 7/HB 394; Ga. L. 2013, p. 524, § 1-7/HB 78.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1999, "subsection" was substituted for "paragraph" in subsection (h).

Editor's notes.

Ga. L. 1999, p. 562, § 1, not codified by the General Assembly, provides: "This Act

shall be known and may be cited as the 'Crimes Against Elderly Act of 1999'."

JUDICIAL DECISIONS

Petition for appointment of conservator. — Trial court did not err in denying a ward's petition to strike the affidavit of a psychologist that accompanied a petition for the appointment of a conservator to manage the ward's property and financial affairs because, although the ward did not agree to the appointment of a conservator, the Department of Human Services nevertheless was authorized to petition for the appointment under O.C.G.A. § 30-5-5(e); because the department was authorized to petition for a conservatorship, and inasmuch as O.C.G.A. § 29-5-10(c) contemplated that such a petition be supported by the affidavit of a professional, such as a licensed psychologist, the department did not act without any authority when the department obtained an affidavit from the psychologist. In re Cochran, 314 Ga. App. 188, 723 S.E.2d 490, 2012 Ga. App. LEXIS 166 (2012).

30-5-6. Cooperation of other public agencies with director; power of director to contract for provision of medical evaluations; regulations.

(a) The staff and physicians of local health departments, mental health clinics, and other public agencies shall cooperate fully with the director in the performance of the director's duties under this chapter.

(b) The director may contract with an agency or private physician for the purpose of providing immediate accessible medical evaluations in the location that the director deems most appropriate.

(c) The Board of Human Services shall adopt regulations to ensure the effective implementation of this chapter.

History. Ga. L. 1981, p. 1320, § 6; Ga. L. 1997, p. 700, § 2; Ga. L. 2009, p. 453, § 2-3/HB 228.

30-5-7. Confidentiality of records; exceptions.

(a) All records pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the department shall be confidential; and access thereto by persons other than the department, the director, or the district attorney shall only be by valid subpoena or order of any court of competent jurisdiction.

(b) The following persons or agencies shall have reasonable access to such records concerning reports of elder, disabled adult, or resident abuse:

(1) A prosecuting attorney in this state or any other state or political subdivision thereof, or the United States, who may seek such access in connection with official duty;

(2) Police or any other law enforcement agency or law enforcement

personnel of this state or any other state who are conducting an investigation into any criminal offense involving a report of known or suspected abuse, neglect, or exploitation of disabled adults or elder persons;

(3) Agencies participating in joint investigations at the request of and with the department, or conducting separate investigations of abuse, neglect, or exploitation within an agency's scope of authority, unless such records are wholly owned by the federal government;

(4) Coroners or medical examiners in suspicious death investigations; and

(5) A financial institution, as defined in Code Section 7-1-4, that has a reasonable belief that a financial transaction initiated with such financial institution may involve, facilitate, result in, or contribute to the financial exploitation of a disabled adult or elder person. Such financial institution shall have reasonable access only to such records as necessary to inform its decision to place a hold on an account pursuant to Code Section 7-1-239.12.

(c) Any individual who made a report according to Code Section 30-5-4 can make a request to the department to know if the report or reports made by that individual have been received, whether an investigation was opened or not, and whether the investigation is still open or has been closed, and the department will respond in writing within five business days with this information, but no other case information will be released.

(d) Any time that the record is released pursuant to this Code section, other than to law enforcement or to the district attorney or pursuant to a court order for unredacted records, the name and identifying information of the individual who made the report shall be redacted.

(e) Records or portions of records of abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the department may be released to members of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team established pursuant to Code Section 30-5-11 for reasonable use in furtherance of the purposes authorized in this Code section.

History.

Ga. L. 1981, p. 1320, § 7; Ga. L. 1997, p. 700, § 2; Ga. L. 1999, p. 562, § 7; Ga. L. 2009, p. 453, § 2-14/HB 228; Ga. L. 2013, p. 524, § 1-8/HB 78; Ga. L. 2018, p. 602, § 3/HB 635; Ga. L. 2026, p. 548, § 30/HB 945, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, deleted "and" at the end of paragraph (b)(3); substituted "; and" for the period at the end of paragraph (b)(4); and added paragraph (b)(5).

Cross references.

Abuse or exploitation of residents in long-term care facilities, § 31-8-80 et seq.

Editor's notes.

Ga. L. 1999, p. 562, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Crimes Against Elderly Act of 1999'."

30-5-8. Penalty.

(a)(1) It shall be unlawful for any person or official required by paragraph (1) of subsection (a) of Code Section 30-5-4 to report a case of disabled adult or elder person abuse to fail knowingly and willfully to make such report.

(2) Any person violating the provisions of this Code section shall be guilty of a misdemeanor.

(b) Any violation of this Code section shall constitute a separate offense.

History.

Code 1981, § 30-5-8, enacted by Ga. L. 1984, p. 785, § 3; Ga. L. 1997, p. 700, § 2; Ga. L. 1999, p. 562, § 8; Ga. L. 2001, p. 484, § 1; Ga. L. 2003, p. 298, § 1A; Ga. L. 2007, p. 219, § 2/HB 233; Ga. L. 2009, p. 725, § 2/HB 457; Ga. L. 2010, p. 878, § 30/HB 1387; Ga. L. 2012, p. 351, § 1/HB 1110; Ga. L. 2013, p. 524, § 1-9/HB 78.

Editor's notes.

Ga. L. 1999, p. 562, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Crimes Against Elderly Act of 1999'."

JUDICIAL DECISIONS

Construction of former O.C.G.A. § 30-5-8. — The trial court mistakenly denied the defendant's motion to quash the indictment charging exploitation of a disabled adult under the Disabled Adults and Elder Persons Protection Act (O.C.G.A. § 30-5-1 et seq.). The court misapplied former O.C.G.A. § 30-5-8(a), which, when reasonably interpreted, was not intended to cover sexual acts. Instead, the statute was meant to address only specifically defined non-sexual acts, with increased penalties reflecting the legislature's intent to protect disabled persons from abuse, neglect, and exploitation as outlined in O.C.G.A. § 30-5-3. Smith v. State, 311 Ga. App. 757, 717 S.E.2d 280, 2011 Ga. App. LEXIS 841 (2011) (decided prior to 2013 amendment, which deleted former subsection (a)).

Evidence sufficient for conviction. — Evidence was sufficient to support the defendant's convictions for unlawful abuse, neglect, or exploitation of an elder person and unauthorized practice of law, in violation of O.C.G.A. §§ 15-19-51(a)(7) and former 30-5-8(a)(1), because the defendant befriended an 89-year-old widower, falsified identification as an attorney, and eventually obtained the widower's car, jewelry, use of the widower's credit cards for unauthorized purposes, and the defendant also forged documents and coerced the widower into changing other documents regarding the widower's estate; the widower was within the definition of "elder person" under O.C.G.A. § 30-5-3(7.1) (now paragraph (6)), and the acts were within the definition of "exploitation" pursuant to § 30-5-3(9) (now paragraph (8)). Marks v. State, 280 Ga. 70, 623 S.E.2d 504, 2005 Ga. LEXIS 861 (2005) (decided prior to 2013 amendment, which deleted former subsection (a)).

Because there was evidence to support each fact necessary to make out the state's case, the jury was authorized to find that the defendant was guilty beyond a reasonable doubt of family violence battery, O.C.G.A. § 16-5-23.1, criminal trespass, O.C.G.A. § 16-7-21, and abuse of an elder person, O.C.G.A. § 30-5-8; the victim's recollection of what occurred on the night at issue was contradicted by the victim's contemporaneous statements to neighbors and the police, as well as the victim's statements to the child the next morning that the defendant had grabbed the victim by the arm and twisted the arm, thereby

causing the wound and other bruises. Laster v. State, 311 Ga. App. 360, 715 S.E.2d 768, 2011 Ga. App. LEXIS 725 (2011) (decided prior to 2013 amendment, which deleted former subsection (a)).

Evidence that the defendant falsely convinced the first victim that the victim's grandchild needed bail money and falsely convinced the second victim that the defendant was in financial difficulty in Malaysia and trying to return to children in the U.S. was sufficient for the jury to find defendant guilty of two counts of exploitation of an elderly person. Akintoye v. State, 340 Ga. App. 777, 798 S.E.2d 720, 2017 Ga. App. LEXIS 141 (2017).

Evidence that the defendant assisted the victim in removing $300,000 from the victim's account, the defendant instructed the victim to write the check to "Cash", the defendant deposited the money into the defendant's own account, the victim suffered from dementia and had never given such a large monetary gift, and the signature on the victim's other checks did not match the signature on the $300,000 check supported a conviction for abuse or exploitation of any disabled adult or elder person. Escamilla v. State, 344 Ga. App. 654, 811 S.E.2d 77, 2018 Ga. App. LEXIS 108 (2018).

The evidence supported the defendant's convictions for exploitation of a disabled adult and theft by taking. It showed that, after being appointed guardian and conservator of the vulnerable person's assets, the defendant knowingly misappropriated funds from the protected individual's account. The defendant concealed required information on the petition for appointment, wrote checks, and transferred money from the individual's account through joint accounts into their own account to cover personal expenses. Law v. State, 349 Ga. App. 823, 824 S.E.2d 778, 2019 Ga. App. LEXIS 171 (2019).

Sufficient evidence supported the appellant's convictions on two counts of exploitation of elder person, two counts of theft by taking, and 11 counts of financial-transaction-card fraud based on at least circumstantial evidence that the appellant's parent did not authorize the appellant's near total depletion of various financial accounts by transfers to the appellant's account, ATM withdrawals, money sent to another country, and buying online merchandise, furniture, and jewelry. Anderson v. State, 350 Ga. App. 369, 829 S.E.2d 453, 2019 Ga. App. LEXIS 310 (2019).

Sufficient evidence supported the defendant's conviction of neglect of a disabled person based on the defendant failing to obtain proper medical care for the victim's multiple head lacerations and pressure ulcers, the defendant acknowledging that the defendant voluntarily offered some level of care to the victim, and the defendant's interference with others' efforts to seek treatment for the victim. Woods v. State, 361 Ga. App. 259, 863 S.E.2d 738, 2021 Ga. App. LEXIS 468 (2021).

Construction with other law. — In a wrongful death action filed by a decedent-lessee's administrator in which the decedent was killed when crossing a public highway that the lessor did not control, the lessor was properly granted summary judgment, as the administrator failed to show that the lessor was negligent per se, violated former O.C.G.A. § 30-5-8, or that the lessor breached either a common law or private duty owed to the lessee. Walton v. UCC X, Inc., 282 Ga. App. 847, 640 S.E.2d 325, 2006 Ga. App. LEXIS 1457 (2006), cert. denied, No. S07C0591, 2007 Ga. LEXIS 279 (Ga. Mar. 26, 2007) (decided prior to 2013 amendment, which deleted former subsection (a)).

Requirement of residency in long term care facility. — An adult did not qualify for protection under the Disabled Adults and Elder Persons Protection Act, O.C.G.A. § 30-5-1 et seq. Although there was credible testimony and evidence that the adult suffered from disabilities following a stroke, under this Act, a disabled adult was limited to a resident of a long-term care facility under former O.C.G.A. § 30-5-8(a)(2)(A). Thompson v. Hornyak (In re Hornyak), No. 08-70254-MGD, No. 08-09048, 2010 Bankr. LEXIS 1419 (Bankr. N.D. Ga. 2010) (decided prior to 2013 amendment, which deleted former subsection (a)).

Evidence of disabled adult. — The trial court properly rejected the defendant's motion to quash the

indictment charging exploitation of a disabled adult under the Disabled Adults and Elder Persons Protection Act (O.C.G.A. § 30-5-1 et seq.). The court found substantial evidence that the victim was disabled, noting that the individual had a limited reading ability (equivalent to a first- or second-grade level), could not comprehend monetary denominations, was unable to perform daily personal care tasks, and had an IQ of 30—well below the threshold for borderline intellectual functioning. These factors supported the determination that the victim met the statute's definition of "disabled." Smith v. State, 311 Ga. App. 757, 717 S.E.2d 280, 2011 Ga. App. LEXIS 841 (2011) (decided prior to 2013 amendment, which deleted former subsection (a)).

RICO conviction did not establish violation of former O.C.G.A. § 30-5-8. — Trial court properly denied an investor's motion for partial summary judgment against a business person on the investor's claim against the business person for improper exploitation of an elderly person, in violation of former O.C.G.A. § 30-5-8, because, although the investor established the business person's civil liability to the investor for the business person's RICO violations, such finding did not establish that the business person also violated former O.C.G.A. § 30-5-8 because the crimes involved exploiting an elderly person and did not correspond to the acts of racketeering activity alleged by the state in the criminal RICO proceedings against the business person. Cox v. Mayan Lagoon Estates Ltd., 319 Ga. App. 101, 734 S.E.2d 883, 2012 Ga. App. LEXIS 1032 (2012) (decided prior to 2013 amendment, which deleted former subsection (a)).

OPINIONS OF THE ATTORNEY GENERAL

Fingerprintable offenses. — Violations of O.C.G.A. § 30-5-8(a)(1) repealed and (b)(1) (now paragraph (a)(1)) are designated as offenses for which those charged are to be fingerprinted. 1999 Op. Att'y Gen. No. 99-17.

RESEARCH REFERENCES

ALR.

Validity, construction, and application of state civil and criminal elder abuse laws, 113 A.L.R.5th 431.

30-5-9. Applicability to employment relationship.

Nothing in this chapter shall be construed to limit the application of Code Section 34-7-1 to the employment relationship between a disabled adult or elder person and his or her employer or to create a new cause of action as a result of the employment relationship.

History.

Code 1981, § 30-5-9, enacted by Ga. L. 1997, p. 700, § 2.

30-5-10. Cooperative effort in development of programs relating to abuse and exploitation of disabled adults, elder persons, and residents of long-term care facilities.

The department, the Georgia Peace Officer Standards and Training Council, the Prosecuting Attorneys' Council of the State of Georgia, and the Institute of Continuing Judicial Education shall develop programs for the education and training of social services, criminal justice, and

judicial professionals concerning the abuse, neglect, and exploitation of disabled adults, elder persons, and residents of long-term care facilities, as defined in Code Section 16-5-100. Said agencies, together with any other agency of this state which is involved in the investigation of the abuse, neglect, or exploitation of disabled adults, elder persons, and residents of long-term care facilities, as defined in Code Section 16-5-100, are directed to cooperate in the development of such training programs to the extent allowable under Article I, Section II, Paragraph III of the Constitution of this state.

History.

Code 1981, § 30-5-10, enacted by Ga. L. 2000, p. 1085, § 7; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2013, p. 524, § 1-10/HB 78.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2000, "Officer" was substituted for "Officers" in the first sentence.

Editor's notes.

Ga. L. 2000, p. 1085, § 1, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Georgia Protection of Elder Persons Act of 2000'."

Law reviews.

For note on 2000 enactment of O.C.G.A. § 30-5-10, see 17 Ga. St. U.L. Rev. 93 (2000).

30-5-11. Adult Abuse, Neglect, and Exploitation Multidisciplinary Team; establishment; membership; duties; memorandum of understanding; confidentiality requirements; reporting and reviews.

(a) The district attorney of each judicial circuit may establish, or cause to be established, an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team for the purposes of:

(1) Coordinating the collaborative review of suspected instances of abuse, neglect, or exploitation of a disabled adult or elder person pursuant to Chapter 5 of Title 16 or Code Section 30-5-5, 31-7-12.1, or 31-8-83;

(2) Coordinating the collaborative review of responses to suspected instances of abuse, neglect, or exploitation of a disabled adult or elder person, including protective services; and

(3) Identifying opportunities within local jurisdictions to improve policies and procedures in the notification of and response to abuse, neglect, and exploitation given local resources.

(b) As determined by the district attorney or his or her designee, the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team shall consist of representatives, from within the appropriate judicial circuit, representing these suggested categories:

(1) The district attorney or his or her designee;

(2) Local law enforcement agencies;

(3) The Georgia Bureau of Investigation;

(4) Adult Protective Services of the department's Division of Aging Services;

(5) The state funded licensure activities of the Healthcare Facility Regulation Division of the Department of Community Health;

(6) The Department of Behavioral Health and Developmental Disabilities;

(7) The medical examiner or coroner of that county in which the team exists;

(8) Nonprofit organizations that provide victim services or adult care services;

(9) Local, regional, and state task forces or coordinating entities regarding at-risk adults;

(10) Providers of medical, legal, or housing services or housing facilities to disabled adults or elder persons who are victims of abuse, neglect, or exploitation; and

(11) Any other entity which the district attorney or his or her designee determines is necessary for the successful operation of the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team.

(c) Each Adult Abuse, Neglect, and Exploitation Multidisciplinary Team shall:

(1) Meet regularly, as determined by the district attorney or his or her designee; provided, however, that meetings shall be held at least semiannually; and

(2) Coordinate on investigations of instances of unlicensed personal care homes, or of suspected abuse, neglect, or exploitation of disabled adults or elder persons that are based on reports made pursuant to Chapter 5 of Title 16 or Code Section 30-5-4, 31-7-12.1, 31-8-82, or 31-8-83 or reports made or concerns raised by members of the agencies, organizations, or entities represented on the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team.

(d) The district attorney or his or her designee shall coordinate the creation of a memorandum of understanding that describes the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team's procedures and methods of operation in detail, including confidentiality requirements and the sharing of information among such team's members in accordance with subsection (e) of this Code section. The memorandum shall be signed by a representative of each agency, organization, or entity participating in such team.

(e)(1) All records and information acquired by an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons shall be confidential pursuant to Code Sections 30-5-7, 31-8-86, and 37-3-166; furthermore, notwithstanding any other provisions of law, information acquired by and documents, records, and reports of the team shall be confidential and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records.

(2) All records pertaining to the abuse, neglect, or exploitation of disabled adults or elder persons in the custody of the departments included in the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team shall be available to the members of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team for the purpose of investigating or responding to a report of abuse, neglect, or exploitation of a disabled adult, elder person, or resident.

(3) It shall be unlawful for any member of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team to knowingly disclose, receive, make use of, or authorize, or knowingly permit, participate in, or acquiesce to the use of, any information received or generated in the course of the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team's investigations, responses, or activities to any third party; provided, however, that disclosure may be made to persons and entities directly involved in the administration of this Code section, including:

(A) Persons providing protective services necessary for the disabled adult or elder person;

(B) Representatives of law enforcement;

(C) Grand juries or courts in the exercise of official business;

(D) Members of such Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams; and

(E) Persons engaged in bona fide research or audit purposes; provided, however, that only information in the aggregate without identifying information shall be provided for research or audit purposes and confidentiality of the data shall be maintained.

(4) Unless expressly provided otherwise in the memorandum of understanding, members of an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team may share information received or generated in the course of such team's investigations, responses, or activities only among members of such team.

(5) To promote efficiency and effectiveness in its mission, an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team may main-

tain a database of information about such team's past and ongoing cases, provided that identifying information about individual victims and clients shall not be accessed by any person outside of such team other than those persons serving as care coordinators or victim advocates or who represent organizations providing such services.

(f)(1) By March 1 of each calendar year, the Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams shall submit a report to the director of the Georgia Bureau of Investigation and the commissioner of human services regarding the prevalence and circumstances of abuse, neglect, or exploitation of disabled adults or elder persons in this state; shall recommend measures to reduce such crimes; and shall address in the report the following issues:

(A) How many investigations or cases the Adult Abuse, Neglect, and Exploitation Multidisciplinary Team has received for the calendar year;

(B) How many reviews of investigations or cases recommended criminal prosecution; and

(C) Whether policy, procedural, regulatory, or statutory changes are called for as a result of these findings.

(2) The Adult Abuse, Neglect, and Exploitation Multidisciplinary Teams shall also establish procedures for the conduct of reviews by local review committees into abuse, neglect, or exploitation of disabled adults or elder persons and may obtain the assistance from disabled adults or elder persons.

History.

Code 1981, § 30-5-11, enacted by Ga. L. 2018, p. 602, § 4/HB 635; Ga. L. 2026, p. 1069, § 30(3)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, substituted "database" for "data base" in paragraph (e)(5).

CHAPTER 6

PERSONAL ASSISTANCE PROGRAM FOR PERSONS WITH DISABILITIES

Sec.		Sec.	
30-6-1.	Short title.		tional Rehabilitation Agency to establish program.
30-6-2.	Purpose.	30-6-5.	Establishment of standards and guidelines.
30-6-3.	"Personal assistance" defined.		
30-6-4.	Authority of Georgia Voca-		

30-6-1. Short title.

This chapter shall be known and may be cited as the "Personal Assistance Program for Persons with Disabilities Act."

History.
Code 1981, § 30-6-1, enacted by Ga. L. 1988, p. 1355, § 1; Ga. L. 1991, p. 399, § 1; Ga. L. 2026, p. 1069, § 30(4)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised capitalization in this Code section.

RESEARCH REFERENCES

ALR.
When is individual regarded as having or perceived to have impairment within meaning of Americans with Disabilities Act (42 USCA § 12102(2)(c)), 148 A.L.R. Fed. 305.

30-6-2. Purpose.

The purpose of this chapter is to allow persons with severe disabilities to live as self-sufficiently as possible.

History.
Code 1981, § 30-6-2, enacted by Ga. L. 1988, p. 1355, § 1; Ga. L. 1991, p. 399, § 1.

30-6-3. "Personal assistance" defined.

As used in this chapter, the term "personal assistance" means assistance which is required by a person with severe disabilities to achieve greater independence and which includes, but is not limited to, assistance with:

(1) Routine bodily functions such as bowel or bladder care;

(2) Dressing;

(3) Household management, including, but not limited to, housecleaning and personal correspondence;

(4) Preparation and consumption of food;

(5) Moving in and out of bed;

(6) Routine bathing;

(7) Transportation, community errands, and activities; and

(8) Any other similar activity of daily living.

History.
Code 1981, § 30-6-3, enacted by Ga. L. 1988, p. 1355, § 1; Ga. L. 1991, p. 399, § 1.

30-6-4. Authority of Georgia Vocational Rehabilitation Agency to establish program.

The Georgia Vocational Rehabilitation Agency is authorized to establish a personal assistance program for persons with severe disabilities residing in the State of Georgia.

History.
Code 1981, § 30-6-4, enacted by Ga. L. 1988, p. 1355, § 1; Ga. L. 1991, p. 399, § 1; Ga. L. 2000, p. 1137, § 3; Ga. L. 2012, p. 303, § 3/HB 1146.

30-6-5. Establishment of standards and guidelines.

The Georgia Vocational Rehabilitation Agency, in conjunction with the Statewide Independent Living Council and other appointed users of personal assistance, shall develop standards necessary for the proper administration of the personal assistance program and shall establish guidelines for eligibility, services, training, and evaluation under the program.

History.
Code 1981, § 30-6-5, enacted by Ga. L. 1988, p. 1355, § 1; Ga. L. 1991, p. 399, § 1; Ga. L. 2000, p. 1137, § 3; Ga. L. 2012, p. 303, § 3/HB 1146.

Editor's notes.
Ga. L. 2000, p. 1137, § 3 amended Code Section 30-6-5, however, the amendment to Code Section 30-6-5 was intended to be made by Ga. L. 2000, p. 1137, § 2.

CHAPTER 7

BLIND PERSONS' LITERACY RIGHTS AND EDUCATION

Sec.		Sec.	
30-7-1.	Short title.	30-7-4.	Elements of individualized education program.
30-7-2.	Definitions.		
30-7-3.	Individualized education program for blind students; evaluation of Braille skills.		

Editor's notes.
The former chapter, relating to an advisory commission on programs for the visually impaired and the hearing impaired, consisted of Code Sections 30-7-1 through 30-7-5. That chapter was based on Ga. L. 1988, p. 1979, § 1 and Ga. L. 1990, p. 1943, § 1, and was repealed by Code Section 30-7-5, effective July 1, 1991.

30-7-1. Short title.

This chapter shall be known and may be cited as the "Blind Persons' Literacy Rights and Education Act."

History.
Code 1981, § 30-7-1, enacted by Ga. L. 1994, p. 1796, § 3.

30-7-2. Definitions.

As used in this chapter, the term:

(1) "Blind student" means an individual who is eligible for special education services and who:

(A) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than 20 degrees; or

(B) Has a medically indicated expectation of visual deterioration.

(2) "Braille" means the system of reading and writing through touch commonly known as standard English Braille.

(3) "Individualized education program" means a written statement developed for a student eligible for special education services pursuant to Section 602(a)(20) of Part A of the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1401(a)(20).

History.
Code 1981, § 30-7-2, enacted by Ga. L. 1994, p. 1796, § 3.

30-7-3. Individualized education program for blind students; evaluation of Braille skills.

(a) Each blind student must be identified and, if appropriate, offered an individualized education program in consultation with a parent or legal guardian. While Braille is not required, it is presumed that Braille reading and writing are valuable skills and as needed are to be considered in the student's transition plan.

(b) No child who is blind may be denied the opportunity to receive instruction in Braille reading and writing if the child has the ability to read and write print.

(c) Each blind student shall be evaluated to determine the need for Braille skills. The purpose of the evaluation shall be to determine the appropriate reading and writing media for the individual child.

(d) Nothing in this Code section shall require the inclusion of Braille in a blind student's individualized education program.

History.
Code 1981, § 30-7-3, enacted by Ga. L. 1994, p. 1796, § 3.
Cross references.
Delivery of deaf-blind services and techniques leading to maximum independence, § 49-9-21.

30-7-4. Elements of individualized education program.

(a) Instruction in Braille reading and writing shall be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.

(b) For a student whose visual impairment affects the student's reading and writing performance in relation to the student's ability such that Braille instruction and use are indicated, an individualized education program shall include the following:

(1) The results obtained from the evaluation required under Code Section 30-7-3;

(2) How instruction in Braille will be implemented as the primary mode for learning through integration with other classroom activities;

(3) The date on which Braille instruction will commence;

(4) The length of the period of instruction and the frequency and duration of each instructional session; and

(5) The level of competency in Braille reading and writing to be achieved by the end of the period and the objective assessment measures to be used.

(c) For a student whose reading and writing performance is evaluated as commensurate with the student's ability despite visual impairment so that Braille instruction and use are not required for the student's individualized education program, the minutes of the individualized education program meeting shall include a statement which documents that the absence of Braille instruction or use will not impair the student's ability to read and write effectively.

History.
Code 1981, § 30-7-4, enacted by Ga. L. 1994, p. 1796, § 3.

CHAPTER 8

GEORGIA COUNCIL ON DEVELOPMENTAL DISABILITIES

Sec.
30-8-1. Creation; purpose; members; duties; funding; expenses.

30-8-1. Creation; purpose; members; duties; funding; expenses.

(a) There is created the Georgia Council on Developmental Disabilities. The council shall serve as the designated state agency and state planning council for purposes of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, relating to programs for persons with developmental disabilities.

(b) The members of the council shall be appointed by the Governor from among the residents of the state, and the composition of the council shall comply with the membership requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended. The Governor shall consider appointing to the council persons representing a broad range of individuals with developmental disabilities and individuals interested in programs for the developmentally disabled. To the extent feasible, appointments to the council shall be made with a view toward equitable geographic, racial, and ethnic representation.

(c) Each member shall serve for a term of four years or until a successor is appointed. Members shall be eligible to succeed themselves. Vacancies shall be filled in the same manner as original appointments. The council shall elect its own chairperson and such other officers as it deems necessary. The council may adopt rules and procedures and shall meet at the call of the chairperson.

(d) The Georgia Council on Developmental Disabilities shall:

(1) Develop and implement a state plan, which includes the specification of federal and state priority areas, to address on a state-wide and comprehensive basis the need for services, support, and other assistance for individuals with developmental disabilities and their families;

(2) Monitor, review, and evaluate, not less than annually, the implementation and effectiveness of the plan;

(3) Submit to the United States secretary of health and human services, through the Governor, such plan and periodic reports on the council's activities as the secretary finds necessary;

(4) Receive, account for, and disburse funds paid to the state pursuant to the provisions of Chapter 75 of Title 42 of the United

States Code, as now or hereafter amended, and as authorized by the approved state plan;

(5) To the maximum extent feasible, review and comment on all plans in the state which relate to programs affecting persons with developmental disabilities;

(6) Serve as an advocate for persons with developmental disabilities;

(7) Advise the Governor, the General Assembly, and all other state agencies in matters relating to developmentally disabled persons; and

(8) Fulfill the responsibilities and meet the requirements of a designated state agency and of a state planning council as provided by Chapter 75 of Title 42 of the United States Code, as now or hereafter amended.

(e) The Georgia Council on Developmental Disabilities shall be attached to the Department of Behavioral Health and Developmental Disabilities for administrative purposes only as provided in Code Section 50-4-3. The council shall recruit and hire staff as provided by law and as the council determines necessary to carry out its duties. All costs incurred by the council shall be covered by funds paid to the state under Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, except that members who are state employees shall be reimbursed for their expenses by their agency in the same manner as other state employees. Members who are not state employees shall be reimbursed for their actual expenses, including travel and any other expenses incurred in performance of their council duties, from funds appropriated to the Department of Behavioral Health and Developmental Disabilities.

History. Code 1981, § 30-8-1, enacted by Ga. L. 1995, p. 406, § 1; Ga. L. 2009, p. 453, § 3-8/HB 228.

CHAPTER 9

GEORGIA ACHIEVING A BETTER LIFE EXPERIENCE (ABLE)

Sec.		Sec.	
30-9-1.	Short title.	30-9-9.	Taxation.
30-9-2.	Legislative purpose.	30-9-10.	Comprehensive investment plan.
30-9-3.	Definitions.	30-9-11.	Consideration of amount in ABLE account in determining eligibility for public assistance or benefits.
30-9-4.	Georgia ABLE Program Corporation; creation; governance; membership; quorum; powers; administration; reimbursement for expenses.	30-9-12.	Annual reports; account statements.
30-9-5.	Georgia ABLE Program; establishment; requirements; termination; program alternatives or additions.	30-9-13.	Provision of public information and outreach.
30-9-6.	Duties of board with respect to operating a Georgia ABLE Program.	30-9-14.	Distribution of funds in ABLE account upon death of designated beneficiary; claims for Medicaid services.
30-9-7.	Terms and conditions of participation agreements.	30-9-15.	Assignment, encumbrances, and creditor claims on ABLE accounts.
30-9-8.	Georgia ABLE Program Trust Fund; creation; source of funds; administration of funds; termination.	30-9-16.	Inspection of records by general public.

Cross references.

Aid to the Blind Act, § 49-4-50 et seq.

Aid to the disabled, § 49-4-80 et seq.

Georgia Medical Assistance Act of 1977, § 49-4-140 et seq.

Georgia Temporary Assistance for Needy Families Program, § 49-4-180 et seq.

Georgia Vocational Rehabilitation Agency, § 49-9-1 et seq.

Editor's notes.

The former chapter, relating to technology related assistance for individuals with disabilities, consisted of Code Sections 30-9-1 through 30-9-8 (Article 1) and 30-9-20 through 30-9-24 (Article 2). That chapter was based on Ga. L. 1996, p. 804, § 1, and was repealed by Ga. L. 1996, p. 804, § 5, effective January 1, 1997.

Law reviews.

For article on the 2016 enactment of this chapter, see 33 Ga. St. U.L. Rev. 193 (2016).

30-9-1. Short title.

This chapter shall be known and may be cited as the "Georgia Achieving a Better Life Experience (ABLE) Act."

History.

Code 1981, § 30-9-1, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-2. Legislative purpose.

(a) It is the intent of the legislature to authorize the establishment of a qualified ABLE program in this state to encourage and assist the saving of private funds in tax-exempt accounts in order to pay for the qualified disability expenses of eligible individuals with disabilities.

(b) It is also the intent of the legislature that any qualified ABLE program established in this state be implemented in a manner that is consistent with federal law authorizing the program and that maximizes program efficiency and effectiveness.

History.
Code 1981, § 30-9-2, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-3. Definitions.

As used in this chapter, the term:

(1) "ABLE account" means an account established and owned by an eligible individual pursuant to this chapter.

(2) "Board" means the board of directors of the Georgia ABLE Program Corporation.

(3) "Corporation" means the Georgia ABLE Program Corporation created pursuant to Code Section 30-9-4.

(4) "Designated beneficiary" means the eligible individual who establishes an ABLE account or to whom an ABLE account is transferred.

(5) "Eligible individual" means an eligible individual as defined in Section 529A of the Internal Revenue Code.

(6) "Georgia ABLE program" or "program" means a qualified ABLE program established pursuant to this chapter.

(7) "Internal Revenue Code" has the meaning provided in Code Section 48-1-2.

(8) "Participation agreement" means the agreement between the board and an eligible individual participating in the Georgia ABLE Program Trust Fund or his or her fiduciary.

(9) "Qualified ABLE program" means a program established pursuant to Section 529A of the Internal Revenue Code.

(10) "Qualified disability expense" means an expense as defined in Section 529A of the Internal Revenue Code.

(11) "Trust fund" means the Georgia ABLE Program Trust Fund.

History.
Code 1981, § 30-9-3, enacted by Ga. L. 2016, p. 588, § 1/HB 768; Ga. L. 2026, p. 1069, § 30(5)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised capitalization in paragraph (9).

30-9-4. Georgia ABLE Program Corporation; creation; governance; membership; quorum; powers; administration; reimbursement for expenses.

(a)(1) There is created the Georgia ABLE Program Corporation, as a body corporate and politic and an instrumentality of the state, for purposes of establishing and administering the Georgia ABLE Program. The corporation shall be governed by a board of directors consisting of the commissioner of behavioral health and developmental disabilities; the commissioner of community health; the state auditor; the director of the Office of Planning and Budget; the state revenue commissioner; the state treasurer; and three directors who shall be appointed by and serve at the pleasure of the Governor, who shall include at least two persons who are persons with a disability, a family member of a person with a disability, or a disability advocacy professional. The board shall elect a chairperson from its membership. The state treasurer shall act as administrative officer of the board. A majority of the board shall constitute a quorum, and the acts of the majority shall be the acts of the board.

(2) Members of the board who are state officials or employees shall receive no compensation for their service on the board but may be reimbursed for expenses incurred by them in the performance of their duties as members of the board. Any members of the board who are not state officials or employees shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 for each day such member is in attendance at a meeting of the board. Expense allowances and other costs authorized in this paragraph shall be paid from moneys in the trust fund.

(b) The board shall have the authority necessary or convenient to carry out the purposes and provisions of this chapter and the purposes and objectives of the trust fund, including, but not limited to, the authority to:

(1) Have a seal and alter the same at its pleasure; bring and defend actions; make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and make and amend bylaws;

(2) Adopt such rules and regulations as are necessary to implement this chapter, subject to applicable federal laws and regulations;

(3) Contract for necessary goods and services; employ necessary

personnel; engage the services of consultants and other qualified persons and entities for administrative and technical assistance in carrying out its responsibilities under this chapter; and contract with state or federal departments or agencies, upon such terms, for such consideration, and for such purposes as it deems advisable;

(4) Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust, or other disposition grants, loans, and other funds or aid from any endowment or other public or private source or participate in any other way in any federal, state, or local governmental program in carrying out the purposes of this chapter;

(5) Define the terms and conditions under which payments may be withdrawn or refunded from an ABLE account or the trust fund established under this chapter and impose reasonable charges for a withdrawal or refund;

(6) Regulate the receipt of contributions or payments to the trust fund;

(7) Require and collect fees and charges to cover the reasonable costs of administering ABLE accounts and impose a 10 percent penalty on the earnings portion included within a withdrawal of funds for nonqualified disability expenses or for entering into a participation agreement on a fraudulent basis;

(8) Procure insurance against any loss in connection with the property, assets, and activities of the trust fund or the corporation;

(9) Establish other policies, procedures, and criteria and perform such other acts as necessary or appropriate to implement and administer this chapter; and

(10) Authorize the state treasurer to carry out any or all of the powers and duties enumerated in this chapter for efficient and effective administration of the program and trust fund.

(c) The corporation is assigned to the Department of Administrative Services for administrative purposes only.

History.
Code 1981, § 30-9-4, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-5. Georgia ABLE Program; establishment; requirements; termination; program alternatives or additions.

(a) The board shall be authorized to establish a Georgia ABLE Program under which a person may make contributions for a taxable year, for the benefit of an eligible individual, to an ABLE account established for the purpose of meeting the qualified disability expenses

of the designated beneficiary of the ABLE account. Any such program shall be administered by the corporation. Contributions and investment earnings on the contributions may be used for any qualified disability expenses of the designated beneficiary. Only one ABLE account may be established for any eligible individual.

(b) In addition to or in lieu of establishing a Georgia ABLE Program pursuant to subsection (a) of this Code section, the corporation may:

(1) Enter into an agreement with another state which allows the residents of such state to participate under the Georgia ABLE Program;

(2) Enter into an agreement with one or more states or a consortium of states that has a qualified ABLE program to allow residents of this state to participate in the qualified ABLE program of such other state, states, or consortium; or

(3) Facilitate or otherwise provide access to allow residents of this state to participate in qualified ABLE programs operated by other states.

(c) If a Georgia ABLE Program is established pursuant to subsection (a) of this Code section, it shall continue in existence until terminated by law. If the state determines that the program is financially infeasible, the state may terminate the program. Upon termination, amounts in the trust fund held for each designated beneficiary shall be returned in accordance with the participation agreement.

(d) The state pledges to the designated beneficiaries that the state will not limit or alter their rights under this Code section which are vested in the Georgia ABLE Program until the program's obligations are met and discharged. However, this subsection shall not preclude such limitation or alteration if adequate provision is made by law for the protection of the designated beneficiaries pursuant to the obligations of the corporation and does not preclude termination of the program pursuant to subsection (c) of this Code section.

History.
Code 1981, § 30-9-5, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-6. Duties of board with respect to operating a Georgia ABLE Program.

If the board establishes a Georgia ABLE Program pursuant to Code Section 30-9-5, the board shall:

(1) Establish, implement, and maintain the program as a qualified ABLE program under Section 529A of the Internal Revenue Code;

(2) Provide for the marketing of the program and develop and

provide information to eligible individuals and their families necessary to establish and maintain an ABLE account; and

(3) Make participation agreements and ABLE accounts available to eligible individuals.

History.
Code 1981, § 30-9-6, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-7. Terms and conditions of participation agreements.

(a) Each participation agreement entered into pursuant to this chapter shall include the following terms and conditions:

(1) The participation agreement shall not constitute a debt or obligation of the state;

(2) Participation in the Georgia ABLE Program does not guarantee that sufficient funds will be available to cover all qualified disability expenses for any designated beneficiary and does not guarantee the receipt or continuation of any product or service for the designated beneficiary;

(3) The establishment of an ABLE account in violation of federal law is prohibited;

(4) Contributions in excess of the limitations set forth in Section 529A of the Internal Revenue Code are prohibited;

(5) The state is a creditor of ABLE accounts as, and to the extent, set forth in Section 529A of the Internal Revenue Code; and

(6) Material misrepresentations by a party to the participation agreement, other than the Georgia ABLE Program Corporation, in the application for the participation agreement or in any communication with the Georgia ABLE Program Corporation regarding the Georgia ABLE Program may result in the involuntary liquidation of the ABLE account. If an account is involuntarily liquidated, the designated beneficiary is entitled to a refund, subject to any fees or penalties provided by the participation agreement and the Internal Revenue Code.

(b) A participation agreement entered into pursuant to this chapter may include terms and conditions specifying:

(1) The requirements and applicable restrictions for opening an ABLE account;

(2) The eligibility requirements for a party to the participation agreement and the rights of the party;

(3) The requirements and applicable restrictions for making contributions to an ABLE account;

(4) The requirements and applicable restrictions for directing the investment of the contributions or balance of the ABLE account;

(5) The administrative fee and other fees and penalties applicable to an ABLE account;

(6) The terms and conditions under which an ABLE account or a participation agreement may be modified, transferred, or terminated; and

(7) Any other terms and conditions that the board deems necessary or appropriate, including without limitation those necessary to conform the participation agreement with the requirements of Section 529A of the Internal Revenue Code or other applicable federal laws.

(c) A participation agreement may be amended throughout its term for purposes that include, but are not limited to, allowing a participant to increase or decrease the level of participation and to change designated beneficiaries and other matters authorized by this Code section and Section 529A of the Internal Revenue Code.

History.
Code 1981, § 30-9-7, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-8. Georgia ABLE Program Trust Fund; creation; source of funds; administration of funds; termination.

(a)(1) The board shall be authorized to create the Georgia ABLE Program Trust Fund. The trust fund shall be administered by the state treasurer. The state treasurer shall credit to the trust fund all amounts transferred to such fund. The trust fund shall consist of money remitted in accordance with participation agreements and shall receive and hold all payments, contributions, and deposits intended for it as well as gifts, bequests, endowments, grants and any other public or private source of funds, and all earnings on the fund until disbursed as provided under this Code section. The amounts on deposit in the trust fund shall not constitute property of the state. Amounts on deposit in the trust fund shall not be commingled with state funds, and the state shall have no claim to or interest in such funds other than the amount of reasonable fees and charges assessed to cover administration costs. Participation agreements or any other contract entered into by or on behalf of the trust fund shall not constitute a debt or obligation of the state, and no account contributor shall be entitled to any amounts except for those amounts on deposit in or accrued to the account of such contributor.

(2) The trust fund shall continue in existence so long as it holds any funds belonging to an account contributor or otherwise has any obligations to any person or entity until its existence is terminated by law and remaining assets on deposit in the trust fund are returned to designated beneficiaries or other eligible persons pursuant to the terms of the participation agreement or transferred to the state in accordance with unclaimed property laws.

(b) The official location of the trust fund shall be the Office of the State Treasurer, and unless otherwise authorized by the board, the facilities of the Office of the State Treasurer shall be used and employed in the administration of the fund, including without limitation the keeping of records, the management of bank accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments. These functions may be administered pursuant to a management agreement with a qualified entity or entities.

(c) Payments received by the board on behalf of designated beneficiaries from account contributors, other payors, or any other source, public or private, shall be placed in the trust fund, and the board shall cause there to be maintained separate records and accounts for individual beneficiaries as may be required under Section 529A of the Internal Revenue Code or other applicable federal laws.

(d) Account contributors shall only be permitted to contribute cash except as otherwise permitted under Section 529A of the Internal Revenue Code. The board shall establish appropriate safeguards against contributions to an ABLE account in excess of the limitations set forth in Section 529A of the Internal Revenue Code.

(e) Earnings derived from investment of the contributions shall be considered to be held in trust in the same manner as contributions. Amounts on deposit in an ABLE account shall be available for administrative fees and expenses and penalties imposed by the board as delineated in the participation agreement.

(f) The assets of the trust fund shall be preserved, invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose.

History.
Code 1981, § 30-9-8, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-9. Taxation.

The trust fund and ABLE account property and income shall be subject to taxation by the state only as provided by paragraph (10.1) of

subsection (b) of Code Section 48-7-27 and shall not be subject to taxation by any of the state's political subdivisions.

History.
Code 1981, § 30-9-9, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-10. Comprehensive investment plan.

(a) The board shall have authority to establish a comprehensive investment plan for the purposes of this chapter and to invest any funds of the trust fund through the state treasurer. The state treasurer shall invest the trust fund moneys pursuant to an investment policy adopted by the board. Notwithstanding any state law to the contrary, the board, through the state treasurer, shall invest or cause to be invested amounts on deposit in the trust fund, including the program account, in a manner reasonable and appropriate to achieve the objectives of the corporation, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. The board shall give due consideration to the risk of, expected rate of return of, term or maturity of, diversification of total investments of, liquidity of, and anticipated investments in and withdrawals from the trust fund.

(b) The board may employ or contract with financial organizations, investment managers, evaluation services, or other such entities as determined by the board to be necessary for the effective and efficient investment, administration, and operation of the program. The board shall establish criteria for financial organizations, investment managers, evaluation services, or other such entities that act as contractors or consultants to the board. The board may contract, either directly or through such contractors or consultants, to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board, including without limitation providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control, and safekeeping. All contractors and consultants shall be selected by competitive solicitation, unless otherwise directed by the board.

(c) All investments shall be marked clearly to indicate ownership by the corporation and, to the extent possible, shall be registered in the name of the corporation.

(d) Subject to the terms, conditions, limitations, and restrictions set forth in this Code section, the board may sell, assign, transfer, and dispose of any of the securities and investments of the corporation if the sale, assignment, or transfer has the majority approval of the entire board.

(e) Members and employees of the board shall be subject to the

provisions of Chapter 10 of Title 45, relating to codes of ethics and conflicts of interest.

(f) No account contributor or beneficiary shall directly or indirectly direct the investment of any account funds except as may be permitted under Section 529A of the Internal Revenue Code or other applicable federal laws.

(g) The board may approve different investment plans and options to be offered to participants to the extent permitted under Section 529A of the Internal Revenue Code or other applicable federal laws and consistent with the objectives of this chapter, and the board may require the assistance of investment counseling before participation in different options.

History.
Code 1981, § 30-9-10, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-11. Consideration of amount in ABLE account in determining eligibility for public assistance or benefits.

Notwithstanding any other provision of state or local law or regulation that requires consideration of the financial circumstances of an applicant for local, state, or federal public assistance or a benefit provided under that law, the agency or entity making the determination of eligibility for such assistance or benefit may not consider the amount in the applicant's ABLE account or in an applicant's ABLE account established pursuant to an ABLE program in another state, including earnings on that amount, and any distribution for qualified disability expenses in determining the applicant's eligibility to receive the amount of the assistance or benefit with respect to the period during which the individual maintains any such ABLE account.

History.
Code 1981, § 30-9-11, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-12. Annual reports; account statements.

(a) If the board creates the Georgia ABLE Program Trust Fund pursuant to Code Section 30-9-8, the board shall prepare or cause to be prepared an annual report setting forth in appropriate detail an accounting of the Georgia Able Trust Fund at the close of each fiscal year. Such report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. In addition, the board shall make the report available to account contributors and designated beneficiaries in the trust fund upon written request and may charge a reasonable fee for such report. The

accounts of the trust fund shall be subject to annual audits by the state auditor or his or her designee.

(b) Statements shall be provided to each designated beneficiary at least four times each year within 30 days after the end of the quarterly period to which a statement relates. The statement shall identify the contributions made during the preceding quarter, the total contributions made to the account through that quarter, the value of the account on the last day of that quarter, distributions made during that quarter, and any other information that the state treasurer requires to be reported to the designated beneficiary.

History.
Code 1981, § 30-9-12, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-13. Provision of public information and outreach.

The Department of Community Health, the Department of Behavioral Health and Developmental Disabilities, the Department of Human Services, the Georgia Vocational Rehabilitation Agency, and the Department of Education shall assist, cooperate, and coordinate with the corporation in the provision of public information and outreach for a board approved qualified ABLE program.

History.
Code 1981, § 30-9-13, enacted by Ga. L. 2016, p. 588, § 1/HB 768; Ga. L. 2026, p. 1069, § 30(6)/HB 1268, effective July 1, 2026.

Amendments.
The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised capitalization in this Code section.

30-9-14. Distribution of funds in ABLE account upon death of designated beneficiary; claims for Medicaid services.

(a) Upon the death of a designated beneficiary of a Georgia ABLE Trust Fund account, the Department of Community Health and the Medicaid program for another state may file a claim with the Georgia ABLE Program for the total amount of medical assistance provided for the designated beneficiary under the Medicaid program after the date of the establishment of the ABLE account, less any premiums paid by or on behalf of the designated beneficiary to a Medicaid buy-in program. Funds in the ABLE account of the deceased designated beneficiary must first be distributed for qualified disability expenses followed by distributions for the Medicaid claim authorized under this subsection. Any remaining amount shall be distributed as provided in the participation agreement.

(b) The corporation shall assist and cooperate with the Department of Community Health and Medicaid programs in other states upon the death of a designated beneficiary of the trust fund by coordinating

through the Department of Community Health with the information needed to accomplish the purpose and objective of subsection (a) of this Code section.

History.
Code 1981, § 30-9-14, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-15. Assignment, encumbrances, and creditor claims on ABLE accounts.

An ABLE account may not be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge. Except as provided in Code Section 30-9-14, moneys paid into or out of an ABLE account, and the income and assets of such account, are not liable to attachment, levy, garnishment, or legal process in this state in favor of any creditor of or claimant against any designated beneficiary or account contributor.

History.
Code 1981, § 30-9-15, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

30-9-16. Inspection of records by general public.

(a) The provisions of Article 4 of Chapter 18 of Title 50 notwithstanding, the following records, or portions thereof, shall not constitute public records and shall not be open to inspection by the general public:

(1) Completed participation applications, executed participation agreements, and ABLE account numbers;

(2) All wiring or automated clearing-house transfer of funds instructions regarding participation agreements;

(3) ABLE account transactions, IP addresses used to initiate transactions, and analysis statements received or prepared by or for the corporation;

(4) All bank routing and account numbers in the possession of the corporation and any record or document containing such numbers;

(5) All proprietary computer software in the possession or under the control of the corporation; and

(6) All security codes and procedures related to physical, electronic, or other access to any ABLE account or the trust fund, its systems, and its software.

(b) For a period from the date of creation of the record until the end of the calendar quarter in which the record is created, the following

records, or portions thereof, of the trust fund shall not constitute public records and shall not be open to inspection by the general public:

(1) Investment trade tickets; and

(2) Bank statements.

(c) The restrictions of subsections (a) and (b) of this Code section shall not apply to access:

(1) Required by subpoena or other legal process of a court or administrative agency having competent jurisdiction in legal proceedings where the State of Georgia or the corporation is a party;

(2) In prosecutions or other court actions to which the State of Georgia or the corporation is a party;

(3) Given to federal or state regulatory or law enforcement agencies;

(4) Given to any person or entity in connection with an ABLE account to which such person or entity is an account contributor or given to any person in connection with an ABLE account of which such person is a beneficiary; or

(5) Given to the board or any member, employee, or contractor thereof for use and public disclosure in the ordinary performance of its duties pursuant to this chapter.

History.
Code 1981, § 30-9-16, enacted by Ga. L. 2016, p. 588, § 1/HB 768.

CHAPTER 10

COMMUNITY TRUSTS

Sec.		Sec.	
30-10-1.	Legislative findings.		community trust; distributions.
30-10-2.	Definitions.	30-10-7.	Life beneficiaries.
30-10-3.	Contributions by donors; taxation of assets held by board of trustees.	30-10-8.	Liability of trustees.
30-10-4.	Community trusts; creation.	30-10-9.	Distribution of funds upon dissolution of administering organization; perpetuities or restraints on alienation.
30-10-5.	Board of trustees.		
30-10-6.	Qualification of trust; requirements for establishing		

Cross references.

Aid to the Blind Act, § 49-4-50 et seq.

Aid to the disabled, § 49-4-80 et seq.

Georgia Medical Assistance Act of 1977, § 49-4-140 et seq.

Georgia Temporary Assistance for Needy Families Program, § 49-4-180 et seq.

Georgia Vocational Rehabilitation Agency, § 49-9-1 et seq.

30-10-1. Legislative findings.

The General Assembly finds and declares the following:

(1) It is an essential function of state government to provide basic support for persons with one or more mental or physical impairments that substantially limit one or more major life activities, whether the impairments are congenital or occur by reason of accident, injury, age, or disease;

(2) The cost of providing basic support for persons with mental or physical impairments is difficult for many citizens to afford, and they are forced to rely upon the government to provide that support;

(3) The families and friends of persons with mental or physical impairments desire to supplement, but not replace, the basic support provided by state government and other governmental programs;

(4) Medical, social, and other supplemental services are often provided by family members and friends of persons with mental or physical impairments for the lifetime of the impaired persons; and

(5) It is necessary and desirable for the public health, safety, and welfare of the citizens of this state to encourage, enhance, and foster the ability of family members and friends of those individuals with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social, or other supplemental services for those persons with impairments.

History.
Code 1981, § 30-10-1, enacted by Ga. L. 1996, p. 804, § 2.

RESEARCH REFERENCES

ALR.
What constitutes substantial limitation on major life activity of working for purposes of Americans with Disabilities Act (42 USCS § 12101 et seq.), 141 A.L.R. Fed 603.

When is individual regarded as having or perceived to have impairment within meaning of Americans with Disabilities Act (42 USCA § 12102(2)(c)), 148 A.L.R. Fed. 305.

30-10-2. Definitions.

As used in this chapter, the term:

(1) "Board of trustees" means a board of trustees of a community trust established pursuant to this chapter.

(2) "Community trust" means a trust administered in accordance with this chapter by a nonprofit organization that qualifies as a tax-exempt organization under Section 501(c)(3) of the United States Internal Revenue Code for the benefit of persons with impairments.

(3) "Cotrustee" means any person named by the donor to work with the board of trustees in providing benefits to a life beneficiary; provided, however, that neither the donor nor the donor's spouse shall be the cotrustee if the donor or the donor's spouse is the life beneficiary.

(4) "Donor" means any person who contributes assets to a community trust to establish an account for a life beneficiary.

(5) "Impairment" means a mental or physical disability that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury, age, or disease, and where the impairment is verified by medical findings.

(6) "Life beneficiary" means a beneficiary designated by a donor to a community trust.

(7) "Successor trust" means the trust established upon distribution by the board of trustees as follows:

(A) Subsequent to the death or ineligibility of the life beneficiary because the donor has failed to designate a person or persons to whom assets are to be distributed upon the occurrence of such an event or because a distribution to the designated person or persons is impossible; or

(B) Subsequent to the death of a life beneficiary if the donor designates himself or herself or the donor's spouse as life benefi-

ciary pursuant to paragraph (4) of subsection (b) of Code Section 30-10-6.

A successor trust shall meet all requirements for a community trust provided in this chapter and shall be administered as set forth in this chapter.

(8) "Successor trustee" means the trustee as designated by the donor who shall administer the successor trust.

(9) "Trustee" means a member of a community trust board of trustees.

History.
Code 1981, § 30-10-2, enacted by Ga. L. 1996, p. 804, § 2; Ga. L. 1997, p. 576, § 1; Ga. L. 2001, p. 4, § 30.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1996, "Community Trust" was lower-cased in paragraphs (1), (2), (4), (6), and (9) and "Cotrustee" was substituted for "Co-trustee" twice in paragraph (3).
Law reviews.
For article commenting on the 1997 amendment of this Code section, see 14 Ga. St. U.L. Rev. 167 (1997).

30-10-3. Contributions by donors; taxation of assets held by board of trustees.

(a) Donors may supplement the care, support, habilitation, rehabilitation, and treatment of persons with impairments pursuant to this chapter. Neither the contribution to a community trust for the benefit of a life beneficiary nor the use of community trust income or principal to provide benefits shall in any way reduce, impair, or diminish the benefits for which a person is otherwise eligible by law.

(b) The assets held by the board of trustees of any community trust and its income and operations shall be exempt from all state and local taxation.

History.
Code 1981, § 30-10-3, enacted by Ga. L. 1996, p. 804, § 2.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1996, "Community Trust" was lower-cased in two places in subsection (a) and in one place in subsection (b).

30-10-4. Community trusts; creation.

Nonprofit organizations which qualify as tax-exempt organizations under Section 501(c)(3) of the United States Internal Revenue Code and which have expertise regarding the care, support, habilitation, rehabilitation, and treatment of persons with impairments are eligible to create community trusts in accordance with the provisions of this chapter. Two or more organizations which qualify as tax-exempt organizations under Section 501(c)(3) of the United States Internal Revenue Code and which have expertise regarding the care, support,

habilitation, rehabilitation, and treatment of impaired persons are eligible to create joint community trusts in accordance with the provisions of this chapter.

History.
Code 1981, § 30-10-4, enacted by Ga. L. 1996, p. 804, § 2.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1996, "Community Trusts" was lower-cased in two places.

30-10-5. Board of trustees.

Each community trust shall have a board of trustees appointed by the governing body of the nonprofit organization forming the trust, which shall include persons with expertise in business and investments and persons with expertise regarding the care, support, habilitation, rehabilitation, and treatment of persons with impairments. The members of the board of trustees shall serve without compensation but shall be reimbursed by the community trust for their actual expenses relating to the trust. The board of trustees shall administer the community trust and establish policies and rules and regulations necessary to exercise its powers in accordance with this chapter.

History.
Code 1981, § 30-10-5, enacted by Ga. L. 1996, p. 804, § 2.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1996, "Community Trust" was lower-cased in three places.

30-10-6. Qualification of trust; requirements for establishing community trust; distributions.

(a) The board of trustees shall take all steps necessary to satisfy all federal and state laws to ensure that the community trust is qualified to supplement the provision of government funding for persons with one or more impairments and, where necessary, is qualified as a tax-exempt entity under the United States Internal Revenue Code.

(b) The documents establishing a community trust shall include and be limited by the following:

(1) To be eligible to participate in a community trust, a life beneficiary must suffer from one or more impairments as defined in this chapter;

(2) A community trust may accept contributions from any source, so long as basic eligibility requirements are satisfied, to be held, administered, managed, invested, and distributed in order to facilitate the coordination and integration of private financing for individuals who have one or more impairments, while maintaining the

eligibility of those individuals for government funding. All contributions and the earnings of a community trust shall be administered as one trust for purposes of investment and management of funds. Notwithstanding the administration as one trust for investment and management, one or more separate accounts shall be established for each designated life beneficiary. The net income earned after deducting administrative expenses shall be credited to the accounts of the life beneficiaries, in proportion to the amount of the contribution made for each life beneficiary to the total contributions made for all life beneficiaries;

(3) Every donor shall designate a specific person as the life beneficiary of the contribution made by the donor. In addition, each donor shall name a cotrustee and a successor or successors to the cotrustee to act with the trustees of the community trust on behalf of the designated life beneficiary. A life beneficiary or the spouse of a life beneficiary shall not be eligible to be a cotrustee or a successor cotrustee;

(4) If a donor designates himself or herself or his or her spouse as the life beneficiary, then the account of the life beneficiary shall, regardless of any other provision of this chapter, meet the following additional conditions:

(A) The contribution or contributions of the life beneficiary or his or her spouse to the community trust shall be irrevocable;

(B) The funds remaining in the life beneficiary's account upon the death of the life beneficiary shall, to the extent such funds result from contributions made by the life beneficiary or his or her spouse, be subject to the state reimbursement requirements of federal laws governing community trusts, including paragraph (4) of subsection (d) of 42 U.S.C. Section 1396p as applied by this state. Any funds remaining after satisfaction of such requirements shall be distributed as the donor has designated in writing, and if there is no such designation or should distribution to those designated by the donor be impossible, then to a successor trust; and

(C) Neither the donor nor the donor's spouse shall serve as cotrustee;

(5) During his or her lifetime, any donor who has not designated himself or herself or his or her spouse as the life beneficiary may revoke any contribution made to a community trust. Notwithstanding the first sentence of this paragraph, any donor may, at any time, voluntarily waive the right to revoke. Upon revocation, an amount equal to the current fair market value of the balance of the life beneficiary's account in the community trust as determined on the date of revocation shall be returned to the donor;

(6) The cotrustee and the trustees annually, or more frequently, shall agree on the amount of income or principal, or both, to be used to provide noncash benefits and the nature and type of benefits to be provided to the life beneficiary. Such permissible benefits shall include, but not be limited to: more sophisticated dental, medical, and diagnostic work or treatment than is otherwise available from public assistance; private rehabilitative training; supplementary educational aid; entertainment; periodic vacations and outings; expenditures to foster the interests, talents, and hobbies of the life beneficiary; and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the life beneficiary but which will not defeat the life beneficiary's eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the life beneficiary. The trustees and cotrustee may exercise discretion to make payments from time to time for a person to accompany the life beneficiary on vacations and outings and for the transportation of the life beneficiary or of friends and relatives of the life beneficiary to visit the life beneficiary. Expenditures shall not be made for the primary support or maintenance of the life beneficiary, including basic food, shelter, and clothing if, as a result, the life beneficiary would no longer be eligible to receive public benefits or assistance for which the life beneficiary would otherwise be eligible. Any net income which is not used shall be added annually to the principal;

(7) Any cotrustee may, for good and sufficient reason upon written notice to the trustees and a determination by the board of trustees that the reason for the transfer is good and sufficient or upon the issuance of a notice of termination by the board of trustees, transfer all of the current fair market value of the balance of the life beneficiary's account in the trust as determined on the date of transfer to another trustee to be held for the sole benefit of the life beneficiary during his or her life; provided, however, that, if such a transfer involves funds contributed by the life beneficiary or his or her spouse, any trustee to whom funds are so transferred shall acknowledge in writing the right of the state to reimbursement as provided in 42 U.S.C. Section 1396p(d)(4). In no event shall a cotrustee be entitled to transfer only a portion of the current fair market value of the life beneficiary's account in the trust;

(8) If a life beneficiary for whose benefit a contribution has been made to the trust ceases to be eligible to participate in the trust, and neither the donor nor the cotrustee revokes or withdraws the contribution, then the board of trustees may, by written notice to the donor or cotrustee, terminate the trust as to such life beneficiary. Upon termination, the board of trustees shall distribute the fair market value of such life beneficiary's account in the trust to the person or

persons the donor has designated; provided, however, that, if the donor has failed to designate a person or persons for distribution in this event or if a distribution to the designated person or persons is impossible, the board of trustees shall distribute the fair market value of such life beneficiary's account in the trust to the trustee of the successor trust to be held, administered, and distributed by the successor trustee in accordance with the successor trust described in paragraph (10) of this subsection;

(9) Upon the death of the life beneficiary, then an amount equal to the current fair market value of the balance of the life beneficiary's account in the trust, as determined on the date of death, less payment of funeral and burial costs of the life beneficiary and satisfaction of any lien as provided in paragraph (4) of this subsection, shall be distributed to the person or persons the donor has designated; provided, however, that, if the donor has failed to designate a person or persons for distribution in this event or if a distribution to the designated person or persons is impossible, the board of trustees shall distribute the fair market value of such life beneficiary's account to a successor trust. To the extent this provision must be modified for the life beneficiary to remain eligible for government benefits, such modifications shall be made; and

(10) The trustee of the successor trust shall hold, administer, and distribute the principal and income of the successor trust, in the discretion of the trustee, for the maintenance, support, health, education, and general well-being of indigent persons suffering from one or more impairments, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's or beneficiaries' basic support for which the beneficiary or beneficiaries may be eligible and to improve the quality of the beneficiary's or beneficiaries' life by providing him, her, or them with those amenities which cannot otherwise be provided by public assistance or other available sources. Permissible expenditures include, but are not limited to: more sophisticated dental, medical, and diagnostic work or treatment than is otherwise available from public assistance; private rehabilitative training; supplementary educational aid; entertainment; periodic vacations and outings; expenditures to foster the interests, talents, and hobbies of the beneficiary or beneficiaries; and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary or beneficiaries but which will not defeat his, her, or their eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary or beneficiaries. The trustee of the successor trust, in his or her discretion, may make payments from time to time for a person to accompany a beneficiary on vacations and outings and for the transportation of a beneficiary or

of friends or relatives of a beneficiary to visit a beneficiary. Any undistributed income of the successor trust shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of a beneficiary, including basic food, shelter, and clothing, if, as a result, a beneficiary would no longer be eligible to receive public benefits or assistance for which such beneficiary would otherwise be eligible.

(c) The nonprofit organization administering the community trust may receive a distribution of trust assets as payment for services rendered to the life beneficiary or if the assets distributed are used solely for the benefit of the life beneficiary. The nonprofit organization administering a successor trust may receive a distribution of trust assets as payment for services rendered to a beneficiary or if the assets are used solely for the benefit of a beneficiary.

History.

Code 1981, § 30-10-6, enacted by Ga. L. 1996, p. 804, § 2; Ga. L. 1997, p. 576, § 2; Ga. L. 2000, p. 1274, §§ 1, 2, 3, 4; Ga. L. 2026, p. 1069, § 54(1)(Q)/HB 1268, effective July 1, 2026.

Amendments.

The 2026 amendment, effective July 1, 2026, part of an Act to revise, modernize, and correct the Code, revised punctuation in paragraphs (b)(7), (b)(8), and (b)(9).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1996, throughout this Code section, "Community Trust" was lower-cased and in the second sentence in paragraph (7), "cotrustee" was substituted for "co-trustee".

Law reviews.

For article commenting on the 1997 amendment of this Code section, see 14 Ga. St. U.L. Rev. 167 (1997).

30-10-7. Life beneficiaries.

(a) No life beneficiary shall have any vested or property rights or interests in a community trust. No life beneficiary shall have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of a community trust. The income or principal or any interest of any life beneficiary under a community trust shall not be liable for any debt incurred by the life beneficiary. The principal or income of a community trust shall not be subject to seizure by any creditor of any life beneficiary under any writ or proceeding in law or in equity.

(b) Except for the right of a donor, other than a donor or a donor's spouse who is a life beneficiary, to revoke any contribution made to a community trust, pursuant to paragraph (5) of subsection (b) of Code Section 30-10-6, and the right of any cotrustee other than the donor to withdraw all of the contribution made to the account of a life beneficiary, pursuant to paragraph (7) of subsection (b) of Code Section 30-10-6, neither the donor nor any cotrustee has the right to sell, assign, convey, alienate, or otherwise encumber, for consideration or otherwise, any interest in the income or the principal of a community

trust. The income or the principal or any interest of any life beneficiary in the trust shall not be liable for any debt incurred by the donor or any cotrustee. The principal or income of a community trust shall not be subject to seizure by any creditor of any donor or any cotrustee under any writ or proceeding in law or in equity.

History.
Code 1981, § 30-10-7, enacted by Ga. L. 1996, p. 804, § 2; Ga. L. 1997, p. 576, § 3.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1996, throughout this Code section, "Community Trust" was lower-cased and "cotrustee" was substituted for "co-trustee".
Law reviews.
For article commenting on the 1997 amendment of this Code section, see 14 Ga. St. U.L. Rev. 167 (1997).

30-10-8. Liability of trustees.

No trustee, cotrustee, successor cotrustee, or successor trustee serving pursuant to the provisions of this chapter shall at any time be liable for any mistake of law or fact, or of both law and fact, or errors of judgment, or for any loss sustained by a community trust, or by any life beneficiary, or by any other person, except through actual fraud or willful misconduct on the part of such trustee, cotrustee, successor cotrustee, or successor trustee.

History.
Code 1981, § 30-10-8, enacted by Ga. L. 1996, p. 804, § 2; Ga. L. 1997, p. 576, § 4.
Code Commission notes.
Pursuant to Code Section 28-9-5, in 1996, "Community Trust" was lower-cased in one place and "cotrustee" was substituted for "co-trustee" in three places.
Law reviews.
For article commenting on the 1997 amendment of this Code section, see 14 Ga. St. U.L. Rev. 167 (1997).

30-10-9. Distribution of funds upon dissolution of administering organization; perpetuities or restraints on alienation.

(a) Upon the dissolution of any organization administering a community trust, the remaining balance of each trust account shall be distributed to other community trusts. The Attorney General may bring an action in the superior courts for the dissolution of a nonprofit organization or a community trust for the purpose of terminating the trust or merging it with another community trust.

(b) Community trusts shall not be subject to or held to be in violation of any principle of law against perpetuities or restraints on alienation, including Article 9 of Chapter 6 of Title 44, the "Uniform Statutory Rule Against Perpetuities."

(c) Nothing contained in this chapter shall be construed so as to impair or limit the creation of other forms of trusts or charitable trusts, whether or not similar to community trusts permitted by this chapter.

History.

Code 1981, § 30-10-9, enacted by Ga. L. 1996, p. 804, § 2.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 1996, "attorney general" was capitalized in the second sentence in subsection (a) and "Community Trust" was lower-cased throughout.

Pursuant to Code Section 28-9-5, in 1997, "including Article 9 of Chapter 6 of Title 44, the 'Uniform Statutory Rule Against Perpetuities.'" was substituted for "including the Uniform Statutory Rule Against Perpetuities." in subsection (b).

Index

A

ABANDONMENT.
Dogs.
Control or elimination of wild or abandoned dogs, §27-1-7.

ABLE ACCOUNTS.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.

ABUSED, NEGLECTED OR EXPLOITED ADULTS.
Personal attendant care programs for disabled adults, §§30-6-1 to 30-6-5.
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.

ACCESS.
Disabled persons.
Access to and use of public facilities, §§30-3-1 to 30-3-9.

ACCIDENT AND SICKNESS INSURANCE.
Guardians of minors.
Temporary guardians.
Responsibility for obtaining medical insurance, §29-2-7.

ACCIDENTS.
Hunting.
Procedures following hunting accidents, §27-2-25.1.

ACCOUNTS AND ACCOUNTING.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Conservators.
Conservators for incapacitated adults.
Final settlement of accounts, §29-5-81.
Interim settlement of accounts, §§29-5-61 to 29-5-63.
Conservators for minors.
Final settlement of accounts, §29-3-71.
Interim settlement of accounts, §§29-3-61, 29-3-62.

ACCOUNTS AND ACCOUNTING —Cont'd
Fishing.
Atlantic states marine fisheries compact.
Accounting requirements, §27-4-214.
Report of examination by state auditor, §27-4-215.
VA guardians.
Annual accounting, requirements, §29-7-13.
Failure to file, §29-7-14.
Final accounting and final settlements.
Discharge of guardian, §29-7-9.

ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS, §§30-9-1 to 30-9-16.
Assignment of account, prohibition, §30-9-15.
Citation of provisions, §30-9-1.
Comprehensive investment plan, §30-9-10.
Contributions to accounts, §30-9-5.
Excess of limitations, prohibition, §30-9-7.
Investment restrictions on contributors, §30-9-10.
Reports to contributors, §30-9-12.
Trust fund deposits, §30-9-8.
Death of beneficiary, §30-9-14.
Definitions, §30-9-3.
Designated beneficiaries.
Death of beneficiary, §30-9-14.
Defined, §30-9-3.
Investment restrictions, §30-9-10.
Statements to, §30-9-12.
Establishment of ABLE programs, §30-9-5.
Federal law, establishment of account in violation of, §30-9-7.
Georgia ABLE program corporation.
Assignment for administrative purposes, §30-9-4.
Board of directors.
Compensation, §30-9-4.
Comprehensive investment plan, §30-9-10.
Establishment of ABLE program, §30-9-5.

ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS —Cont'd
Georgia ABLE program corporation —Cont'd
Board of directors —Cont'd
Members, §30-9-4.
Operation of ABLE program, §30-9-6.
Powers, §30-9-4.
Reporting, §30-9-12.
Trust fund, creation, §30-9-8.
Created, §30-9-4.
Investment program for trust fund, §30-9-10.
Implementation of programs, §30-9-2.
Information and outreach efforts, §30-9-13.
Investment earnings.
Held in trust, §30-9-8.
Use of, §30-9-5.
Involuntary liquidation of account, §30-9-7.
Legislative intent, §30-9-2.
Marketing by board, §30-9-6.
Operation of ABLE program, duties of board, §30-9-6.
Participation agreements with other states, §30-9-5.
Amendment, §30-9-7.
Availability to eligible individuals, duties of board, §30-9-6.
Material misrepresentations, effect, §30-9-7.
Terms and conditions, §30-9-7.
Payments on behalf of beneficiaries.
Deposit into trust fund, §30-9-8.
Pledge of state regarding continuation of established program, §30-9-5.
Public assistance.
Accounts not considered in determining eligibility, §30-9-11.
Public information and outreach efforts, §30-9-13.
Purpose of provisions, §30-9-2.
Records not considered to be public records, §30-9-16.
Reporting by board, §30-9-12.
Short title, §30-9-1.
State as creditor of accounts, §30-9-7.
Tax exemptions, §30-9-9.
Transfers of accounts, prohibitions, §30-9-15.
Trust fund.
Administration by state treasurer, §30-9-8.

ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNTS —Cont'd
Trust fund —Cont'd
Comprehensive investment plan, §30-9-10.
Created, §30-9-8.
Deposits, §30-9-8.
Duration of existence, §30-9-8.
Location, §30-9-8.
Welfare.
Accounts not considered in determining eligibility, §30-9-11.

ACTIONS.
Conservators for incapacitated adults.
Bond or other sufficient security.
Action against surety without judgment against conservator, §29-5-46.
Breach of fiduciary duty, §29-5-93.
Foreign conservatorships.
Power to institute actions, §§29-5-136, 29-5-137.
Limitation of actions against conservators, §29-5-94.
Power of conservator to bring or defend, §29-5-23.
Right of ward to bring and defend actions.
Power removed from ward, §29-5-21.
Conservators for minors.
Bond of conservator.
Action against surety without judgment against conservator, §29-3-46.
Breach of fiduciary duty, misapplication of assets, §29-3-83.
Foreign conservators.
Enforcement of rights and recovery of property, §§29-3-116, 29-3-117.
Limitation of actions against conservators, §29-3-84.
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Actions to enforce provisions, §28-1-18.
Guardians of incapacitated adults.
Breach of fiduciary duty, §29-4-53.
Foreign guardianship.
Authority to institute actions, §§29-4-96, 29-4-97.

ACTIONS —Cont'd
Guardians of incapacitated adults —Cont'd
Limitation of actions against guardians, §29-4-54.
Power of guardian to bring and defend, §29-4-23.
Rights of ward to bring or defend actions.
Power removed from ward upon appointment, §29-4-21.
Guardians of minors.
Breach of fiduciary duty, §29-2-43.
Foreign guardianships.
Actions to enforce right or recover property belonging to minor.
Authority to institute, §§29-2-75, 29-2-76.
Personal jurisdiction of court, submission to, §29-2-77.
Limitation of actions.
All actions against guardians except on bond, §29-2-44.
Wild animals seized as contraband.
Civil action to recover animals, §27-5-8.

ADOPTION.
Blind and visually impaired persons.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Discrimination prohibition.
Supportive parenting services as reasonable accommodation, §30-4-5.
Guardians of incapacitated adults.
Power of guardian, §29-4-23.
Guardians of minors.
Power to execute surrender of rights, §29-2-22.

ADULT DAY CARE.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

ADULTERATION.
Shellfish.
Seizure, §27-4-199.

ADULT GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS, §§29-11-1 to 29-11-42.
Applicability of provisions.
Construction with federal laws, §29-11-41.
Other laws, applicability, §29-11-42.
Proceedings to which applicable, §29-11-42.
Uniform application, §29-11-40.
Appointment of guardian or conservator.
Acquisition of jurisdiction due to unjustifiable conduct, §29-11-16.
Court declining to exercise jurisdiction for more appropriate forum, §29-11-15.
Emergency appointment, special jurisdiction, §29-11-13.
Exclusive and continuing jurisdiction, when concluded, §29-11-14.
Exclusive jurisdiction, §29-11-11.
Multiple courts, petition filed in.
Rules applicable, §29-11-18.
Notice and service of process, §29-11-17.
Requirements for jurisdiction, §29-11-12.
Citation of chapter, §29-11-1.
Communication with courts in other states, §29-11-4.
Construction with federal laws, §29-11-41.
Definitions, §29-11-2.
Denial of transfer of proceedings to this state, effect, §29-11-21.
Depositions.
Testimony of out-of-state witnesses, §29-11-6.
Emergency appointment of guardian or conservator.
Special jurisdiction, §29-11-13.
Exclusive and continuing jurisdiction, when concluded, §29-11-14.
Foreign countries, treatment of, §29-11-3.
Jurisdiction.
Appointment of guardian or conservator.
Acquisition of jurisdiction due to unjustifiable conduct, §29-11-16.
Court declining to exercise jurisdiction for more appropriate forum, §29-11-15.

ADULT GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS —Cont'd
Jurisdiction —Cont'd
Appointment of guardian or conservator —Cont'd
Emergency appointment, special jurisdiction, §29-11-13.
Exclusive and continuing jurisdiction, when concluded, §29-11-14.
Exclusive jurisdiction, §29-11-11.
Multiple courts, petition filed in. Rules applicable, §29-11-18.
Notice and service of process, §29-11-17.
Requirements for jurisdiction, §29-11-12.
Significant connection with another state.
Defined, §29-11-2.
Determining, §29-11-10.
Limited purpose jurisdiction of courts of this state.
Compliance with requests from out-of-state courts, §29-11-5.
Modification of guardianship or conservatorship.
Transfer of proceedings to this state, determination if modification required, §29-11-21.
Notice.
Appointment of guardian or conservator, petition, §29-11-17.
Registration of conservatorship order, notice of intent to register, §29-11-31.
Registration of guardianship order, notice of intent to register, §29-11-30.
Transfer of proceedings to another state, petition for, §29-11-20.
Transfer of proceedings to this state, petition for acceptance, §29-11-21.
Other laws, applicability, §29-11-42.
Proceedings to which chapter applicable, §29-11-42.
Recognition of guardianship or conservatorship from another state.
Transfer of proceedings to this state, §29-11-21.
Recordkeeping.
Communication with courts in other states, §29-11-4.

ADULT GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS —Cont'd
Registration of conservatorship order, §29-11-31.
Enforcement of registered order, §29-11-32.
Powers authorized, §29-11-32.
Service or notice of registration, §29-11-32.
Registration of guardianship order, §29-11-30.
Enforcement of registered order, §29-11-32.
Powers authorized, §29-11-32.
Service or notice of registration, §29-11-32.
Requests between courts, §29-11-5.
Short title, §29-11-1.
Termination of guardianship or conservatorship.
Transfer of proceedings to another state, §29-11-20.
Transfer of proceedings to another state, §29-11-20.
Transfer of proceedings to this state, §29-11-21.
Uniform application of provisions, §29-11-40.
Witnesses.
Testimony of out-of-state witnesses, §29-11-6.

ADVANCE DIRECTIVES FOR HEALTHCARE.
Conservator for incapacitated adults.
Appointment.
Agents powers not revoked by mere appointment, §29-5-21.
Guardian for incapacitated adult.
Appointment.
Powers of agent not revoked by mere appointment, §29-4-21.
Temporary medical consent guardianship, termination, §29-4-18.
Psychiatric advance directives.
Mental healthcare agents.
Conservator for incapacitated adults.
Agents powers not revoked by mere appointment, §29-5-21.
Guardian for incapacitated adult.
Powers of agent not revoked by mere appointment, §29-4-21.

ADVANCE DIRECTIVES FOR HEALTHCARE —Cont'd
Temporary medical consent guardianship, termination, §29-4-18.

ADVERTISING.
Local laws, §28-1-14.

AFFIDAVITS.
Conservators for incapacitated adults.
Delivery of incapacitated adult's property to person making affidavit, §29-5-4.
Modification of conservatorship.
Affidavit supporting petition.
Allegation of change in ward's capacity, §29-5-71.
Petition for appointment of conservator.
Affidavits supporting, §29-5-10.
Emergency conservator, §29-5-14.
Termination of conservatorship.
Affidavit supporting petition, §29-5-72.
Fishing.
Commercial salt-water fishing.
Fishing boat license.
Filing of bond or affidavit as condition for validity, §27-4-111.
Guardians for incapacitated adults.
Appointment.
Affidavit supporting petition, §29-4-10.
Emergency appointment, §29-4-14.
Modification of guardianship.
Affidavit supporting petition.
Significant change in capacity of ward alleged, §29-4-41.
Termination of guardianship.
Affidavits supporting petition, §29-4-42.
Guardianships and conservatorships generally.
Attestation prima facie evidence, §29-9-9.
Made outside state, force and effect, §29-9-9.
Officers before whom made, §29-9-9.
Petition to be verified, §29-9-11.

AGE.
Game wardens.
Qualifications, §27-1-16.
Public guardians, §29-10-3.

AGED PERSONS.
Abused, neglected or exploited adults.
Personal attendant care program for disabled adults and elder persons, §§30-6-1 to 30-6-5.
Protection of disabled adults, §§30-5-1 to 30-5-11.
Criminal offenses and penalties.
Disabled adults and elder persons protection act, §30-5-8.
Disabled adults.
Personal attendant care program for disabled adults, §§30-6-1 to 30-6-5.
Protection of disabled adults, §§30-5-1 to 30-5-11.
Financial protections for elderly and disabled adults.
Disabled adults and elder persons protection act.
Generally, §§30-5-1 to 30-5-11.
Hunting licenses.
Senior hunting licenses.
Fees, §27-2-23.
Immunity.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Public facilities.
Access to and use of.
General provisions, §§30-3-1 to 30-3-9.
Vulnerable adults.
Protection of disabled adults, §§30-5-1 to 30-5-11.

AGENTS.
Conservators for incapacitated adults.
Powers of previously appointed agent not revoked by mere appointment, §29-5-21.
Fur dealers.
License required, §27-3-69.
Guardian appointed for incapacitated adult.
Powers of agent previously appointed.
Not revoked by mere appointment, §29-4-21.

AGRICULTURE.
Aquaculture, §§27-4-251 to 27-4-263.
Deer.
Permits.
Killing deer causing damage to crops, §27-2-18.

AGRICULTURE —Cont'd
Permits.
Killing deer causing damage to crops, §27-2-18.

AIR-BREATHING CATFISH.
Wild animals for which license or permit required, §27-5-5.

AIR CONDITIONERS.
Humane handling, care and confinement of animals.
Indoor facilities to include air conditioning, §27-5-6.

AIRCRAFT.
Drones.
Feral hogs, use of unmanned aircraft to locate, §27-3-13.
Hunting.
Killing of wildlife or feral hogs from aircraft, §27-3-13.
Unmanned aircraft systems.
Feral hogs, use of unmanned aircraft to locate, §27-3-13.

AIR GUNS.
Hunting.
Weapons permitted, §27-3-4.

AIRLINES.
Persons with disabilities.
Right to equal public accommodation, §30-4-2.

ALABAMA.
Hunting licenses.
Reciprocal agreements, §27-2-7.

ALCOHOLIC BEVERAGES.
Fishing.
Intoxication on public fishing areas, §27-4-11.1.
Hunting while intoxicated, §27-3-7.

ALLIGATORS.
Alligator farming.
Defined, §27-1-2.
Alligator product.
Defined, §27-1-2.
Baiting wild alligators, §27-3-170.
Defined, §27-1-2.
Disposal of carcasses, §27-3-73.
Feeding wild alligators, §27-3-170.
Gathering eggs from the wild, §27-3-19.
Hunting, §27-3-19.
Feeding or baiting wild alligators, §27-3-170.
Nighttime hunting, §27-3-2.

ALLIGATORS —Cont'd
Hunting —Cont'd
Possession of alligator products, §27-3-19.
Alligator product defined, §27-1-2.
Special alligator hunting license requirement, §27-2-6.
Terminally ill persons age 21 or younger, special hunting privileges, §27-2-4.3.
Weapons permitted, §27-3-4.
Licenses.
Commercial alligator farming licenses, §27-2-10.

AMBERJACK.
Creel and possession limits, §27-4-10.

AMERICAN KENNEL CLUB.
Rabbits or hares taken out of season.
Special permit to trap or sell.
Selling at time trials sanctioned by American kennel club, §27-3-67.

AMERICAN SHAD.
Creel and possession limits, §27-4-10.

AMERICAN SIGN LANGUAGE.
Fully developed, autonomous, natural language.
Legislative findings, §30-1-6.

AMMUNITION.
Hunting dogs.
Training.
Handguns with blank ammunition, §27-3-16.
Hunting wildlife.
Bullets, §27-3-4.

ANADROMOUS FISH.
Atlantic states marine fisheries compact.
Generally, §27-4-210.

ANALGESIA.
Research facilities.
Veterinary care program.
Specifications for humane handling, care, etc., §27-5-6.

ANATOMICAL GIFTS.
Fishing, hunting or trapping license.
Application, ability to make anatomical gift, §27-2-2.

ANIMALS.
Capuchin monkeys.
Service animals.
Housing rights of blind or deaf persons, §30-4-3.

ANIMALS —Cont'd
Capuchin monkeys —Cont'd
Wild animal permits for.
Issuance, requirements, §27-5-4.
Deer.
Hunting.
General provisions, §§27-3-40 to 27-3-50.
Film production wildlife permits, §27-2-13.1.
Fees, §27-2-23.
Game and fish.
Endangered wildlife, §§27-3-130 to 27-3-133.
Fishing.
General provisions, §§27-4-1 to 27-4-283.
Hunting.
Deer.
General provisions, §§27-3-40 to 27-3-50.
General provisions, §§27-3-1 to 27-3-29.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Licenses, permits and stamps.
General provisions, §§27-2-1 to 27-2-31.
Shooting preserves, §§27-3-110 to 27-3-115.
Transportation of wildlife, §§27-3-90 to 27-3-94.
Wild animals.
Importation, transportation, sales, etc., §§27-5-1 to 27-5-12.
Imports.
Wild animals, importation, transportation, sales, etc, §§27-5-1 to 27-5-12.
Wildlife.
Fishing.
General provisions, §§27-4-1 to 27-4-283.
Hunting.
Deer.
General provisions, §§27-3-40 to 27-3-50.
General provisions, §§27-3-1 to 27-3-29.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Shooting preserves, §§27-3-110 to 27-3-115.
Transportation of wildlife, §§27-3-90 to 27-3-94.

ANIMALS —Cont'd
Wildlife —Cont'd
Wild animals.
Importation, transportation, sales, etc., §§27-5-1 to 27-5-12.

ANTLERS.
Deer which have no antlers visible.
Killing, §27-3-44.
Sales.
Lawful, §27-3-50.

APPEALS.
Conservators for incapacitated adults.
Final orders of court, §29-5-110.
Fertility control of wildlife.
Appeal of permit denial, suspension or revocation, §27-3-182.
Guardians for incapacitated adults.
Final orders of court appealed to superior court, §29-4-70.
Wild animals.
Fertility control of wildlife.
Appeal of permit denial, suspension or revocation, §27-3-182.
Seizure of wild animals pursuant to administrative order, §27-5-9.

APPOINTMENT OF COUNSEL.
Guardians for incapacitated adults.
Temporary medical consent guardianship, §29-4-18.

APPORTIONMENT.
General assembly.
House of representatives, §28-1-1.
Districts, §28-2-1.
Residency requirement, §28-2-1.
State divided into 180 districts, §28-2-1.
Senate, §28-1-1.
Districts, §28-2-2.
Number, §28-2-2.

APPROPRIATIONS.
Claims against state.
General provisions, §§28-5-60 to 28-5-108.
Fishing.
Atlantic states marine fisheries compact.
Annual appropriation for commission, §27-4-216.
General assembly.
House of representatives.
General appropriations bill.
Consideration by appropriations committee, §28-5-4.

APPROPRIATIONS —Cont'd
Public guardians.
Compensation, §29-10-11.
Wildlife.
Disposition of funds received by department, §27-1-13.

AQUACULTURE, §§27-4-251 to 27-4-263.
Citation of article, §27-4-251.
Definitions, §27-4-252.
Development commission.
Appointment, §27-4-253.
Bylaws, §27-4-253.
Compensation, §27-4-253.
Composition, §27-4-253.
Creation, §27-4-253.
Development plan.
Contents, §27-4-254.
Duties, §27-4-254.
Meetings, §§27-4-253, 27-4-254.
Qualification of members, §27-4-253.
Quorum, §27-4-253.
Staff support, §27-4-254.
Terms of members, §27-4-253.
Inspections, §27-4-263.
Registration.
Sale of domestic fish, §27-4-255.
Application.
Contents, §27-4-257.
Filing as admission of doing business in state, §27-4-258.
Certificate as evidence of registration, §27-4-261.
Denial.
Grounds, §27-4-259.
Duty of department to register sellers, §27-4-256.
Expiration of registration, §27-4-256.
List of persons registered, §27-4-261.
Revocation, §27-4-260.
Rules and regulations, §27-4-262.
Sale of domestic fish.
Registration, §27-4-255.
Application.
Contents, §27-4-257.
Filing as admission of doing business in state, §27-4-258.
Certificate as evidence of registration, §27-4-261.
Denial.
Grounds, §27-4-259.
Duty of department to register sellers, §27-4-256.
Expiration, §27-4-256.
List of persons registered, §27-4-261.

AQUACULTURE —Cont'd
Sale of domestic fish —Cont'd
Registration —Cont'd
Revocation, §27-4-260.
Short title of article, §27-4-251.

AQUACULTURE DEVELOPMENT ACT.
General provisions, §§27-4-251 to 27-4-263.
Short title, §27-4-251.

ARCHERY.
Hunting weapons.
Lawful, §27-3-4.
Unlawful, §27-3-6.
Licenses, §27-2-23.

ARREST.
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Refusal to provide access to records, §28-1-18.
Wildlife game wardens.
Interference with arrest duties, §27-1-25.
Power to arrest persons, §§27-1-18, 27-1-19.

ARROWS.
Fishing regulations, §§27-4-5, 27-4-34.
Hunting feral hogs, §§27-3-4, 27-3-24.
Hunting weapons.
Lawful, §27-3-4.
Unlawful, §27-3-6.

ARTIFICIAL LURES.
Artificial-lure streams, §27-4-36.
Defined, §27-1-2.
Pole and line.
Defined, §27-1-2.

ASSIGNMENTS.
Achieving a better life experience (ABLE) accounts.
Assignment of accounts, prohibitions, §30-9-15.

ATLANTIC CROAKER.
Creel and possession limits, §27-4-10.

ATLANTIC STATES MARINE FISHERIES COMPACT, §§27-4-210 to 27-4-216.

ATLANTIC STURGEON.
Creel and possession limits, §27-4-10.

ATTORNEY GENERAL.
Claims against the state.
Injuries sustained while preventing crime or aiding officers of the law, §§28-5-100 to 28-5-108.
General assembly.
Interstate cooperation.
Creation of Senate and House committees, §28-6-1.
Legislative counsel.
Advisor to legislative counsel, §28-4-5.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Actions to enforce provisions, §28-1-18.
Interstate cooperation.
Governor's committee member, §28-6-1.
Investigations.
Investigations of department of law or offices of attorney general, §28-1-17.

ATTORNEYS' FEES.
Adult guardianship and conservatorship proceedings.
Acquisition of jurisdiction to appoint guardian or conservator due to unjustifiable conduct, §29-11-16.
Guardianships and conservatorships generally.
Awarding appointed counsel, §29-9-15.

AUCTIONS.
Wild animal auction license, §27-5-11.

AUDITS.
Department of audits and accounts.
General assembly.
Economic analysis of certain tax benefits of laws or proposed laws, §28-5-41.1.
General assembly.
Legislative expenditures.
Examination and review, §28-1-8.
Grants made by state.
Recipients, §28-5-125.
Lieutenant governor.
Legislative services committees annual audit of legislative funds and expenditures.
Audits to detail expenditures of office of lieutenant governor, §28-4-2.

AXES.
Hunting dogs.
Training hunting dogs.
Having in possession while training dogs prohibited, §27-3-16.

B

BABOONS.
Licensing to transport or sell, §27-5-5.

BAD FAITH.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Disabled persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.

BADGES.
Deputy game wardens, §27-1-17.
Game wardens.
Retention of badges.
Disability incurred in line of duty, §27-1-16.
Retirement, §27-1-16.

BAIT.
Artificial lures.
Defined, §27-1-2.
Artificial-lure streams or lakes, §27-4-36.
Baiting wildlife generally, §§27-3-9, 27-3-27, 27-3-63.
Hunting feral hogs, §27-3-24.
Dealers.
Shrimp sold for bait, §27-4-171.
Established bait dealership.
Defined, §27-1-2.
Fish as bait, §27-4-50.
Licensed bait dealer.
Defined, §27-1-2.
License fees, §27-2-23.
Seafood.
Defined, §27-1-2.
Taking fish and shrimp, §§27-4-5, 27-4-133, 27-4-171.

BANKS AND TRUST COMPANIES.
Achieving a better life experience (ABLE) accounts.
General provisions, §§30-9-1 to 30-9-16.

BANKS AND TRUST COMPANIES —Cont'd
Aged persons.
Protection of disabled adults and elder persons.
Access by agencies to records or reports of abuse, §30-5-7.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

BARBED ARROWS.
Bow and arrow fishing, §27-4-34.

BARRIER-FREE ARCHITECTURE.
Public buildings.
Disabled persons.
Access and use, §§30-3-1 to 30-3-9.

BEARS.
Defined as big game, §27-1-2.
Hunting, §27-3-25.
Removal of bears by owners of beehives, §27-3-21.
Required outer garments, §27-3-25.
Restrictions, §27-3-26.
Unlawful use of bear bait, §27-3-27.
Weapons permitted, §27-3-4.
Taking possession of native wildlife killed by motor vehicle.
Notice required for taking of bear, §27-3-28.

BEAVERS.
Hunting, §27-1-28.
Trapping.
Open seasons, §27-3-62.
Upon right of way of public road or highway, §27-3-63.

BEES AND BEEKEEPING.
Bears.
Protection of hives from, §27-3-21.
Protection of hives from bears, §27-3-21.

BIG GAME.
Defined, §27-1-2.
Hunting licenses, §§27-2-6, 27-2-23.
Fees, §27-2-23.

BILLS OF GENERAL ASSEMBLY.
Fiscal notes, §§28-5-40 to 28-5-45.

BILLS OF GENERAL ASSEMBLY —Cont'd
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Local legislation.
Districts, requirements for bills revising, §28-1-14.1.
Notice of intention to introduce, §28-1-14.

BIRDS.
Waterfowl and migratory bird stamps, §27-2-6.
Fee, §27-2-23.

BIRTH CONTROL.
Fertility control of wildlife, §§27-3-180 to 27-3-185.

BLACK BASS.
Creel and possession limits, §27-4-10.

BLACK CRAPPIE.
Creel and possession limits, §27-4-10.
Game fish defined, §27-1-2.

BLACK DRUM.
Creel and possession limits, §27-4-10.

BLACK DUCKS.
Shooting preserves.
Release on, §27-3-111.

BLACKOUTS.
Charging semiconscious or unconscious persons with crime.
Duties of law enforcement officers before charging, §30-1-3.
Identification bracelet, tag or card for persons suffering blackouts, §30-1-3.

BLIND AND VISUALLY IMPAIRED PERSONS.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Capuchin monkeys.
Housing rights, §30-4-3.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Discrimination prohibition.
Supportive parenting services as reasonable accommodation, §30-4-5.
Definitions.
Rights of persons with disabilities, §30-4-1.

BLIND AND VISUALLY IMPAIRED PERSONS —Cont'd
Discrimination.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Supportive parenting services as reasonable accommodation, §30-4-5.
Right to equal public accommodations, §§30-4-2, 30-4-4.
Right to housing accommodations, §§30-4-3, 30-4-4.
Education.
Braille skills.
Evaluation, §30-7-3.
Definitions, §30-7-2.
Individualized education program, §30-7-3.
Elements, §30-7-4.
Short title, §30-7-1.
Housing accommodations.
Right to housing accommodations, §30-4-3.
Denial of or interference with exercise of right, §30-4-4.
Industries for the blind, §§30-2-1 to 30-2-9.
Acquisition of property, §30-2-3.
Articles to be manufactured by industries, §30-2-5.
Compensation of workers, §30-2-7.
Creation, §30-2-1.
Demotion of workers, §30-2-8.
Departure of workers, §30-2-8.
Establishment, §30-2-1.
Homework of employees authorized, §30-2-6.
Laying off of workers, §30-2-8.
Legislative intent, §30-2-2.
Merchandise to be manufactured by industries, §30-2-5.
Observance of state holidays, §30-2-7.
Operational plan, §30-2-5.
Operation of industries generally, §30-2-4.
Payment for state holidays, §30-2-7.
Promotion of workers, §30-2-8.
Purchase of goods manufactured at industries.
By state institutions, §30-2-4.
Purpose, §30-2-2.
Reemployment of workers, §30-2-8.
Superintendents for industries, §30-2-4.
Authority to permit work to be done in homes of workers, §30-2-6.

BLIND AND VISUALLY IMPAIRED PERSONS —Cont'd
Industries for the blind —Cont'd
Supervision by vocational rehabilitation agency, §30-2-3.
Surplus funds retained as working capital, §30-2-9.
Transfer of workers, §30-2-8.
Working capital, §30-2-9.
Public accommodations.
Right to equal public accommodations, §30-4-2.
Denial of or interference with admittance to facilities, §30-4-4.
Public facilities.
Access to and use of.
General provisions, §§30-3-1 to 30-3-9.
Service dogs.
Denial of or interference with exercise of right, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Right to be accompanied by service dog, §30-4-2.
Housing accommodations, §30-4-3.
Obligations of owner and/or trainer, §30-4-2.
Persons training or raising, §30-4-2.

BLIND PERSONS' LITERACY RIGHTS AND EDUCATION, §§30-7-1 to 30-7-4.

BLOOD TESTS.
Hunting while intoxicated, §27-3-7.

BLUEFISH.
Creel and possession limits, §27-4-10.

BLUE MARLIN.
Creel and possession limits, §27-4-10.

BOATS AND OTHER WATERCRAFT.
Crabbing.
Identification of boats or vessels, §27-4-151.
Fishing.
Commercial fishing.
Boat license, §27-2-8.
Power-driven nets.
Penalties for illegal fishing, §27-4-138.
Requirement of forfeiture bond or affidavit upon license application, §27-4-134.
Salt-water fishing, §27-4-111.

BOATS AND OTHER WATERCRAFT —Cont'd
Fishing —Cont'd
Commercial salt-water fishing.
Identification tags, numbers and letters for boats or vessels, §27-4-117.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Hunting.
Killing of wildlife or feral hogs from boats, §27-3-13.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Wildlife.
Failure or refusal to bring to a stop when ordered to do so, §27-1-25.1.
Inspection of vessels and boats, §27-1-24.

BOBCATS.
Hunting, §§27-1-2, 27-3-2, 27-3-15.
Center-fire firearms for hunting fox and bobcat, §27-3-4.

BOBWHITE QUAIL.
Hunting.
Shooting preserves, legal hunting dates and hours, §27-3-112.

BODY-GRIPPING TRAPS, §27-3-63.

BONDS, SURETY.
Bait dealers, §27-4-171.
Conservators for incapacitated adults, §§29-5-40 to 29-5-49.
Action against surety without obtaining judgment against conservator, §29-5-46.
Additional or other bond and security, §29-5-43.
Amount, §29-5-41.
Additional bond and security, §29-5-43.
Reduction, §29-5-42.
Appointment declared void.
Responsibility of surety, §29-5-45.
Death of surety.
Discharge of surety, §29-5-49.
Discharge and release of surety, §29-5-49.
Exceptions to required bond, §29-5-40.
Joint and several liability of conservator and surety, §29-5-46.
Judgment and execution against conservator's or surety's property, §§29-5-47, 29-5-48.

BONDS, SURETY —Cont'd
Conservators for incapacitated adults —Cont'd
New security given, §29-5-49.
Notice.
Additional or other bond and security, §29-5-43.
Payment of bond premium from estate, §29-5-44.
Recording, §29-5-40.
Reduction.
Decrease in value of ward's estate, §29-5-42.
Removal of conservatorship to another county in state, §29-5-120.
Required of conservator appointed by court, §29-5-40.
Requirements of bond, §29-5-41.
Conservators for minors, §§29-3-40 to 29-3-49.
Action against surety without obtaining judgment against conservator, §29-3-46.
Additional or other bond and security, §29-3-43.
Amount, §29-3-41.
Reduction, decrease in minor's estate, §29-3-42.
Appointment without bond, §29-3-41.
Bond premium, payment from estate, §29-3-44.
Conservator's appointment void, responsibility of surety on bond, §29-3-45.
Discharge or release of surety, §29-3-48.
Execution against conservator or surety, §§29-3-47, 29-3-48.
Joint and several liability.
Liability of conservator and surety, §29-3-46.
Requirement, exception, §29-3-40.
Testamentary conservators, §29-3-5.
County conservators.
Additional security on bond, §§29-8-2, 29-8-4, 29-8-5.
Fishing.
Commercial salt-water fishing.
Fishing boat license, §27-4-111.
Fur dealers.
Posting of bond by license applicants, §27-3-70.
Effect of breach of conditions of bond, §27-3-70.
Guardians for incapacitated adults.
Guardian may be required to give, §29-4-30.

BONDS, SURETY —Cont'd
Guardians of minors.
Court may require bond, recording by court, §29-2-25.
Standby guardians.
Bond required, §29-2-10.
Oysters and clams.
Shellfish mariculture permits, §27-4-202.
Public guardians, §29-10-5.
Additional security on bond or additional bond, §29-10-8.
Seafood harvesting.
Commercial fishing boat license.
Power-driven nets.
Requirement of forfeiture bond or affidavit upon license application, §27-4-134.
Standby guardians.
Guardians of minors.
Bond required, §29-2-10.
Trapping.
Nonresident commercial trapping license, §27-3-61.
VA guardians, §29-7-10.
Payment of premiums for corporate surety, §29-7-15.
Wildlife.
Wild animal auction license, §27-5-11.

BOUNDARIES.
Fishing.
Salt-water and fresh-water demarcation line, §27-4-1.

BOW FISHING, §27-4-34.

BOW HUNTING, §§27-3-4, 27-3-6.

BOWS AND ARROWS.
Fishing, §27-4-34.
Hunting, §§27-3-4, 27-3-6.

BREACH OF FIDUCIARY DUTY.
Conservators for incapacitated adults, §29-5-93.
Conservators for minors, §29-3-83.
Guardians for incapacitated adults.
Remedies of ward, §29-4-53.
Guardians of minors.
Cause of action, remedies, §29-2-43.

BUILDINGS AND HOUSING.
Disabled persons.
Public facilities.
Access to and use of, §§30-3-1 to 30-3-9.

BULLETS.
Hunting wildlife, §27-3-4.

BUOYS.
Commercial fresh-water fishing.
Trotlines.
Defined, §27-4-91.
Noncommercial fishing.
Sport trotlines, §27-4-32.
Sport trotlines, §§27-4-32, 27-4-91.

BURIAL.
Judge of probate.
Receipt of fund due and owing minor or adult.
Payment of funeral or burial expenses, §29-6-4.

BURIAL EXPENSES.
Judge of probate.
Receipt of funds due and owing minor or adult.
Payment of funeral or burial expenses, §29-6-4.

BUSES.
Persons with disabilities.
Right to equal public accommodation, §30-4-2.

BUSINESSES.
Lobbyists.
General provisions, §§28-7-3 to 28-7-5.

C

CAGES.
Commercial crab trap defined, §27-1-2.
Wild animal humane handling, care, confinement and transportation.
Specifications, §27-5-6.

CAMPING.
Public fishing areas, §27-4-11.1.
Wildlife management areas.
Camping upon permanent pasture or area planted in crops prohibited, §27-3-1.1.

CAMPS.
Conservation camps.
Acceptance of grants and donations for purposes of creating and maintaining, §27-1-13.

CANCELLATION.
Hunting, trapping or fishing licenses, §27-2-26.

CAPITOL OF STATE.
General assembly.
Meetings at state capitol, §28-1-2.

CAPITOL OF STATE —Cont'd
Legislative services committee.
Powers over third and fourth floors of state capitol, §28-4-2.

CAPUCHIN MONKEYS.
Service monkeys.
Housing rights of blind or deaf persons, §30-4-3.
Wild animal permits.
Issuance, requirements, §27-5-4.

CARCASSES.
Cervid carcass or carcass part.
Possession or importation from outside of state.
Unlawful, exceptions, §27-5-2.1.
Deer.
Removal of head before carcass processed or surrendered to storage facility prohibited, §27-3-43.
Humane handling, care, etc., §27-5-6.
Road kill.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Trappers and fur dealers.
Disposal of carcasses of fur-bearing animals or alligators, §27-3-73.

CARDIAC CONDITION.
Identification bracelet, tag, etc., for persons suffering blackouts from, §30-1-3.

CARETAKERS.
Disabled adults and elder persons abuse reporting, §30-5-4.
Defined, §30-5-3.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.
Wild animal transportation.
Humane handling, care, confinement specifications, §27-5-6.

CARRIERS.
Wildlife.
Transportation of wildlife.
Acceptance of wildlife for shipment, §27-3-94.
Reporting requirements, §27-3-94.
Definition of carrier, §27-1-2.
Interstate transportation, §27-3-92.
Intrastate transportation, §27-3-91.

CARRYING WEAPONS.
Bow hunting.
Possession of firearm while, §27-3-6.
Hunting with bow and arrow.
Possession of firearm while hunting, §27-3-6.
Wildlife management areas, §27-3-1.1.

CATFISHING.
Agreements with adjoining states, §27-4-234.
Bow and arrow.
Restrictions on taking of catfish by bow and arrow, §27-4-34.
Commercial fishing.
Restrictions, §27-4-71.
Game fish defined, §27-1-2.
Lawful baskets for taking, §27-4-92.
Methods for taking fish generally, §27-4-5.
Number of fish taken from public fishing areas, §27-4-11.1.
Sale, purchase or transportation of game fish.
Flathead catfish and channel catfish harvested from Georgia waters in course of commercial fishing, §27-4-74.
Spearing of fish, §27-4-33.
Trotlines.
Lawful devices, §27-4-91.
Wild animals for which license or permit required.
Air-breathing catfish and parasitic catfish, §27-5-5.

CATS.
Trapping offenses.
Selling fur, hide or pelt of domestic cat caught by trap, §27-3-63.
Wild animals for which license or permit required, §27-5-5.

CEASE AND DESIST ORDERS.
Fertility control of wildlife.
Cease and desist order for violations, §27-3-184.
Wildlife.
Fertility control of wildlife.
Cease and desist order for violations, §27-3-184.

CEMENT-COATED SHINGLE.
Distribution and transplanting of oyster shells.
Culch includes, §27-4-196.

CERTIFICATES OF COMPLETION.
Hunter education courses, §27-2-5.

CERTIFIED MAIL.
Adult guardianship and conservatorship proceedings.
Notice of petition for appointment of guardian or conservator, §29-11-17.

CERVIDAE.
Possession or importation from outside of state.
Unlawful, exceptions, §27-5-2.1.

CHAIN PICKEREL.
Creel and possession limits, §27-4-10.
Game fish defined, §27-1-2.

CHANNEL CATFISH.
Agreements with adjoining states, §27-4-234.
Game fish defined, §27-1-2.
Lawful baskets for taking, §27-4-92.
Methods for taking fish generally, §27-4-5.
Number of fish taken from public fishing areas, §27-4-11.1.
Sale, purchase or transportation of game fish, §27-4-74.
Trotlines as lawful devices for taking, §27-4-91.

CHARITIES.
Circuses.
Wild animal licenses for transient circuses.
Percentage of proceeds devoted to charitable purposes, §27-5-4.
Wildlife illegally taken or possessed.
Disposal of wildlife unable to be stored, §27-1-21.

CHECKS.
Claims against the state.
Issuance for payments.
Statement attached, §28-5-63.

CHEETAHS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

CHICKENS.
Domestic species defined, §27-1-2.

CHICKEN WIRE.
Commercial crab traps defined.
Cage or cubicle structure constructed of, §27-1-2.

CHILD ABUSE AND NEGLECT.
Conservators.
General provisions.
Guardian ad litem.
Assessment of fees, costs and expenses.
Effect of abuse, neglect or exploitation, §29-9-3.
Guardians.
General provisions.
Guardian ad litem.
Assessment of fees, costs and expenses, §29-9-3.

CHILD CUSTODY.
Blind and visually impaired persons.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Discrimination prohibition.
Supportive parenting services as reasonable accommodation, §30-4-5.
Natural guardian of minor, §29-2-3.

CHILDREN.
Compromise of minor's claim, §29-3-3.
Conservators for minors, §§29-3-1 to 29-3-120.
Guardians of minors, §§29-2-1 to 29-2-77.
Legal custodian and distributor of money owning minor.
Probate courts.
No conservator appointed, §§29-6-1 to 29-6-9.
Money owed minor.
Probate courts.
Legal custodian and distributor, §§29-6-1 to 29-6-9.
Natural guardians.
Compromise of minor's claim, §29-3-3.
Parents, §§29-2-1 to 29-2-3.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.
Payment of indebtedness or delivery of property to, §29-3-1.
Release of debtor and compromise of debt, §29-3-2.
Next friend of minor.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.

CHILDREN —Cont'd
Next friend of minor —Cont'd
Receipt of minor's personal property —Cont'd
Payment of indebtedness or delivery of property to, §29-3-1.
Release of debtor and compromise of debt, §29-3-2.
Standby guardians, §§29-2-9 to 29-2-13.
Temporary guardians, §§29-2-5 to 29-2-8.
Testamentary guardians, §29-2-4.

CHILD SUPPORT.
Guardians of minors.
Standby guardians.
Parent not relieved of responsibility on designation, §29-2-10.
Temporary guardians.
Assumption while guardianship in effect, §29-2-7.
Standby guardians.
Guardians of minors.
Parent not relieved of responsibility on designation, §29-2-10.

CHIMPANZEES.
Wild animal licenses and permits, §27-5-5.

CHOKE STICKS.
Failure to carry while tending traps, §27-3-63.

CHRONIC WASTING DISEASE.
Cervid carcasses.
Possession or importation from outside state, §27-5-2.1.

CIRCUSES.
Wild animal licenses and permits, §27-5-4.
Wildlife exhibition permits, §27-2-13.

CITATIONS.
General assembly members.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Refusal to provide access to records, §28-1-18.
Guardianships and conservatorships.
Issuance upon filing petition, §29-9-12.

CLAIMS ADVISORY BOARD.
Claims against state.
General provisions, §§28-5-60 to 28-5-108.

CLAIMS AGAINST STATE, §§28-5-60 to 28-5-108.
Checks.
Issuance for payment of claims.
Statement attached to checks, §28-5-63.
Claims advisory board.
Advisory recommendations.
Crime victims' compensation, §28-5-100.
Investigation of claims, §28-5-83.
Assignment for administrative purposes, §28-5-60.
Claims investigation, §28-5-83.
Compensation.
Unlawful compensation, §28-5-62.
Creation, §28-5-60.
Hearings, §28-5-82.
Investigators.
Employment, §28-5-61.
Membership, §28-5-60.
Notice of claim forms.
Furnishing, §28-5-80.
Payment of small claims, §28-5-85.
Personnel, §28-5-61.
Powers.
Restrictions on passage of resolutions, §28-5-84.
Resolutions.
Restrictions on passage of resolutions and board powers, §28-5-84.
Secretary.
Employment, §28-5-61.
Small claims.
Payment by board, §28-5-85.
Compensation resolutions.
Introduction, §28-5-80.
Restrictions on passage and board powers, §28-5-84.
Crime victims' compensation, §§28-5-100 to 28-5-108.
Award of compensation.
Action by general assembly upon recommendations, §28-5-104.
Claims procedure, §28-5-101.
Factors to be considered, §28-5-103.
Limitations on amount, §28-5-104.
Procedure for claims for compensation, §28-5-101.
When compensation may be recommended, §28-5-103.
When not to be recommended generally, §28-5-104.

CLAIMS AGAINST STATE —Cont'd
Crime victims' compensation —Cont'd
Board recommendations as to payment of compensation, §28-5-100.
Action by general assembly upon recommendations, §28-5-104.
Factors to be considered, §28-5-103.
When compensation may be recommended, §28-5-103.
When not to be recommended generally, §28-5-104.
Damage actions against persons responsible for injuries or death, §28-5-108.
Limitations on award amounts, §28-5-104.
Limitations on claims, §28-5-106.
Procedural rules, §28-5-100.
Procedure for claims, §28-5-100.
Reporting requirements, §28-5-107.
Scope of compensation, §28-5-105.
Subrogation of state to claims of persons compensated, §28-5-108.
Uniform standards for compensation, §28-5-102.
Procedure for claims for compensation, §28-5-101.
Hearings.
Board hearings, §28-5-82.
Notice of claim.
Filing requirements, §28-5-80.
Notice of possibility of claims, §28-5-81.
Filing time limitations, §28-5-86.
Time for filing, §28-5-86.
Payment of claims.
Issuance of checks.
Statement attached to checks, §28-5-63.
Small claims.
Payment by board, §28-5-85.
State departments and agencies.
Notice of possibility of filing of claims, §28-5-81.
Filing of or failure to file notice. Effect, §28-5-81.
"The state or any of its departments or agencies."
Defined, §28-5-60.1.
Wrongful conviction and incarceration claims, §28-5-87.

CLAM RAKES.
Defined, §27-1-2.

CLAMS.
Clam rakes.
Defined, §27-1-2.
Fishing generally, §§27-4-1 to 27-4-283.
General provisions, §§27-4-187 to 27-4-204.

CLEANING.
Animals with infectious or transmissible diseases.
Cages, rooms and hard-surface pens or runs, §27-5-6.
Live shrimp-holding facilities, §27-4-171.

CLEAR AND CONVINCING EVIDENCE.
Aged persons.
Protection of disabled adults and elder persons.
Investigation of report of need for protective services, §30-5-5.
Disabled adults and elder persons protection.
Investigation of report of need for protective services, §30-5-5.

CLINICS.
Disabled adults and elder persons protection.
Cooperation of other agencies, §30-5-6.

CLOTHING.
Bear hunting.
Required clothing, §27-3-25.
Deer hunting.
Required clothing, §27-3-40.
Disabled adults and elder persons protection.
Essential services defined, §30-5-3.
Feral hog hunting, §27-3-24.

CLUBS.
Rabbits or hares taken out of season.
Special permits to trap or sell.
Authorization to sell for use at time trials sanctioned by American kennel club, §27-3-67.

COBIA.
Creel and possession limits, §27-4-10.

COBRAS.
Wild animal licenses and permits generally, §27-5-5.

CODE OF GEORGIA.
Contracts.
Revision commission.
Ratification of previous actions and contracts, §28-9-2.
Office of legislative counsel.
Revision commission.
Commission staff, §28-9-4.
Publication.
Authority to make corrections and editorial changes, §28-9-5.
Effect of corrections and changes, §28-9-5.
Powers and duties of code commission, §28-9-3.
Revision commission, §§28-9-1 to 28-9-5.
Authority to introduce legislation, §28-9-5.
Contracts.
Ratification of previous actions and contracts, §28-9-2.
Creation, §28-9-2.
Definitions, §28-9-1.
Duties generally, §28-9-3.
Expenses and allowances, §28-9-2.
Meaning of provisions not to be changed, §28-9-5.
Membership, §28-9-2.
Office of legislative counsel.
Commission staff, §28-9-4.
Powers generally, §28-9-3.
Publication of official code of Georgia annotated, §28-9-5.
Authority to make changes and editorial corrections, §28-9-5.
Staff, §28-9-4.
Term of office, §28-9-2.
Vacancies, §28-9-2.

CODE REVISION COMMISSION.
General provisions, §§28-9-1 to 28-9-5.

CODFISH.
Atlantic states marine fisheries compact, §27-4-210.

COLISEUMS.
Handicapped person access to and use of public facilities.
Facilities defined, §30-3-2.

COMMERCIAL FISHING.
General provisions, §§27-4-70 to 27-4-118.

COMMISSIONS.
Code revision commission.
General provisions, §§28-9-1 to 28-9-5.

COMMISSIONS —Cont'd
Deaf persons.
Commission for deaf or hard of hearing, §30-1-5.
Hard of hearing.
Commission for deaf or hard of hearing, §30-1-5.
Hearing impaired and deaf persons.
Commission for deaf or hard of hearing, §30-1-5.

COMMON LAW.
Public records inspection.
Confidentiality of communications between office of legislative counsel and certain persons privileged, §28-4-3.1.

COMMUNITY HEALTH, DEPARTMENT OF.
Achieving a better life experience (ABLE) accounts.
Public information and outreach efforts, §30-9-13.

COMMUNITY TRUSTS, §§30-10-1 to 30-10-9.
Authorized, §30-10-4.
Benefits, §30-10-3.
Board of trustees, §30-10-5.
Defined, §30-10-2.
Expenses of members, §30-10-5.
Qualification of trust.
Duties as to, §30-10-6.
Contributions, §30-10-6.
Cotrustees, §30-10-6.
Defined, §30-10-2.
Liability, §30-10-8.
Limitations on powers, §30-10-7.
Creation, §30-10-4.
Debtors and creditors.
Exemption from seizure by creditors, §30-10-7.
Definitions, §30-10-2.
Dissolution.
Distribution upon, §30-10-9.
Donors, §§30-10-3, 30-10-6.
Defined, §30-10-2.
Findings of legislature, §30-10-1.
Impairment.
Defined, §30-10-2.
Interpretation and construction, §30-10-9.
Legislative declaration, §30-10-1.
Life beneficiaries, §§30-10-6, 30-10-7.
Defined, §30-10-2.
Rule against perpetuities.
Exemption of trust from, §30-10-9.

COMMUNITY TRUSTS —Cont'd
Successor trust.
Defined, §30-10-2.
Successor trustees.
Defined, §30-10-2.
Liability, §30-10-8.
Taxation.
Exemption of assets, §30-10-3.
Trustees, §30-10-6.
Defined, §30-10-2.
Liability, §30-10-8.
Limitations on powers, §30-10-7.

COMPACTS.
Fishing.
Atlantic states marine fisheries compact, §§27-4-210 to 27-4-216.
Wildlife violator compact, §§27-2-40 to 27-2-42.

COMPENSATION RESOLUTIONS.
Claims against state.
General provisions, §§28-5-60 to 28-5-108.

COMPROMISE AND SETTLEMENT.
Conservators for incapacitated adults.
Final settlement of accounts, §29-5-81.
Interim settlement of accounts, §§29-5-61 to 29-5-63.
Power of conservator to compromise claim or debt, §29-5-23.
Conservators for minors.
Final settlement of accounts, §29-3-71.
Interim settlement of accounts, §§29-3-61, 29-3-62.
Minor's claim, §29-3-3.
VA guardians.
Final accounting and final settlements.
Discharge of guardian, §29-7-9.

COMPUTER ASSISTED REMOTE HUNTING, §27-3-12.

COMPUTERS AND OTHER ELECTRONIC DEVICES.
Hunting.
Computer assisted remote hunting, §27-3-12.

CONCEALED WEAPONS.
Carrying weapons generally.
Bow hunting.
Possession of firearm while hunting, §27-3-6.
Hunting with bow and arrow.
Possession of firearm while, §27-3-6.

CONCEALED WEAPONS —Cont'd
Carrying weapons generally —Cont'd
Wildlife management areas, §27-3-1.1.

CONFIDENTIALITY OF INFORMATION.
Aged persons.
Protection of disabled adults and elder persons, §30-5-7.
Attorney general.
Advisor to legislative counsel, privileges from disclosure, §28-4-5.
Disabled persons.
Protection of disabled adults and elder persons, §30-5-7.
Multidisciplinary teams.
Records of teams, §30-5-11.
Legislative counsel.
Communications between office and certain persons, §28-4-3.1.
Lieutenant governor.
Communications between office of legislative council and lieutenant governor, §28-4-3.1.
Public records.
Inspection of public records.
Exceptions, §28-4-3.1.

CONFLICTS OF INTEREST.
Conservators for incapacitated adults.
Disclosure by conservator, §29-5-24.
Person who may not be appointed, §29-5-2.
Conservators for minors.
Ineligibility to serve, §29-3-4.
Transaction affected by substantial conflict between personal and fiduciary interests, §29-3-23.
General assembly.
Claims against the state, §§28-5-62, 28-5-63.
Guardians for incapacitated adults.
Disclosure by guardian, §29-4-24.
Ineligibility to serve as guardian, §29-4-2.
Guardians of minors.
Disclosure by guardian, §§29-2-21, 29-2-23.
Individual with conflict of interest with minor.
Eligibility to serve as guardian, §29-2-2.

CONSENT.
Hunting while intoxicated.
Blood tests.
Implied consent, §27-3-7.

CONSERVATION CAMPS.
Acceptance of grants and donations for creating and maintaining, §27-1-13.

CONSERVATORS.
Accounts.
Conservators for incapacitated adults.
Final settlement of accounts, §29-5-81.
Interim settlement of accounts, §§29-5-61 to 29-5-63.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
Accounts.
Final settlement of accounts, §29-5-81.
Interim settlement of accounts, §§29-5-61 to 29-5-63.
Actions by conservators.
Power to bring or defend, §29-5-23.
Actions by ward.
Bringing or defending.
Powers removed from ward, §29-5-21.
Adjustment of duties and powers of conservator or powers of ward, §29-5-71.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Affidavit.
Authorizing delivery of property to affiant, §29-5-4.
Supporting petition for appointment, §29-5-10.
Emergency conservator, §29-5-14.
Supporting petition to modify conservatorship, §29-5-71.
Supporting petition to terminate conservatorship, §29-5-72.
Agents previously appointed.
Powers not revoked by mere appointment of conservator, §29-5-21.
Allowance of expenses, §29-5-51.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Appeal of final order to superior court, §29-5-110.
Best interests of adult.
Findings required for appointment, §29-5-1.
Bond with good and sufficient security, §§29-5-40 to 29-5-49.
Action against surety without obtaining judgment against conservator, §29-5-46.
Additional or other bond and security, §29-5-43.
Amount, §29-5-41.
Additional bond and security, §29-5-43.
Reduction, §29-5-42.
Appointment declared void.
Responsibility of surety, §29-5-45.
Death of surety.
Discharge of surety, §29-5-49.
Discharge and release of surety, §29-5-49.
Exceptions to required bond, §29-5-40.
Joint and several liability of conservator and surety, §29-5-46.
Judgment and execution against conservator's or surety's property, §§29-5-47, 29-5-48.
New security given, §29-5-49.
Notice.
Additional or other bond and security, §29-5-43.
Payment of bond premium from estate, §29-5-44.
Recording, §29-5-40.
Reduction.
Decrease in value of ward's estate, §29-5-42.
Removal of conservatorship to another county in state, §29-5-120.
Required of conservator appointed by court, §29-5-40.
Requirements of bond, §29-5-41.
Breach of fiduciary duty, §29-5-93.
Business or commercial transactions.
Powers removed from ward, §29-5-21.
Care required in investing and managing property, §29-5-34.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Certificate if ward has interest in real property.
Filing, time, requirements, recording, §29-5-13.
Change in capacity of ward.
Affidavit supporting petition to modify conservatorship, §29-5-71.
Commissions.
Compensation for services rendered, §29-5-50.
Communication with other states, §29-5-49.1.
Foreign conservatorships, §29-5-139.
Compensation for services rendered, §29-5-50.
Corporation or other business enterprise.
Receipt of compensation from, §29-5-53.
Emergency or temporary substitute conservators, §§29-3-54, 29-5-54.
Petition for greater compensation, §29-5-52.
Reduction, §29-3-54.
Compromise of claim or debt.
Power of conservator, §29-5-23.
Conflict of interest with adult.
Disclosure by conservator, §29-5-24.
Person who may not be appointed, §29-5-2.
Conservator needed throughout ward's lifetime.
Transfers of ward's property, §29-5-36.
Continuing powers.
Request by conservator, §29-5-23.
Contracts.
Powers of conservators, §29-5-23.
Powers removed from ward, §29-5-21.
Corporation or other business enterprise.
Receipt of compensation from, §29-5-53.
Death of conservator.
Successor, appointment, §§29-5-91, 29-5-101.
Death of ward.
Automatic termination of conservatorship, §29-5-72.
Distribution of estate as if appointed administrator.
Ward dying intestate, §29-5-72.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Decision regarding ward's property.
Duties of conservators, §29-5-22.
Delivery of property.
Final settlement of accounts, §29-5-81.
To affiant, §29-5-4.
To foreign conservator, §29-5-140.
To successor, §29-5-102.
Denial of ward's rights and privileges.
Judicial inquiry, §29-5-70.
Developmental disabilities.
Factors and proof of need for conservator, §29-5-12.
Emergency conservator, §29-5-16.
Dismissal of conservator from office, §29-5-80.
Dismissal of petition to appoint conservator.
No probable cause found, §29-5-12.
Disregard of person who has preference, §29-5-3.
Distribution of estate as if conservator appointed administrator.
Ward dying intestate, §29-5-72.
Duties of conservators, §29-5-22.
Adjustment, modification of conservatorship, §29-5-71.
Emergency conservator.
Appointment to serve until emergency hearing, §29-5-15.
Compensation, §29-5-54.
Hearing, §29-5-16.
Order, §29-5-16.
Petition for appointment, §29-5-14.
Review of petition for appointment, §29-5-15.
Sale, lease or exchange of ward's property, §29-5-35.
Encumbered property.
Purchase or sale.
Powers removed from ward, §29-5-21.
Evaluation of ward, §29-5-11.
Emergency conservator, appointment, §29-5-15.
Evaluator appointment, qualifications, §29-5-11.
Fees and expenses of evaluator, §29-9-16.
Modification of conservatorship.
Allegation of change in ward's capacity, §29-5-71.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Evaluation of ward —Cont'd
Termination of conservatorship, §29-5-72.
Evidence.
Hearing on petition to appoint conservator, §29-5-12.
Expenses incurred in administering estate.
Allowance, §29-5-51.
Fiduciary access to digital assets.
Power of conservator, §29-5-23.
Final settlement of accounts, §29-5-81.
Findings of fact and conclusions of law.
Order granting conservatorship, §29-5-13.
Findings required for appointment, §29-5-1.
Foreign conservatorships.
Actions, power to institute, §§29-5-136, 29-5-137.
Communication of court with other state, §29-5-139.
Foreign conservator defined, §29-5-135.
Jurisdiction personal.
Submission to, §29-5-138.
Payment of debt or delivery of property to, §29-5-140.
Protection of creditor's, heir's or will beneficiary's interest, §29-5-139.
Sale or conveyance of ward's property, §29-5-135.
Forfeiture of rights to property.
Appointment does not automatically cause conservator to forfeit rights, §29-5-24.
Guardian ad litem.
Appointment.
Removal of conservatorship to another county in state, §29-5-120.
Sale, lease or exchange of ward's property, §29-5-35.
Transfers of ward's property outright or in trust, §29-5-36.
Hearing.
Emergency conservator, appointment, §29-5-16.
Petition to appoint conservator, §29-5-12.
Specific grant of powers to conservator, §29-5-23.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Individual to hear case on appointment.
Appointment, qualifications, §29-5-12.
Interim settlement of accounts, §29-5-61.
Judgment against conservator and surety.
Conservator found liable to ward, §29-5-63.
Objections, §§29-5-61, 29-5-62.
Petition, §29-5-61.
Report, petition accompanied by, §29-5-61.
Time for petition, §29-5-61.
Inventory of ward's property.
Filing, time for, requirements, §29-5-30.
Investment of estate funds.
Authorized investments, §§29-5-32, 29-5-33.
Judicial inquiry into denial of ward's rights and privileges, §29-5-70.
Limitation of actions against conservators, §29-5-94.
Misapplication of assets, §29-5-93.
Modification of conservatorship.
Adjustment of duties and powers, §29-5-71.
Nomination of person to be conservator, §29-5-3.
Notice.
Bond with good and sufficient security.
Additional or other bond and security, §29-5-43.
Compensation for services rendered.
Petition for greater compensation, §29-5-52.
Dismissal of conservator from office, §29-5-80.
Final settlement of accounts, §29-5-81.
Hearing on petition to appoint conservator, §29-5-12.
Judicial inquiry into denial of ward's rights and privileges, §29-5-70.
Modification of conservatorship.
Adjustment of duties and powers, §29-5-71.
Proceedings and petition for appointment, §29-5-11.
Emergency conservator, §29-5-15.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Notice —Cont'd
Resignation of conservator, §29-5-90.
Specific grant of powers to conservator, §29-5-23.
Successor conservators.
Appointment, §29-5-101.
Temporary substitute conservators.
Appointment, §29-5-100.
Termination of conservatorship, §29-5-72.
Oath or affirmation.
Required before entering upon duties, §29-5-25.
Objections, filing, time.
Interim settlement of accounts, §§29-5-61, 29-5-62.
Sale, lease or exchange of ward's property, §29-5-35.
Statement of receipts and expenditures, §29-5-60.
Order granting conservatorship.
Emergency conservator, §29-5-16.
Requirements, service, §29-5-13.
Perishable property.
Sale, §29-5-35.
Personal liability of conservator.
Limitation, §29-5-22.
Person jurisdiction.
Foreign conservatorships.
Submission to, §29-5-138.
Person who may not be appointed, §29-5-2.
Petition.
Appointment of conservator, §29-5-10.
Emergency conservator, §29-5-14.
Compensation for services rendered.
Greater compensation, §29-5-52.
Dismissal of conservator from office, §29-5-80.
Interim settlement of accounts, §29-5-61.
Judicial inquiry into denial of ward's rights and privileges, §29-5-70.
Modification of conservatorship.
Adjustment of duties and powers, §29-5-71.
Removal of conservatorship to another county in state, §29-5-120.
Resignation of conservator, §29-5-90.
Revocation or suspension of letters, §29-5-92.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Petition —Cont'd
Statement of receipts and expenditures.
Changing reporting period, §29-5-60.
Termination of conservatorship, §29-5-72.
Plan for managing, expending and distributing ward's property, §29-5-30.
Powers of conservators, §29-5-23.
Adjustment, modification of conservatorship, §29-5-71.
Foreign conservators, §§29-5-135 to 29-5-140.
Temporary substitute conservators, §29-5-100.
Powers removed from ward, §29-5-21.
Preferences of appointment, §29-5-3.
Presumption adult in need of conservator, §29-5-1.
Probable cause to believe proposed ward in need of conservator.
Determination by court, §29-5-12.
Emergency conservator, §29-5-15.
Protection of creditor's, heir's or will beneficiary's interest.
Foreign conservatorships, §29-5-139.
Prudent person rule.
Judgment and care required in investing and managing property, §29-5-34.
Registration of conservatorship order from another state.
Communication with other state, §29-5-49.1.
Removal of conservators.
Temporary substitute conservators, §29-5-100.
Removal of conservatorship to another county in state, §29-5-120.
Resignation of conservator, §29-5-90.
Successor, appointment, §29-5-101.
Response to evaluation of proposed ward.
Ward's counsel may file, §29-5-11.
Retention of property received as conservator, §29-5-31.
Return.
Statement of receipts and expenditures, §29-5-60.
Review by court of petition for appointment, §29-5-12.
Emergency conservator, §29-5-15.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Revocation or suspension of letters or imposition of sanctions, §29-5-92.
Successor, appointment, §29-5-101.
Rights of ward, §29-5-20.
Judicial inquiry into denial of ward's rights and privileges, §29-5-70.
Sale, lease or exchange of ward's property, §29-5-35.
Conservator needed throughout ward's lifetime.
Transfers of ward property, §29-5-36.
Foreign conservatorships, §29-5-135.
Self-reliance and independence of adult.
Conservator to encourage, §29-5-1.
Statement of receipts and expenditures, §29-5-60.
Stocks or corporate securities.
Retention of property received as conservator, §29-5-31.
Sale of ward's stocks or bonds, §29-5-35.
Successor conservators.
Appointment, notice, §29-5-101.
Death of conservator, appointment, §§29-5-91, 29-5-101.
Delivery of property, §29-5-102.
Resignation of conservator, §§29-5-90, 29-5-101.
Suggestion by ward as to person as conservator, §29-5-12.
Temporary substitute conservators.
Appointment, duration, powers, removal, §29-5-100.
Compensation, §§29-3-54, 29-5-54.
Revocation or suspension of letters.
Appointment during investigation, §29-5-92.
Sale, lease or exchange of ward's property, §29-5-35.
Termination of conservatorship, §29-5-72.
Testamentary capacity of ward.
Conservator's appointment not determination of lack of capacity, §29-5-20.
Time.
Certificate if ward has interest in real property.
Filing, §29-5-13.
Final settlement of accounts.
Settlement period, §29-5-81.

CONSERVATORS —Cont'd
Conservators for incapacitated adults —Cont'd
Time —Cont'd
Hearing on petition to appoint conservator, §29-5-12.
Inventory of ward's property.
Filing, §29-5-30.
Objections, filing.
Sale, lease or exchange of ward's property, §29-5-35.
Statement of receipts and expenditures, §29-5-60.
Statement of receipts and expenditures.
Filing, changing reporting period, §29-5-60.
Temporary substitute conservators.
Duration of appointment, §29-5-100.
Trusts established for ward, revocation.
Power of conservator, §29-5-23.
Powers removed from ward, §29-5-21.
Voting by ward.
Conservator's appointment not determination of ward's right, §29-5-20.
Conservators for minors, §§29-3-1 to 29-3-120.
Accounts.
Final settlement of accounts, §29-3-71.
Interim settlement, §§29-3-61, 29-3-62.
Acquisition and retention of property.
Authority, care required, §29-3-34.
Authorized investments, §29-3-32.
Best interest of minor.
Standard for determining all matters, §29-3-9.
Bond and security, §§29-3-40 to 29-3-49.
Action against surety without obtaining judgment against conservator, §29-3-46.
Additional or other bond or security, when required, notice, §29-3-43.
Amount, §29-3-41.
Reduction, decrease in minor's estate, §29-3-42.
Appointment without bond, §29-3-41.
Bond premium, payment from estate, §29-3-44.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Bond and security —Cont'd
Conservator's appointment void, responsibility of surety on bond, §29-3-45.
Death of surety.
Discharge of surety, §29-3-49.
Discharge or release of surety, §29-3-49.
Execution against conservator or surety, §§29-3-47, 29-3-48.
Joint and several liability.
Liability of conservator and surety, §29-3-46.
Judgment against conservator or surety.
Execution, §§29-3-47, 29-3-48.
Levy upon surety or property of defendant.
Judgment against conservator or surety, §§29-3-47, 29-3-48.
Misconduct of conservator.
Discharge or release of surety, petition, §29-3-49.
New security given.
Discharge of surety, §29-3-49.
Requirement, exception, §29-3-40.
Testamentary conservators, §29-3-5.
Breach of fiduciary duty, §29-3-83.
Case-by-case basis.
Powers granted by court, §29-3-22.
Certificate filed with clerk of superior court of county in which minor owns real property.
Time for filing, requirements, recording, §29-3-10.
Commissions.
Compensation for services rendered, §29-3-50.
Expenses incurred in administration of estate.
Charge against corpus of estate, §29-3-51.
Compensation for services rendered, §29-3-50.
Compensation from corporation or other business enterprise, §29-3-53.
Petition for extra compensation, §29-3-52.
Temporary substitute conservator, §29-3-53.
Compromise of minor's claim, §29-3-3.
Conflict of interest.
Disclosure by conservator required, §29-3-23.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Conflict of interest —Cont'd
Ineligibility to serve, §29-3-4.
Continuation of estate plan.
Application of principal or income, §29-3-36.
Continuing powers, request, §29-3-22.
Corporation or other business enterprise.
Receipt of compensation from, §29-3-53.
Court appointment, §29-3-6.
Nonresident minor with property in state, §29-3-6.
Preferences, §29-3-7.
Death intestate of minor ward.
Distribution of estate by conservator as if appointed administrator of estate, §29-3-71.
Death of conservator.
Appointment of successor, §§29-3-81, 29-3-91.
Death of minor.
Automatic termination of conservatorship, §29-3-64.
Dismissal of conservator from office, §29-3-70.
Duties of conservator, §29-3-21.
Emancipation of minor.
Termination of conservatorship, §29-3-64.
Execution against conservator or surety, §§29-3-47, 29-3-48.
Expenses incurred in administration of estate.
Allowance, §29-3-51.
Fiduciary responsibility, §29-3-21.
Final settlement of accounts, §29-3-71.
Foreign conservatorships.
Actions to enforce rights and recover property, §§29-3-116, 29-3-117.
Payment of debt or delivery of property, §29-3-120.
Personal jurisdiction of courts of state.
Submission, §29-3-118.
Powers, §§29-3-115 to 29-3-120.
Protection of creditor's, heir's or will beneficiary's interest, §29-3-119.
Receipt and acceptance, §§29-3-105 to 29-3-108.
Sell and convey property, §29-3-115.
Transfer of conservatorship to foreign court of competent jurisdiction, §§29-3-110 to 29-3-114.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Forfeiture of rights to property by conservator.
Appointment not to automatically cause, §29-3-23.
Guardian ad litem.
Appointment.
Determining whether to grant conservator certain powers, §29-3-22.
Removal of conservators, §29-3-100.
Transfers of minor's property by conservator, §29-3-36.
Hearing.
Receipt and acceptance of foreign conservatorship, §29-3-107.
Request for continuing powers, §29-3-22.
Transfer of conservatorship to foreign court, §29-3-113.
Ineligibility to serve, §29-3-4.
Interim settlement of accounts, §§29-3-61, 29-3-62.
Inventory of minor's property.
Duty to file, time, §§29-3-21, 29-3-30.
Receipt and acceptance of foreign conservatorship.
Court may require, §29-3-108.
Investments.
Authorized investments, §29-3-32.
Prudent person rule, care required, §29-3-34.
United States government obligations, §29-3-33.
Judgment entered against conservator and surety.
Conservator found liable to minor, §29-3-63.
Letters of conservatorship.
Revocation or suspension, §29-3-82.
Successor, appointment, §29-3-91.
Testamentary conservators.
Issuance upon probate of will, §29-3-5.
Liability of conservator.
Judgment entered against conservator and surety, §29-3-63.
Limitation of actions against conservators, §29-3-84.
Misapplication of assets, §29-3-83.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Natural guardian receiving personal property of minor.
Required to qualify as conservator, exception, payment of property to guardian, §29-3-1.
Release of debtor and compromise of debt without becoming conservator, §29-3-2.
Next friend of minor receiving personal property of minor.
Required to qualify as conservator, exception, payment of property to guardian, §29-3-1.
Release of debtor and compromise of debt without becoming conservator, §29-3-2.
Nonresident minor with property in state.
Court appointment, §29-3-6.
Notice.
Appointment.
Temporary substitute conservators, §29-3-90.
Bond or security.
Additional or other bond or security, §29-3-43.
Compensation.
Petition for extra compensation, §29-3-52.
Dismissal of conservator from office, §29-3-70.
Final settlement of accounts, §29-3-71.
Petition for appointment, §29-3-8.
Receipt and acceptance of foreign conservatorship, §29-3-106.
Request for continuing powers, hearing, §29-3-22.
Resignation of conservator.
Petition, §29-3-80.
Successor conservators.
Appointment, §29-3-92.
Death of conservator, §29-3-81.
Transfer of conservatorship to foreign court, §29-3-112.
Oath by conservator.
Required before entering upon duties, §29-3-24.
Objections.
Entitlement to file, time to file, §29-3-8.
Interim settlement of accounts, §29-3-62.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Objections —Cont'd
Return state receipts and expenditures.
Filing, time, §29-3-60.
Sale of minor's property, filing, time, §29-3-35.
Order granting conservatorship.
Requirements, §29-3-10.
Payment of debt or delivery of property.
Foreign conservatorships, §29-3-120.
Perishable property.
Sale, §29-3-35.
Personal jurisdiction of courts of state.
Foreign conservatorships.
Submission, §29-3-118.
Personal liability of conservator, §29-3-21.
Petition.
Appointment, §29-3-8.
When minor becomes adult, §29-3-64.
Dismissal of conservator from office, §29-3-70.
Extra compensation, §29-3-52.
Final settlement of accounts, §29-3-71.
Foreign conservatorship.
Receipt and acceptance, §§29-3-105 to 29-3-108.
Interim settlement of accounts, §29-3-61.
Removal of conservators, §29-3-100.
Resignation of conservatorship, §29-3-80.
Transfer of conservatorship to foreign court of competent jurisdiction, §§29-3-110 to 29-3-114.
Plan for managing, expending and distributing property.
Filing, time, requirements, §29-3-30.
Powers of conservator, §29-3-22.
Foreign conservators, §§29-3-115 to 29-3-120.
Preferences considered in appointment.
Appointment of successor, §§29-3-7, 29-3-81.
Protection of creditor's, heir's or will beneficiary's interest.
Foreign conservatorships, §29-3-119.
Prudent person rule.
Care required in investing and managing property, §29-3-34.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Reasonable care, diligence and prudence.
Conservator to exercise, §29-3-21.
Receipt and acceptance of foreign conservatorship, §§29-3-105 to 29-3-108.
Conservatorship defined, §29-3-105.
Coordination of transfer.
Authority of court, §29-3-108.
Hearing, §29-3-107.
Request for hearing, time, §29-3-106.
Inventory, court may require, §29-3-108.
Petition, §29-3-105.
Findings required for granting, §29-3-108.
Service of notice and copy, §29-3-106.
Removal of conservators, §29-3-100.
Temporary substitute conservators, §29-3-90.
Report accompanying interim settlement of account petition, §29-3-61.
Report on receipts and expenditures.
Filing, time, requirements, change of reporting period, §29-3-60.
Resignation of conservators, §29-3-80.
Dismissal of conservator from office, §29-3-70.
Successor, appointment, §29-3-91.
Retention of property received on creation of conservatorship, §29-3-31.
Return made after sale, §29-3-35.
Revocation or suspension of letters of conservatorship, §29-3-82.
Successor, appointment, §29-3-91.
Rights of minor, §29-3-20.
Sale, rent, lease otherwise dispose of minor's property.
Authority, §29-3-35.
Foreign conservatorships, §29-3-115.
Sanctions.
Imposition, §29-3-82.
Settlement of accounts.
Final settlement, §29-3-71.
Interim settlement, §§29-3-61, 29-3-62.
Standard for determining all matters.
Best interest of minor, §29-3-9.
Stock or other corporate securities.
Retention, §29-3-31.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Stock or other corporate securities —Cont'd
Sale, §29-3-35.
Successor conservators.
Death of conservator, appointment, §29-3-81.
Delivery of property to successor, §29-3-92.
Grounds for appointing, §29-3-91.
Notice of proceeding for appointment, §29-3-91.
Resignation of conservator, appointment, §29-3-80.
Selection, §29-3-91.
Surety of predecessor, liability, §29-3-92.
Temporary substitute conservators.
Appointment, §29-3-90.
Compensation, §29-3-53.
Court appointment, §29-3-8.
Notice of appointment, §29-3-90.
Period of appointment, §29-3-90.
Powers, §29-3-90.
Removal, §29-3-90.
Sale of minor's property, authority, §29-3-35.
Termination of conservatorship.
Dismissal of conservator from office, §29-3-70.
Minor reaching 18 years of age or older, death of minor, §29-3-64.
Testamentary capacity.
Appointment not determination that minor lacks, §29-3-20.
Testamentary conservators.
Bond and security, §29-3-5.
Letters of conservatorship.
Issuance upon probate of will, §29-3-5.
Parent may nominate, §29-3-5.
Rights, powers, duties, §29-3-5.
Time.
Final settlement of accounts.
Settlement period, §29-3-71.
Interim settlement of accounts.
Petition, §29-3-61.
Inventory of minor's property.
Filing, §§29-3-21, 29-3-30.
Objections, filing, §29-3-8.
Return state receipts and expenditures, §29-3-60.
Sale of minor's property, filing, time, §29-3-35.

CONSERVATORS —Cont'd
Conservators for minors —Cont'd
Time —Cont'd
Plan for managing, expending and distributing property.
Filing, §29-3-30.
Receipt and acceptance of foreign conservatorship.
Request for hearing, §29-3-106.
Report on receipts and expenditures.
Filing, change of reporting period, §29-3-60.
Temporary substitute conservators.
Period of appointment, §29-3-90.
Transaction affected by substantial conflict between personal and fiduciary interests, §29-3-23.
Transfer of conservatorship to foreign court, §§29-3-110 to 29-3-114.
Content requirements, petition, §29-3-111.
Coordination of transfer.
Authority of court, §29-3-114.
Findings required to grant petition, §29-3-114.
Hearing, §29-3-113.
Notice and copy of petition, §29-3-112.
Petition, §29-3-110.
Content requirements, §29-3-111.
Notice and copy, service, §29-3-112.
Presumption that minor moved permanently to foreign jurisdiction, §29-3-110.
Transfers of minor's property.
Continuation of estate plan, §29-3-36.
County conservators, §§29-8-1 to 29-8-6.
Bond, §29-8-2.
Additional security on bond, §§29-8-4, 29-8-5.
County administrators.
Ex officio county conservators, service when appointed by court, §29-8-1.
County guardian serving as conservator.
Designation by operation of law, §29-8-6.
Letters of guardianship or conservatorship.
Granting upon each appointment, §29-8-3.

CONSERVATORS —Cont'd
County conservators —Cont'd
Letters of guardianship or conservatorship —Cont'd
Revocation, §29-8-5.
Rights and liabilities, §29-8-3.
VA guardian.
Continuing service as VA guardian, §29-7-16.
Criminal history check of conservator, petition for, §29-9-19.
Definitions, §29-1-1.
Foreign conservators.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
General provisions, §§29-9-1 to 29-9-19.
Attorney appointed by court.
Fees, awarding, §29-9-15.
Citation.
Issuance upon filing petition, §29-9-12.
Compliance with chapter sufficient for proceedings under title, §29-9-1.
Criminal history check of conservator, petition for, §29-9-19.
Delegate appointed by department of human services.
Authorized to take oath, §29-9-10.
Documents required to be authenticated or exemplified.
Meeting requirement, §29-9-13.1.
Evaluator or examiner.
Fees and expenses, awarding, §29-9-16.
Extension of time to respond.
Court ordering, §29-9-7.
Guardian ad litem.
Assessment of fees, costs and expenses, §29-9-3.
Award of fees, §29-9-15.
Discretion of court to appoint, §29-9-2.
Dual representation as guardian and counsel, prohibition, §29-9-2.
Establishment of authority, §29-9-2.
Execution of documents binding on person represented, §29-9-2.
Limiting appointment, removal, appointing successor.
Powers of court, §29-9-2.

CONSERVATORS —Cont'd
General provisions —Cont'd
Guardian ad litem —Cont'd
Representing more than one person or class, §29-9-2.
Service upon guardian service upon person being represented, §29-9-2.
When appointment required, §29-9-2.
Hearing.
Court ordering, §29-9-14.
Date for holding, §29-9-13.
Instruction by court, §29-9-17.
Oath, affirmation or affidavit.
Attestation prima facie evidence, §29-9-9.
Delegate appointed by department of human services.
Authorized to take oath, §29-9-10.
Made outside state, force and effect, §29-9-9.
Officers before whom made, §29-9-9.
Petition to be verified, §29-9-11.
Objection, filing.
Date for filing, §29-9-13.
Petition.
Citation issued to person entitled to service or notice, §29-9-12.
Consolidation, petitions for separate appointments, §29-9-11.
Verified by oath sworn or affirmed, §29-9-11.
Records, sealed, examining, §29-9-18.
Service or notice.
Additional service or notice, judge directing, §29-9-7.
Mailing to last known address.
Sufficiency of service, §29-9-6.
Military personnel.
Personal service upon, §29-9-4.
Other jurisdiction in which ward was physically present for certain amount of time prior to filing of petition, §29-9-7.
Personal service, §29-9-4.
Publication, service by.
Residence outside state or residence unknown, §29-9-5.
Waiver and acknowledgment, §29-9-8.
Transfer of case to county of proposed ward's domicile, §29-9-11.
Legal custodian and distributor of money owning minor or adult without a conservator.
Probate courts, §§29-6-1 to 29-6-9.

CONSERVATORS —Cont'd
Public guardians.
Cooperation with county conservators, §29-10-7.
Uniform adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.

CONSERVATORS FOR INCAPACITATED ADULTS, §§29-5-1 to 29-5-140.

CONSERVATORS FOR MINORS, §§29-3-1 to 29-3-120.

CONSTITUTIONAL CONVENTION.
Georgia delegates at convention to amend US Constitution.
Appointment of delegates, §28-6-8.
Oath of delegate, §28-6-8.
Recall and replacement of delegate, §28-6-8.

CONSTITUTION OF THE UNITED STATES.
Amendments.
Convention for proposing amendments.
Georgia delegates at constitutional convention, §28-6-8.
Georgia delegates at constitutional convention, §28-6-8.
Convention for proposing amendments.
Georgia delegates at constitutional convention, §28-6-8.
Georgia delegates at convention to amend constitution, §28-6-8.

CONTINUANCES.
Guardians of minors.
Permanent guardians.
Hearing on objection by biological father.
Father filing petition for legitimation, §29-2-15.

CONTRABAND.
Boats or vessels.
Fishing, §27-4-151.
Fishing.
Boats or vessels, §27-4-151.
Wildlife.
Alligators, §27-3-19.
Bears.
Hunting of bear, §27-3-26.
Seizure of wild animals as contraband, §27-5-8.
Disposal after seizure, §27-5-10.

CONTRABAND —Cont'd
Wildlife —Cont'd
Wild animals.
Illegally imported and transported, §27-5-8.

CONTRACTS.
Code revision commission.
Ratification of previous actions and contracts, §28-9-2.
Conservators for incapacitated adults.
Power of conservator, §29-5-23.
Powers removed from ward, §29-5-21.
Deaf and hearing impaired persons.
Commission for deaf or hard of hearing.
Powers, §30-1-5.
Guardian appointed for incapacitated adult.
Power removed from ward upon appointment, §29-4-21.

COPPERHEADS.
Wild animal licenses and permits generally, §27-5-5.

COPYRIGHTS.
Code revision commission.
Powers, §28-9-3.

CORAL SNAKES.
Wild animal licenses and permits generally, §27-5-5.

CORN.
Hunting.
Feral hogs.
Restrictions, §27-3-24.
Unlawful enticement of game, §27-3-9.

CORONERS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.
Disabled persons.
Protection of disabled adults and elder persons.
Access by agencies to records or reports of abuse, §30-5-7.

COSTS.
Adult guardianship and conservatorship proceedings.
Acquisition of jurisdiction to appoint guardian or conservator due to unjustifiable conduct, §29-11-16.

COTTONMOUTH.
Wild animal licenses and permits generally, §27-5-4.

COUGARS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

COUNCIL OF STATE GOVERNMENTS.
Georgia commission on interstate cooperation.
Function as member of council, §28-6-3.

COUNCILS.
Developmental disabilities council, §30-8-1.

COUNTIES.
Districts.
Local legislation to revise or create districts, §28-1-14.1.
Elected county officials.
Eligibility for membership in general assembly, §28-1-13.
Fiscal notes.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
General assembly.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.

COUNTY ADMINISTRATORS.
County guardians or conservators.
Ex officio county guardians or conservators, service when appointed by court, §29-8-1.

COUNTY GUARDIANS, §§29-8-1 to 29-8-6.
Bond, §29-8-2.
Additional security on bond, §§29-8-4, 29-8-5.
Conservator, serving as.
Designation by operation of law, §29-8-6.
County administrators.
Ex officio county guardians, service when appointed by court, §29-8-1.

COUNTY GUARDIANS —Cont'd
Letters of guardianship or conservatorship.
Granting upon each appointment, §29-8-3.
Revocation, §29-8-5.
Public guardians.
Cooperation with county guardians, §29-10-7.
Rights and liabilities, §29-8-3.
VA guardian.
Continuing service as VA guardian, §29-7-16.

CRABS.
Closure of saltwaters to fishing for blue crabs, §27-4-151.
Commercial crabbing licenses, issuance, §27-4-150.
Commercial crab trap.
Defined, §27-1-2.
Commercial fishing boat.
Operating for purpose of commercial crabbing.
Commercial fishing license required, §27-4-150.
Commercial quantities.
Possession, §27-4-150.
Dealing in crabs and peelers, §27-4-150.
Defined, §27-1-2.
Horseshoe crabs.
Commercial fishing, §27-4-71.
Identification of boats or vessels, §27-4-151.
Possessing crabs and peelers, §27-4-150.
Power-drawn nets.
Use to fish for, §27-4-133.
Records showing daily catch.
Required of commercial crabbers, §27-4-150.
Reporting records of daily catch, §27-4-150.
Returning to salt waters.
Undersize crabs, §27-4-150.
Size limitations, §27-4-150.
Soft-shell crab.
Defined, §27-1-2.
Soft-shell crab dealer.
Defined, §27-1-2.
Sale of peelers to, purchase of peelers, requirements, §27-4-150.
Shedding facilities, operating, §27-4-150.
Taking crabs and peelers, §27-4-150.

CRABS —Cont'd
Undersize crabs.
Returning to salt waters, §27-4-150.
Use of crab traps, §27-4-151.
Violations, penalties, §27-4-150.

CRANES.
Migratory game birds defined, §27-1-2.

CRAPPIE.
Creel and possession limits, §27-4-10.
Game fish defined, §27-1-2.

CRAYFISH.
Taking of nongame species.
Fresh-water crayfish, §27-1-28.

CREEL LIMITS, §27-4-10.
Public fishing areas.
Compliance required, §27-4-11.1.

CRIMINAL BACKGROUND CHECKS.
Conservators, §29-9-19.
Guardians.
Petition for criminal history check of guardian, §29-9-19.
Public guardians, §29-10-3.
Public guardians, §29-10-3.

CRIMINAL LAW AND PROCEDURE.
Aged persons.
Protection of disabled adults and elder persons, §30-5-8.
Alligators.
Feeding or baiting wild alligators, §27-3-170.
Bear hunting, §27-3-25.
Restrictions, §27-3-26.
Unlawful use of bear bait, §27-3-27.
Blind and visually impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Cervid.
Importation of live cervid, §27-5-2.1.
Claims against state.
Crime victims' compensation, §§28-5-100 to 28-5-108.
Deaf and hearing impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Deer hunting.
Killing of deer which has no antlers visible, §27-3-44.

CRIMINAL LAW AND PROCEDURE —Cont'd
Deer hunting —Cont'd
Killing of dogs running deer, §27-3-49.
Removal of head of deer, §27-3-43.
Required clothing, §27-3-40.
Sale of antlers, hides and tails of deer, §27-3-50.
Taking of deer in lake, stream or pond, §27-3-42.
Unlawful nighttime killing, §27-3-48.
Unsupervised hunting by persons under twelve years of age, §27-3-41.
Disabled persons.
Identification carried by persons suffering blackouts, §30-1-3.
Protection of disabled adults and elder persons, §30-5-8.
Public facilities access and use, §30-3-8.
Elderly persons and disabled adults.
Disabled adults and elder persons protection act.
Penalties for abuse, neglect or exploitation, §30-5-8.
Falconry permits, §27-2-17.
False swearing.
Game and fish license or permit, §27-2-28.
Fertility control of wildlife, violations, §27-3-185.
Film production wildlife permits, §27-2-13.1.
Fishing.
Commercial fishing.
Commercial fresh-water fishing.
License requirement, §27-4-90.
Unlawful baskets, §27-4-92.
Unlawful devices, §27-4-91.
Commercial salt-water fishing.
Identification tags, numbers and letters for boats and vessels, §27-4-117.
License required, §27-4-110.
Recordkeeping requirements, §27-4-118.
Fishing boat licenses, §27-2-8.
Fishing in waters not opened for commercial fishing, §27-4-70.
Hatcheries.
Sale of fish obtained from, §27-4-75.
Suspension of license upon conviction, §27-4-77.

CRIMINAL LAW AND PROCEDURE —Cont'd
Fishing —Cont'd
Creel and possession limits, §27-4-10.
Fresh-water fishing.
Use of fishing gear within one-half mile below lock or dam, §27-4-93.
Hatcheries.
Sale of fish obtained from hatcheries, §27-4-75.
Licenses.
Failure to surrender license, §27-2-26.
Methods of fishing generally, §27-4-5.
Minnow seines or traps, use to take fish or eels, §27-4-6.
Shad fishing during closed season.
Possession of nets or other devices deemed evidence of violation, §27-4-9.
Size limits, §27-4-11.
Trespass.
Fishing in waters or from lands of another without permission, §27-4-2.
Trout fishing.
Designated trout waters, §27-4-51.
Manner of fishing, §27-4-50.
Moving of trout, §27-4-50.
Unlawful devices or substances, §27-4-8.
Unlawful dumping, §27-4-4.
Unlawful without license or permit generally, §27-2-1.
Use of gill nets, §27-4-7.
Foxes.
Running, taking or hunting penned fox, §27-2-22.1.
Trapping and selling, §27-2-22.1.
Fur dealers.
License required, §27-3-69.
Posting of bond by license applicants, §27-3-70.
Reports and records of fur dealers, §27-3-71.
Game wardens.
Enforcement powers, §27-1-18.
Failure of arrested persons to appear to answer charges.
Procedure upon failure, §27-1-19.
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Refusal to provide access to records, §28-1-18.

CRIMINAL LAW AND PROCEDURE —Cont'd
General assembly —Cont'd
Voucher for expenses.
Certificate that information true and correct.
False certificate, §28-1-8.
Hunting.
Alligators, §27-3-19.
Birds generally, §27-3-22.
Carcass removal and transportation, prohibitions, §27-3-29.
Computer assisted remote hunting, §27-3-12.
Deer hunting, §§27-3-40 to 27-3-50.
Discharging weapon across public road, §27-3-10.
Field and retriever trials, §27-2-21.
Hours for migratory game birds, §27-3-3.
Hunter education courses, §27-2-5.
Hunting dogs, §27-3-16.
Deer hunting, §27-3-17.
Fox hunting, §27-3-18.
Intoxicated hunters, §27-3-7.
Killing of wildlife or feral hogs from boats, aircraft, motor vehicles, etc., §27-3-13.
Killing or crippling of game birds or animals without reasonable effort to retrieve, §27-3-14.
Lands of another without written permission, §27-3-1.
Legal weapons for hunting wildlife generally, §27-3-4.
Licenses.
Failure to surrender license, §27-2-26.
Nighttime hunting, §27-3-2.
Possession of firearm while hunting with bow and arrow, §27-3-6.
Rabbits and hares.
Taking out of season, §27-3-20.
Seasons and bag limits.
Possession of more than bag limit, §27-3-15.
Silencer or suppressor, use while hunting prohibited, §27-3-4.
Turkeys, hunting with unlawful weapons, §27-3-4.
Unlawful devices, §27-3-8.
Unlawful enticement of game, §27-3-9.
Unlawful without license or permit generally, §27-2-1.
Wildlife management areas.
Prohibited acts, §27-3-1.1.

CRIMINAL LAW AND PROCEDURE —Cont'd
Lobbying.
General assembly.
Contingent compensation for lobbyists, §28-7-5.
Presence of certain persons on floor of house or senate.
Purpose of privately discussing pending measures, §28-7-5.
Registration with secretary of state, §28-7-5.
Oysters and clams.
Commercial quantities of shellfish, requirements for taking, §27-4-190.
Evidence of intent to use as food, §27-4-199.
Forged or false documents, records or permits, §27-4-200.
Methods of taking generally, §27-4-192.
Taking for transplanting purposes generally, §27-4-193.
Minimum size taken for commercial or noncommercial purposes, §27-4-194.
Oyster shells and culch material.
Distribution and transplanting by permittee, §27-4-196.
Penalty for violation of article, §27-4-201.
Shellfish control purification facilities, §27-4-193.
Times and places for taking shellfish, §27-4-195.
Quail.
Commercial quail breeder permits, §27-2-16.
Seafood.
Crabs, §§27-4-150, 27-4-151.
Power-driven nets.
Boats engaged in illegal fishing, §27-4-138.
Shrimp.
Identification on boats taking shrimp, §27-4-133.
Illegally fishing for shrimp for commercial sale for food purposes, §27-4-140.
Limit on amount taken by cast net, §27-4-132.1.
Trawling for shrimp for human consumption with certain nets, §27-4-133.

CRIMINAL LAW AND PROCEDURE —Cont'd
Seafood —Cont'd
Shrimp —Cont'd
Use of recreational cast netting for commercial purposes, §27-4-140.
Shrimp bait dealers, §27-4-171.
Shooting preserves.
Bag limits, §27-3-112.
Importation of animals, §27-3-113.
Legal hunting dates and hours, §27-3-112.
License required, §27-3-110.
Notification requirements, §27-3-111.
Propagation, possession or release of animals, §27-3-113.
Importation purposes, §27-3-113.
Mallards or black ducks, §27-3-111.
Recordkeeping requirements, §27-3-111.
Release of mallards or black ducks, §27-3-111.
Removal of untagged birds, §27-3-111.
Taxidermists.
Unlawful acts, §27-2-9.
Trapping.
General offenses and penalties, §27-3-63.
Killing or injuring mink or otter with firearm, §27-3-64.
Licenses.
Failure to surrender license, §27-2-26.
Nonresident commercial trapping license, §27-3-61.
Open seasons, §27-3-62.
Possession of wildlife removed from trap of another person, §27-3-65.
Possession or sale of mink or otter pelt killed by firearm, §27-3-64.
Removal of wildlife from trap owned by another person, §27-3-65.
Required commercial trapping license, §27-3-60.
Special permit to trap or sell rabbits or hares, §27-3-67.
Taking of rabbits or hares out of season, §27-3-67.
Unlawful without license or permit generally, §27-2-1.
Trout.
Manner of fishing, §27-4-50.
Moving of trout, §27-4-50.
Trout license, §27-2-6.
Trout waters, §27-4-51.

CRIMINAL LAW AND PROCEDURE —Cont'd
Wildlife.
Alligators.
Commercial alligator farming licenses, §27-2-10.
Big game licenses, §27-2-6.
Carcass removal and transportation, prohibitions, §27-3-29.
Counterfeiting or alteration of licenses and permits, §27-2-28.
Criminal attempt, §27-1-3.
Criminal trespass, §27-1-33.
Damaging or destroying department property, §27-1-27.
Defenses not available in prosecutions for violations, §27-1-34.
Disciplinary actions.
Failure to surrender license, §27-2-26.
Disturbing or destroying wildlife habitats, §27-1-30.
Endangered wildlife, §27-3-133.
Exhibition permits, §27-2-13.
Failure to surrender permit, §27-2-26.
Falconry permits, §27-2-17.
Fertility control of wildlife, violations, §27-3-185.
Film production wildlife permits, §27-2-13.1.
Game-holding permits, §27-2-11.
Hiring of another to take wildlife contrary to law, §27-1-32.
Importation permits, §27-2-19.
Interference with arrest or performance of ranger's duties, §27-1-25.
Liberation-of-wildlife permits, §27-2-14.
Licenses.
Failure to surrender license, §27-2-26.
Motor vehicle or boat.
Failure or refusal to bring to a stop when ordered to do so, §27-1-25.1.
Official Georgia waterfowl license, §27-1-10.
Penalty for violations of title, §27-1-38.
Rehabilitation permits, §27-2-22.
Sale or purchase of game, §27-1-29.
Scientific collecting permits, §27-2-12.
Stamps.
Failure to surrender stamp, §27-2-26.

CRIMINAL LAW AND PROCEDURE —Cont'd
Wildlife —Cont'd
Storage permits, §27-2-15.
Taking of nongame species, §27-1-28.
Theft by taking, §27-1-3.
Transportation of wildlife.
Carriers.
Acceptance of wildlife for shipment, §27-3-94.
Reporting requirements, §27-3-94.
Interstate, §27-3-92.
Intrastate, §27-3-91.
Propagation and scientific purposes, §27-3-93.
Requirements for lawful transportation, §27-3-90.
Unlawful concealment, §27-1-31.
Unlawful possession or use of wildlife, §27-1-31.
Violations of game and fish code, §27-1-3.
Violations of title generally, §27-1-38.
Wild animals.
Licenses and permits generally, §27-5-4.
Release or escape from captivity, §27-5-7.
Specifications for humane handling, care, etc., §27-5-6.
Wildlife violator compact, §27-2-42.

CRIPPLING OF GAME BIRD OR GAME ANIMAL.
Without reasonable effort to retrieve, §27-3-14.

CROCODILES.
Alligators defined as reptiles classified as, §27-1-2.

CROPS.
Deer causing damage.
Permit to kill, §27-2-18.

CROSSBOWS.
Legal weapons for hunting wildlife generally, §27-3-4.

CROSS REFERENCES.
Publication of Official Code of Georgia Annotated.
Cross reference numbers to agree with renumbered chapters, code sections or portions of code, §28-9-5.

CROSS REFERENCES —Cont'd
Taxidermist licenses.
Wildlife at business premises to have tag attached displaying number that can be cross referenced with, §27-2-9.

CRUSTACEANS.
Wildlife defined, §27-1-2.

CULPABILITY.
Hunting privileges.
Suspension for negligent hunting, §27-2-25.1.

CUSTODIANS.
Probate courts.
Legal custodian and distributor of money owed minor or adult without a conservator, §§29-6-1 to 29-6-9.

D

DAMAGES.
Claims against state.
Crime victims' compensation.
Generally, §§28-5-100 to 28-5-108.
Fishing.
Unlawful dumping.
Recovery of damages, §27-4-4.
Special damages.
Wildlife.
Interference with lawful taking, §27-3-152.
Wildlife.
Interference with lawful taking, §27-3-152.

DAMS.
Fishing.
Commercial fresh-water fishing.
Use of fishing gear within one-half mile below lock or dam, §27-4-93.

DAUGHTERS-IN-LAW.
Hunting upon lands of another.
Exemption from licensure, §27-3-1.

DAYLIGHT FLUORESCENT ORANGE BOARD.
Boats taking shrimp.
Identification requirements, §27-4-133.
Bait dealers, §27-4-171.

DAYLIGHT FLUORESCENT ORANGE OR FLUORESCENT PINK MATERIAL.
Hunting bears.
Required outer garments, §27-3-25.
Hunting deer.
Required clothing, §27-3-40.

DEAD BAIT, §27-4-171.

DEADFALLS.
Hunting wildlife.
Unlawful devices, §27-3-8.
Confiscation and disposal, §27-3-68.

DEAF AND HEARING IMPAIRED PERSONS.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
American sign language.
Fully developed, autonomous, natural language.
Legislative findings, §30-1-6.
Capuchin monkeys.
Housing rights, §30-4-3.
Commission for deaf or hard of hearing.
Administrative attachment of commission, §30-1-5.
Chair.
Selection, §30-1-5.
Composition, §30-1-5.
Created, §30-1-5.
Definitions, §30-1-5.
Duties, §30-1-5.
Early intervention and school-age services, §30-1-5.
Information and recommendations to general assembly, §30-1-5.
Multiagency task force.
Information and recommendations to general assembly, §30-1-5.
No compensation for members' service, §30-1-5.
Powers, §30-1-5.
Purpose of commission, §30-1-5.
Stakeholder advisory committee, §30-1-5.
Deaf person defined, §30-1-1.
Definitions, §30-1-1.
Commission for deaf or hard of hearing, §30-1-5.
Rights of persons with disabilities, §30-4-1.

DEAF AND HEARING IMPAIRED PERSONS —Cont'd
Discrimination.
Right to housing accommodations, §§30-4-3, 30-4-4.
Right to public accommodations, §§30-4-2, 30-4-4.
Georgia commission for deaf or hard of hearing, §30-1-5.
Housing accommodations, §§30-4-3, 30-4-4.
Public accommodations, §§30-4-2, 30-4-4.
Public employment.
Policy of state, §30-1-2.
Public facilities.
Access to and use of.
General provisions, §§30-3-1 to 30-3-9.
Rights, §30-4-1.
Housing accommodations, §§30-4-3, 30-4-4.
Public accommodations, §§30-4-2, 30-4-4.
Service dogs.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Rights and obligations as to, §30-4-2.
Denial of or interference with exercise of right, §30-4-4.
Service dogs.
Right to be accompanied by service dog, §30-4-2.
Housing accommodations, §30-4-3.
Obligations of owner and/or trainer, §30-4-2.
Persons training or raising, §30-4-2.
Sign language.
American sign language.
Fully developed, autonomous, natural language.
Legislative findings, §30-1-6.

DEALERS.
Bait dealers.
Shrimp sold for bait, §27-4-171.

DEATH.
Achieving a better life experience (ABLE) accounts.
Death of designated beneficiary, §30-9-14.

DEATH —Cont'd
Conservators for incapacitated adults.
Automatic termination of conservatorship.
Death of ward, §29-5-72.
Successor, appointment.
Death of conservator, §§29-5-91, 29-5-101.
Conservators for minors.
Appointment of successor on death of conservator, §§29-3-81, 29-3-91.
Termination of conservatorship on death of minor, §29-3-64.
Guardians for incapacitated adults.
Automatic termination of guardianship.
Death of ward, §29-4-42.
Successor guardian, appointment.
Death of guardian, §29-4-51.
Guardians of minors.
Automatic termination of guardianship.
Death of minor, §29-2-30.
Successor appointed.
Death of guardian, §29-2-41.
Natural guardian of minor.
Surviving parent, §29-2-3.

DEBTORS AND CREDITORS.
Community trusts.
Exemption from seizure by creditors, §30-10-7.

DECEDENTS' ESTATES.
Conservator for incapacitated adult.
Ward dying intestate.
Distribution of estate by conservator as if appointed administrator of estate, §29-5-72.
Conservator for minor.
Ward dying intestate.
Distribution of estate as if appointed administrator for estate, §29-3-71.
Incapacitated adult ward dying intestate.
Conservator.
Distribution of estate as if appointed administrator of estate, §29-5-72.

DECEDENTS' ESTATES —Cont'd
Minors.
Minor ward dying intestate.
Conservator for minor.
Distribution of estate as if appointed administrator for estate, §29-3-71.

DEER.
Crops.
Permits to kill deer causing damage to crops, §27-2-18.
Defined as big game, §27-1-2.
Farmed deer.
Defined, §27-1-2.
Shooting, §27-5-12.
Hunting, §§27-3-40 to 27-3-50.
Baiting wildlife, exceptions to prohibition, §27-3-9.
Deer management assistance program, §27-3-15.
Dogs.
Hunting deer with dogs, §27-3-17.
Deer-dog hunting license, §27-3-17.
Killing of deer with no antlers visible, §27-3-44.
Killing of dogs running deer, §27-3-49.
Permits to kill deer causing damage to crops, §27-2-18.
Removal of head of deer, §27-3-43.
Required clothing, §27-3-40.
Sale of antlers, hides and tails of deer, §27-3-50.
Taking deer in lake, stream or pond, §27-3-42.
Unlawful nighttime killing, §27-3-48.
Unsupervised hunting by persons under twelve years of age, §27-3-41.
Weapons permitted, §27-3-4.
Importation of cervid or cervid carcasses.
Unlawful, §27-5-2.1.
Taxidermists.
Authority to mount and sell, §27-2-9.

DEER FARMING.
Definitions.
Farmed deer, §27-1-2.
Shooting farmed deer, §27-5-12.

DEFENSES.
Wildlife.
Defenses not available in prosecutions for violations, §27-1-34.

DEFINED TERMS.
ABLE account.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Abuse.
Disabled adults and elder persons protection act, §30-5-3.
Abuse, neglect, or exploitation.
Guardianships and conservatorships, §29-9-3.
Activities of daily living.
Rights of persons with disabilities, §30-4-1.
Adaptable.
Public facilities for physically disabled, §30-3-2.
Adjoining state.
Fishing license reciprocity, §27-4-234.
Adult.
Guardianships and conservatorships, §29-1-1.
Adult abuse, neglect and exploitation multidisciplinary team.
Disabled adults and elder persons protection act, §30-5-3.
Adult supervision.
Game and fish code, §27-1-2.
Adult unable to consent.
Temporary medical consent guardianship, termination, §29-4-18.
Air gun.
Hunting, §27-3-4.
Alcohol concentration.
Hunting while intoxicated, §27-3-7.
Alligator.
Game and fish code, §27-1-2.
Alligator farming.
Game and fish code, §27-1-2.
Alligator product.
Game and fish code, §27-1-2.
American National Standards Institute specifications ANSI standards.
Public facilities for physically disabled, §30-3-2.
American sign language.
Deaf or hard of hearing, commission, §30-1-5.
Approved growing area.
Commercial shellfish industry development, §27-4-188.
Approved shellfish pathologist.
Commercial shellfish industry development, §27-4-188.

DEFINED TERMS —Cont'd
Aquaculture, §27-4-252.
Article V application.
Delegates at convention to amend US Constitution, appointment, §28-6-8.
Article V convention.
Delegates at convention to amend US Constitution, appointment, §28-6-8.
Artificial lure.
Game and fish code, §27-1-2.
Auction.
Wild animals, §27-5-11.
Bag limit.
Game and fish code, §27-1-2.
Bait shrimp cast net.
Game and fish code, §27-1-2.
Benefits.
VA guardians, §29-7-1.
Big game.
Game and fish code, §27-1-2.
Biological father.
Permanent guardians, §29-2-15.
Birth to literacy plan.
Deaf or hard of hearing, commission, §30-1-5.
Blind students.
Blind persons' literacy rights and education act, §30-7-2.
Board of trustees.
Community trusts, §30-10-2.
Braille.
Blind persons' literacy rights and education act, §30-7-2.
Bushel.
Game and fish code, §27-1-2.
Business premises.
Game and fish code, §27-1-2.
Cage.
Commercial shellfish industry development, §27-4-188.
Caretaker.
Disabled adults and elder persons protection act, §30-5-3.
Carrier.
Game and fish code, §27-1-2.
Cast net.
Game and fish code, §27-1-2.
Catch-out pond.
Game and fish code, §27-1-2.
Certified firms.
Commercial shellfish industry development, §27-4-188.
Cervid.
Importation restrictions, §27-5-2.1.

DEFINED TERMS —Cont'd
Chronic wasting disease.
Possession of cervid carcasses, §27-5-2.1.
Citation.
Wildlife violator compact, §27-2-40.
Clam rake.
Game and fish code, §27-1-2.
Code.
Code revision commission, §28-9-1.
Collateral.
Wildlife violator compact, §27-2-40.
Commercial.
Game and fish code, §27-1-2.
Commercial crab trap.
Game and fish code, §27-1-2.
Commercial fish hatchery.
Game and fish code, §27-1-2.
Commercial fishing.
Game and fish code, §27-1-2.
Commercial quantities.
Game and fish code, §27-1-2.
Commercial shooting preserve.
Game and fish code, §27-1-2.
Commercial trapper.
Game and fish code, §27-1-2.
Community trusts, §30-10-2.
Compliance.
Wildlife violator compact, §27-2-40.
Computer assisted remote hunting, §27-3-12.
Conservator, §29-1-1.
Conservatorship, §29-3-105.
Conservatorship order.
Adult guardianship and conservatorship proceedings, §29-11-2.
Conservatorship proceeding.
Adult guardianship and conservatorship proceedings, §29-11-2.
Conviction.
Wildlife violator compact, §27-2-40.
Corporation.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Cotrustee.
Community trusts, §30-10-2.
County conservator, §29-1-1.
County guardian, §29-1-1.
Court.
Guardianships and conservatorships, §29-1-1.
Protection of disabled adults and elder persons, §30-5-5.

DEFINED TERMS —Cont'd
Court —Cont'd
Wildlife violator compact, §27-2-40.
Covered multifamily dwelling.
Public facilities for physically disabled, §30-3-2.
Crab.
Game and fish code, §27-1-2.
Creel limit.
Game and fish code, §27-1-2.
Criminal history record information.
Guardians and conservators, §29-9-19.
Culch.
Commercial shellfish industry development, §27-4-188.
Culch material.
Commercial shellfish industry development, §27-4-188.
Deaf or hard of hearing.
Commission for deaf or hard of hearing, §30-1-5.
Deaf person, §30-1-1.
Delegate.
Delegates at convention to amend US Constitution, appointment, §28-6-8.
Delegation.
Delegates at convention to amend US Constitution, appointment, §28-6-8.
Designated beneficiary.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Designating individual.
Standby guardians, §29-2-9.
Disability.
Game wardens, §27-1-16.
Disabled adult.
Disabled adults and elder persons protection act, §30-5-3.
Domestic species.
Game and fish code, §27-1-2.
Donor.
Community trusts, §30-10-2.
Educational.
Game and fish code, §27-1-2.
Elder person.
Disabled adults and elder persons protection act, §30-5-3.
Eligible individual.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Emergency.
Adult guardianship and conservatorship proceedings, §29-11-2.
DEFINED TERMS —Cont'd
Emergency conservator, §29-1-1.
Emergency guardian, §29-1-1.
Essential services.
Disabled adults and elder persons protection act, §30-5-3.
Established bait dealership.
Game and fish code, §27-1-2.
Estate.
VA guardians, §29-7-1.
Exploitation.
Disabled adults and elder persons protection act, §30-5-3.
Facility.
Public facilities for physically disabled, §30-3-2.
Falconer.
Game and fish code, §27-1-2.
Falconry.
Game and fish code, §27-1-2.
Farmed deer.
Game and fish code, §27-1-2.
Feral hog.
Game and fish code, §27-1-2.
Fertility control.
Wildlife, §27-3-181.
Fiduciary.
Disabled adults and elder persons protection act, §30-5-3.
Film production.
Film production wildlife permits, §27-2-13.1.
Financial institutions.
Disabled adults and elder persons protection act, §30-5-3.
Fiscal note.
Local government impact fiscal notes, §28-5-48.
Fishing.
Game and fish code, §27-1-2.
Fishing day.
Seafood harvesting, §27-4-138.
Fishing locations.
Limited liability of owners and operators, §27-4-281.
Food shrimp cast net.
Game and fish code, §27-1-2.
Foreign conservator, §§29-3-115, 29-5-135.
Foreign guardian, §29-2-74.
Fresh-water turtle.
Game and fish code, §27-1-2.
Full-time employee.
Game and fish code, §27-1-2.
Fur-bearing animals.
Game and fish code, §27-1-2.

DEFINED TERMS —Cont'd
Fur dealer.
Game and fish code, §27-1-2.
Fur dealer's agent.
Game and fish code, §27-1-2.
Game animals.
Game and fish code, §27-1-2.
Game birds.
Game and fish code, §27-1-2.
Game fish.
Game and fish code, §27-1-2.
Game species.
Game and fish code, §27-1-2.
Georgia ABLE program.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Government buildings.
Public facilities for physically disabled, §30-3-2.
Grant.
Fair and open grants by legislature, §28-5-121.
Gross settlement.
Conservators for incapacitated adults, §29-5-23.
Conservators for minors, §29-3-3.
Guardian, §29-1-1.
Guardian ad litem, §29-1-1.
Guardianship orders.
Adult guardianship and conservatorship proceedings, §29-11-2.
Guardianship proceeding.
Adult guardianship and conservatorship proceedings, §29-11-2.
Harvester.
Commercial shellfish industry development, §27-4-188.
Healthcare professionals.
Standby guardians, §29-2-9.
Health determination.
Standby guardians, §29-2-9.
Held as pets.
Game and fish code, §27-1-2.
Home language.
Deaf or hard of hearing, commission, §30-1-5.
Home state.
Adult guardianship and conservatorship proceedings, §29-11-2.
Wildlife violator compact, §27-2-40.
Housing accommodations.
Disabled persons, §30-4-3.

DEFINED TERMS —Cont'd
Housing accommodations —Cont'd
Rights of persons with disabilities, §30-4-1.
Hunting.
Game and fish code, §27-1-2.
Hunting while intoxicated, §27-3-7.
Hunting privileges.
Hunting licenses, §27-2-25.1.
Illegal fishing with power-driven nets.
Seafood harvesting, §27-4-138.
Immediate family.
Game and fish code, §27-1-2.
Impairment.
Community trusts, §30-10-2.
Importation.
Cervidae, §27-5-2.1.
Incapacitated person.
Adult guardianship and conservatorship proceedings, §29-11-2.
Income.
VA guardians, §29-7-1.
Individualized education program.
Blind persons' literacy rights and education act, §30-7-2.
Deaf or hard of hearing, commission, §30-1-5.
Individualized family service plan.
Deaf or hard of hearing, commission, §30-1-5.
Interested person.
Guardianships and conservatorships, §29-1-1.
Internal revenue code.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Intertidal.
Commercial shellfish industry development, §27-4-188.
Investment company.
Disabled adults and elder persons protection act, §30-5-3.
Issuing state.
Wildlife violator compact, §27-2-40.
Joint legal custody.
Guardianships and conservatorships, §29-2-3.
Language.
Deaf or hard of hearing, commission, §30-1-5.
Lawful taking.
Wildlife, §27-3-150.

DEFINED TERMS —Cont'd
Legally blind.
Supportive parenting services as reasonable accommodation for legally blind persons, §30-4-5.
Legislative instructions.
Delegates at convention to amend US Constitution, appointment, §28-6-8.
License.
Game and fish code, §27-1-2.
Hunting, §27-2-25.1.
Wildlife violator compact, §27-2-40.
Licensed bait dealer.
Game and fish code, §27-1-2.
Licensed clinical social worker.
Guardianships and conservatorships, §29-1-1.
Licensing authority.
Wildlife violator compact, §27-2-40.
Life beneficiary.
Community trusts, §30-10-2.
Life-sustaining procedures.
Temporary medical consent guardianship, termination, §29-4-18.
Literacy.
Deaf or hard of hearing, commission, §30-1-5.
Local political subdivision.
Local government impact fiscal notes, §28-5-48.
Long-term care facility.
Disabled adults and elder persons protection act, §30-5-3.
Management plan.
Commercial shellfish industry development, §27-4-188.
Master harvester.
Commercial shellfish industry development, §27-4-188.
May.
Game and fish code, §27-1-2.
Medical consent ward.
Temporary medical consent guardianship, termination, §29-4-18.
Member of the general assembly.
General assembly training institute, §28-11-3.
Mentally or physically incapacitated.
Disabled adults and elder persons protection act, §30-5-3.
Migratory game birds.
Game and fish code, §27-1-2.

DEFINED TERMS —Cont'd
Minor.
Guardianships and conservatorships, §29-1-1.
Mountain trout.
Game and fish code, §27-1-2.
Natural guardian, §29-1-1.
Neglect.
Disabled adults and elder persons protection act, §30-5-3.
Net settlement.
Conservators for minors, §29-3-3.
Night.
Game and fish code, §27-1-2.
Nongame fish.
Game and fish code, §27-1-2.
Nonmanual markers.
Deaf or hard of hearing, commission, §30-1-5.
Nonpartisan legislative organization.
Interstate cooperation, §28-6-1.1.
Official written communication.
General assembly, §28-3-24.2.
Operational plan.
Commercial shellfish industry development, §27-4-188.
Outdoor mentees.
Hunting and fishing, outdoor mentoring program to promote, §27-2-4.5.
Outdoor mentors.
Hunting and fishing, outdoor mentoring program to promote, §27-2-4.5.
Outdoor passports.
Hunting and fishing, outdoor mentoring program to promote, §27-2-4.5.
Owner training.
Rights of persons with disabilities, §30-4-1.
Parents.
Guardianships and conservatorships, §29-1-1.
Participant.
Sport fishing locations.
Limited liability of owners and operators, §27-4-281.
Participation agreement.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Parties.
Adult guardianship and conservatorship proceedings, §29-11-2.

DEFINED TERMS —Cont'd
Party state.
Wildlife violator compact, §27-2-40.
Peeler.
Game and fish code, §27-1-2.
Penned fox.
Fox trapping and selling, §27-2-22.1.
Pen raised game birds.
Game and fish code, §27-1-2.
Pen raised quail.
Commercial quail breeder permits, §27-2-16.
Perishable.
Game and fish code, §27-1-2.
Permanent guardian, §29-1-1.
Person.
Adult guardianship and conservatorship proceedings, §29-11-2.
Game and fish code, §27-1-2.
VA guardians, §29-7-1.
Personal assistance.
Personal assistance program for persons with disabilities, §30-6-3.
Personal recognizance.
Wildlife violator compact, §27-2-40.
Personal representative.
Guardianships and conservatorships, §29-1-1.
Physically or mentally impaired person.
Rights of persons with disabilities, §30-4-1.
Pole and line.
Game and fish code, §27-1-2.
Political subdivision.
General assembly population bills, §28-1-15.
Population bill.
General assembly, §28-1-15.
Private oyster or clam beds.
Game and fish code, §27-1-2.
Private pond.
Game and fish code, §27-1-2.
Private shooting preserve.
Game and fish code, §27-1-2.
Program.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Proposed medical consent ward.
Temporary medical consent guardianship, termination, §29-4-18.
Proposed ward.
Guardianships and conservatorships, §29-1-1.

DEFINED TERMS —Cont'd
Protected person.
Adult guardianship and conservatorship proceedings, §29-11-2.
Protected species.
Endangered wildlife, §27-3-131.
Protective services.
Disabled adults and elder persons protection act, §30-5-3.
Public buildings.
Public facilities for physically disabled, §30-3-2.
Public exhibition.
Game and fish code, §27-1-2.
Public guardian, §§29-1-1, 29-10-1.
Public road.
Game and fish code, §27-1-2.
Purchase.
Game and fish code, §27-1-2.
Qualified ABLE program.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Qualified disability expense.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Raptor.
Game and fish code, §27-1-2.
Rats and mice.
Game and fish code, §27-1-2.
Reasonable number.
Parking spaces for physically disabled, §30-3-2.
Record.
Adult guardianship and conservatorship proceedings, §29-11-2.
Renovation.
Public facilities for physically disabled, §30-3-2.
Residency.
Lifetime sportsman license, §27-2-3.1.
Resident.
Disabled adults and elder persons protection act, §30-5-3.
Game and fish code, §27-1-2.
Respondent.
Adult guardianship and conservatorship proceedings, §29-11-2.
Retail fish dealer.
Game and fish code, §27-1-2.
Salt water fishing guide.
Game and fish code, §27-1-2.
Salt water fishing pier.
Game and fish code, §27-1-2.

DEFINED TERMS —Cont'd
Scientific.
Game and fish code, §27-1-2.
Seafood.
Game and fish code, §27-1-2.
Seafood dealers.
Game and fish code, §27-1-2.
Security.
Disabled adults and elder persons protection act, §30-5-3.
Sell.
Game and fish code, §27-1-2.
Service dog.
Rights of persons with disabilities, §30-4-1.
Sexual abuse.
Disabled adults and elder persons protection act, §30-5-3.
Shedding facility.
Game and fish code, §27-1-2.
Shellfish.
Game and fish code, §27-1-2.
Shellfish hatchery and nursery.
Commercial shellfish industry development, §27-4-188.
Shellfish management area.
Game and fish code, §27-1-2.
Shellfish mariculture.
Commercial shellfish industry development, §27-4-188.
Shellfish seed.
Commercial shellfish industry development, §27-4-188.
Shellstock.
Commercial shellfish industry development, §27-4-188.
Shooting preserve.
Game and fish code, §27-1-2.
Significant-connection state.
Adult guardianship and conservatorship proceedings, §29-11-2.
Slack tide.
Crabbing, §27-4-151.
Small game.
Game and fish code, §27-1-2.
Soft-shell crab.
Game and fish code, §27-1-2.
Soft-shell crab dealer.
Game and fish code, §27-1-2.
Sole custody.
Guardianships and conservatorships, §29-2-3.
Spearing.
Fish, §27-4-33.

DEFINED TERMS —Cont'd
Spoken English.
Deaf or hard of hearing, commission, §30-1-5.
Sport trotlines.
Noncommercial fishing, §27-4-32.
Standby guardian, §§29-1-1, 29-2-9.
State.
Adult guardianship and conservatorship proceedings, §29-11-2.
Wildlife violator compact, §27-2-40.
State agency.
Fair and open grants by legislature, §28-5-121.
State of permanent unconsciousness.
Temporary medical consent guardianship, termination, §29-4-18.
State owned oyster or clam beds.
Game and fish code, §27-1-2.
Sturgeon nets.
Commercial fresh-water fishing, §27-4-91.
Subtidal.
Commercial shellfish industry development, §27-4-188.
Successor conservator, §29-1-1.
Successor guardian, §29-1-1.
Successor trust.
Community trusts, §30-10-2.
Successor trustee.
Community trusts, §30-10-2.
Sui juris.
Guardianships and conservatorships, §29-1-1.
Supportive parenting services.
Supportive parenting services as reasonable accommodation for legally blind persons, §30-4-5.
Suspend.
Hunting licenses, §27-2-25.1.
Suspension.
Wildlife violator compact, §27-2-40.
Taking.
Game and fish code, §27-1-2.
Temporary guardian, §29-1-1.
Temporary medical consent guardian, §29-4-18.
Temporary substitute conservator, §29-1-1.
Temporary substitute guardian, §29-1-1.
Ten-foot net.
Game and fish code, §27-1-2.

DEFINED TERMS —Cont'd
Terminal condition.
Temporary medical consent guardianship, termination, §29-4-18.
Terms of the citation.
Wildlife violator compact, §27-2-40.
Testamentary conservator, §29-1-1.
Testamentary guardian, §29-1-1.
The state or any of its departments or agencies.
Claims against state, §28-5-60.1.
Trainer.
Rights of persons with disabilities, §30-4-1.
Trapping.
Game and fish code, §27-1-2.
Trotlines.
Commercial fresh-water fishing, §27-4-91.
Trustee.
Community trusts, §30-10-2.
Trust fund.
Achieving a better life experience (ABLE) accounts, §30-9-3.
Twenty-foot net.
Game and fish code, §27-1-2.
Unapproved growing areas.
Commercial shellfish industry development, §27-4-188.
Unauthorized amendment.
Delegates at convention to amend US Constitution, appointment, §28-6-8.
VA guardian, §§29-1-1, 29-7-1.
Vinson institute.
General assembly training Institute, §28-11-3.
Ward.
Guardianships and conservatorships, §29-1-1.
VA guardians, §29-7-1.
Water bottoms.
Commercial shellfish industry development, §27-4-188.
Waters of the state.
Game and fish code, §27-1-2.
Whole.
Possession of cervid carcasses, §27-5-2.1.
Wholesale fish dealer.
Game and fish code, §27-1-2.
Wild animal.
Game and fish code, §27-1-2.
Wild animal business.
Game and fish code, §27-1-2.

DEFINED TERMS —Cont'd
Wildlife.
Game and fish code, §27-1-2.
Wildlife violator compact, §27-2-40.
Wildlife law.
Wildlife violator compact, §27-2-40.
Wildlife officer.
Wildlife violator compact, §27-2-40.
Wildlife violation.
Wildlife violator compact, §27-2-40.

DENS.
Disturbing or destroying wildlife habitats, §27-1-30.

DEPOSITIONS.
Adult guardianship and conservatorship proceedings.
Testimony of out-of-state witnesses, §29-11-6.

DEPUTIES.
Claims against state.
Claims advisory board.
Representation of members by deputies, §28-5-60.
Game wardens, §27-1-17.
Authority to arrest persons, §27-1-19.
Interference with arrest, §27-1-25.
Inspection of identification.
Refusing inspection, §27-2-28.
Interference with performance of duty, §27-1-25.
Natural resources, commissioner of.
Delegation of duties, §27-4-211.

DESCENT AND DISTRIBUTION.
Conservator for incapacitated adult dying intestate.
Distribution of estate by conservator as if appointed administrator of estate, §29-5-72.
Conservator for minor ward dying intestate.
Distribution of estate as if appointed administrator for estate, §29-3-71.
Incapacitated adult ward dying intestate.
Conservator.
Distribution of estate as if appointed administrator of estate, §29-5-72.
Minor ward dying intestate.
Conservator for minor.
Distribution of estate as if appointed administrator for estate, §29-3-71.

DETERGENTS.
Humane handling of wild animals, §27-5-6.

DEVELOPMENTAL DISABILITIES COUNCIL, §30-8-1.

DIABETES.
Identification bracelets, etc., for diabetics.
Authority to wear, §30-1-3.
Peace officers.
Unconscious or semiconscious persons.
Duties of law enforcement officers on finding, §30-1-3.

DIAMONDBACK RATTLESNAKES.
Insurance.
Liability insurance required of licensees or permittees, §27-5-4.

DIAMONDBACK TERRAPINS.
Salt-water fishing generally, §§27-4-110 to 27-4-118.

DIET.
Wild animals.
Specifications for humane care, §27-5-6.

DIGITAL ASSETS.
Fiduciary access to digital assets.
Conservators for incapacitated adults.
Power of conservator, §29-5-23.
Conservators for minors.
Case-by-case basis.
Powers granted by court, §29-3-22.

DINGOS.
Licenses and permits.
Generally, §27-5-5.

DISABILITY IN LINE OF DUTY.
Game wardens.
Retention of weapon and badge, §27-1-16.

DISABLED ADULTS AND ELDER PERSONS PROTECTION ACT.
General provisions, §§30-5-1 to 30-5-11.
Short title, §30-5-1.

DISABLED PERSONS.
Access to and use of public facilities, §§30-3-1 to 30-3-9.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.

DISABLED PERSONS —Cont'd
Blackouts.
Persons suffering blackouts.
Duties of law enforcement officers, §30-1-3.
Identification requirement, §30-1-3.
Blind and visually impaired persons.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Industries for the blind.
General provisions, §§30-2-1 to 30-2-9.
Public facilities.
Access to and use of, §§30-3-1 to 30-3-9.
Capuchin monkeys.
Service monkeys.
Housing rights of blind or deaf persons, §30-4-3.
Wild animal permits.
Issuance, requirements, §27-5-4.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Supportive parenting services as reasonable accommodation for legally blind persons, §30-4-5.
Community trusts, §§30-10-1 to 30-10-9.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
Deaf and hearing impaired persons.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Public facilities.
Access and use of, §§30-3-1 to 30-3-9.
Definitions.
Protection of disabled adults and elder persons, §30-5-3.
Public facilities access and use, §30-3-2.
Disabled adults and elder persons protection act, §§30-5-1 to 30-5-11.
Financial abuse or exploitation.
Disabled adults and elder persons protection act.
Generally, §§30-5-1 to 30-5-11.
General provisions, §§30-1-1 to 30-1-6.
Georgia industries for the blind, §§30-2-1 to 30-2-9.

DISABLED PERSONS —Cont'd
Guardians for incapacitated adults.
Generally, §§29-4-1 to 29-4-98.
Guardians of minors.
Standby guardians.
Designation upon health determination, §§29-2-9 to 29-2-13.
Housing.
Right to housing accommodations, §30-4-3.
Denial of or interference with exercise of right, §30-4-4.
Hunting.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Industries for the blind.
General provisions, §§30-2-1 to 30-2-9.
Labor and employment relations.
Public employment of physically disabled persons, §30-1-2.
Legal custodian and distributor of money owed incapacitated adult.
Probate courts, §§29-6-1 to 29-6-9.
Personal assistance program for persons with disabilities, §§30-6-1 to 30-6-5.
Authority to establish program, §30-6-4.
Citation of title, §30-6-1.
Guidelines.
Establishment, §30-6-5.
Legislative intent, §30-6-2.
Personal assistance defined, §30-6-3.
Purpose, §30-6-2.
Scope, §30-6-2.
Short title, §30-6-1.
Standards and guidelines.
Establishment, §30-6-5.
Title of act, §30-6-1.
Physically disabled persons.
Public employment, §30-1-2.
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.
Access by agencies to records or reports of abuse, §30-5-7.
Citation of title, §30-5-1.
Confidentiality of public records, §30-5-7.
Multidisciplinary teams.
Records of teams, §30-5-11.
Contracts for medical evaluations, §30-5-6.
Cooperative effort in development of programs, §30-5-10.

DISABLED PERSONS —Cont'd
Protection of disabled adults and elder persons —Cont'd
Criminal investigations.
Exception to confidentiality of public records, §30-5-7.
Criminal offenses and penalties, §30-5-8.
Definitions, §30-5-3.
Employment relationship.
Applicability of provisions, §30-5-9.
Imminent danger resulting from abuse, exploitation or neglect.
Ex parte order, §30-5-5.
Immunity from civil or criminal liability, §30-5-4.
Intergovernmental cooperation, §30-5-6.
Investigations.
Multidisciplinary teams.
Coordination of investigations, §30-5-11.
Judge unable to hear case, appointment of qualified attorney as substitute, §30-5-5.
Legislative purpose, §30-5-2.
Multidisciplinary teams.
Composition, §30-5-11.
Confidentiality of records, §30-5-11.
Database of case information, §30-5-11.
Duties, §30-5-11.
Establishment, §30-5-11.
Investigations.
Coordination, §30-5-11.
Meetings, §30-5-11.
Memorandum of understanding for procedures and methods of operation, §30-5-11.
Purpose, §30-5-11.
Reports to Georgia bureau of investigation, §30-5-11.
Provision of protective services, §30-5-5.
Reporting of need for protective services, §30-5-4.
Failure to report as misdemeanor, §30-5-8.
Investigation of reports, §30-5-5.
Purpose, §30-5-2.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.

DISABLED PERSONS —Cont'd
Protection of disabled adults and elder persons —Cont'd
Reporting of need for protective services —Cont'd
Failure to make report, §30-5-8.
Immunity from civil or criminal liability, §30-5-4.
Investigation of reports, §30-5-5.
Interference with investigation, §30-5-5.
Manner and contents of report, §30-5-4.
Rulemaking authority, §30-5-6.
Scope, §30-5-2.
Short title, §30-5-1.
Title of act, §30-5-1.
Public accommodations.
Right to equal public accommodations, §30-4-2.
Denial of or interference with admittance to facilities, §30-4-4.
Public employment.
Physically disabled persons, §30-1-2.
Public facilities.
Access and use, §§30-3-1 to 30-3-9.
Administration of chapter provisions, §30-3-7.
ANSI standards.
Applicability, §30-3-3.
Defined, §30-3-2.
Granting of exemptions, §30-3-3.
Specific amenities required, §30-3-5.
Conflict of laws.
Effectiveness of chapter in relation to federal law, §30-3-9.
Covered multifamily dwellings.
Building entrance on accessible route.
Required, §30-3-4.
Defined, §30-3-2.
Standards and specifications, §30-3-4.
Definitions, §30-3-2.
Enforcement of chapter provisions, §30-3-7.
Federal law.
Effectiveness of chapter in relation to, §30-3-9.
Misdemeanor as violation, §30-3-8.
Parking lot spaces, §30-3-6.
Specific amenities required, §30-3-5.
Purpose and intent of provisions, §30-3-1.

DISABLED PERSONS —Cont'd
Rights, §§30-4-1 to 30-4-5.
Service dogs.
Denial of or interference with exercise of right, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Right to accompaniment, §30-4-2.
Housing accommodations, §30-4-3.
Obligations of owner and/or trainer, §30-4-2.
Standby guardians.
Guardians of minors.
Designation upon health determination, §§29-2-9 to 29-2-13.

DISASTERS.
Fishing in salt waters.
Closing salt waters to commercial fishing in event of disaster, §27-4-133.

DISCOUNTED HUNTING AND FISHING LICENSES, §27-2-4.

DISCRIMINATION.
Blind and visually impaired persons.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Supportive parenting services as reasonable accommodation, §30-4-5.
Right to equal public accommodations, §§30-4-3, 30-4-4.
Right to housing accommodations, §§30-4-2, 30-4-4.
Deaf and hearing impaired persons.
Right to equal public accommodations, §§30-4-2, 30-4-4.
Right to housing accommodations, §§30-4-3, 30-4-4.
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.
Protection of disabled adults and elder persons.
Reporting of need for protective services.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.

DISEASES.
Shooting preserves.
Failure to notify department of diseases, §27-3-111.

DISINFECTION.
Wild animal quarters, §27-5-6.

DISMISSAL OF ACTIONS.
Guardians of minors.
Temporary guardian.
Objection to appointment, §29-2-6.

DIVORCE.
Guardian appointed for incapacitated adult.
Power of guardian, §29-4-23.
Natural guardian of minor, §29-2-3.

DOGS.
Abandonment.
Technical assistance for control or elimination.
Abandoned or wild dogs, §27-1-7.
Field and retriever trials.
Hunting license requirement, §27-2-21.
Hunting dogs.
Deer hunting, §27-3-17.
Deer-dog hunting license, §27-3-17.
Killing of dogs running deer, §27-3-49.
Fox hunting, §27-3-18.
Generally, §27-3-16.
Killing of dogs running deer, §27-3-49.
Training, §27-3-16.
Killing of dogs.
Dogs running deer, §27-3-49.
Service dogs.
Rights of persons with disabilities, §30-4-2.
Denial of or interference with exercise of right, §30-4-4.
Housing accommodations, §30-4-3.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Obligations of owner and/or trainer, §30-4-2.
Persons raising or training, §30-4-2.
Wild or abandoned dogs.
Technical assistance for control or elimination, §27-1-7.

DOLPHIN.
Creel and possession limits, §27-4-10.

DOMICILE.
Guardian for incapacitated adult.
Establishing residence or dwelling place, changing.
Power of guardian, §29-4-23.
Power removed from ward upon appointment, §29-4-21.
Guardian of minors.
Power to change.
Court granting power, §29-2-22.

DONATIONS.
Wildlife.
National resources conservation camps.
Donations for, §27-1-13.

DOORKEEPERS.
General assembly.
House of representatives.
Doorkeeper and messenger, §28-3-1.
Election, §§28-3-1, 28-3-20.

DOVES.
Baiting fields for wildlife, §27-3-9.

DREDGES.
Shellfish.
Methods of taking, §27-4-192.

DRILLS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

DRONES.
Unmanned aircraft systems.
Feral hogs, use of unmanned aircraft to locate, §27-3-13.

DRUGS.
Fishing.
Public fishing areas.
Persons under influence on public fishing areas, §27-4-11.1.
Hunting while intoxicated, §27-3-7.
Marijuana.
Hunting while intoxicated, §27-3-7.

DRUNKENNESS.
Public fishing areas.
Intoxication, §27-4-11.1.

DUCKS.
Hunting.
Waterfowl and migratory bird stamp, §27-2-6.
Fee, §27-2-23.

DUCKS —Cont'd
Hunting —Cont'd
Weapons permitted, §27-3-4.
Shooting preserves.
Release of certain ducks on, §27-3-111.

DUPLEX UNITS.
Access to and use of public facilities.
Public buildings not to include, §30-3-2.

DURABLE POWER OF ATTORNEY FOR HEALTHCARE.
Conservators for incapacitated adult appointed.
Agents powers not revoked by mere appointment, §29-5-21.
Guardian for incapacitated adult.
Powers of agent not revoked by mere appointment, §29-4-21.
Guardian of minors.
Power to consent or approve, §29-2-22.

E

EAGLES.
Hunting and trapping.
Prohibited acts, §27-3-22.
Raptors defined as excluding, §27-1-2.

EDITING.
Georgia laws.
Duties of legislative counsel, §28-4-3.
Official code of Georgia annotated.
Publication generally, §28-9-5.

EDITORIAL CHANGES.
Official code of Georgia annotated.
Authority to make, §28-9-5.

EEL FISHING.
Commercial fishing, §27-4-71.

EGGS.
Alligators.
Gathering eggs from the wild, §27-3-19.

ELDERLY PERSONS.
Abused, neglected or exploited adults.
Personal attendant care program for disabled adults and elder persons, §§30-6-1 to 30-6-5.
Protection of disabled adults, §§30-5-1 to 30-5-11.
Criminal offenses and penalties.
Disabled adults and elder persons protection act, §30-5-8.

ELDERLY PERSONS —Cont'd
Financial abuse or exploitation.
Disabled adults and elder persons protection act.
Generally, §§30-5-1 to 30-5-11.
Vulnerable adults.
Protection of disabled adults, §§30-5-1 to 30-5-11.

ELECTIONS.
General assembly.
Representative districts, §28-2-1.
Residency requirement for members, §28-2-1.
State divided into 180 districts by, §28-2-1.
Senatorial districts, §28-2-2.
Number, §28-2-2.
Resident of district, requirement, §28-2-2.
State officers for whom manner and time of election not provided, §28-1-12.
Time and manner of election.
State officers for whom manner and time not provided, §28-1-12.
Voting.
Conservator appointed for incapacitated adult.
Not determination on right to vote, §29-5-20.
Guardian appointed for incapacitated adult.
Appointment not determination on ward's right to vote, §29-4-20.

ELEPHANTS.
Wild animals for which license or permit required, §27-5-5.

EMANCIPATION OF MINORS.
Conservators for minors.
Termination of conservatorship, §29-3-64.

EMERGENCY MEDICAL SERVICES.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

EMINENT DOMAIN.
Georgia industries for the blind, §30-2-3.

ENDANGERED WILDLIFE ACT OF 1973.
General provisions, §§27-3-130 to 27-3-133.
Short title, §27-3-130.

ENGROSSED AND ENROLLED BILLS OF GENERAL ASSEMBLY.
Maintenance, §28-1-11.

EPILEPSY.
Identification bracelets, tags or cards, §30-1-3.
Peace officers.
Unconscious or semiconscious persons.
Duties of law enforcement officers on finding, §30-1-3.

EQUAL ACCESS.
Rights of persons with disabilities, §§30-4-1 to 30-4-5.

ESCAPE.
Wildlife.
Disposal of recaptured animals after escape, §27-5-10.
Release or escape from captivity, §27-5-7.

EVIDENCE.
Conservators for incapacitated adults.
Hearing on petition to appoint conservator, §29-5-12.
Guardians for incapacitated adults.
Hearing on petition to appoint guardian, §29-4-12.
Oysters and clams.
Evidence of intent to use as food, §27-4-199.

EXCRETA.
Wild animals.
Humane confinement and transportation.
Requirements as to enclosures, §27-5-6.

EXECUTIONS.
Conservators for incapacitated adults.
Bond or other sufficient security by conservators.
Judgment and execution against conservator's or surety's property, §§29-5-47, 29-5-48.

EXECUTIONS —Cont'd
Conservators for minors.
Issuance of execution or levy against conservator or surety on bond, §§29-3-47, 29-3-48.

EXECUTORS AND ADMINISTRATORS.
Conservator for incapacitated adult.
Ward dying intestate.
Distribution of estate by conservator as if appointed administrator of estate, §29-5-72.
Conservator for minor.
Minor ward dying intestate.
Distribution of estate as if appointed administrator for estate, §29-3-71.
County administrators.
County guardians or conservators.
Ex officio county guardians or conservators, service when appointed by court, §29-8-1.
Incapacitated adult ward dying intestate.
Conservator.
Distribution of estate by conservator as if appointed administrator of estate, §29-5-72.
Minor ward dying intestate.
Conservator for minor.
Distribution of estate as if appointed administrator for estate, §29-3-71.

EXOTIC FISH.
Licenses or permits.
Wild animals for which required, §27-5-5.

EXPLOITATION OF CHILDREN.
Conservators.
General provisions.
Guardian ad litem.
Assessment of fees, costs and expenses.
Effect of abuse, neglect or exploitation, §29-9-3.
Guardians.
General provisions.
Guardian ad litem.
Assessment of fees, costs and expenses, §29-9-3.

EXPLOITED ADULTS.
Personal assistance program for persons with disabilities, §§30-6-1 to 30-6-5.

EXPLOITED ADULTS —Cont'd
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.

EXTINCTION.
Endangered wildlife, §§27-3-130 to 27-3-133.

F

FACTORY FOR THE BLIND.
Industries for the blind, §§30-2-1 to 30-2-9.

FAIR AND OPEN GRANTS ACT OF 1993, §§28-5-120 to 28-5-127.
Application, §28-5-123.
Appropriation act grants, §28-5-127.
Audits of recipients, §28-5-125.
Definitions, §28-5-121.
Determination, §28-5-123.
Lists register, §28-5-124.
Publication prerequisite, §28-5-122.
Short title of act, §28-5-120.
Violations of article, §28-5-126.

FALCONRY.
Defined, §27-1-2.
Permits, §27-2-17.
Duties, §27-2-17.
Permitted acts, §27-2-17.
Prohibition pertaining to permit holders, §27-2-17.

FEES.
Fishing licenses, §27-2-23.
Schedule of fees, §27-2-23.
Customer fishing license, §27-2-23.2.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
General assembly.
Distribution of bills, resolutions and other documents.
Deposit of funds, §28-3-24.
Oysters and clams.
Lease of state intertidal and subtidal water bottoms within approved growing area.
Transfer of lease, §27-4-198.
Wildlife.
Schedule of fees.
License, permit and stamp fees, §27-2-23.

FERAL HOGS.
Hunting, §§27-3-4, 27-3-24.
Boats, aircraft or motor vehicles, hunting from, §27-3-13.
Trapping without license, when permitted, §27-2-1.
Unmanned aircraft, use to locate feral hogs, §27-3-13.

FERTILITY CONTROL OF WILDLIFE, §§27-3-180 to 27-3-185.
Appeal of permit denial, suspension or revocation, §27-3-182.
Application for permit, §27-3-182.
Authority of department, §27-3-184.
Cease and desist order for violations, §27-3-184.
Criteria for permit issuance, §27-3-182.
Definition, §27-3-181.
Disposal of wildlife upon which fertility control administered unlawfully, §27-3-184.
Legislative findings, §27-3-180.
Penalties for violations, §27-3-185.
Permit revocation for violations, §27-3-185.
Prohibition, §27-3-181.
Rules and regulations, §27-3-183.

FIDUCIARIES.
Breach of fiduciary duty.
Conservators for incapacitated adults, §29-5-93.
Conservators for minors, §29-3-83.
Guardians for incapacitated adults. Remedies of ward, §29-4-53.
Guardians of minors. Cause of action, remedies, §29-2-43.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
Conservators for minors, §§29-3-1 to 29-3-120.
County conservators, §§29-8-1 to 29-8-6.
County guardians, §§29-8-1 to 29-8-6.
Guardians for incapacitated adults, §§29-4-1 to 29-4-98.
Guardians of minors, §§29-2-1 to 29-2-77.
VA guardians, §§29-7-1 to 29-7-18.

FIDUCIARY ACCESS TO DIGITAL ASSETS.
Conservators.
Conservators for incapacitated adults. Power of conservator, §29-5-23.

FIDUCIARY ACCESS TO DIGITAL ASSETS —Cont'd
Conservators —Cont'd
Conservators for minors.
Case-by-case basis.
Powers granted by court, §29-3-22.

FINANCIAL ABUSE OR EXPLOITATION.
Disabled adults and elder persons protection act.
Generally, §§30-5-1 to 30-5-11.

FINANCIAL INSTITUTIONS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

FINES.
Alligators.
Feeding or baiting live alligators, §27-3-170.
Bear hunting, §27-3-26.
Unlawful use of bear bait, §27-3-27.
Blind and visually impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Cervid.
Importation of live cervid, §27-5-2.1.
Deaf and hearing impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Deer hunting.
Unlawful nighttime killing, §27-3-48.
Fertility control of wildlife, violations, §27-3-185.
Fishing.
Licenses in lieu of disciplinary actions, §27-2-27.
Trawlers.
Violations relating to possession or use of fishing gear on, §27-1-38.
Fur dealers.
Posting of bond by license applicants, §27-3-70.

FINES —Cont'd
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Refusal to provide access to records, §28-1-18.
Voucher for expenses.
Certificate that information true and correct.
False certificate, §28-1-8.
Hunting.
Carcass removal and transportation, prohibitions, §27-3-29.
Computer assisted remote hunting, §27-3-12.
From boats, aircraft, etc., §27-3-13.
Lands of another without written permission, §27-3-1.
Licenses in lieu of disciplinary actions, §27-2-27.
Public roads.
Hunting upon or discharging weapon across public road, §27-3-10.
Turkeys, hunting with unlawful weapons, §27-3-4.
Seafood harvesting.
Power-driven nets.
Commercial fishing boats engaged in illegal fishing, §27-4-138.
Trapping.
General offenses and penalties, §27-3-63.
Licenses in lieu of disciplinary actions, §27-2-27.
Wildlife.
Carcass removal and transportation, prohibitions, §27-3-29.
Disposition of civil penalties, §27-1-36.
Disposition of fines and bond forfeitures, §27-1-14.
Fertility control of wildlife, violations, §27-3-185.
Licenses, permits or stamps in lieu of disciplinary actions, §27-2-27.
Wildlife violator compact, §27-2-42.

FIRES.
Safety fire commissioner.
Handicap public facilities access and use.
Applicability of ANSI standards, §30-3-3.
Enforcement of provisions, §30-3-7.

FIRES —Cont'd
Safety fire commissioner —Cont'd
Handicap public facilities access and use —Cont'd
Public facilities access and use, §§30-3-1 to 30-3-9.

FISCAL NOTE ACT.
Georgia fiscal note act.
General provisions, §§28-5-40 to 28-5-45.
Short title, §28-5-40.

FISH HATCHERIES.
Fishing in department fish hatcheries, §27-4-11.

FISH HOOKS.
Baited hooks.
Confiscation by wardens, §27-3-68.
Unlawful, §27-3-8.
Sport trotlines, §27-4-32.
Waters creek.
Barbless hooks, §27-4-36.

FISHING, §§27-4-1 to 27-4-283.
Aquaculturalist.
Aquaculture generally, §§27-4-251 to 27-4-263.
Purchase of domestic fish from, §27-4-75.
Sale of domestic fish obtained from, §27-4-76.
Artificial lure.
Defined, §27-1-2.
Artificial-lure streams or lakes, §27-4-36.
Atlantic states marine fisheries compact, §§27-4-210 to 27-4-216.
Commission.
Accounting requirements, §27-4-214.
Examination of accounts by state auditor, §27-4-215.
Annual appropriation, §27-4-216.
Consultation requirements, §27-4-214.
Duties generally, §27-4-212.
Duties granted supplemental, §27-4-213.
Establishment, §27-4-211.
Members, §27-4-211.
Powers generally, §27-4-212.
Powers granted supplemental, §27-4-213.
Recordkeeping requirements, §27-4-214.
Removal of members, §27-4-211.

FISHING —Cont'd
Atlantic states marine fisheries compact —Cont'd
Commission —Cont'd
Reporting requirements, §27-4-214.
Examination of commission's accounts by state auditor, §27-4-215.
Terms of office, §27-4-211.
State officers.
Powers and duties generally, §27-4-212.
Terms, §27-4-210.
Text, §27-4-210.
Beach seines.
Use along public beaches, §27-4-133.
Boats or vessels.
Commercial salt-water fishing.
Identification tags, numbers and letters for boats and vessels, §27-4-117.
Bonds, surety.
Commercial salt-water fishing.
Boat licenses, §27-4-111.
Bow and arrow fishing, §27-4-34.
Catch-out pond.
Defined, §27-1-2.
License, §27-4-31.
Catfishing.
Bow and arrow, restrictions on taking of catfish, §27-4-34.
Commercial salt-water fishing, §27-4-71.
Closed fishing areas, §27-4-11.1.
Commercial fish hatchery.
Defined, §27-1-2.
Commercial fishing, §§27-4-70 to 27-4-118.
Aquaculture, §§27-4-251 to 27-4-263.
Boat license, §27-2-8.
Power-driven nets.
Penalties for illegal fishing, §27-4-138.
Requirement of forfeiture bond or affidavit upon license application, §27-4-134.
Salt-water fishing, §27-4-111.
Catfish, §27-4-71.
Confiscation of illegally used fishing gear, §27-4-73.
Defined, §27-1-2.
Disposition of illegally used fishing gear, §27-4-73.
Eel fishing, §27-4-71.
Fish eggs.
Sale, transportation or possession, §27-4-76.

FISHING —Cont'd
Commercial fishing —Cont'd
Fish hatcheries.
Requirement of bill of sale or lading.
Game fish obtained from hatcheries, §27-4-75.
Sale of fish by commercial fish hatcheries, §27-4-75.
Fishing in waters not opened for commercial fishing, §27-4-70.
Food fish processing plants, §27-4-78.
Fresh-water fishing, §§27-4-90 to 27-4-93.
Effective dates of license, §27-4-90.
Lawful baskets, §27-4-92.
Lawful devices generally, §27-4-91.
License required, §27-4-90.
Use of fishing gear within one-half mile below lock or dam, §27-4-93.
Horseshoe crabs, §27-4-71.
Live fish and fish eggs.
Sale, transportation or possession, §27-4-76.
Purchase of game fish generally, §27-4-74.
Retail fish dealers.
Licensing, §27-4-76.
Sale of game fish generally, §27-4-74.
Salt-water fishing.
Boats or vessels.
Boat license.
Filing of bond or affidavit as condition for validity, §27-4-111.
Identification tags, numbers and letters, §27-4-117.
License required, §27-4-110.
Recordkeeping requirements, §27-4-118.
Shad fishing, §27-4-71.
Suspension of license for article violation, §27-4-77.
Transportation of game fish generally, §27-4-74.
Wholesale fish dealers.
Licensing, §27-4-76.
Commercial fishing gear.
Confiscation and disposition of illegally used fishing gear, §27-4-73.
Compacts.
Atlantic states marine fisheries compact, §§27-4-210 to 27-4-216.
Crabs.
Horseshoe crabs.
Commercial fishing, §27-4-71.
FISHING —Cont'd
Creel and possession limits, §27-4-10.
Creel limit defined, §27-1-2.
Public fishing areas.
Compliance required, §27-4-11.1.
Definitions, §27-1-2.
Adjoining state, §27-4-234.
Game and fish code, §27-1-2.
Lawful devices, §27-4-91.
Spearing, §27-4-33.
Discounted licenses, §27-2-4.
Drugs.
Public fishing areas.
Persons under influence on public fishing areas, §27-4-11.1.
Dumping.
Unlawful dumping, §27-4-4.
Eel fishing.
Commercial eel fishing, §27-4-71.
Fees.
Schedule of fees, §27-2-23.
Commercial fishing licenses, §27-2-23.
Customer fishing license, §27-2-23.2.
Fresh-water fishing licenses, §27-2-23.
Lifetime sportsman license, §27-2-3.1.
Multi-year licenses, §27-2-3.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
Firearms.
Possession of firearms on public fishing areas, §27-4-11.1.
Fish eggs.
Commercial sale, transportation or possession, §27-4-76.
Fish hatcheries.
Commercial fish hatcheries.
Requirement of bill of sale or lading.
Game fish obtained from hatcheries, §27-4-75.
Sale of fish, §27-4-75.
Fishing in department fish hatcheries, §27-4-11.
Florida residents.
Fishing license reciprocity for residents over 65 years of age, §27-2-4.1.
Food fish processing plants, §27-4-78.
Free fishing days, §27-2-29.

FISHING —Cont'd
Fresh-water demarcation line, §27-4-1.
Fresh-water fishing, §§27-4-90 to 27-4-93.
Commercial fishing.
Generally, §§27-4-70 to 27-4-118.
Effective dates of license, §27-4-90.
Lawful baskets, §27-4-92.
Lawful devices generally, §27-4-91.
License required, §27-4-90.
Use of fishing gear within one-half mile below lock or dam, §27-4-93.
Fresh-water turtles.
Defined, §27-1-2.
Exporting, farming and selling, §27-3-19.1.
Gill nets.
Landing in state certain species of fish taken by means of, §27-4-7.
Use of, §27-4-7.
Grabbling.
Taking of fish by, §27-4-37.
Guides.
Salt water fishing guides.
License, §27-2-23.2.
Customer fishing license, §27-2-23.2.
Hand grabbing.
Taking of fish by, §27-4-37.
Honorary licenses, §27-2-4.
Horseshoe crabs.
Commercial fishing, §27-4-71.
Hotel or motel owning pier.
Salt water fishing pier license, §27-2-23.2.
Interference with lawful taking of wildlife, §§27-3-150 to 27-3-152.
Interference with rights of others, §27-4-2.
Interstate compacts.
Atlantic states marine fisheries compact, §§27-4-210 to 27-4-216.
Intoxication.
Public fishing areas, §27-4-11.1.
Lawful nets, §27-4-133.
Legislative declaration, §27-1-3.
Liberation-of-domestic fish permits, §27-2-14.
Licensed bait dealer.
Defined, §27-1-2.
Licenses.
Bait dealer license, §27-4-171.

FISHING —Cont'd
Licenses —Cont'd
Commercial fishing.
Boat license, §27-2-8.
Power-driven nets.
Penalties for illegal fishing, §27-4-138.
Requirement of forfeiture bond or affidavit upon license application, §27-4-134.
Salt-water fishing, §27-4-111.
Fresh-water.
Effective dates, §27-4-90.
Required, §27-4-90.
Salt-water.
Required, §27-4-110.
Suspension, §27-4-77.
Counterfeiting or altering of licenses, §27-2-28.
Customer fishing license.
Purchase by salt water fishing guides, §27-2-23.2.
Disciplinary actions, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of disciplinary action, §27-2-27.
Administrative review, §27-2-25.
Commercial fishing, §27-4-77.
Judicial review, §27-2-25.
Power to suspend licenses, §27-2-25.2.
Rulemaking authority, §27-2-26.
Surrender of license, §27-2-26.
Discounted fishing licenses, §27-2-4.
Effective dates generally, §27-2-3.
Fees, §27-2-23.
Customer fishing license, §27-2-23.2.
Lifetime sportsman license, §27-2-3.1.
Multi-year licenses, §27-2-3.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
Guides.
Salt water fishing guide license, §27-2-23.2.
Honorary fishing licenses, §27-2-4.
Issuance and sale.
Anatomical gift, option to make on license application, §27-2-2.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.

FISHING —Cont'd
Licenses —Cont'd
Issuance and sale —Cont'd
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.
License agents.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.
License card carriers, §27-2-3.1.
Lifetime sportsman license, §27-2-3.1.
Making false statements in obtaining license, §27-2-28.
Minors.
Lifetime sportsman's license.
Types, residency, presumption, §27-2-3.1.
Multi-year licenses, §27-2-3.
Noncommercial fishing.
Catch-out pond licenses, §27-4-31.
Fishing in private ponds, §27-4-30.
Nonresidents.
Lifetime sportsman license, §27-2-3.1.
One day licenses.
Extension.
Fees, §27-2-23.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Paralyzed or disabled individuals, §27-2-4.2.
Reciprocal agreements, §§27-2-7, 27-4-234.
Florida residents over 65 years of age, §27-2-4.1.
Refusing inspection of identification, §27-2-28.
Residency.
Lifetime sportsman's license.
Proof, §27-2-3.1.
Retail fish dealers, §27-4-76.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water information program.
License conditioned on participation in program, §27-2-20.1.
Screening questionnaire to be completed by applicant, §27-2-3.1.
FISHING —Cont'd
Licenses —Cont'd
Senior fishing licenses.
Fees, §27-2-23.
Service of process for licensees, §27-2-24.
Sportsman license, §27-2-3.1.
Fees, §27-2-23.
Trout license, §27-2-6.
Unlawful collection of funds, §27-2-28.
Unlawful without license or permit, §27-2-1.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Wholesale fish dealers, §27-4-76.
Youth fishing licenses.
Fees, §27-2-23.
Live fish and fish eggs.
Commercial sale, transportation or possession, §27-4-76.
Local regulation, §27-1-3.
Methods of taking generally, §27-4-5.
Minnow seines or traps, use to take fish or eels, §27-4-6.
Noncommercial fishing, §§27-4-30 to 27-4-37.
Artificial-lure streams or lakes, §27-4-36.
Bow and arrow fishing, §27-4-34.
Catch-out pond licenses, §27-4-31.
Fishing in private ponds, §27-4-30.
Licenses.
Catch-out pond licenses, §27-4-31.
Fishing in private ponds, §27-4-30.
Spearing of fish, §27-4-33.
Sport trotlines, §27-4-32.
Nongame fish, §27-1-2.
Nonresidents.
Licenses.
Fees, §27-2-23.
Unlawful without license or permit, §27-2-1.
Noodling.
Taking of fish by, §27-4-37.
Obstruction of rights of others, §27-4-2.
Outdoor mentoring program, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.
Oysters and clams.
Generally, §§27-4-187 to 27-4-204.
Permits.
Liberation-of-domestic fish permits, §27-2-14.

FISHING —Cont'd
Pier fishing.
Hotel or motel owning pier.
Salt water fishing pier license, §27-2-23.2.
Pole and line.
Defined, §27-1-2.
Power-drawn nets, §§27-2-8, 27-4-133, 27-4-134, 27-4-138, 27-4-192.
Shrimp bait fishing, §27-4-171.
Preservation of hunting and fishing opportunities, §27-1-3.
Private ponds.
Defined, §27-1-2.
Noncommercial fishing in private ponds, §27-4-30.
Privilege to fish, §27-1-3.
Public fishing areas.
Possession of firearms and intoxication, §27-4-11.1.
Restrictions generally, §27-4-11.1.
Purchase of commercial game fish generally, §27-4-74.
Recovery of damages.
Unlawful dumping, §27-4-4.
Restoration projects.
Assent to federal law respecting, §27-1-10.
Retail fish dealers.
Defined, §27-1-2.
Licensing, §27-4-76.
Rules and regulations, §27-4-12.
Bow and arrow fishing, §27-4-34.
Licenses.
Disciplinary action, §27-2-26.
Sale of commercial game fish generally, §27-4-74.
Salt-water demarcation line, §27-4-1.
Salt-water fishing.
Closing portions of salt waters.
Seafood unfit for human consumption.
Disaster causing, §27-4-133.
Commercial fishing generally, §§27-4-70 to 27-4-118.
Guides.
License, §27-2-23.2.
Customer fishing license, §27-2-23.2.
Hotel or motel owning pier.
Salt water fishing pier license, §27-2-23.2.
Lawful nets, §27-4-133.
License conditioned on participation in saltwater information program, §27-2-20.1.

FISHING —Cont'd
Salt-water fishing —Cont'd
Rules and regulations.
Legislative authority to override rules affecting saltwater finfish fisheries, §27-4-12.
Shore fishing license, fee, §27-2-23.
Seafood.
General provisions, §§27-4-130 to 27-4-206.
Oysters and clams, §§27-4-187 to 27-4-204.
Seizure of illegal nets, §27-4-7.
Shad.
Cast nets, use, §27-4-133.
Commercial shad fishing, §27-4-71.
Gill nets, use of, §27-4-7.
Taking shad during closed season.
Possession of nets or other devices deemed evidence of violation, §27-4-9.
Shooting preserves, fishing on waters within boundaries.
Permitted with shooting preserve hunting license, §27-3-114.
Size limits, §27-4-11.
Size restrictions, §27-4-10.
Spearing of fish, §27-4-33.
Sport fishing locations.
Limited liability of owners and operators.
Definitions, §27-4-281.
Exceptions to immunity, §27-4-282.
Findings of legislature, §27-4-280.
Immunity from liability for injury or death, §27-4-282.
Legislative findings, §27-4-280.
Warning signs.
Contents, §27-4-283.
Posting, §27-4-283.
Sport trotlines, §27-4-32.
Transportation of commercial game fish generally, §27-4-74.
Trespass.
Fishing in waters or from lands of another without permission, §27-4-2.
Trout, §§27-4-50, 27-4-51.
Manner of fishing, §27-4-50.
Moving of trout, §27-4-50.
Trout license, §27-2-6.
Fee, §27-2-23.
Trout waters, §27-4-51.
Turtles.
Fresh-water turtles.
Defined, §27-1-2.

FISHING —Cont'd
Turtles —Cont'd
Fresh-water turtles —Cont'd
Exporting, farming and selling, §27-3-19.1.
Unlawful devices or substances, §27-4-8.
Weapons.
Possession of firearms on public fishing areas, §27-4-11.1.
Wholesale fish dealers.
Defined, §27-1-2.
Licenses, §27-4-76.
Wildlife management areas.
Noncompliance with laws while on area, §27-1-33.

FISHING RODS.
Pole and line.
Defined, §27-1-2.

FISH LADDERS, §27-1-8.

FLATHEAD CATFISH.
Agreements with adjoining states, §27-4-234.
Fishing, generally, §§27-4-1 to 27-4-283.
Game fish defined, §27-1-2.
Lawful baskets for taking, §27-4-92.
Methods for taking fish generally, §27-4-5.
Sale, purchase or transportation of game fish, §27-4-74.
Trotlines as lawful devices for taking, §27-4-91.

FLOOD-TIDE.
Crab traps, §27-4-151.

FLORIDA.
Fishing.
License reciprocity for Florida residents over 65 years of age, §27-2-4.1.
Hunting licenses.
Reciprocal agreements, §27-2-7.

FLOUNDER.
Creel and possession limits, §27-4-10.

FLY FISHING.
Artificial lure defined, §27-1-2.
Artificial-lure streams and lakes, §27-4-36.

FOOD SERVICE ESTABLISHMENTS.
Wildlife storage, §27-2-15.

FOREIGN CONSERVATORSHIPS.
Conservators for incapacitated adults.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Powers, §§29-5-135 to 29-5-140.
Conservators for minors.
Powers, §§29-3-115 to 29-3-120.
Receipt and acceptance of foreign conservatorship, §§29-3-105 to 29-3-108.
Transfer of conservatorship to foreign jurisdiction, §§29-3-110 to 29-3-114.

FOREIGN COUNTRIES.
Adult guardianship and conservatorship proceedings.
Treatment of foreign countries, §29-11-3.

FOREIGN GUARDIANSHIPS.
Guardians for incapacitated adults.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Powers, §§29-4-95 to 29-4-98.
Guardians of minors.
Petition for receipt and acceptance of foreign guardianship in county of state, §§29-2-65 to 29-2-68.
Powers, §§29-2-74 to 29-2-77.
Transfer of guardianship to foreign jurisdiction, §§29-2-69 to 29-2-73.

FORFEITURES.
Seafood.
Equipment used in violation of provisions, §27-4-137.
Wildlife.
Disposition of fines and bond forfeitures, §27-1-14.

FORGERY.
Oyster and clam records, §27-4-200.

FORMS.
Guardians of minors.
Standby guardian.
Designation, §29-2-11.
Notice of claims, §28-5-80.
Standby guardian.
Guardians of minors.
Designation, §29-2-11.

FOSTER CARE.
Blind and visually impaired persons.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Discrimination prohibition.
Supportive parenting services as reasonable accommodation, §30-4-5.

FOXES.
Hunting fox and bobcat with center-fire firearms, §27-3-4.
Hunting with dogs, §27-3-18.
Penned foxes.
Running, taking or hunting, §27-2-22.1.

FRAUD AND DECEIT.
Fishing.
Licenses.
Counterfeiting or alteration of licenses, §27-2-28.
Hunting.
Licenses.
Counterfeiting or alteration of licenses, §27-2-28.
Oysters and clams.
Forged or false documents, records or permits, §27-4-200.
Trapping.
Licenses.
Counterfeiting or alteration of licenses, §27-2-28.
Wildlife.
License or permit.
Counterfeiting or alteration of, §27-2-28.

FRESH-WATER CRAYFISH.
Taking of nongame species, §27-1-28.

FRESH-WATER FISHING.
Commercial fishing.
General provisions, §§27-4-90 to 27-4-93.

FRESH-WATER TURTLES.
Defined, §27-1-2.
Exporting, farming and selling, §27-3-19.1.

FUNERAL EXPENSES.
Judge of probate.
Receipt of funds due and owing minor or adult.
Payment of funeral or burial expenses, §29-6-4.

FUR DEALERS.
Agents.
License required, §27-3-69.
Definitions, §27-1-2.
Game and fish code, §27-1-2.
Disposal of carcasses of fur-bearing animals, §27-3-73.
Fur dealer's agent.
Defined, §27-1-2.
Inspection of premises, §27-3-71.
Licenses.
Filing of license application constitutes admission that applicant is doing business in state, §27-3-72.
Posting of bond by applicants, §27-3-70.
Effect of breach of conditions of bond, §27-3-70.
Required, §27-3-69.
Raccoon fur seller's license, §27-2-23.1.
Recordkeeping requirements, §27-3-71.
Reporting requirements, §27-3-71.

G

GAG GROUPER.
Creel and possession limits, §27-4-10.

GAME AND FISH CODE.
Cervid.
Importation of live cervid.
Cervid defined, unlawful, penalty, §27-5-2.1.
Cervid carcasses.
Possession or importation from outside of state, §27-5-2.1.
Chronic wasting disease.
Cervid carcasses.
Possession or importation from outside of state, §27-5-2.1.
Commercial fishing.
General provisions, §§27-4-70 to 27-4-118.
Compacts.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Deer.
Hunting.
General provisions, §§27-3-40 to 27-3-50.
Endangered wildlife, §§27-3-130 to 27-3-133.

GAME AND FISH CODE —Cont'd
Fishing.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Commercial fishing and fish dealing.
Fresh-water fishing, §§27-4-90 to 27-4-93.
General provisions, §§27-4-70 to 27-4-78.
Salt-water fishing, §§27-4-110 to 27-4-118.
General provisions, §§27-4-1 to 27-4-283.
Interstate agreements.
Atlantic states marine fisheries compact, §§27-4-210 to 27-4-216.
Fishing license reciprocity, §27-4-234.
Licenses.
Bait dealer license, §27-4-171.
Blind persons.
Honorary licenses.
Reciprocal agreements, §27-4-234.
Catch-out pond licenses, §27-4-31.
Fee, §27-2-23.
Discount fishing licenses, §27-2-4.
Effective date of fishing licenses, §27-2-3.
Fees, §27-2-23.
Lifetime sportsman license, §27-2-3.1.
Multi-year licenses, §27-2-3.
Nonresidents of contiguous states without reciprocal agreements, §27-2-7.
Salt water fishing guide license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
Florida residents over sixty-five years of age.
Fishing license reciprocity, §27-2-4.1.
Free fishing days, §27-2-29.
Honorary fishing licenses, §27-2-4.
Issuance, §27-2-2.
License card carriers, §27-2-3.1.
Lifetime sportsman license, §27-2-3.1.
Wildlife endowment trust fund, §27-2-30.

GAME AND FISH CODE —Cont'd
Fishing —Cont'd
Licenses —Cont'd
Minors.
Lifetime sportsman's license.
Types, residency, presumption, §27-2-3.1.
Multi-year licenses, §27-2-3.
Nonresidents.
Lifetime sportsman license, §27-2-3.1.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Paralyzed or disabled individuals, §27-2-4.2.
Reciprocal agreements, §27-4-234.
Alabama.
Fees where no reciprocal agreement, §27-2-7.
Florida.
Fees where no reciprocal agreement, §27-2-7.
Sixty-five year old residents, §27-2-4.1.
North Carolina.
Fees where no reciprocal agreement, §27-2-7.
South Carolina.
Fees where no reciprocal agreement, §27-2-7.
Tennessee.
Fees where no reciprocal agreement, §27-2-7.
Requirement of license, §27-2-1.
Residency.
Lifetime sportsman's license.
Proof, §27-2-3.1.
Salt water fishing guide license, §27-2-23.2.
Screening questionnaire to be completed by applicant, §27-2-3.1.
Sportsman license, §27-2-3.1.
Trout license, §27-2-6.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Noncommercial fishing.
General provisions, §§27-4-30 to 27-4-37.
Trout fishing, §§27-4-50, 27-4-51.
Outdoor mentoring program, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.

GAME AND FISH CODE —Cont'd
Fishing —Cont'd
Seafood.
Crabs, §§27-4-150, 27-4-151.
General provisions, §§27-4-130 to 27-4-206.
Shellfish, §§27-4-187 to 27-4-204.
Taking shrimp for bait, §27-4-171.
Shooting preserves, fishing on waters within boundaries.
Permitted with shooting preserve hunting license, §27-3-114.
Trout license, §27-2-6.
General provisions, §§27-1-1 to 27-1-39.
Hunting.
Deer.
General provisions, §§27-3-40 to 27-3-50.
General provisions, §§27-3-1 to 27-3-29.
Licenses.
Alligator hunting license, §27-2-6.
Big game license, §27-2-6.
Deer-dog hunting license, §27-3-17.
Discounted hunting licenses, §27-2-4.
Effective dates of hunting licenses, §27-2-3.
Fees, §27-2-23.
Fees, §27-2-23.
Lifetime sportsman license, §27-2-3.1.
Multi-year licenses, §27-2-3.
Field and retriever trials.
Hunting licenses required, §27-2-21.
Honorary hunting licenses, §27-2-4.
Hunter education course.
Completion as prerequisite for license, §27-2-5.
Issuance, §27-2-2.
License card carriers, §27-2-3.1.
Lifetime sportsman license, §27-2-3.1.
Wildlife endowment trust fund, §27-2-30.
Minors.
Lifetime sportsman's license.
Types, residency, presumption, §27-2-3.1.
Multi-year licenses, §27-2-3.
Nonresidents.
Lifetime sportsman license, §27-2-3.1.
GAME AND FISH CODE —Cont'd
Hunting —Cont'd
Licenses —Cont'd
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Primitive weapon hunting license, §27-2-3.1.
Reciprocity.
Agreements, §27-2-7.
Requirement of license, §27-2-1.
Residency.
Lifetime sportsman's license.
Proof, §27-2-3.1.
Screening questionnaire to be completed by applicant, §27-2-3.1.
Shooting preserves.
Required on shooting preserves, §27-3-114.
Type SP, shooting preserve license, §27-2-3.1.
Contracts with preserves for issuance and sale of licenses, §27-3-115.
Sportsman license, §27-2-3.1.
Suspension.
Bear hunting restrictions.
Violations of provisions, §27-3-26.
Negligent hunting, §27-2-25.1.
Power to suspend, §27-2-25.2.
Terminally ill persons age 21 or younger, §27-2-4.3.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Waterfowl and migratory bird stamp, §27-2-6.
Outdoor mentoring program, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.
Shooting preserves, §§27-3-110 to 27-3-115.
Interference with lawful taking of wildlife, §§27-3-150 to 27-3-152.
Interstate compacts.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.

GAME AND FISH CODE —Cont'd
Licenses, permits and stamps.
General provisions, §§27-2-1 to 27-2-31.
Outdoor mentoring program, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.
Oysters and clams.
General provisions, §§27-4-187 to 27-4-204.
Seafood harvesting.
General provisions, §§27-4-130 to 27-4-206.
Oysters and clams, §§27-4-187 to 27-4-204.
Shooting preserves, §§27-3-110 to 27-3-115.
Short title, §27-1-1.
Transportation of wildlife.
General provisions, §§27-3-90 to 27-3-94.
Trapping.
Licenses.
Effective dates of trapping licenses, §27-2-3.
Fees, §27-2-23.
Generally, §27-3-60.
Issuance, §27-2-2.
Multi-year licenses, §27-2-3.
Nonresidents.
Bonds, surety, §27-3-61.
Rabbit trapping on own premises.
License not required, §27-3-66.
Requirement of license, §§27-2-1, 27-3-60.
Trout fishing.
General provisions, §§27-4-50, 27-4-51.
Trout license, §27-2-6.
Wild animals.
Importation, transportation, sales, etc.
General provisions, §§27-5-1 to 27-5-12.
Wildlife endowment trust fund, §27-2-30.
Wildlife generally.
Hunting.
Deer, §§27-3-40 to 27-3-50.
General provisions, §§27-3-1 to 27-3-29.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Protection of endangered wildlife, §§27-3-130 to 27-3-133.
Shooting preserves, §§27-3-110 to 27-3-115.

GAME AND FISH CODE —Cont'd
Wildlife generally —Cont'd
Transportation, §§27-3-90 to 27-3-94.
Trapping, trappers and fur dealers, §§27-3-60 to 27-3-73.

GAME WARDENS.
Agencies assigned to department.
Functions, §27-1-20.
Age requirement, §27-1-16.
Appointment, §27-1-16.
Arrest powers, §27-1-19.
Enforcement powers generally, §27-1-18.
Interference with duties, §27-1-25.
Procedure upon failure of person to answer charges, §27-1-19.
Badge.
Retention.
Disability in line of duty, §27-1-16.
Retirement after 25 years of service, §27-1-16.
Deputy game wardens, §27-1-17.
Powers generally, §§27-1-18 to 27-1-21.
Disability in line of duty.
Weapon and badge.
Retention as part of compensation, §27-1-16.
Establishment of unit, §27-1-16.
Powers generally, §§27-1-18 to 27-1-21.
Qualifications, §27-1-16.
Retirement.
Weapon and badge.
Retention as part of compensation, §27-1-16.
Seizure and disposal of wildlife illegally taken or possessed, §27-1-21.
Civil action by possessor, §27-1-21.
Disposal of wildlife unable to be stored, §27-1-21.
Disposition of unmarketable items, §27-1-21.
Supervisory personnel, §27-1-16.
Weapon retention upon disability incurred in line of duty, §27-1-16.
Weapon retention upon retirement, §27-1-16.

GATE-OPENING MECHANISMS.
Handicap parking lot spaces, §30-3-6.

GATES.
Damaging or destroying department property, §27-1-27.

GATES —Cont'd
Handicapped parking lot spaces.
Unattended fare gate mechanisms, §30-3-6.
Public fishing areas.
Driving vehicle around a closed gate, §27-4-11.1.
Wildlife management areas.
Driving vehicle around closed gate prohibited, §27-3-1.1.

GEESE.
Hunting without license prohibited, §§27-2-6, 27-2-20.
Waterfowl.
Defined as any species of geese, §27-1-6.
Waterfowl and migratory bird stamp, §§27-2-6, 27-2-20.
Fee, §27-2-23.

GELADA BABOON.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

GENERAL ASSEMBLY.
Administrative personnel.
Doorkeeper and messenger in house of representatives, §28-3-1.
Secretary of the senate and clerk of the house of representatives, §§28-3-20 to 28-3-25.
Sergeant-at-arms in senate, §28-3-1.
Air travel costs.
Reimbursement, §28-1-8.
Apportionment.
House of representatives, §28-1-1.
Districts, §28-2-1.
Residence in district, requirement, §28-2-1.
State divided into 180 districts, §28-2-1.
Senate, §28-1-1.
Districts, §28-2-2.
Number, §28-2-2.
Attorney general.
Interstate cooperation.
Creation of senate and house committees, §28-6-1.
Legislative counsel.
Advisor to legislative counsel, §28-4-5.
Audit committees.
Legislative expenditures.
Examination and review, §28-1-8.

GENERAL ASSEMBLY —Cont'd
Bills and resolutions.
Compensation for state officials.
Fiscal notes for bills changing compensation, §28-5-2.
Fixing compensation or allowances.
Recording of votes on bills or resolutions, §28-5-3.
Introduction of bills changing compensation, §28-5-1.
Engrossed and enrolled bills or resolutions.
Maintenance, §28-1-11.
Fiscal notes, §§28-5-40 to 28-5-45.
Anticipated revenues or expenditures.
Introduction of bills having significant impact, §28-5-42.
Attachment of fiscal notes to bills, §28-5-44.
Dedication of funds, fiscal dedication analysis requirement, §28-5-45.
Distribution of notes relating to bills prior to final votes, §28-5-44.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Reading of notes at third reading of bills, §28-5-44.
Tax benefits, analysis of, §28-5-41.1.
Legislative committees to review, §28-12-1.
General appropriations bill.
Consideration, §28-5-4.
Introduction.
Changing compensation for state officials, §28-5-1.
Local bill.
Notice of intention to introduce, §28-1-14.
Joint resolutions.
Local government impact fiscal notes.
Analysis of costs, §28-5-49.
Content of fiscal note, §28-5-51.
Filing of notes, §28-5-49.
Mandatory names and signatures on fiscal note, §28-5-52.
Requests for copies, §28-5-49.
Responsibilities for preparation of fiscal note, §28-5-52.
Revision of fiscal note where effect changed by amendment, §28-5-53.
Local bills.
Districts, requirements for bills revising, §28-1-14.1.

GENERAL ASSEMBLY —Cont'd
Bills and resolutions —Cont'd
Local bills —Cont'd
Introduction of local bills.
Notice of intention to introduce, §28-1-14.
Maintenance of engrossed and enrolled bills or resolutions, §28-1-11.
Population bills, §28-1-15.
Restrictions on population bills, §28-1-15.
Tax benefits, analysis, §28-5-41.1.
Legislative committees to review, §28-12-1.
Capitol of state.
Place of meetings, §28-1-2.
Claims against state.
General provisions, §§28-5-60 to 28-5-108.
Code revision commission.
General provisions, §§28-9-1 to 28-9-5.
Commission of members, §28-1-5.
Committees.
Audit committee.
Legislative expenditures.
Examination and review, §28-1-8.
Ethics committees.
Subpoenas, §28-1-16.
Expense allowance, §28-1-8.
Fiscal affairs subcommittees, §§28-5-20 to 28-5-27.
House information and audits committee.
Legislative expenditures.
Examination and review, §28-1-8.
Mileage allowance, §28-1-8.
Rental of meeting rooms.
Prior approval required, expense billed to committee, §28-1-8.
Conference or meeting registration fee.
Reimbursement to members, §28-1-8.
Conflicts of interest.
Claims against the state, §§28-5-62, 28-5-63.
Constitution of the United States.
Representation at convention to amend US Constitution.
Appointment of delegates, §28-6-8.
County officials.
Eligibility of elected county officials for membership, §28-1-13.
Daily expense allowance.
Members to receive, §28-1-8.
GENERAL ASSEMBLY —Cont'd
Deaf and hearing impaired persons.
Commission for deaf or hard of hearing.
Information and recommendations to general assembly, §30-1-5.
Death during or after session.
Daily expenses allowance, payment, §28-1-8.
Definitions.
Fair and open grants, §28-5-121.
Fiscal note, §28-5-48.
Local political subdivision, §28-5-48.
Political subdivision, §28-1-15.
Population bill, §28-1-15.
Districts.
House of representatives, §28-1-1.
Senate, §28-2-2.
Doorkeepers, §28-3-1.
Elections.
State officers for whom manner and time of election not provided, §28-1-12.
Time and manner of election.
State officers for whom manner and time not provided, §28-1-12.
Electronic format.
Distribution of legislative information, §28-3-24.1.
Official written communications, §28-3-24.2.
Emergency session.
Failure of officer to organize, §28-1-7.
Meetings.
Place, §28-1-2.
Time, §28-1-2.
Employment practices, unlawful.
Settlement of claims subject to public disclosure, §28-1-18.
Expense allowance.
Members to receive, §28-1-8.
Extraordinary sessions.
Daily expense allowance.
Members to receive, §28-1-8.
Financial affairs.
Claims advisory board.
Claims against state or departments or agencies, §§28-5-80 to 28-5-87.
Compensation of persons for injuries sustained while preventing crime or aiding officers of the law, §§28-5-100 to 28-5-108.
General provisions, §§28-5-60 to 28-5-63.

GENERAL ASSEMBLY —Cont'd
Financial affairs —Cont'd
Fiscal affairs subcommittees, §§28-5-20 to 28-5-27.
Fiscal bills, §§28-5-40 to 28-5-45.
General provisions, §§28-5-1 to 28-5-6.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Fiscal affairs subcommittees, §§28-5-20 to 28-5-27.
Allowances for members, §28-5-26.
Approval of leases, §28-5-25.1.
Budget unit object class transfers.
Joint meetings to review and approve, §28-5-25.
Limitations upon transfers, §28-5-25.
Creation, §28-5-20.
Establishment, §28-5-20.
Meetings generally, §28-5-22.
Office of planning and budget.
Applicability of article authority, §28-5-27.
Reporting requirements, §28-5-24.
Review of budget requests, §28-5-23.
Budget unit object class transfers.
Joint meetings to review and approve, §28-5-25.
Selection of members, §28-5-21.
Terms of members, §28-5-21.
Fiscal notes, §§28-5-40 to 28-5-45.
Anticipated revenues or expenditures.
Bills having significant impact upon.
Introduction of bills, §28-5-42.
Attachment of fiscal notes to bills, §28-5-44.
Bills having significant impact upon anticipated revenues or expenditures.
Introduction of bills, §28-5-42.
Changing compensation for state officials, §28-5-2.
Citation of title, §28-5-40.
Dedication of funds, fiscal dedication analysis requirement, §28-5-45.
Distribution of notes relating to bills.
Prior to final votes, §28-5-44.
Economic analysis of tax benefits, §28-5-41.1.
Legislative committees to review, §28-12-1.
Education department, new programs or funding categories.
Ten-year projection of costs required, §28-5-42.
GENERAL ASSEMBLY —Cont'd
Fiscal notes —Cont'd
Furnishing of fiscal notes, §28-5-42.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Reading of notes at third reading of bills, §28-5-44.
Requests for, §28-5-42.
Short title, §28-5-40.
Title of act, §28-5-40.
Fishing interstate agreements.
Atlantic states marine fisheries compact.
Commission recommendations for legislative action, §27-4-214.
Reporting requirements, §27-4-214.
Fishing rules and regulations.
Override authority for rules affecting saltwater finfish fisheries, §27-4-12.
Grants, fair and open, §§28-5-120 to 28-5-127.
Application, §28-5-123.
Appropriation act grants, §28-5-127.
Audits of recipients, §28-5-125.
Definitions, §28-5-121.
Determination, §28-5-123.
List register, §28-5-124.
Publication prerequisite, §28-5-122.
Short title of act, §28-5-120.
Violations of article, §28-5-126.
House information and audits committee.
Legislative expenditures.
Examination and review, §28-1-8.
House of representatives.
Allowances of members and officers, §28-1-8.
Apportionment, §28-1-1.
Districts, §28-2-1.
Residence in district, requirement, §28-2-1.
State divided into 180 districts, §28-2-1.
Budget and research office, §28-5-6.
Clerk of the house, §§28-3-20 to 28-3-25.
Allowances, §28-3-23.
Bills, resolutions and other documents.
Distribution procedure, §28-3-24.
Compensation, §28-3-23.
Duties.
Both branches meeting in single chamber, §28-3-22.

GENERAL ASSEMBLY —Cont'd
House of representatives —Cont'd
Clerk of the house —Cont'd
Duties —Cont'd
Permanent disability of speaker of the house of representatives, §28-1-6.1.
Election, §28-3-20.
Expenses, §28-3-23.
Oath of office, §28-3-25.
Term of office, §28-3-20.
Travel expenses, §28-3-23.
Vacancy.
Procedure for filling, §28-3-20.
Commission of members, §28-1-5.
Doorkeeper.
Election, §§28-3-1, 28-3-20.
Emergency sessions.
Failure of officer to organize, §28-1-7.
Ethics committee.
Subpoenas, §28-1-16.
Initial organization, §28-1-3.
Local government impact fiscal notes.
Publication of journal, §28-5-54.
Membership.
Elected county or municipal officials.
Eligibility for membership, §28-1-13.
Messenger.
Election, §§28-3-1, 28-3-20.
Number of members, §28-2-1.
Oath of office to members, §28-1-4.
Administration, §28-1-4.
Organization.
Initial organization, §28-1-3.
Place of meetings, §28-1-2.
Representative districts, §28-2-1.
Residence in district, requirement, §28-2-1.
State divided into 180 districts, §28-2-1.
Residence in district member represents.
Requirement, §28-2-1.
Salary of members and officers, §28-1-8.
Seal.
Authorized use, §28-1-10.
Speaker.
Audit of office of speaker.
Legislative services committee, §28-4-2.

GENERAL ASSEMBLY —Cont'd
House of representatives —Cont'd
Speaker —Cont'd
Bills having significant impact upon anticipated revenues or expenditures.
Decision as to whether bill falls within category, §28-5-42.
Code revision commission.
Member, §28-9-2.
Disability.
Permanent disability.
Method for determining, §28-1-6.1.
Fiscal affairs subcommittee of house.
Calling of meetings, §28-5-22.
Fiscal note attached to bill or joint resolution.
Revision by state auditor where amendment changes fiscal effect.
Waiver of requirement by speaker, §28-5-53.
Georgia commission on interstate cooperation.
Ex officio honorary nonvoting member, §28-6-2.
House committee on interstate cooperation.
Ex officio honorary nonvoting member, §28-6-1.
Legislative services committee.
Co-chair, §28-4-1.
Member, §28-4-1.
Minutes of meetings and audits available to speaker, §28-4-2.
Salary.
Additional amount, §28-1-8.
Speaker pro tempore.
Powers and duties generally, §28-1-6.
Time of meetings, §28-1-2.
Income taxes.
Failure of member to file return, defaulter.
Report to ethic committees, investigation, notice of report, §28-1-8.1.
Interstate cooperation.
General provisions, §§28-6-1 to 28-6-8.
Investigations, subpoenas and document production.
Department of law or offices of attorney general, investigations of, §28-1-17.

GENERAL ASSEMBLY —Cont'd
Investigations, subpoenas and document production —Cont'd
Ethics committee.
Subpoenas, §28-1-16.
Fiscal affairs subcommittees, §28-5-23.
Leases.
Fiscal affairs subcommittees.
Approval of leases, §28-5-25.1.
Legislative counsel.
Communications between office of legislative council and governor, general assembly, lieutenant governor and representatives.
Confidentiality, §28-4-3.1.
Office of legislative counsel, §§28-4-3 to 28-4-5, 28-4-7, 28-4-9.
Legislative fiscal officer.
Office of legislative fiscal officer, §§28-4-6, 28-4-7, 28-4-9.
Legislative information.
Distribution in electronic format, §28-3-24.1.
Legislative retirement system.
Employee pension plans of political subdivisions.
Service in general assembly to be credited, §28-1-9.
Legislative services, §§28-4-1 to 28-4-9.
Committee.
Compensation, §28-4-1.
Creation, §28-4-1.
Duties, §28-4-2.
Legal services to the legislative branch, provision and oversight, §28-4-5.1.
Meetings, §28-4-1.
Membership, §28-4-1.
Powers, §28-4-2.
Source of funds for operation, §28-4-1.
Office of legislative counsel.
Attorney general as legal advisor, §28-4-5.
Creation, §28-4-3.
Election, §28-4-4.
Office space and supplies, §28-4-7.
Personnel, §28-4-7.
Powers and duties, §28-4-3.
Qualifications, §28-4-3.
Source of funds for operation, §28-4-9.
Office of legislative fiscal officer.
Employment, §28-4-6.

GENERAL ASSEMBLY —Cont'd
Legislative services —Cont'd
Office of legislative fiscal officer —Cont'd
Office space and supplies, §28-4-7.
Personnel, §28-4-7.
Powers and duties, §28-4-6.
Source of funds for operation, §28-4-9.
Legislative services committee.
Compensation, §28-4-1.
Creation, §28-4-1.
Duties, §28-4-2.
Legal services to the legislative branch, provision and oversight, §28-4-5.1.
Legislative counsel.
Election of, §28-4-4.
Meetings, §28-4-1.
Membership, §28-4-1.
Powers, §28-4-2.
Source of funds for operation, §28-4-1.
Lieutenant governor.
Fiscal affairs subcommittee of senate.
Member, §28-5-21.
Seal of general assembly and seal of senate.
Use authorized, §28-1-10.
Lobbying.
Generally, §§28-7-3 to 28-7-5.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Analysis of costs of proposed bills and resolutions, §28-5-49.
Applicability of article.
Laws for which full funding has been appropriated, §28-5-48.1.
Bills and joint resolutions.
Analysis of costs, §28-5-49.
Contents of fiscal notes, §28-5-51.
Filing of notes, §28-5-49.
Requests by local representatives for copies, §28-5-49.
Responsibility for preparation of fiscal notes, §28-5-52.
Revision of fiscal notes where effect changed by amendment, §28-5-53.
Process of revised fiscal note, §28-5-53.
Waiver of such revision, §28-5-53.
Citation of article, §28-5-47.
Contents, §28-5-51.
Fiscal note defined, §28-5-48.
Form, §28-5-51.

GENERAL ASSEMBLY —Cont'd
Local government impact fiscal notes —Cont'd
Formality of proof of compliance, §28-5-56.
Laws for which full funding has been appropriated.
Applicability of article, §28-5-48.1.
Legislative intent and purpose, §28-5-47.1.
Local political subdivision defined, §28-5-48.
Preservation of copies and waivers, §28-5-54.
Presumptions as to article compliance, §28-5-56.
Publication of house journals, §28-5-54.
Public inspection, §28-5-54.
Purpose of general assembly, §28-5-47.1.
Regulations, rules or orders.
Contents of fiscal note, §28-5-51.
Filing of notes, §28-5-50.
Requests by local representatives for copies, §28-5-50.
Short title, §28-5-47.
Title of act, §28-5-47.
Waiver of provisions, §28-5-49.
Local legislation.
Districts, requirements for bills revising, §28-1-14.1.
Notice of intention to introduce, §28-1-14.
Meeting rooms.
Rental by committee.
Prior approval required, expense billed to committee, §28-1-8.
Meetings.
Emergency session.
Failure of officer to organize, §28-1-7.
Place, §28-1-2.
Time, §28-1-2.
Mileage allowances of members, §28-1-8.
Municipal officials.
Eligibility of elected municipal officials for membership, §28-1-13.
Notice.
Failure of member to file income tax return.
Report to ethics committees, §28-1-8.1.
Office of legislative counsel.
Attorney general as legal advisor, §28-4-5.
GENERAL ASSEMBLY —Cont'd
Office of legislative counsel —Cont'd
Creation, §28-4-3.
Election, §28-4-4.
Office space and supplies, §28-4-7.
Personnel, §28-4-7.
Powers and duties generally, §28-4-3.
Qualifications, §28-4-3.
Source of funds for operation, §28-4-9.
Office of legislative fiscal officer.
Employment, §28-4-6.
Office space and supplies, §28-4-7.
Personnel, §28-4-7.
Powers and duties generally, §28-4-6.
Source of funds for operation, §28-4-9.
Office of planning and budget.
Fiscal affairs subcommittees.
Applicability of article authority, §28-5-27.
Official written communications in electronic format, §28-3-24.2.
Population bills, §28-1-15.
Publication.
Grant programs of agencies, §28-5-122.
Rental of meeting rooms.
Committees.
Prior approval required, expense billed to committee, §28-1-8.
Reporting requirements.
General assembly.
House of representatives.
Fiscal affairs subcommittees, §28-5-24.
Representative districts.
House of representatives, §28-2-1.
Residence in district, requirement, §28-2-1.
State divided into 180 districts, §28-2-1.
Residence.
House of representatives.
Residence in district required, §28-2-1.
Qualifications of members, §28-2-2.
Senate.
Residence in district required, §28-2-2.
Retirement and pensions.
Service credits.
Service in general assembly credited to employee pension plan of political subdivision, §28-1-9.
Salaries.
Fiscal affairs subcommittees.
Allowances for members, §28-5-26.

GENERAL ASSEMBLY —Cont'd
Salaries —Cont'd
House of representatives.
Clerk, §28-3-23.
Members and officers, §28-1-8.
Members, §28-1-8.
Senate.
Members and officers, §28-1-8.
Secretary, §28-3-23.
State officials.
Introduction of bills changing compensation, §28-5-1.
Seals.
Authorized use of seals, §28-1-10.
Secretary of state.
Acts and resolutions of general assembly.
Publication of enrolled acts, §28-1-11.
Grants.
List compilation, §28-5-124.
Senate.
Allowances of members and officers, §28-1-8.
Apportionment, §§28-1-1, 28-2-2.
Districts, §28-2-2.
Budget and evaluation office, §28-5-6.
Commission of members, §28-1-5.
Emergency sessions.
Failure of officer to organize, §28-1-7.
Ethics committee.
Subpoenas, §28-1-16.
Fiscal affairs subcommittees.
Reporting requirements, §28-5-24.
Initial organization, §28-1-3.
Local government impact fiscal notes.
Publication in journal, §28-5-54.
Membership.
Elected county or municipal officials.
Eligibility for membership, §28-1-13.
Oath of office to members.
Administration, §28-1-4.
Form, §28-1-4.
Organization.
Initial organization, §28-1-3.
Place of meetings, §28-1-2.
President.
Bills having significant impact upon anticipated revenues or expenditures.
Decision as to whether bill introduced falls within category, §28-5-42.

GENERAL ASSEMBLY —Cont'd
Senate —Cont'd
President —Cont'd
Code revision commission.
Number and appointment of members, §28-9-2.
Disability of secretary of senate.
Determination of question concerning existence of permanent disability, §28-3-20.
Fiscal affairs subcommittee of senate.
Calling of meetings, §28-5-22.
Selection of members, §28-5-21.
Fiscal note attached to bill or resolution.
Where amendment changes fiscal effect.
Waiver of requirement, §28-5-53.
Georgia commission on interstate cooperation.
Ex officio honorary nonvoting member, §28-6-2.
Legislative services committee.
Member, §28-4-1.
Minutes of meetings and audits available to president, §28-4-2.
Salary.
Additional amount, §28-1-8.
Senate committee on interstate cooperation.
Ex officio honorary nonvoting member, §28-6-1.
President pro tempore.
Legislative services committee.
Co-chair, §28-4-1.
Member, §28-4-1.
Powers and duties generally, §28-1-6.
Vacancy in office of secretary of senate.
Appointment of person to succeed, §28-3-20.
Qualifications of members, §28-2-2.
Resident of district.
Requirement, §28-2-2.
Salary of members and officers, §28-1-8.
Seals.
Authorized use, §28-1-10.
Secretary, §§28-3-20 to 28-3-25.
Allowances, §28-3-23.

GENERAL ASSEMBLY —Cont'd
Senate —Cont'd
Secretary —Cont'd
Bills, resolutions and other documents.
Distribution procedure, §28-3-24.
Compensation, §28-3-23.
Duties.
Both branches meet in single chamber, §28-3-22.
Election, §28-3-20.
Expenses, §28-3-23.
Maintenance of engrossed and enrolled bills and resolutions, §28-1-11.
Oath of office, §28-3-25.
Term of office, §28-3-20.
Travel expenses, §28-3-23.
Vacancy.
Procedure for filling, §28-3-20.
Senatorial districts.
Number, §28-2-2.
Resident of district, requirement, §28-2-2.
Sergeant-at-arms.
Election, §28-3-1.
Time of meetings, §28-1-2.
Senatorial districts, §28-2-2.
Sergeant-at-arms of senate, §28-3-1.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.
Sexual harassment.
General assembly members.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.
Sickness preventing member from attending.
Daily expense allowance, §28-1-8.
State auditor.
Bills changing compensation or allowances of elected or appointed officials or department or agency heads.
Preparation of fiscal notes, §28-5-2.
Bills having significant impact on anticipated revenues or expenditures.
Furnishing of fiscal notes, §28-5-42.
Fiscal affairs subcommittee.
Revenue review of budget request of office of state auditor, §28-5-23.
Local government impact fiscal notes.
Filing of notes for regulations, rules or orders with, §28-5-50.
GENERAL ASSEMBLY —Cont'd
Subpoenas duces tecum.
Ethics committee of house and senate, §28-1-16.
Training institute.
Availability of classes and courses, §28-11-4.
Citation of chapter, §28-11-1.
Contracts, §28-11-7.
Creation, §28-11-5.
Declaration of general assembly, §28-11-2.
Definitions, §28-11-3.
Direction, §28-11-6.
Evaluation of programs and services, §28-11-8.
Expenses.
Payment of and reimbursement of, §28-11-4.
Leases, §28-11-7.
Legislative findings, §28-11-2.
Powers and duties, §28-11-5.
Reports, §28-11-8.
Short title of chapter, §28-11-1.
Supervision, §28-11-6.
Travel and lodging expenses.
Travel allowance of members, §28-1-8.
Votes.
Bills or resolutions fixing compensation or allowances of officials.
Recording of votes, §28-5-3.
Fiscal notes.
Distribution of notes relating to bills prior to final votes, §28-5-44.
Vouchers for expenses.
Certification.
Member personally perform services, information true and correct, §28-1-8.
Written communications.
Official written communications in electronic format, §28-3-24.2.

GEORGIA ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACT.
General provisions, §§30-9-1 to 30-9-16.
Short title, §30-9-1.

GEORGIA AQUACULTURE DEVELOPMENT ACT.
General provisions, §§27-4-251 to 27-4-263.
Short title, §27-4-251.

GEORGIA COMMISSION FOR DEAF OR HARD OF HEARING.
Created, members, duties, powers, §30-1-5.

GEORGIA FISCAL NOTE ACT.
General assembly.
Fiscal notes, §§28-5-40 to 28-5-45.
Short title, §28-5-40.

GEORGIA INDUSTRIES FOR THE BLIND.
General provisions, §§30-2-1 to 30-2-9.

GEORGIA LEGISLATIVE RETIREMENT SYSTEM.
Political subdivision employees.
Credit for service in general assembly, §28-1-9.

GIBBONS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

GIFTED.
Industries for the blind.
Purpose to furnish opportunity for mentally gifted, §30-2-2.

GILL NETS.
Landing in state certain species of fish taken by means of, §27-4-7.
Use in fishing, §27-4-7.

GIZZARD.
Fishing.
Gizzard shad for bait, §27-4-5.

GOBBLERS.
Turkey defined as big game, §27-1-2.
Turkey hunting season, §27-3-15.
Special turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.

GOGGLEYE.
Rock bass.
Game fish defined as sunfish or bream, §27-1-2.

GORILLAS.
Wild animal licenses and permits required.
Class mammalia order primates, §27-5-5.

GOVERNOR.
Fishing interstate agreements.
Atlantic states marine fisheries compact.
Commission reporting requirements, §§27-4-214, 27-4-215.

GOVERNOR'S COUNCIL ON DEVELOPMENTAL DISABILITIES, §30-8-1.

GRAMMATICAL ERRORS.
Code of Georgia.
Publication.
Authority to make corrections and editorial changes, §§28-9-3, 28-9-5.

GRANDCHILDREN.
Claims against state.
Crime victims' compensation.
When not to recommend award, §28-5-104.
Crime victims' compensation.
Claims against state.
When not to recommend award, §28-5-104.
Game and fish code.
Immediate family defined, §27-1-2.
Requirement of permission to hunt on lands of another.
Family defined, §27-3-1.

GRANDPARENTS.
Claims against state.
Crime victims' compensation.
When compensation may not be recommended, §28-5-104.
Crime victims' compensation.
Claims against state.
When compensation may not be recommended, §28-5-104.
Game and fish code.
Requirement of permission to hunt on lands of another.
Family defined, §27-3-1.

GRANTS.
Fair and open grants by legislature, §§28-5-120 to 28-5-127.
Application, §28-5-123.
Appropriation act grants, §28-5-127.
Audits of recipients, §28-5-125.
Definitions, §28-5-121.
Determinations, §28-5-123.
Lists register, §28-5-124.
Publication prerequisite, §28-5-122.
Short title of act, §28-5-120.
Violations of article, §28-5-126.
Wildlife.
National resources conservation camps, §27-1-13.

GRASS.
Game and fish code.
Grass carp.
Wild animal for which permit required, §27-5-5.
Wild animal permit issuance, §27-5-4.
Grass pickerel.
Creel and possession limits, §27-4-10.
Game fish defined, §27-1-2.
Triploid grass carp.
Wild animal permit issuance, §27-5-4.

GRASS CARP.
Wild animal licenses and permits, §§27-5-4, 27-5-5.

GRASS PICKEREL.
Creel and possession limits, §27-4-10.

GRAVEL.
Oysters and clams.
Culch defined, §27-4-196.
Wildlife.
Importation, transportation, sale, etc.
Specifications for humane handling, care, etc., §27-5-6.

GROCERY STORES.
Aquaculture.
Sale of domestic fish.
Registration requirements, §27-4-255.
Wildlife storage permits, §27-2-15.

GROUSE.
Game and fish code.
Game birds defined, §27-1-2.
Seasons and bag limits, §27-3-15.

GUARDIANS.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Blind and visually impaired persons.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Discrimination prohibition.
Supportive parenting services as reasonable accommodation, §30-4-5.
County guardians, §§29-8-1 to 29-8-6.
Bond, §29-8-2.
Additional security on bind, §§29-8-4, 29-8-5.

GUARDIANS —Cont'd
County guardians —Cont'd
County administrators.
Ex officio county guardians, service when appointed by court, §29-8-1.
Letters of guardianship or conservatorship.
Granting upon each appointment, §29-8-3.
Revocation, §29-8-5.
Public guardians.
Cooperation with county guardians, §29-10-7.
Rights and liabilities, §29-8-3.
VA guardian.
Continuing service as VA guardian, §29-7-16.
Criminal history check of guardian, petition for, §29-9-19.
Definitions, §29-1-1.
Emergency guardianship.
Guardians for incapacitated adults, §§29-4-14 to 29-4-16.
Foreign guardianship.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Guardians for minors, §§29-2-65 to 29-2-77.
General provisions, §§29-9-1 to 29-9-19.
Attorney appointed by court.
Fees, awarding, §29-9-15.
Citation.
Issuance upon filing petition, §29-9-12.
Compliance with chapter sufficient for proceedings under title, §29-9-1.
Criminal history check of guardian, petition for, §29-9-19.
Delegate appointed by department of human services.
Authorized to take oath, §29-9-10.
Documents required to be authenticated or exemplified.
Meeting requirement, §29-9-13.1.
Evaluator.
Fees and expenses, awarding, §29-9-16.
Extension of time to respond.
Court ordering, §29-9-7.
Guardian ad litem.
Assessment of fees, costs and expenses, §29-9-3.

GUARDIANS —Cont'd
General provisions —Cont'd
Guardian ad litem —Cont'd
Award of fees, §29-9-15.
Discretion of court to appoint, §29-9-2.
Dual representation as guardian and counsel, prohibition, §29-9-2.
Establishment of authority, §29-9-2.
Execution of documents binding on person represented, §29-9-2.
Limiting appointment, removal, appointing successor.
Powers of court, §29-9-2.
Representing more than one person or class, §29-9-2.
Service upon guardian service upon person being represented, §29-9-2.
When appointment required, §29-9-2.
Hearing.
Court ordering, §29-9-14.
Date for holding, §29-9-13.
Instruction by court, §29-9-17.
Oath, affirmation or affidavit.
Attestation prima facie evidence, §29-9-9.
Delegate appointed by department of human services.
Authorized to take oath, §29-9-10.
Made outside state, force and effect, §29-9-9.
Officers before whom made, §29-9-9.
Petition to be verified, §29-9-11.
Objection, filing.
Date for filing, §29-9-13.
Petition.
Citation issued to person entitled to service or notice, §29-9-12.
Consolidation, petitions for separate appointments, §29-9-11.
Verified by oath sworn or affirmed, §29-9-11.
Records, sealed, examining, §29-9-18.
Service or notice.
Additional service or notice, judge directing, §29-9-7.
Mailing to last known address.
Sufficiency of service, §29-9-6.
Military personnel.
Personal service upon, §29-9-4.
Other jurisdiction in which ward was physically present for certain amount of time prior to filing of petition, §29-9-7.

GUARDIANS —Cont'd
General provisions —Cont'd
Service or notice —Cont'd
Personal service, §29-9-4.
Publication, service by.
Residence outside state or residence unknown, §29-9-5.
Waiver and acknowledgment, §29-9-8.
Transfer of case to county of proposed ward's domicile, §29-9-11.
Guardians for incapacitated adults, §§29-4-1 to 29-4-98.
Actions by or against ward.
Bringing or defending.
Power removed from ward, §29-4-21.
Adjustments as to powers and duties of guardian or powers of ward.
Modification of guardianship, §29-4-41.
Adoption of ward.
Power of guardian, §29-4-23.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Affidavit.
Supporting petition for appointment, §29-4-10.
Emergency appointment, §29-4-14.
Supporting petition to modify guardianship.
Significant change in capacity of ward alleged, §29-4-41.
Supporting petition to terminate guardianship, §29-4-42.
Agent previously appointed by ward.
Powers not revoked by appointment, §29-4-21.
Appeal of final court orders, §29-4-70.
Appointment and selection generally, §29-4-61.
Authority of court to appoint, §29-4-1.
Best interest of adult.
Required for appointment, §29-4-1.
Bond with good and sufficient security.
Guardian may be required to give, recording, payment of bond premium, §29-4-30.
Breach of fiduciary duty, §29-4-53.
Change in capacity of ward.
Petition to modify guardian ship.
Affidavit to support petition, §29-4-41.

GUARDIANS —Cont'd
Guardians for incapacitated adults —Cont'd
Conflict of interest with adult.
Disclosure by guardian, §29-4-24.
Ineligibility to serve as guardian, §29-4-2.
Contracts by ward.
Power removed from ward, §29-4-21.
Death of guardian.
Successor guardian, appointment, §§29-4-51, 29-4-61.
Death of ward.
Automatic termination of guardianship, §29-4-42.
Decision regarding, support, education, health and welfare.
Guardian to make, participation by ward, §29-4-22.
Delivery of ward's property to successor, §29-4-62.
Denial of rights and privileges.
Judicial inquiry, §29-4-40.
Developmental disabilities.
Factors and proof of need for guardianship, §29-4-12.
Emergency guardianship, §29-4-16.
Dismissal of guardian from office.
Termination of guardianship or resignation of guardian, §29-4-43.
Disregarding preference list.
Authority of court, §29-4-3.
Divorce of ward.
Power of guardian, §29-4-23.
Domicile, establishing or changing.
Power of guardian, §29-4-23.
Power removed from ward, §29-4-21.
Duties of guardian, §29-4-22.
Modification of guardianship, §29-4-41.
Emergency guardianship.
Appeal pending, appointment of guardian, §29-4-70.
Appointment of interim emergency guardian.
Service until emergency hearing, §29-4-15.
Continuance of case.
Granting, time period, §29-4-16.
Hearing on petition, §29-4-16.
Petition for appointment, §29-4-14.
Powers and duties specifically enumerated, §29-4-16.

GUARDIANS —Cont'd
Guardians for incapacitated adults —Cont'd
Emergency guardianship —Cont'd
Procedure after petition filed, §29-4-15.
Termination, §29-4-16.
Evaluation of ward, §29-4-11.
Emergency guardianship, §29-4-15.
Petition to modify guardianship, §29-4-41.
Termination of guardianship, §29-4-42.
Evaluator.
Appointment, qualifications, §29-4-11.
Emergency guardianship, §29-4-15.
Fees and expenses, awarding, §29-9-16.
Evidence.
Hearing on petition to appoint guardian, §29-4-12.
Findings of fact and conclusions of law.
Order supporting or denying guardianship, §29-4-13.
Foreign guardianship.
Actions, authority to institute, §§29-4-96, 29-4-97.
Foreign guardian defined, §29-4-95.
Personal jurisdiction.
Submission, §29-4-98.
Sale or conveyance of property.
Power, §29-4-95.
Hearing.
Petition to appoint guardian, §29-4-12.
Emergency guardianship hearing, §29-4-16.
Individual to hear case as to appointment of guardian.
Appointment by court, qualifications, compensation, §29-4-12.
Judicial inquiry into whether ward denied rights and privileges, §29-4-40.
Limitation of action.
Actions against guardian, §29-4-54.
Marriage contract.
Power removed from ward, §29-4-21.
Medical treatment, consent to.
Power of guardian, §29-4-23.
Power removed from ward, §29-4-21.

GUARDIANS —Cont'd
Guardians for incapacitated adults —Cont'd
Medical treatment, consent to —Cont'd
Termination of temporary medical consent guardianship, §29-4-18.
Misapplication of assets, §29-4-53.
Modification of guardianship.
Adjustments as to powers and duties of guardian or powers of ward, §29-4-41.
Nomination of person to serve as guardian, §29-4-3.
Notice.
Denial of ward's rights and privileges.
Judicial inquiry, §29-4-40.
Dismissal of guardian from office, §29-4-43.
Hearing on petition to appoint guardian, §29-4-12.
Modification of guardianship, §29-4-41.
Proceedings to have guardian appointed, §29-4-11.
Emergency guardianship, §29-4-15.
Resignation of guardian, §29-4-50.
Successor guardian.
Appointment, §§29-4-51, 29-4-61.
Temporary substitute guardian.
Appointment, §29-4-60.
Termination of guardianship, §29-4-42.
Oath or affirmation.
Required before entering upon duties, §29-4-25.
Order granting guardianship.
Emergency guardianship, §29-4-16.
Requirements, service, §29-4-13.
Personal jurisdiction.
Foreign guardianship.
Submission, §29-4-98.
Personal liability of guardian.
Limitation on, §29-4-22.
Petition.
Appointment of guardian, §29-4-10.
Emergency appointment, §29-4-14.
Successor guardian on death of guardian, §29-4-51.
Denial of ward's rights and privileges.
Judicial inquiry, §29-4-40.

GUARDIANS —Cont'd
Guardians for incapacitated adults —Cont'd
Petition —Cont'd
Minor in custody of division of family and children services.
Appointment of guardian for minor when minor becomes adult, §29-4-10.
Modification of guardianship, §29-4-41.
Removal of guardianship to another county in state, §29-4-80.
Resignation of guardian, §29-4-50.
Revocation or suspension of letters or imposition of sanctions, §29-4-52.
Temporary substitute guardian.
Appointment, §29-4-60.
Termination of guardianship, §29-4-42.
Powers of guardian, §§29-4-22, 29-4-23.
Modification of guardianship, §29-4-41.
Powers removed from ward, §29-4-21.
Powers retained by proposed ward.
Determination by court at hearing, §29-4-12.
Preferences for appointment, §29-4-3.
Presumption.
Adult in need of guardian, §29-4-1.
Previous petition denied or dismissed.
Time period before guardian may be appointed, §29-4-1.
Probable cause to believe that ward in need of guardian.
Determination by court, §29-4-11.
Emergency guardianship, §29-4-15.
Qualifications, §29-4-2.
Removal of guardian.
Temporary substitute guardian, §29-4-60.
Removal of guardianship to another county in state, §29-4-80.
Residence or dwelling, establishing.
Power of guardian, §29-4-23.
Power removed from ward, §29-4-21.
Resignation of guardian, §29-4-50.
Dismissal of guardian from office, order, §29-4-43.
Successor, §29-4-61.
Response to evaluation of proposed ward.
Ward's counsel may file, §29-4-11.

GUARDIANS —Cont'd
Guardians for incapacitated adults —Cont'd
Review of petition for appointment by court, §29-4-11.
Emergency guardianship, §29-4-15.
Revocation or suspension of letters or imposition of sanctions, §29-4-52.
Successor, §29-4-61.
Rights of ward, §29-4-20.
Denial, judicial inquiry, §29-4-40.
Self-reliance and independence of adult.
Guardianships designed to encourage, §29-4-1.
Successor guardian.
Death of guardian, appointment, §29-4-51.
Delivery of ward's property to, §29-4-62.
Suggestion by proposed ward of individual as guardian.
Court determination that guardianship necessary, §29-4-12.
Temporary substitute guardian.
Appointment, notice, duration, powers, removal, §29-4-60.
Revocation or suspension of letters or imposition of sanctions.
Appointment during investigation, §29-4-52.
Termination of guardianship, §29-4-42.
Dismissal of guardian from office, order, §29-4-43.
Emergency guardianship, §29-4-16.
Temporary medical consent guardianship, §29-4-18.
Testamentary capacity.
Appointment of guardian not determination that ward lacks capacity, §29-4-20.
Time.
Conducting evaluation of proposed ward, §29-4-11.
Emergency guardianship.
Continuance of case, §29-4-16.
Date of hearing, §29-4-16.
Hearing on petition to appoint guardian, §29-4-12.
Temporary substitute guardian.
Duration of appointment, §29-4-60.
Trust established by ward, revocation.
Power removed from ward, §29-4-21.

GUARDIANS —Cont'd
Guardians for incapacitated adults —Cont'd
Venue.
Place for filing petition for appointment, §29-4-10.
Voting by ward.
Appointment of guardian not determination on right, §29-4-20.
Who may not serve as guardian, §29-4-2.
Who may serve as guardian, §29-4-2.
Guardians of minors, §§29-2-1 to 29-2-77.
Answer by guardian to charges, §29-2-42.
Best interest of minor.
Permanent guardians.
Appointment of individual serving, §29-2-16.
Standard for determination of all matters, §29-2-18.
Bond.
Court may require, recording by court, §29-2-25.
Standby guardians.
Required, §29-2-10.
Breach of fiduciary duty.
Cause of action, remedies, §29-2-43.
Categorized, §29-2-1.
Conflict of interest with minor.
Disclosure, §§29-2-21, 29-2-23.
Eligibility to serve as guardian, findings required, §29-2-2.
Death of guardian.
Successor appointed, §§29-2-41, 29-2-51.
Death of minor.
Automatic termination of guardianship, §29-2-30.
Definitions, §29-1-1.
Joint legal custody, sole custody, §29-2-3.
Delivery of property to successor, §29-2-52.
Dismissal of guardian from office.
Termination of guardianship, resignation of guardian, §29-2-31.
Dismissal of petition.
Temporary guardian.
Objection to appointment, §29-2-6.
Duties and responsibilities, §29-2-21.
Fiduciary duty of guardian, §29-2-21.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Foreign guardianships.
Actions to enforce right or recover property belonging to minor.
Authenticated copy of letters of guardianship, filing, §29-2-76.
Authority to institute, §29-2-75.
Personal jurisdiction of court, submission to, §29-2-77.
Receipt and acceptance of guardianship in county of state, §§29-2-65 to 29-2-68.
Combining petition with other petitions, §29-2-65.
Contents of petition, §29-2-65.
Facilitating orderly transfer of guardianship, §29-2-68.
Filing petition, §29-2-65.
Findings required for granting petition, §29-2-68.
Hearing to consider petition, §29-2-67.
Requesting hearing, time, §29-2-66.
Laws of state apply on acceptance of guardianship, §29-2-68.
Notice and copy of petition, §29-2-66.
Service of notice and copy of petition, §29-2-66.
Stay, challenge to validity of guardianship, §29-2-67.
Sale of minor's property located in state, §29-2-74.
Transfer of guardianship to foreign jurisdiction, §§29-2-69 to 29-2-73.
Forms.
Designation of standby guardian, §29-2-11.
Guardian ad litem appointed.
Court granting specified powers to guardian, §29-2-22.
Petition to remove guardianship to another county in state, §29-2-60.
Hearing.
Permanent guardians.
Appointment, §29-2-18.
Objection by biological father, §29-2-15.
Petition for receipt and acceptance of foreign guardianship, §29-2-67.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Hearing —Cont'd
Petition to transfer guardianship to foreign jurisdiction, service, §29-2-72.
Temporary guardian.
Objection to appointment, §29-2-6.
Objection to termination, §29-2-8.
Individuals only may serve as, §29-2-2.
Investigation of charges.
Interested person seeking revocation or suspension of letters, §29-2-42.
Limitation of actions.
All actions against guardians except on bond, §29-2-44.
Minor becoming adult.
Petition for appointment of guardian, §29-2-30.
Misapplication of assets.
Trust attaching to assets in hands of person with notice of misapplication, §29-2-43.
Natural guardians.
Category of guardians, §29-2-1.
Compromise of minor's claim, §29-3-3.
Death of parent.
Survivor sole natural guardian, §29-2-3.
Defined, §29-1-1.
Joint legal custody in divorced parents, §29-2-3.
Parents considered, §29-2-3.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.
Payment of indebtedness or delivery of property to, §29-3-1.
Release of debtor and compromise of debt, §29-3-2.
Sole custody in divorced parent, §29-2-3.
Sole natural guardian, §29-2-3.
Notice.
Court granting specified powers to guardian, §29-2-22.
Permanent guardians.
Biological father given notice of petition, §29-2-15.
Designee named in document dealing with guardianship, §29-2-17.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Notice —Cont'd
Petition for resignation of guardian, §29-2-40.
Petition to dismiss guardian from office, §29-2-31.
Petition to transfer guardianship to foreign jurisdiction, service, §29-2-71.
Receipt and acceptance of foreign guardianship.
Petition, §29-2-66.
Standby guardians.
Filing notice of guardianship, §29-2-10.
Revocation of guardianship, §29-2-12.
Successor appointed, §29-2-51.
Death of guardian, §29-2-41.
Temporary guardian.
Petition for appointment, §29-2-6.
Termination of guardianship, §29-2-8.
Temporary substitute guardian.
Appointment, §29-2-50.
Oath or affirmation before entering upon duties, §29-2-24.
Objection to appointment.
Temporary guardian, §29-2-6.
Order granting guardianship.
Permanent guardians, §29-2-19.
Permanent guardians, §§29-2-14 to 29-2-19.
Best interest of minor.
Individual serving appointed, §29-2-16.
Standard for determination of all matters, §29-2-18.
Biological father defined, §29-2-15.
Category of guardians, §29-2-1.
Continuance of hearing.
Petition of legitimation filed by biological father, §29-2-15.
Defined, §29-1-1.
Hearing.
Appointment, §29-2-18.
Objection by biological father, §29-2-15.
Notice of petition of appointment to biological father, §29-2-15.
Notice to designee named in document dealing with guardianship, §29-2-17.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Permanent guardians —Cont'd
Objection by biological father.
Filing, hearing, continuance to file petition for legitimation, §29-2-15.
Order granting guardianship, §29-2-19.
Petition for appointment, §29-2-17.
Power to appoint.
Probate court, §29-2-14.
Preferences as to appointment, §29-2-16.
Publication.
Service of notice petition for appointment, §29-2-17.
Service of notice petition for appointment, §29-2-17.
Temporary guardian appointed.
Power of judge, §29-2-17.
Transfer of case to another county, §29-2-14.
Personal liability, limitation, §29-2-21.
Personal status report.
Filing, requirement, time, §29-2-21.
Petition to dismiss guardian from office.
Petition to contain, §29-2-31.
Predecessor guardian on appointment of successor, §29-2-52.
Persons not eligible to serve, §29-2-2.
Petitions.
Appointment of guardian for minor when minor becomes adult, §29-2-30.
Dismissal of guardian from office.
Termination of guardianship, resignation of guardian, §29-2-31.
Foreign guardianships.
Receipt and acceptance of guardianship in county of state, §§29-2-65 to 29-2-68.
Permanent guardians.
Appointment, §29-2-17.
Filing of petition of legitimation by biological father, §29-2-15.
Removal of guardianship to another county in state, §29-2-60.
Resignation of guardian, §29-2-40.
Temporary guardian.
Appointment, §29-2-5.
Standby guardians.
Filing petition after health determination, §29-2-13.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Petitions —Cont'd
Temporary guardian —Cont'd
Termination of guardianship, §29-2-8.
Transfer of guardianship to foreign jurisdiction, §§29-2-69 to 29-2-73.
Power of guardian over minor, §29-2-21.
Powers granted by court, §29-2-22.
Powers vested in guardian without court order, §29-2-22.
Removal of guardians.
Temporary substitute guardian, §29-2-50.
Removal of guardianship to another county in state, §29-2-60.
Reports.
Temporary guardians.
Personal status report.
Court may waive requirement, §29-2-7.
Resignation of guardian, §29-2-40.
Dismissal of guardian from office.
Petition, §29-2-31.
Successor appointed, §29-2-51.
Revocation or suspension of letters, §29-2-42.
Successor appointed, §29-2-51.
Rights of minor, §29-2-20.
Standby guardians, §§29-2-9 to 29-2-13.
Assumption of rights, duties and responsibilities of guardianship, §29-2-10.
Bond required, §29-2-10.
Category of guardians, §29-2-1.
Child support.
Parent not relieved of duty, §29-2-10.
Death of designating individual.
Termination of guardianship, §29-2-13.
Defined, §§29-1-1, 29-2-9.
Designating individual defined, §29-2-9.
Designation upon health determination being made, §29-2-10.
Attestation, witnesses, requirements, §29-2-11.
Content requirements, §29-2-11.
Form, §29-2-11.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Standby guardians —Cont'd
Designation upon health determination being made —Cont'd
Requirements of designation, §29-2-11.
Revocation, destruction or obliteration, §29-2-12.
Healthcare professional defined, §29-2-9.
Health determination defined, §29-2-9.
Notice of revocation of guardianship, §29-2-12.
Notice of standby guardianship.
Filing, §29-2-10.
Petition seeking temporary guardianship.
Filing after health determination, time, §29-2-13.
Revocation of guardianship, §29-2-12.
Termination of guardianship.
Automatic termination.
Petition seeking temporary guardianship not filed, §29-2-13.
Death of designating individual, §29-2-13.
Statute of limitations.
All actions against guardians except on bond, §29-2-44.
Successor guardians.
Appointment, §29-2-51.
Death of guardian, §29-2-41.
Resignation of guardian, §29-2-40.
Delivery of property of minor to, §29-2-52.
Temporary guardians, §§29-2-5 to 29-2-8.
Category of guardians, §29-2-1.
Defined, §29-1-1.
Dismissal of petition.
Timely objection, §29-2-6.
Granting petition without notice or hearing, §29-2-6.
Hearing.
Objection to petition, §29-2-6.
Termination of guardianship, §29-2-8.
Medical insurance coverage.
Deemed permanent guardian for purposes of obtaining, §29-2-7.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Temporary guardians —Cont'd
Notice of petition to parent not consenting, §29-2-6.
Notice of petition to terminate, §29-2-8.
Objection to petition.
Dismissal or hearing, §29-2-6.
Permanent guardians.
Appointment of temporary guardian by judge, §29-2-17.
Personal status report.
Court may waive requirement, §29-2-7.
Petition to be appointed, §29-2-5.
Standby guardians.
Filing petition after health determination, §29-2-13.
Petition to terminate guardianship, §29-2-8.
Powers, §29-2-7.
Publication of notice of petition.
Service on parent not consenting, §29-2-6.
Service of notice of petition, §29-2-6.
Standby guardians.
Filing petition seeking after health determination, §29-2-13.
Support obligation, assumption, §29-2-7.
Termination of guardianship, §29-2-8.
Transfer of petition to juvenile court, §29-2-6.
Temporary substitute guardians.
Appointment, duration, powers, removal, §29-2-50.
Defined, §29-1-1.
Investigation of charges seeking revocation or suspension of letters.
Appointment during investigation, §29-2-42.
Termination of guardianships, §29-2-30.
Dismissal of guardian from office.
Petition, §29-2-31.
Testamentary capacity.
Appointment not determination minor lacks capacity, §29-2-20.
Testamentary guardians.
Category of guardians, §29-2-1.
Defined, §29-1-1.

GUARDIANS —Cont'd
Guardians of minors —Cont'd
Testamentary guardians —Cont'd
Nomination by parent, §29-2-4.
Time.
Permanent guardians.
Objection by biological father, continuance of hearing, petition for legitimation, §29-2-15.
Personal status report.
Filing, §29-2-21.
Petition for receipt and acceptance of foreign guardianship.
Request for hearing, §29-2-66.
Standby guardians.
Petition seeking temporary guardianship, filing, §29-2-13.
Temporary substitute guardians.
Duration of appointment, §29-2-50.
Transfer of guardianship to foreign jurisdiction, §§29-2-69 to 29-2-73.
Authority to file petition, §29-2-69.
Content required for petition, §29-2-70.
Coordination of transfer, §29-2-73.
Facilitating orderly transfer, §29-2-73.
Findings required to grant petition, §29-2-73.
Hearing to consider petition, §29-2-72.
Minor moved permanently to foreign jurisdiction.
Condition precedent for filing petition, presumption, §29-2-69.
Notice and copy of petition, service, §29-2-71.
Requirements for petition, §29-2-70.
Service of notice and copy of petition, §29-2-71.
Trust attaching to assets in hands of person with notice of misapplication, §29-2-43.
Hearings.
Court ordering, §29-9-14.
Date for holding, §29-9-13.
Guardians for incapacitated adults.
Petition to appoint guardian, §29-4-12.
Emergency guardianship hearing, §29-4-16.
Guardians of minors.
Permanent guardians.
Appointment, §29-2-18.

GUARDIANS —Cont'd
Hearings —Cont'd
Guardians of minors —Cont'd
Permanent guardians —Cont'd
Objection by biological father, §29-2-15.
Petition for receipt and acceptance of foreign guardianship, §29-2-67.
Petition to transfer guardianship to foreign jurisdiction, service, §29-2-72.
Temporary guardian.
Objection to appointment, §29-2-6.
Objection to termination, §29-2-8.
Medical consent.
Power of guardian, §29-4-23.
Power removed from ward, §29-4-21.
Temporary medical consent guardian.
Termination of guardianship, §29-4-18.
Natural guardians of minors, §§29-2-1 to 29-2-3.
Permanent guardians of minors, §§29-2-14 to 29-2-19.
Petition generally.
Citation issued to person entitled to service or notice, §29-9-12.
Consolidation, petitions for separate appointments, §29-9-11.
Verified by oath sworn or affirmed, §29-9-11.
Public guardians, §§29-10-1 to 29-10-11.
Age requirement, §29-10-3.
Applicable laws, §29-10-6.
Bonds, surety, §29-10-5.
Additional security on bond or additional bond, §29-10-8.
Compensation, §29-10-10.
Appropriations for, §29-10-11.
Competency, education, experience.
Demonstration, required, §29-10-3.
County conservators.
Cooperation with, §29-10-7.
County guardians.
Cooperation with, §29-10-7.
Credit history investigation, §29-10-3.
Criminal background check, §29-10-3.
Defined, §§29-1-1, 29-10-1.
Direct contact with ward.
Training for guardians having, §29-10-3.
Eligibility to serve as, §29-10-3.
Entities.
Eligibility to serve, qualifications, §29-10-3.

GUARDIANS —Cont'd
Public guardians —Cont'd
Expenses.
Reimbursement, §29-10-10.
Financial records, investigation.
Entities.
Eligibility to serve, qualifications, §29-10-3.
Letters of guardianship, §29-10-6.
Revocation, §29-10-9.
Liability insurance.
Entities.
Eligibility to serve, qualifications, §29-10-3.
Lists.
Registration lists, §29-10-4.
Number of wards.
Limitation, §29-10-7.
Oath of guardianship, §29-10-2.
Qualifications, §29-10-3.
Records, §29-10-7.
Registration with probate court, §29-10-4.
Reports, §29-10-7.
Revocation of letters of guardianship, §29-10-9.
Training, §29-10-3.
Service.
Additional service or notice, judge directing, §29-9-7.
Mailing to last known address.
Sufficiency of service, §29-9-6.
Military personnel.
Personal service upon, §29-9-4.
Other jurisdiction in which ward was physically present for certain amount of time prior to filing of petition, §29-9-7.
Personal service, §29-9-4.
Publication, service by.
Residence outside state or residence unknown, §29-9-5.
Waiver and acknowledgment, §29-9-8.
Standby guardians of minors, §§29-2-9 to 29-2-13.
Temporary guardians.
Guardians for incapacitated adults.
Temporary substitute guardian.
Appointment, notice, duration, powers, removal, §29-4-60.
Revocation or suspension of letters or imposition of sanctions.
Appointment during investigation, §29-4-52.
Guardians of minors, §§29-2-5 to 29-2-8.

GUARDIANS —Cont'd
Uniform adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
VA guardians, §§29-7-1 to 29-7-18.
Accounting by guardian.
File annually, requirements, §29-7-13.
Failure to file, §29-7-14.
Appointment as provided by chapter, §29-7-3.
Appointment of guardian for mentally incompetent ward.
Necessity for appointment.
Certificate of secretary of veterans' affairs prima facie evidence, §29-7-4.
Appointment of guardian for minor.
Necessity for appointment.
Certificate of secretary of veterans' affairs prima facie evidence, §29-7-5.
Bond.
Payment of premiums for corporate surety, §29-7-15.
Required, exception, amount, review, §29-7-10.
Chapter construed liberally, §29-7-18.
Commissions.
Compensation for services, §29-7-15.
Compensation for services, §29-7-15.
Compliance with chapter.
Appointment of guardian, §29-7-3.
County guardian continuing to serve as VA guardian, §29-7-16.
Definitions, §29-7-1.
Discharge of guardian, §§29-7-9, 29-7-16.
Extraordinary services rendered.
Additional compensation, §29-7-15.
Final accounting and final settlements.
Discharge of guardian, §29-7-9.
Fitness of person sought to be appointed.
Court to be satisfied, §29-7-8.
General law applicable, §29-7-17.
Guardianship and conservatorship law.
General law applicable, §29-7-17.
Investment of ward's surplus funds, §29-7-11.
Liberal construction of chapter, §29-7-18.
Life insurance policy on ward's life.
Guardian not to be named beneficiary, §29-7-12.

GUARDIANS —Cont'd
VA guardians —Cont'd
Mentally incompetent ward.
Necessity for appointment.
Certificate of secretary of veterans' affairs prima facie evidence, §29-7-4.
Minor.
Necessity for appointment.
Certificate of secretary of veterans' affairs prima facie evidence, §29-7-5.
Nomination by department of veterans' affairs.
Prima facie evidence of person's fitness, §29-7-8.
Notice.
Extraordinary services rendered.
Additional compensation, §29-7-15.
Given to office or department having jurisdiction over area, §29-7-2.
Petition for appointment, §29-7-6.
Persons and entities who may serve as guardians, §29-7-9.
Petition for appointment.
Notice, §29-7-6.
Place of filing, content requirements, §29-7-7.
Preferences for appointment, §29-7-7.
Prohibited acts, §29-7-12.
Removal of guardian.
Failure to file annual accounting, §29-7-14.
Secretary of veterans affairs.
Party in interest to every proceeding for appointment or discharge of guardian, §29-7-2.
Title to ward's property, §29-7-12.

GUARDIANS AD LITEM.
Conservators for incapacitated adults.
Appointment.
Removal of conservatorship to another county in state, §29-5-120.
Sale, lease or exchange of ward's property, §29-5-35.
Transfers of ward property outright or in trust, §29-5-36.
Conservators for minors.
Appointment.
Removal of conservation, §29-3-100.
Transfers of minor's property by conservator, §29-3-36.

GUARDIANS AD LITEM —Cont'd
Conservators for minors —Cont'd
Granting conservator certain powers on case-by-case basis, §29-3-22.
Guardianships and conservatorships generally.
Assessment of fees, costs and expenses, §29-9-3.
Discretion of court to appoint, §29-9-2.
Dual representation as guardian and counsel, prohibition, §29-9-2.
Establishment of authority, §29-9-2.
Execution of documents binding on person represented, §29-9-2.
Fees, awarding, §29-9-15.
Limiting appointment, removal, appointing successor.
Powers of court, §29-9-2.
Representing more than one person or class, §29-9-2.
Service upon guardian service upon person being represented, §29-9-2.
When appointment required, §29-9-2.
Guardians of minors.
Court granting specified powers to guardian.
Appointment of guardian ad litem, §29-2-22.
Removal of guardianship to another county in state.
Appointment of guardian ad litem for minor, §29-2-60.

GUARDIANS FOR INCAPACITATED ADULTS, §§29-4-1 to 29-4-98.

GUARDIANSHIPS AND CONSERVATORSHIPS, §§29-1-1 to 29-10-11.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
Conservators for minors, §§29-3-1 to 29-3-120.
County guardians and conservators, §§29-8-1 to 29-8-6.
Definitions, §29-1-1.
General provisions, §§29-9-1 to 29-9-19.
Guardians for incapacitated adults, §§29-4-1 to 29-4-98.
Guardians of minors, §§29-2-1 to 29-2-77.
Legal custodian and distributor of money owed minor or adult without a conservator.
Probate courts, §§29-6-1 to 29-6-9.

GUARDIANSHIPS AND CONSERVATORSHIPS —Cont'd
Public guardians, §§29-10-1 to 29-10-11.
VA guardians, §§29-7-1 to 29-7-18.

GUARDIANS OF MINORS, §§29-2-1 to 29-2-77.

H

HABITATS.
Department of natural resources.
Duties, §§27-1-6, 27-3-132.
Scientific collecting permits, §27-2-12.

HANDICAPPED PERSONS.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Blind and visually impaired persons.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Industries for the blind.
General provisions, §§30-2-1 to 30-2-9.
Public facilities.
Access to and use of.
General provisions, §§30-3-1 to 30-3-9.
Community trusts, §§30-10-1 to 30-10-9.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
General provisions, §§30-1-1 to 30-1-6.
Guardians for incapacitated adults.
Generally, §§29-4-1 to 29-4-98.
Guardians of minors.
Standby guardians.
Designation upon health determination, §§29-2-9 to 29-2-13.
Hunting.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Industries for the blind.
General provisions, §§30-2-1 to 30-2-9.
Legal custodian and distributor of money owed incapacitated adult.
Probate courts, §§29-6-1 to 29-6-9.
Personal assistance program for persons with disabilities, §§30-6-1 to 30-6-5.

HANDICAPPED PERSONS —Cont'd
Protection of disabled adults and elder persons.
Generally, §§30-5-1 to 30-5-11.
Public facilities.
Access to and use of.
General provisions, §§30-3-1 to 30-3-9.
Standby guardians.
Guardians of minors.
Designation upon health determination, §§29-2-9 to 29-2-13.

HARASSMENT.
General assembly members.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.

HARD-BOUND.
Georgia code volumes, §28-4-3.

HARES.
Hunting, §§27-3-20, 27-3-67.

HARPOONS.
Alligator hunting, §27-3-19.

HATCHERIES.
Fish hatcheries, §§27-4-75, 27-4-78.

HAWKS.
Hunting, §27-3-22.

HEALTH.
Guardians of minors.
Standby guardians.
Designation upon health determination, §§29-2-9 to 29-2-13.
Standby guardians.
Guardians of minors.
Designation upon health determination, §§29-2-9 to 29-2-13.

HEALTHCARE DURABLE POWER OF ATTORNEY.
Conservators for incapacitated adult appointed.
Agents powers not revoked by mere appointment, §29-5-21.
Guardian for incapacitated adult appointed.
Powers of agent not revoked by mere appointment, §29-4-21.
Guardian of minors.
Power to consent or approve, §29-2-22.

HEALTH DETERMINATION.
Standby guardians.
Guardians of minors.
Designation upon health determination, §§29-2-9 to 29-2-13.

HEALTH INSURANCE.
Guardians of minors.
Temporary guardians.
Responsibility for obtaining medical insurance, §29-2-7.

HEARING IMPAIRED PERSONS.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Public facilities.
Access to and use of.
General provisions, §§30-3-1 to 30-3-9.

HEARINGS.
Adult guardianship and conservatorship proceedings.
Transfer of proceedings to another state, hearing on petition, §29-11-20.
Transfer of proceedings to this state, hearing on petition for acceptance, §29-11-21.
Claims against state, §28-5-82.
Conservators for incapacitated adults.
Emergency conservator, appointment, §29-5-16.
Granting conservator specific powers, §29-5-23.
Petition for appointment of conservator, §29-5-12.
Conservators for minors.
Granting conservator certain continuing powers, §29-3-22.
Receipt and acceptance of foreign conservatorship, §29-3-107.
Transfer of conservatorship to foreign court, §29-3-113.
Guardians for incapacitated adults.
Emergency guardianship hearing, §29-4-16.
Petition to appoint guardian, §29-4-12.
Temporary medical consent guardianship, §29-4-18.
Guardianships and conservatorships generally.
Court ordering hearing, §29-9-14.
Date for holding, §29-9-13.

HEARINGS —Cont'd
Guardians of minors.
Foreign guardianships.
Petition for receipt and acceptance of foreign guardianship, §29-2-67.
Foreign jurisdiction.
Petition to transfer guardianship to foreign jurisdiction, §29-2-72.
Permanent guardians.
Appointment, §29-2-18.
Objection by biological father, §29-2-15.
Temporary guardian.
Objection to appointment, §29-2-6.
Objection to termination, §29-2-8.

HEART CONDITION.
Identification bracelet, tag, etc., for persons suffering blackouts from, §30-1-3.

HICKORY SHAD.
Creel and possession limits, §27-4-10.

HIGHWAYS, ROADS AND STREETS.
Disabled persons.
Public facilities.
Access to and use of, §§30-3-1 to 30-3-9.
Hunting.
Discharging weapon across a public road, §27-3-10.
Hunting upon a public road, §27-3-10.
Trapping wildlife upon right of way.
Unlawful, beaver, exception, §27-3-63.

HIPPOPOTAMUS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

HIVES.
Beehives.
Bears.
Removal by hive owners, §27-3-21.

HOGS.
Bait for traps, §§27-3-8, 27-3-68.
Feral hogs.
Hunting, §§27-3-4, 27-3-24.
Boats, aircraft or motor vehicles, hunting from, §27-3-13.
Trapping without license, when permitted, §27-2-1.
Hunting feral hogs, §§27-3-4, 27-3-24.
Boats, aircraft or motor vehicles, hunting from, §27-3-13.

HONEYBEES.
Bears.
Removal of bears by owners of beehives, §27-3-21.

HONORARY HUNTING AND FISHING LICENSES, §27-2-4.

HORSEPOWER.
Boat limits.
Fishing areas, §27-4-11.1.

HORSESHOE CRABS.
Commercial fishing, §27-4-71.

HOTELS AND OTHER LODGING PLACES.
Fishing pier owned by hotel or motel.
Salt water fishing pier license, §27-2-23.2.
Pier owned by hotel or motel.
Salt water fishing pier license, §27-2-23.2.

HOUSING.
Blind and visually impaired persons.
Right to housing accommodations, §30-4-3.
Denial of or interference with exercise of right, §30-4-4.
Deaf and hearing impaired persons.
Right to housing accommodations, §30-4-3.
Denial of or interference with exercise of right, §30-4-4.
Guide dogs.
Blind or deaf person housing rights, §30-4-3.

HUMAN SERVICES.
Department of human services.
Achieving a better life experience (ABLE) accounts.
Public information and outreach efforts, §30-9-13.
Guardianships and conservatorships generally.
Delegate appointed by department of human services.
Authorized to take oath, §29-9-10.

HUNTING, §§27-3-1 to 27-3-29.
Accidents.
Disciplinary actions.
Procedures following hunting accidents, §27-2-25.1.
Aircraft.
Killing of wildlife or feral hogs from aircraft, §27-3-13.

HUNTING —Cont'd
Alligators, §27-3-19.
Feeding or baiting wild alligators, §27-3-170.
Nighttime hunting, §27-3-2.
Possession of alligator products, §27-3-19.
Alligator product defined, §27-1-2.
Special alligator hunting license, §27-2-6.
Terminally ill persons age 21 or younger, special hunting privileges, §27-2-4.3.
Weapons permitted, §27-3-4.
Bag limits, §27-3-15.
Defined, §27-1-2.
Possession of more than bag limit, §27-3-15.
Baited fields, posting and notice requirements, §27-3-9.
Bears, §27-3-25.
Removal of bears by owners of beehives, §27-3-21.
Required outer garments, §27-3-25.
Restrictions, §27-3-26.
Taking possession of native wildlife killed by motor vehicle.
Notice required for taking of bear, §27-3-28.
Unlawful use of bear bait, §27-3-27.
Weapons permitted, §27-3-4.
Birds.
Hunting, possessing or transporting generally, §27-3-22.
Killing or crippling of game bird without reasonable effort to retrieve, §27-3-14.
Legal weapons generally, §27-3-4.
Migratory game birds.
Hours for hunting, §27-3-3.
Pen raised game birds.
Shooting preserves, §27-3-114.
Unlawful enticement of game, §27-3-9.
Waterfowl and migratory bird stamp, §27-2-6.
Weapons permitted, §27-3-4.
Blood tests.
Hunting while intoxicated, §27-3-7.
Boats.
Killing of wildlife or feral hogs from boats, §27-3-13.
Bow and arrow.
Possession of prohibited, §27-3-6.
Carcass removal and transportation, prohibitions, §27-3-29.

HUNTING —Cont'd
Computer assisted remote hunting.
Defined, unlawful, penalty, forfeiture of equipment, §27-3-12.
Deadfalls.
Confiscation and disposal, §27-3-68.
Deer, §§27-3-40 to 27-3-50.
Baiting wildlife, exceptions to prohibition, §27-3-9.
Deer management assistance program, §27-3-15.
Dogs.
Deer-dog hunting license, §27-3-17.
Hunting deer with dogs, §27-3-17.
Killing of deer with no antlers visible, §27-3-44.
Killing of dogs running deer, §27-3-49.
Permits to kill deer causing damage to crops, §27-2-18.
Removal of head of deer, §27-3-43.
Required clothing, §27-3-40.
Sale of antlers, hides and tails of deer, §27-3-50.
Seasonal permit required, §27-3-17.
Taking deer in lake, stream or pond, §27-3-42.
Unlawful nighttime killing, §27-3-48.
Unsupervised hunting by persons under twelve years of age, §27-3-41.
Weapons permitted, §27-3-4.
Defined, §27-1-2.
Disabilities, persons with.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Discounted licenses, §27-2-4.
Education.
Required hunter education courses, §27-2-5.
Endangered wildlife, §§27-3-130 to 27-3-133.
Fees.
Schedule of fees, §27-2-23.
Commercial fox hunting preserve license, §27-2-23.
Deer-dog hunting license, §27-3-17.
Fur, hide and pelt licenses, §27-2-23.
Hunting licenses, §27-2-23.
Resident hunting/fishing license, §27-2-23.
Feral hogs.
Boats, aircraft or motor vehicles, hunting from, §27-3-13.
Defined, §27-1-2.

HUNTING —Cont'd
Feral hogs —Cont'd
Hunting restrictions, §27-3-24.
Trapping without license, when permitted, §27-2-1.
Weapons permitted, §27-3-4.
Field and retriever trials.
Licenses, §27-2-21.
Permits, §27-2-21.
Firearms.
Center-fire firearms used for hunting fox and bobcat, §27-3-4.
Discharging weapons across a public road, §27-3-10.
Fox and bobcat, hunting with center-fire firearms, §27-3-4.
Legal weapons for hunting wildlife generally, §27-3-4.
Possession of firearm while hunting with bow and arrow, §27-3-6.
Training of hunting dogs, §27-3-16.
Unlawful devices, §27-3-8.
Unlawful substances and equipment, §27-3-12.
Fluorescent orange or fluorescent pink.
Feral hogs.
Hunting during firearms deer season, §27-3-24.
Foxes.
Dogs.
Hunting foxes with dogs, §27-3-18.
Fur-bearing animals.
Defined, §27-1-2.
Game and fish code, §27-1-2.
Hares.
Taking rabbits and hares out of season, §27-3-20.
Harvest recording and reporting requirements for game animals and game birds, §27-3-29.
Highways.
Discharging weapon across a public road, §27-3-10.
Hunting upon a public road, §27-3-10.
Honorary licenses, §27-2-4.
Hunter education courses.
Required, §27-2-5.
Hunting at night, unlawful, exceptions, §27-3-2.
Hunting dogs.
Deer hunting, §27-3-17.
Killing of dogs running deer, §27-3-49.
Fox hunting with dogs, §27-3-18.

HUNTING —Cont'd
Hunting dogs —Cont'd
Generally, §27-3-16.
Killing of dogs running deer, §27-3-49.
Training, §27-3-16.
Interference with lawful taking of wildlife, §§27-3-150 to 27-3-152.
Intoxicated hunters, §27-3-7.
Killing or crippling birds or animals without reasonable effort to retrieve prohibited, §27-3-14.
Lands of another.
Immunity of land owner from civil liability, §27-3-1.
Written permission requirement, §27-3-1.
Legislative declaration, §27-1-3.
Licenses.
Alligator hunting license, §27-2-6.
Archery hunting licenses, §27-2-3.1.
Counterfeiting or altering of licenses, §27-2-28.
Deer-dog hunting license, §27-3-17.
Disciplinary actions, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of disciplinary action, §27-2-27.
Administrative review, §27-2-25.
Bear hunting restrictions, §27-3-26.
Hunting on lands of another without written permission, §27-3-1.
Judicial review, §27-2-25.
Negligent hunting, §27-2-25.1.
Power to suspend licenses, §27-2-25.2.
Procedures following hunting accidents, §27-2-25.1.
Rulemaking authority, §27-2-26.
Surrender of license, §27-2-26.
Discounted hunting licenses, §27-2-4.
Effective dates generally, §27-2-3.
Fees, §27-2-23.
Deer-dog hunting license, §27-3-17.
Multi-year licenses, §27-2-3.
Field and retriever trials, §27-2-21.
Honorary hunting licenses, §27-2-4.
Hunting while intoxicated.
Refusal to submit to chemical test.
Suspension of hunting privileges, §27-3-7.
Issuance and sale, §27-2-2.
Anatomical gift, option to make on license application, §27-2-2.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.

HUNTING —Cont'd
Licenses —Cont'd
Issuance and sale —Cont'd
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.
License agents, §27-2-2.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.
License card carriers, §27-2-3.1.
Lifetime sportsman license, §27-2-3.1.
Wildlife endowment trust fund, §27-2-30.
Making false statements in obtaining license, §27-2-28.
Multi-year licenses, §27-2-3.
Nonresidents.
Lifetime sportsman license, §27-2-3.1.
One day licenses.
Extension.
Fees, §27-2-23.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Raccoon fur seller's license, §27-2-23.1.
Reciprocity.
Powers of department to enter into agreements, §27-2-7.
Refusing inspection of identification, §27-2-28.
Residency.
Lifetime sportsman's license.
Proof, §27-2-3.1.
Screening questionnaire to be completed by applicant, §27-2-3.1.
Senior hunting licenses.
Fees, §27-2-23.
Service of process for licensees, §27-2-24.
Shooting preserves, §27-3-114.
Type SP, shooting preserve license, §27-2-3.1.
Contracts with preserves for issuance and sale of licenses, §27-3-115.
Sportsman license, §27-2-3.1.
Fees, §27-2-23.
Suspension for unlawful use of firearm with suppressor, §27-3-4.

HUNTING —Cont'd
Licenses —Cont'd
Terminally ill persons age 21 or younger, §27-2-4.3.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Unlawful collection of funds, §27-2-28.
Unlawful without license or permit, §27-2-1.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Waterfowl and migratory bird stamp, §27-2-6.
Local regulation, §27-1-3.
Migratory game birds.
Federal migratory bird harvest information program, §27-2-20.
Federal migratory bird hunting and conservation stamp, §27-2-20.
Hours for hunting, §27-3-3.
Waterfowl and migratory bird stamp, §27-2-20.
Minors.
Deer hunting.
Unsupervised hunting by persons under twelve years of age, §27-3-41.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Motor vehicles.
Killing of wildlife or feral hogs from vehicles, §27-3-13.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Negligent hunting.
Suspension of hunting privileges, §27-2-25.1.
Nighttime hunting, §27-3-2.
Feral hogs, §27-3-2.
Nonresidents.
Hunter education or safety course.
Completion, evidence of, §27-2-5.
License fees, §27-2-23.
Unlawful without license or permit, §27-2-1.
Outdoor mentoring program, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.
Preservation of hunting and fishing opportunities, §27-1-3.
Privilege to hunt, §27-1-3.

HUNTING —Cont'd
Rabbits.
Taking rabbits and hares out of season, §27-3-20.
Raccoon fur seller's license, §27-2-23.1.
Road kill.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Rules and regulations.
Carcasses, transporting, §27-3-29.
Harvest recording and reporting, §27-3-29.
Licenses.
Disciplinary actions, §27-2-26.
Reciprocity, §27-2-7.
Seasons and bag limits, §27-3-15.
Schedule of fees, §27-2-23.
Seasons, §27-3-15.
Senior hunting licenses.
Fees, §27-2-23.
Shooting preserves, §§27-3-110 to 27-3-115.
Squirrel tails.
Sales prohibited, §27-3-23.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Terminally ill persons age 21 or younger.
Special hunting privileges, §27-2-4.3.
Training of dogs, §27-3-16.
Trespass.
Hunting on lands of another, §27-3-1.
Unlawful devices, §27-3-8.
Unlawful enticement of game, §27-3-9.
Unlawful substances and equipment, §27-3-12.
Waterfowl.
Waterfowl and migratory bird stamp, §27-2-6.
Fee, §27-2-23.
Weapons permitted, §27-3-4.
Weapons.
Discharging weapons across a public road, §27-3-10.
Fox and bobcat, hunting with center-fire firearms, §27-3-4.
Legal weapons for hunting wildlife generally, §27-3-4.
Possession of firearm while hunting with bow and arrow, §27-3-6.
Silencer or suppressor, use while hunting prohibited, §27-3-4.
Training of hunting dogs, §27-3-16.

HUNTING —Cont'd
Weapons —Cont'd
Unlawful devices, §27-3-8.
Unlawful substances and equipment, §27-3-12.
Wildlife management areas.
Prohibited acts, §27-3-1.1.
Wildlife management area stamp.
Hunting without stamp, §27-1-33.
Wildlife violator compact, §§27-2-40 to 27-2-42.

HUNTING WHILE INTOXICATED, §27-3-7.

HYENAS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

I

IDENTIFICATION CARDS.
Blackouts.
Persons suffering blackouts, §30-1-3.
Persons with disabilities.
Blackouts.
Persons suffering blackouts to carry identification, §30-1-3.

IMMUNITY.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Disabled persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Guardians for incapacitated adults.
Temporary medical consent guardianship, §29-4-18.
Landowner permission to hunt on premises, §27-3-1.

IMPLIED CONSENT.
Hunting while intoxicated.
Chemical test of blood, §27-3-7.

IMPORTS.
Cervid or cervid carcasses.
Unlawful, §27-5-2.1.
Oysters and clams.
Importation of shellfish seed, §27-4-203.

IMPORTS —Cont'd
Wild animals.
Importation, transportation, sales, etc.
General provisions, §§27-5-1 to 27-5-12.

INCAPACITATED OR INCOMPETENT PERSONS.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
Guardians for incapacitated adults, §§29-4-1 to 29-4-98.
Legal custodian and distributor of money owed incapacitated adult.
Probate courts, §§29-6-1 to 29-6-9.

INCOME TAXES.
Credits.
Economic analysis of tax benefits, §28-5-41.1.
Legislative committees to review, §28-12-1.
General assembly members.
Failure to file return.
Report to legislative ethics committees, §28-1-8.1.
Returns.
Failure to file.
General assembly members.
Report to legislative ethics committees, §28-1-8.1.

INDUSTRIES FOR THE BLIND.
General provisions, §§30-2-1 to 30-2-9.

INJUNCTIONS.
Wildlife.
Interference with lawful taking, §27-3-152.

INJURIES.
Claims against the state.
Injuries sustained while preventing crime or aiding officers of the law, §§28-5-100 to 28-5-108.

IN LINE OF DUTY COMPENSATION.
Law enforcement officers, firefighters, prison guards and publicly employed EMTs.
Game wardens.
Retention of weapon and badge, §27-1-16.

INSPECTIONS.
Aquaculture, §27-4-263.
Fur dealers.
Inspection of premises, §27-3-71.

INSPECTIONS —Cont'd
Oysters and clams.
Inspection of shellfish businesses, §27-4-199.
Wildlife.
Commercial licensed holders.
Inspection of business premises or records, §27-1-23.
Vessels and boats, §27-1-24.

INSURANCE.
Diamondback rattlesnakes.
Liability insurance required of licensees or permittees, §27-5-4.

INTELLECTUAL AND OTHER DEVELOPMENTAL DISABILITIES.
Abused, neglected or exploited adults.
Personal attendant care program for disabled adults, §§30-6-1 to 30-6-5.
Protection of disabled adults, §§30-5-1 to 30-5-11.
Conservators for incapacitated adults.
Factors and proof of need for conservator, §29-5-12.
Emergency conservator, §29-5-16.
Guardians for incapacitated adults.
Factors and proof of need for guardianship, §29-4-12.
Emergency guardianship, §29-4-16.
Personal assistance program for persons with disabilities, §§30-6-1 to 30-6-5.
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.

INTERPRETATION AND CONSTRUCTION.
Adult guardianship and conservatorship proceedings.
Construction with federal laws, §29-11-41.
Uniform application of provisions, §29-11-40.
Community trusts, §30-10-9.

INTERSTATE COMPACTS.
Fishing.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Wildlife violator compact, §§27-2-40 to 27-2-42.

INTERSTATE COOPERATION, §§28-6-1 to 28-6-8.
Constitutional conventions, appointment of delegates, §28-6-8.
Georgia commission on interstate cooperation, §§28-6-2 to 28-6-6.
Advisory boards.
Compensation of members, §28-6-5.
Establishment, §28-6-4.
Cochairpersons, §28-6-2.
Committees.
Compensation of members, §28-6-5.
Establishment, §28-6-4.
Creation, §28-6-2.
Delegations.
Compensation of members, §28-6-5.
Establishment, §28-6-4.
Functions, §28-6-3.
Informal name of commission, §28-6-6.
Membership, §28-6-2.
Compensation of members, §28-6-5.
Reporting requirements, §28-6-5.
Responsibilities, §28-6-3.
Governor's committee on interstate cooperation.
Creation, §28-6-1.
Informal name, §28-6-6.
Membership, §28-6-1.
House committee on interstate cooperation.
Creation, §28-6-1.
Informal name, §28-6-6.
Membership, §28-6-1.
Joint governmental agencies.
Nonpartisan legislative organizations, §28-6-7.
Nonpartisan legislative organization.
Declared joint governmental agencies of state, §28-6-7.
Defined, §28-6-1.1.
Senate committee on interstate cooperation.
Creation, §28-6-1.
Informal name, §28-6-6.
Membership, §28-6-1.

INTOXICATED PERSONS.
Fishing areas.
Public areas, §27-4-11.1.
Hunting while intoxicated, §27-3-7.

INVENTORIES.
Conservators for incapacitated adults.
Filing, time for, requirements, §29-5-30.
Conservators for minors.
Duty to file inventory of minor's property, time, §§29-3-21, 29-3-30.
Receipt and acceptance of foreign conservatorship.
Court may require, §29-3-108.

INVESTIGATIONS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting need for protective services, §30-5-5.
Attorney general.
Governor and general assembly.
Investigations of department of law or offices of attorney general, §28-1-17.
Claims against state.
Board investigation of claims, §28-5-83.
Employment of investigators, §28-5-61.
Disabled persons.
Protection of disabled adults and elder persons.
Multidisciplinary teams.
Coordination of investigations, §30-5-11.
Reporting of need for protective services, §30-5-5.

INVESTMENTS.
Achieving a better life experience (ABLE) accounts.
Investment earnings.
Held in trust, §30-9-8.
Use, §30-9-5.
Investment program for trust fund, §30-9-10.
Conservators for incapacitated adults.
Authorized investments of estate funds, §§29-5-32, 29-5-33.
Conservators for minor.
Authorized investments, §29-3-32.
Prudent person rule, care required, §29-3-34.
United States government obligations, §29-3-33.

INVESTMENTS —Cont'd
VA guardians.
Ward's surplus funds, §29-7-11.

J

JUDGMENTS.
Conservators for incapacitated adults.
Bond or other sufficient security by conservators.
Judgment and execution against conservator's or surety's property, §§29-5-47, 29-5-48.
Interim settlement of accounts.
Judgment against conservator and surety.
Conservator found liable to ward, §29-5-63.
Conservators for minors.
Issuance of judgment and execution or levy against conservator or surety on bond, §§29-3-47, 29-3-48.

JURISDICTION.
Adult guardianship and conservatorship proceedings.
Appointment of guardian or conservator.
Acquisition of jurisdiction due to unjustifiable conduct, §29-11-16.
Court declining to exercise jurisdiction for more appropriate forum, §29-11-15.
Emergency appointment, special jurisdiction, §29-11-13.
Exclusive and continuing jurisdiction, when concluded, §29-11-14.
Exclusive jurisdiction, §29-11-11.
Multiple courts, petition filed in.
Rules applicable, §29-11-18.
Notice and service of process, §29-11-17.
Requirements for jurisdiction, §29-11-12.
General provisions, §§29-11-1 to 29-11-42.
Significant connection with another state.
Defined, §29-11-2.
Determining, §29-11-10.
Conservatorships.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
JURISDICTION —Cont'd
Guardianships.
Adult guardianship and conservatorship proceedings jurisdiction act, §§29-11-1 to 29-11-42.
Wildlife.
Probate courts, §27-1-35.

JUVENILE COURTS.
Guardians.
Temporary guardians.
Transfer of petition to juvenile court, §29-2-6.

K

KANGAROOS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

KING MACKEREL.
Creel and possession limits, §27-4-10.

KITCHENS.
Handicapped access to and use of public facilities.
Covered multifamily dwellings.
Standards.
Usable kitchens, §30-3-4.

L

LABOR AND INDUSTRIAL RELATIONS.
Disabled persons.
Public employment of physically disabled persons, §30-1-2.
Persons with disabilities.
Public employment of physically disabled persons, §30-1-2.

LAKES.
Artificial-lure streams or lakes, §27-4-36.

LANDLORD AND TENANT.
Trapping of rabbits on premises of landlord, §27-3-66.

LAW ENFORCEMENT AGENCIES.
Disabled persons.
Protection of disabled adults and elder persons.
Access by agencies to records or reports of abuse, §30-5-7.

LAW ENFORCEMENT OFFICERS.
Bears.
Taking possession of native wildlife killed by motor vehicle.
Notice required for taking of bear, duties of law enforcement, §27-3-28.
Claims against state.
Crime victims' compensation generally, §§28-5-100 to 28-5-108.
Crime victims' compensation, §§28-5-100 to 28-5-108.
Diabetic.
Duties before charging unconscious person with crime, §30-1-3.
Disabled persons.
Protection of disabled adults and elder persons.
Access by agencies to records or reports of abuse, §30-5-7.
Epileptic.
Duties before charging unconscious person with crime, §30-1-3.
Road kill.
Taking possession of native wildlife killed by motor vehicle.
Notice required for taking of bear, duties of law enforcement, §27-3-28.
Semiconscious persons.
Duties before charging with crime, §30-1-3.
Unconscious persons.
Duties before charging with crime, §30-1-3.
Wildlife killed by motor vehicle.
Taking possession.
Notice required for taking of bear, duties of law enforcement, §27-3-28.

LEASES.
General assembly.
Fiscal affairs subcommittees.
Approval of leases, §28-5-25.1.
Oysters and clams.
State intertidal and subtidal water bottoms within approved growing area, §27-4-198.

LEGAL ORGANS.
Oysters or clams.
Lease of state intertidal and subtidal water bottoms within approved growing area.
Availability of lease, §27-4-198.

LEGISLATIVE SERVICES COMMITTEE.
General assembly, §§28-4-1, 28-4-2.
Legal services to the legislative branch, provision and oversight, §28-4-5.1.

LEGITIMACY.
Permanent guardian appointed for child.
Petition for legitimation of child.
Objection by biological father, filing, §29-2-15.

LEOPARDS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

LICENSE AGENTS.
Fishing, hunting and trapping licenses, §27-2-2.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.

LICENSES.
Alligator farming.
Commercial licenses, §27-2-10.
Bait dealers, §27-4-171.
Game and fish.
Licenses, permits and stamps, §§27-2-1 to 27-2-31.
Seafood dealers.
Fees, §27-2-23.
Prohibited acts by licensees, §27-4-136.
Requirement of license, §27-4-136.
Shooting preserves, §27-3-110.
Hunting licenses.
Requirements, §27-3-114.
Type SP, shooting preserve license, §27-2-3.1.
Contracts with preserves for issuance and sale of licenses, §27-3-115.

LIEUTENANT GOVERNOR.
Audits.
Legislative services committees annual audit of legislative funds and expenditures.
Audits to detail expenditures of office of lieutenant governor, §28-4-2.

LIEUTENANT GOVERNOR —Cont'd
Communications between office of legislative council and lieutenant governor.
Privileged and confidential, §28-4-3.1.
Confidentiality of information.
Communications between office of legislative council and lieutenant governor, §28-4-3.1.
General assembly.
Fiscal affairs subcommittee of senate.
Member, §28-5-21.
Seal of general assembly and seal of senate.
Use authorized, §28-1-10.
Office of legislative council.
Communications between privileged and confidential, §28-4-3.1.
Privileges.
Communications between office of legislative council and lieutenant governor, §28-4-3.1.
Seal of general assembly and seal of senate.
Use authorized, §28-1-10.

LIFE SUSTAINING PROCEDURES.
Guardians for incapacitated adults.
Temporary medical consent guardianship, §29-4-18.

LIMITATION OF ACTIONS.
Claims against state, §28-5-106.
Conservators for incapacitated adults.
Actions against conservators, §29-5-94.
Conservators for minors.
Actions against conservators, §29-3-84.
Guardians for incapacitated adults.
Actions against guardian, §29-4-54.
Guardians of minors.
All actions against guardians except on bond, §29-2-44.

LIONS.
Wild animals licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

LIVE BAIT, §27-4-171.

LIVESTOCK.
Feral hog.
Defined, §27-1-2.

LIZARDS.
Nongame species, §27-1-28.

LIZARDS —Cont'd
Wild animal licenses, §27-5-5.

LOBBYING, §§28-7-3 to 28-7-5.
Contingent compensation for lobbyists.
Prohibited, §28-7-3.
Violation as misdemeanor, §28-7-3.
House of representatives.
Presence of certain persons on floor of house.
Purpose of privately discussing pending measures, §§28-7-4, 28-7-5.
Identification cards.
Violation as misdemeanor, §28-7-5.
Penalty for violation.
Contingent compensation for lobbyists, §28-7-5.
House of representatives.
Presence of certain persons on floor of house.
Purpose of privately discussing pending measures, §28-7-5.
Identification card, §28-7-5.
Senate.
Presence of certain persons on floor of senate.
Purpose of privately discussing pending measures, §28-7-5.
Senate.
Presence of certain persons on floor of senate.
Purpose of privately discussing pending measures, §28-7-4.
Violation as misdemeanor, §28-7-5.

LOCAL GOVERNMENT.
Fiscal notes.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
General assembly.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.

LOCAL LEGISLATION.
Advertising notice of intention to introduce, §28-1-14.
Districts, requirements for bills revising, §28-1-14.1.
Notice of intention to introduce, §28-1-14.

M

MACAQUES.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

MACROPODIDAE.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

MALLARDS.
Field and retriever trials.
Killing by persons registered as participants, §27-2-21.
Shooting preserves.
Release on, §27-3-111.

MALNUTRITION.
Animals.
Humane handling, care, confinement, etc.
Space requirements.
Indications of inadequate space, §27-5-6.

MAMMALS.
Wildlife.
Defined as including, §27-1-2.

MANDRILLS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

MARICULTURE.
Shellfish.
Shellfish sanitation program.
Permission to take and possess shellfish for mariculture purposes, §27-4-197.

MARIJUANA.
Hunting while under the influence, §27-3-7.

MARRIAGE.
Contracts.
Guardian appointed for incapacitated adult.
Power removed from ward upon appointment, §29-4-21.
Guardian of minors.
Power to consent.
Court granting power, §29-2-22.

MASTERS.
Special masters.
Crime victims' compensation.
Investigation of claim by special master, §28-5-100.

MEDICAID.
Achieving a better life experience (ABLE) accounts.
Death of designated beneficiary.
Claim for medical assistance, §30-9-14.

MEDICAL CONSENT.
Guardian of minors.
Power to consent or approve, §29-2-22.
Guardians for incapacitated adults.
Power of guardian, §29-4-23.
Power removed from ward, §29-4-21.
Termination of temporary medical consent guardianship, §29-4-18.

MEDICAL EXAMINERS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.
Disabled persons.
Protection of disabled adults and elder persons.
Access by agencies to records or reports of abuse, §30-5-7.

MEDICATION.
Identification carried by persons suffering blackouts.
Required medication to be included, §30-1-3.

MENACE.
Wildlife laws.
Arrest for violations.
Interference by menace prohibited, §27-1-25.

MENTAL HEALTH.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.
Department of behavioral health and developmental disabilities.
Achieving a better life experience (ABLE) accounts.
Public information and outreach efforts, §30-9-13.
Guardians for incapacitated adults, §§29-4-1 to 29-4-98.
Legal custodian and distributor of money owed incapacitated adult.
Probate courts, §§29-6-1 to 29-6-9.

MENTORS.
Game and fish code.
Outdoor mentoring program to promote hunting and fishing, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.

MICE.
Game and fish code.
Definition of rats and mice, §27-1-2.

MIGRATORY GAME BIRDS.
Defined, §27-1-2.
Hunting.
Federal migratory bird harvest information program.
Participation in, §27-2-20.
Federal migratory bird hunting and conservation stamp, §27-2-20.
Hours for hunting, §27-3-3.
Waterfowl and migratory bird stamp, §§27-2-6, 27-2-20.
Weapons permitted, §27-3-4.

MILITARY AFFAIRS.
Guardians.
VA guardians, §§29-7-1 to 29-7-18.
Guardianships or conservatorships generally.
Personal service upon military personnel, §29-9-4.
VA guardians, §§29-7-1 to 29-7-18.

MINISTERS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

MINK.
Trapping.
Killing or injuring with firearm, §27-3-64.
Possession or sale of mink or pelt, §27-3-64.

MINNOWS.
Fishing.
Minnow seines or traps, use to take fish or eels, §27-4-6.

MINORS.
Conservators for minors, §§29-3-1 to 29-3-120.
Deer hunting.
Unsupervised hunting by persons under twelve years of age, §27-3-41.
Guardians of minors, §§29-2-1 to 29-2-77.
Hunting.
Deer hunting.
Unsupervised hunting by persons under twelve years of age, §27-3-41.
Hunting and fishing licenses.
Lifetime sportsman's license.
Types, residency, presumption, §27-2-3.1.
Terminally ill persons age 21 or younger.
Special hunting privileges, §27-2-4.3.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Legal custodian and distributor of money owed minor.
Probate courts, §§29-6-1 to 29-6-9.
Money owed minor.
Legal custodian and distributor.
Probate courts, §§29-6-1 to 29-6-9.
Natural guardians.
Parents, §§29-2-1 to 29-2-3.
Standby guardians, §§29-2-9 to 29-2-13.
Temporary guardians, §§29-2-5 to 29-2-8.
Testamentary guardians, §29-2-4.

MISDEMEANORS.
Aged persons.
Protection of disabled adults and elder persons.
Failure to report abuse, neglect or exploitation, §30-5-8.
Alligators.
Feeding or baiting wild alligators, §27-3-170.
Bear hunting, §27-3-26.
Illegal use of bear bait, §27-3-27.
Blind and visually impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Cervid.
Importation of live cervid, §27-5-2.1.

MISDEMEANORS —Cont'd
Crab traps.
Employing more than 300 crab traps, §27-4-151.
Criminal attempt.
Wildlife, §27-1-3.
Deaf and hearing impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Deer hunting.
Unlawful nighttime killing, §27-3-48.
Disabled persons.
Identification carried by persons suffering blackouts, §30-1-3.
Protection of disabled adults and elder persons.
Failure to report abuse, neglect or exploitation, §30-5-8.
Public facilities access and use, §30-3-8.
Elderly persons and disabled adults.
Disabled adults and elder persons protection act.
Failure to report abuse, neglect or exploitation, §30-5-8.
Fertility control of wildlife, violations, §27-3-185.
Fishing.
Licenses.
Failure to surrender license, §27-2-26.
Fur dealers.
License required, §27-3-69.
Posting of bond by licensed applicants, §27-3-70.
Reports and records of fur dealers, §27-3-71.
General assembly.
Lobbying.
Contingent compensation for lobbyists, §28-7-5.
Identification card, §28-7-5.
Presence of certain persons on floor of house or senate.
Purpose of privately discussing pending measures, §28-7-5.
Registration with secretary of state, §28-7-5.
Settlement of unlawful employment practices claims.
Subject to public disclosure.
Refusal to provide access to records, §28-1-18.

MISDEMEANORS —Cont'd
High and aggravated nature.
Bear hunting, §27-3-26.
Illegal use of bear bait, §27-3-27.
Fishing.
Commercial fishing boats used for fishing with power-drawn nets, §§27-4-134, 27-4-138.
Shellfish violations, §27-4-201.
Hunting.
Bears, §27-3-26.
Unlawful use of bear bait, §27-3-27.
Engaging in hunting while privileges suspended, §27-2-25.1.
Unlawful killing at night, §27-3-48.
Hunting.
Carcass removal and transportation, prohibitions, §27-3-29.
Computer assisted remote hunting, §27-3-12.
Hunting while intoxicated, §27-3-7.
Killing of wildlife or feral hogs from boats, aircraft, motor vehicles, etc., §27-3-13.
Lands of another without written permission, §27-3-1.
Licenses.
Failure to surrender license, §27-2-26.
Public roads.
Hunting upon or discharging weapon across public road, §27-3-10.
Silencer or suppressor, use while hunting prohibited, §27-3-4.
Turkeys, hunting with unlawful weapons, §27-3-4.
Lobbying.
General assembly.
Contingent compensation for lobbyists, §28-7-5.
Identification card, §28-7-5.
Presence of certain persons on floor of house or senate.
Purpose of privately discussing pending measures, §28-7-5.
Registration with secretary of state, §28-7-5.
Oysters and clams.
Penalty for violation of article, §27-4-201.
Seafood harvesting.
Power-driven nets.
Commercial fishing boats engaged in illegal fishing, §27-4-138.

MISDEMEANORS —Cont'd
Seafood harvesting —Cont'd
Shrimp.
Trawling for shrimp for human consumption with certain nets, §27-4-133.
Shrimp.
Illegally fishing for shrimp for commercial sale for food purposes, §27-4-140.
Limit on amount taken by cast net, §27-4-132.1.
Use of recreational cast netting for commercial purposes, §27-4-140.
Theft.
Wildlife.
Theft by taking, §27-1-3.
Trapping.
General offenses and penalties, §27-3-63.
Licenses.
Failure to surrender license, §27-2-26.
Nonresident commercial trapping license, §27-3-61.
Open seasons, §27-3-62.
Required commercial trapping license, §27-3-60.
Special permit to trap or sell rabbits or hares, §27-3-67.
Taking of rabbits or hares out of season, §27-3-67.
Wildlife.
Carcass removal and transportation, prohibitions, §27-3-29.
Criminal attempt, §27-1-3.
Endangered wildlife, §27-3-133.
Fertility control of wildlife, violations, §27-3-185.
Licenses.
Failure to surrender license, §27-2-26.
Penalty for violations of title, §27-1-38.
Permits.
Failure to surrender permit, §27-2-26.
Stamps.
Failure to surrender stamp, §27-2-26.
Violation of game and fish code, §27-1-3.
Wildlife violator compact, §27-2-42.

MOBILITY-IMPAIRED PERSONS.
Hunting.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.

MOLLUSKS.
Shellfish.
Defined, §27-1-2.

MONKEYS.
Service capuchin monkeys.
Housing rights of blind or deaf persons, §30-4-3.
Wild animal permits for capuchin monkeys.
Issuance, requirements, §27-5-4.

MOTION PICTURES.
Wildlife used for motion pictures.
Film production wildlife permits, §§27-2-13.1, 27-2-23.

MOTOR VEHICLES.
Hunting.
Killing of wildlife or feral hogs from vehicle, §27-3-13.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Wildlife areas.
Failure or refusal to bring to a stop, §27-1-25.1.

MOUNTAIN TROUT.
Creel and possession limits, §27-4-10.

MULTIFAMILY DWELLINGS.
Disabled persons.
Public facilities access and use.
Covered multifamily dwellings.
Building entrance on accessible route.
Required, §30-3-4.
Defined, §30-3-2.
Standards and specifications, §30-3-4.

MUNICIPAL CORPORATIONS.
Districts.
Local legislation to revise or create districts, §28-1-14.1.
Plan to create districts for new municipality, requirements, §28-1-14.1.
Elected municipal officials.
Eligibility for membership in general assembly, §28-1-13.

MUNICIPAL CORPORATIONS —Cont'd
Fiscal notes.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
General assembly.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.
Local government impact fiscal notes.
General provisions, §§28-5-47 to 28-5-56.
New municipal corporation created by local act.
Plan to create districts, requirements, §28-1-14.1.

MUSKRATS.
Fur-bearing animals.
Defined as including, §27-1-2.

MUSSELS.
Fishing.
Defined as including catching of mussels, §27-1-2.
Shellfish.
Defined as including, §27-1-2.

MUTILATION.
Wildlife habitats.
Prohibited acts, §27-1-30.

N

NATURAL GUARDIAN OF MINOR.
Compromise of minor's claim, §29-3-3.
Parent considered, §29-2-3.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.
Payment of indebtedness or delivery of property to, §29-3-1.
Release of debtor and compromise of debt, §29-3-2.

NATURAL RESOURCES.
Board of natural resources.
Rulemaking authority.
Game and wildlife, §27-1-4.
Game and fish.
Endangered wildlife, §§27-3-130 to 27-3-133.

NATURAL RESOURCES —Cont'd
Game and fish —Cont'd
Fishing.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Commercial fishing.
General provisions, §§27-4-70 to 27-4-118.
General provisions, §§27-4-1 to 27-4-283.
Seafood harvesting.
General provisions, §§27-4-130 to 27-4-206.
Hunting.
General provisions, §§27-3-1 to 27-3-29.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Licenses, permits and stamps.
General provisions, §§27-2-1 to 27-2-31.
Oysters and clams.
General provisions, §§27-4-187 to 27-4-204.
Shooting preserves, §§27-3-110 to 27-3-115.
Transportation of wildlife.
General provisions, §§27-3-90 to 27-3-94.
Trout fishing.
General provisions, §§27-4-50, 27-4-51.
Wild animals.
Importation, transportation, sales, etc.
General provisions, §§27-5-1 to 27-5-12.
Wildlife.
Endangered wildlife, §§27-3-130 to 27-3-133.
Fishing.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Commercial fishing, §§27-4-70 to 27-4-118.
General provisions, §§27-4-1 to 27-4-283.
Seafood harvesting, §§27-4-130 to 27-4-206.

NATURAL RESOURCES —Cont'd
Wildlife —Cont'd
Hunting, §§27-3-1 to 27-3-29.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Licenses, permits and stamps.
General provisions, §§27-2-1 to 27-2-31.
Oysters and clams, §§27-4-187 to 27-4-204.
Shooting preserves, §§27-3-110 to 27-3-115.
Transportation of wildlife, §§27-3-90 to 27-3-94.
Trout fishing, §§27-4-50, 27-4-51.
Wild animals.
Importation, transportation, sales, etc.
General provisions, §§27-5-1 to 27-5-12.

NEEDLEWORK.
Blind persons.
Georgia industries for the blind.
Permitting work to be done in homes of workers.
Authority of industry superintendents, §30-2-6.

NEGLECTED ADULTS.
Personal assistance program for persons with disabilities, §§30-6-1 to 30-6-5.
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.

NEGLIGENCE.
Hunting.
Negligent hunting.
Suspension of hunting privileges, §27-2-25.1.

NEGLIGENT HUNTING.
Suspension of hunting privileges, §27-2-25.1.

NESTS.
Bird nests.
Prohibited acts as to, §27-3-22.
Scientific collecting permits.
Noncompliance with requirement, §27-2-12.

NETS.
Fishing.
Commercial fishing boat licenses.
Lawful nets, §27-4-133.
Power-driven nets.
Penalties for illegal fishing, §27-4-138.

NETS —Cont'd
Fishing —Cont'd
Commercial fishing boat licenses —Cont'd
Power-driven nets —Cont'd
Requirement of forfeiture bond or affidavit upon license application, §27-4-134.
Commercial fresh-water fishing.
Sturgeon nets.
Defined, §27-4-91.
Lawful devices, §27-4-91.
Gill nets.
Use, §27-4-7.
Lawful nets, §27-4-133.
Seizure of illegal nets, §27-4-7.

NEXT FRIEND.
Conservators.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.
Payment of indebtedness or delivery of property to, §29-3-1.
Release of debtor and compromise of debt, §29-3-2.

NIGHTTIME.
Hunting, §27-3-2.
Deer, §27-3-48.
Migratory game birds, §27-3-3.
Night defined.
Game and fish code, §27-1-2.

NONCOMMERCIAL FISHING.
General provisions, §§27-4-30 to 27-4-37.
Trout fishing, §§27-4-50, 27-4-51.

NONRESIDENTS.
Conservators for minors.
Court appointment.
Nonresident minor with property in state, §29-3-6.
Fishing.
Commercial fishing licenses.
Fees, §27-2-23.
Sportsman's licenses.
Fees, §27-2-23.
Unlawful without license or permit, §27-2-1.
Hunting.
Hunter education or safety courses.
Completion, evidence, §27-2-5.
Licenses.
Fees, §27-2-23.
Sportsman's licenses.
Fees, §27-2-23.

NONRESIDENTS —Cont'd
Hunting —Cont'd
Unlawful without license or permit, §27-2-1.
Sportsman's licenses.
Fees, §27-2-23.
Trapping.
Unlawful without license or permit, §27-2-1.
Trawler crew licenses.
Fees, §27-2-23.

NORTH CAROLINA.
Hunting licenses.
Reciprocal agreements, §27-2-7.

NOTICE.
Adult guardianship and conservatorship proceedings.
Petition for appointment of guardian or conservator, §29-11-17.
Registration of conservatorship order, notice of intent to register, §29-11-31.
Registration of guardianship order.
Service or notice of registration, §29-11-32.
Registration of guardianship order, notice of intent to register, §29-11-30.
Transfer of proceedings to another state, notice of petition, §29-11-20.
Transfer of proceedings to this state, notice of petition for acceptance, §29-11-21.
Conservators for incapacitated adults.
Bond with good and sufficient security.
Additional or other bond and security, §29-5-43.
Compensation for services rendered.
Petition for greater compensation, §29-5-52.
Dismissal of conservator from office, §29-5-80.
Final settlement of accounts, §29-5-81.
Granting conservator specific powers, §29-5-23.
Hearing on petition to appoint conservator, §29-5-12.
Judicial inquiry into denial of ward's rights and privileges, §29-5-70.
Modification of conservatorship, §29-5-71.
Proceedings and petition for appointment, §29-5-11.
Emergency conservator, §29-5-15.

NOTICE —Cont'd
Conservators for incapacitated adults —Cont'd
Resignation of conservator, §29-5-90.
Temporary substitute conservators.
Appointment, §29-5-100.
Termination of conservatorship, §29-5-72.
Conservators for minors.
Bond or security.
Additional or other bond or security, §29-3-43.
Compensation greater than allowed by statute.
Petition, §29-3-52.
Dismissal of conservator from office, §29-3-70.
Final settlement of accounts, §29-3-71.
Granting conservator certain continuing powers, §29-3-22.
Petition for appointment, §29-3-8.
Receipt and acceptance of foreign conservatorship, §29-3-106.
Resignation of conservator.
Petition, §29-3-80.
Successor conservator.
Appointment on death of conservator, §29-3-81.
Proceeding for appointment, §29-3-91.
Temporary substitute conservators.
Appointment, §29-3-90.
Transfer of conservatorship to foreign court, §29-3-112.
General assembly.
Failure of member to file income tax return.
Report, §28-1-8.1.
Local acts.
Notice of intention to introduce local bill, §28-1-14.
Guardians for incapacitated adults.
Denial of ward's rights and privileges.
Judicial inquiry, §29-4-40.
Dismissal of guardian from office, §29-4-43.
Hearing on petition to appoint guardian, §29-4-12.
Modification of guardianship, §29-4-41.
Proceedings and petition to appoint guardian, §29-4-11.
Emergency guardianship, §29-4-15.
Resignation of guardian, §29-4-50.
Successor guardian, appointment, §§29-4-51, 29-4-61.

NOTICE —Cont'd
Guardians for incapacitated adults —Cont'd
Temporary medical consent guardianship, §29-4-18.
Temporary substitute guardian.
Appointment, §29-4-60.
Termination of guardianship, §29-4-42.
Guardianships and conservatorships generally.
Service or notice.
Additional service or notice, judge directing, §29-9-7.
Mailing to last known address.
Sufficiency of service, §29-9-6.
Military personnel.
Personal service upon, §29-9-4.
Other jurisdiction in which ward was physically present for certain amount of time prior to filing of petition, §29-9-7.
Personal service, §29-9-4.
Publication, service by.
Residence outside state or residence unknown, §29-9-5.
Waiver and acknowledgment, §29-9-8.
Testamentary guardians for minors, §29-2-4.
Guardians of minors.
Court granting specified powers to guardian, §29-2-22.
Dismissal of guardian from office, §29-2-31.
Foreign guardianships.
Petition for receipt and acceptance of foreign guardianship, §29-2-66.
Foreign jurisdiction.
Petition to transfer guardianship to, §29-2-71.
Permanent guardians.
Biological father given notice of petition, §29-2-15.
Designee named in document dealing with guardianship, §29-2-17.
Petition for resignation of guardian, §29-2-40.
Standby guardians.
Filing notice of guardianship, §29-2-10.
Revocation of guardianship, §29-2-12.
Successor appointed, §29-2-51.
Death of guardian, §29-2-41.
NOTICE —Cont'd
Guardians of minors —Cont'd
Temporary guardian.
Petition for appointment, §29-2-6.
Petition to terminate, §29-2-8.
Temporary substitute guardian.
Appointment, §29-2-50.
Local acts.
Notice of intention to introduce local bill, §28-1-14.
Testamentary guardians for minors, §29-2-4.
VA guardians.
Extraordinary services rendered.
Additional compensation, §29-7-15.
Office or department of having jurisdiction over area, §29-7-2.
Petition for appointment, §29-7-6.
Wills.
Testamentary guardians for minors, §29-2-4.

O

OATHS.
Conservators for incapacitated adults.
Required before entering upon duties, §29-5-25.
Conservators for minors.
Required before entering upon duties, §29-3-24.
Constitutional convention.
Representation at convention to amend US Constitution.
Delegates, §28-6-8.
General assembly.
House of representatives.
Clerk.
Oath of office, §28-3-25.
Oath of office of members, §28-1-4.
Members, §28-1-4.
Senate.
Oath of office of members, §28-1-4.
Secretary.
Oath of office, §28-3-25.
Guardian for incapacitated adults.
Required before entering upon duties, §29-4-25.
Guardianships and conservatorships generally.
Attestation prima facie evidence, §29-9-9.
Delegate appointed by department of human services.
Authorized to take oath, §29-9-10.

OATHS —Cont'd
Guardianships and conservatorships generally —Cont'd
Made outside state, force and effect, §29-9-9.
Officers before whom made, §29-9-9.
Petition to be verified, §29-9-11.
Public guardians, §29-10-2.
Guardians of minors.
Oath or affirmation before entering upon duties, §29-2-24.
Public guardians, §29-10-2.

OBSERVANCES.
Blind and visually impaired persons.
Industries for the blind.
Observance of state holidays, §30-2-7.

OCCUPATIONAL THERAPISTS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

OFFICE OF LEGISLATIVE COUNSEL, §§28-4-3 to 28-4-7.

OFFICE OF PLANNING AND BUDGET.
Director.
General assembly.
Bills having significant impact on anticipated revenues or expenditures.
Furnishing of fiscal note, §28-5-42.

OPOSSUMS.
Fur-bearing animals.
Defined as including, §27-1-2.
Game animals.
Defined as including, §27-1-2.
Hunting at night.
Exception to prohibition, §27-3-2.
Seasons and bag limits, §27-3-15.
Trapping.
Open seasons, §27-3-62.

ORANGUTAN.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

ORDERS.
Adult guardianship and conservatorship proceedings.
Transfer of proceedings to another state, petition, §29-11-20.
Transfer of proceedings to this state, §29-11-21.
Conservators for incapacitated adults.
Emergency conservator, appointment, §29-5-16.
Granting conservatorship, §29-5-13.
Guardians for incapacitated adults.
Emergency guardianship, §§29-4-15, 29-4-16.
Granting guardianship.
Requirements, service, §29-4-13.
Guardians of minors.
Permanent guardians.
Granting guardianship, §29-2-19.

ORGANS.
Legal organs.
Oysters or clams.
Lease of state intertidal and subtidal water bottoms within approved growing area.
Availability of lease, §27-4-198.

OTTER.
Trapping.
Killing or injuring with firearm, §27-3-64.

OWLS.
Hunting, possessing or transporting birds.
Restrictions, §27-3-22.

OYSTERS AND CLAMS, §§27-4-187 to 27-4-204.
Cages, requirements for mariculture operations, §27-4-204.
Clam rack.
Defined, §27-1-2.
Closed period harvesting.
Master harvesters, §27-4-195.
Commercial crab trap.
Defined, §27-1-2.
Commercial shellfish industry.
Certification of hatcheries and nursery operations, §27-4-203.
Declaration of public policy, §27-4-187.
Definitions, §27-4-188.
List of recommended legislation, §27-4-189.
Portable marine toilet on vessels, requirement, §27-4-190.

OYSTERS AND CLAMS —Cont'd
Commercial shellfish industry —Cont'd
Public recreation harvest areas, restriction on taking in, §27-4-190.
Purpose of provisions, §27-4-187.
Requirements for taking commercial quantities, §27-4-190.
Rulemaking authority, §27-4-189.
Shellfish mariculture permits, §27-4-202.
Definitions.
Commercial shellfish industry development, §27-4-188.
Game and fish code, §27-1-2.
Distribution of oyster shells and culch material, §27-4-196.
Hours for taking shellfish, §27-4-190.
Importation of shellfish seed, §27-4-203.
Inspection of businesses, §27-4-199.
Master harvesters.
Cages, requirements, §27-4-204.
Closed periods, harvesting during, §27-4-195.
Hatcheries and nursery operations, authorizations, §27-4-203.
Permits, §27-4-190.
Shellfish mariculture permits.
Requirements, §27-4-202.
Methods of taking, §27-4-192.
Taking defined, §27-1-2.
Taking for transporting purposes generally, §27-4-193.
Taking from unapproved growing waters, §27-4-193.
Minimum size.
Commercial purposes, §27-4-194.
Noncommercial purposes, §27-4-194.
Penalty for violation of article, §27-4-201.
Permits.
Forged or false permits unlawful, §27-4-200.
Master collecting permits, §27-4-190.
Compliance with written permission and chart filing requirements, §27-4-190.
Shellfish mariculture permits, §27-4-202.
Places for taking shellfish, §27-4-195.
Private oyster or clam beds.
Defined, §27-1-2.
Recreational harvesting, §27-4-190.
Revocation of authorizations for violation of provisions, §27-4-201.

OYSTERS AND CLAMS —Cont'd
Seafood.
Definition, §27-1-2.
Shellfish.
Control purification facilities.
Operation generally, §27-4-193.
Defined, §27-1-2.
Shellfish hatcheries and nursery operations, §27-4-203.
Shellfish management area.
Defined, §27-1-2.
Shellfish mariculture permits.
Hatcheries and nursery operations, §27-4-203.
Requirements, §27-4-202.
Shellfish sanitation programs, §27-4-197.
Shipment of shellfish.
Requirements, §27-4-197.
State intertidal and subtidal water bottoms within approved growing area.
Lease from department, §27-4-198.
State owned oyster or clam beds.
Defined, §27-1-2.
Times and places for taking shellfish, §27-4-195.
Transplanting of oyster shells and culch material, §27-4-196.

P

PADDLES.
Peeler.
Soft shell crabs.
Defined, §27-1-2.
Public fishing areas.
Restrictions, §27-4-11.1.

PARASITIC CATFISH.
Wild animals for which license or permit required, §27-5-5.

PARENT AND CHILD.
Guardians of minors.
Natural guardian.
Parent considered, §29-2-3.
Testamentary guardians.
Nomination by parent, §29-2-4.
Natural guardian of minor.
Compromise of minor's claim, §29-3-3.
Parent considered, §29-2-3.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.
Payment of indebtedness or delivery of property to, §29-3-1.

PARENT AND CHILD —Cont'd
Natural guardian of minor —Cont'd
Receipt of minor's personal property —Cont'd
Release of debtor and compromise of debt, §29-3-2.
Next friend of minor.
Receipt of minor's personal property.
Conservator, required to qualify as, exception, §29-3-1.
Payment of indebtedness or delivery of property to, §29-3-1.
Release of debtor and compromise of debt, §29-3-2.
Testamentary guardians.
Guardians of minors.
Nomination by parent, §29-2-4.

PARKING.
Persons with disabilities.
Parking lot spaces, §30-3-6.
Public facilities access and use.
General provisions, §§30-3-1 to 30-3-9.
Parking lot spaces, §30-3-6.

PARKS AND RECREATION.
State parks and recreational areas.
Fishing impounded waters.
Trout license not required, §27-2-6.

PASSPORTS.
Outdoor passports.
Hunting and fishing, outdoor mentoring program to promote, §27-2-4.5.
Hunter education course not required for outdoor passport, §27-2-5.

PELTS.
Fees for trapping licenses, §27-2-23.
Trapping offenses, §27-3-64.

PEN RAISED GAME BIRDS.
Generally, §27-1-2.
Quail, §27-2-16.

PERISHABLE PROPERTY.
Conservators for incapacitated adults.
Sale, §29-5-35.
Conservators for minors.
Sale, §29-3-35.

PERMANENT GUARDIANS.
Guardians of minors, §§29-2-14 to 29-2-19.

PERMITS.
Fertility control of wildlife.
Application for permit, §27-3-182.
Permit revocation for violations, §27-3-185.
Game and fish.
Licenses, permits and stamps.
General provisions, §§27-2-1 to 27-2-31.

PERSONAL ASSISTANCE PROGRAM FOR PERSONS WITH DISABILITIES ACT.
General provisions, §§30-6-1 to 30-6-5.
Short title, §30-6-1.

PERSONS AND RIGHTS.
Public facilities.
Access to and use of, §§30-3-1 to 30-3-9.

PERSONS WITH DISABILITIES.
Access to and use of public facilities, §§30-3-1 to 30-3-9.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Blackouts.
Persons suffering blackouts.
Duties of law enforcement officers, §30-1-3.
Identification requirement, §30-1-3.
Blind and visually impaired persons.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Industries for the blind.
General provisions, §§30-2-1 to 30-2-9.
Public facilities.
Access to and use of, §§30-3-1 to 30-3-9.
Capuchin monkeys.
Service monkeys.
Housing rights of blind or deaf persons, §30-4-3.
Wild animal permits.
Issuance, requirements, §27-5-4.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Supportive parenting services as reasonable accommodation for legally blind persons, §30-4-5.
Community trusts, §§30-10-1 to 30-10-9.
Conservators for incapacitated adults, §§29-5-1 to 29-5-140.

PERSONS WITH DISABILITIES —Cont'd
Deaf and hearing impaired persons.
Achieving a better life experience (ABLE) accounts, §§30-9-1 to 30-9-16.
Public facilities.
Access and use of, §§30-3-1 to 30-3-9.
Definitions.
Protection of disabled adults and elder persons, §30-5-3.
Public facilities access and use, §30-3-2.
Disabled adults and elder persons protection act, §§30-5-1 to 30-5-11.
General provisions, §§30-1-1 to 30-1-6.
Georgia industries for the blind, §§30-2-1 to 30-2-9.
Guardian of incapacitated adults.
Generally, §§29-4-1 to 29-4-98.
Guardians of minors.
Standby guardians.
Designation upon health determination, §§29-2-9 to 29-2-13.
Housing.
Right to housing accommodations, §30-4-3.
Denial of or interference with exercise of right, §30-4-4.
Hunting.
Turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.
Industries for the blind.
General provisions, §§30-2-1 to 30-2-9.
Labor and employment relations.
Public employment of physically disabled persons, §30-1-2.
Legal custodian and distributor of money owed incapacitated adult.
Probate courts, §§29-6-1 to 29-6-9.
Personal assistance program for persons with disabilities, §§30-6-1 to 30-6-5.
Authority to establish program, §30-6-4.
Citation of title, §30-6-1.
Guidelines.
Establishment, §30-6-5.
Legislative intent, §30-6-2.
Personal assistance defined, §30-6-3.
Purpose, §30-6-2.
Scope, §30-6-2.

PERSONS WITH DISABILITIES —Cont'd
Personal assistance program for persons with disabilities —Cont'd
Short title, §30-6-1.
Standards and guidelines.
Establishment, §30-6-5.
Title of act, §30-6-1.
Physically disabled persons.
Public employment, §30-1-2.
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.
Citation of title, §30-5-1.
Confidentiality of public records, §30-5-7.
Contracts for medical evaluations, §30-5-6.
Cooperative effort in development of programs, §30-5-10.
Criminal investigations.
Exception to confidentiality of public records, §30-5-7.
Criminal offenses and penalties, §30-5-8.
Definitions, §30-5-3.
Employment relationship.
Applicability of provisions, §30-5-9.
Imminent danger resulting from abuse, exploitation or neglect.
Ex parte order, §30-5-5.
Immunity from civil or criminal liability, §30-5-4.
Intergovernmental cooperation, §30-5-6.
Judge unable to hear case, appointment of qualified attorney as substitute, §30-5-5.
Legislative purpose, §30-5-2.
Provision of protective services, §30-5-5.
Reporting of need for protective services, §30-5-4.
Failure to report as misdemeanor, §30-5-8.
Investigation of reports, §30-5-5.
Purpose, §30-5-2.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to make report, §30-5-8.
Immunity from civil or criminal liability, §30-5-4.
Investigation of reports, §30-5-5.
Interference with investigation, §30-5-5.

PERSONS WITH DISABILITIES —Cont'd
Protection of disabled adults and elder persons —Cont'd
Reporting of need for protective services —Cont'd
Manner and contents of report, §30-5-4.
Rulemaking authority, §30-5-6.
Scope, §30-5-2.
Short title, §30-5-1.
Title of act, §30-5-1.
Public accommodations.
Right to equal public accommodations, §30-4-2.
Denial of or interference with admittance to facilities, §30-4-4.
Public employment.
Physically disabled persons, §30-1-2.
Public facilities.
Access and use, §§30-3-1 to 30-3-9.
Administration of chapter provisions, §30-3-7.
ANSI standards.
Applicability, §30-3-3.
Defined, §30-3-2.
Granting of exemptions, §30-3-3.
Specific amenities required, §30-3-5.
Conflict of laws.
Effect of chapter in relation to federal law, §30-3-9.
Covered multifamily dwellings.
Building entrance on accessible route.
Required, §30-3-4.
Defined, §30-3-2.
Standards and specifications, §30-3-4.
Definitions, §30-3-2.
Enforcement of chapter provisions, §30-3-7.
Federal law.
Effect of chapter in relation to, §30-3-9.
Misdemeanor as violation, §30-3-8.
Parking lot spaces, §30-3-6.
Specific amenities required, §30-3-5.
Purpose and intent of provisions, §30-3-1.
Rights of persons with disabilities, §§30-4-1 to 30-4-5.
Service dogs.
Denial of or interference with exercise of right, §30-4-4.
PERSONS WITH DISABILITIES —Cont'd
Service dogs —Cont'd
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Right to accompaniment, §30-4-2.
Housing accommodations, §30-4-3.
Obligations of owner and/or trainer, §30-4-2.
Persons training or raising, §30-4-2.
Standby guardians.
Guardians of minors.
Designation upon health determination, §§29-2-9 to 29-2-13.

PETITIONS.
Adult guardianship and conservatorship proceedings.
Appointment of guardian or conservator.
Emergency appointment, special jurisdiction, §29-11-13.
Transfer of proceedings to another state, §29-11-20.
Transfer of proceedings to this state, petition for acceptance, §29-11-21.
Conservators for incapacitated adults.
Appointment of conservator, §29-5-10.
Emergency conservator, §29-5-14.
Dismissal of conservator from office, §29-5-80.
Interim settlement of accounts, §29-5-61.
Judicial inquiry into denial of ward's rights and privileges, §29-5-70.
Modification of conservatorship, §29-5-71.
Removal of conservatorship to another county in state, §29-5-120.
Resignation of conservator, §29-5-90.
Revocation or suspension of letters, §29-5-92.
Successor, appointment.
Death of conservator, §29-5-91.
Termination of conservatorship, §29-5-72.
Conservators for minors.
Appointment of conservator.
Persons who may file, requirements, §29-3-8.
When minor becomes adult, §29-3-64.
Compensation greater than allowed by statute, §29-3-52.

PETITIONS —Cont'd
Conservators for minors —Cont'd
Dismissal of conservator from office, §29-3-70.
Foreign conservatorships.
Receipt and acceptance of foreign conservatorship, §§29-3-105 to 29-3-108.
Interim settlement of accounts, §29-3-61.
Removal of conservator, §29-3-100.
Resignation of conservator, §29-3-80.
Transfer of conservatorship to foreign court of competent jurisdiction, §§29-3-110 to 29-3-114.
Guardians for incapacitated adults.
Appointment of guardian, §29-4-10.
Emergency appointment, §29-4-14.
Denial of ward's rights and privileges.
Judicial inquiry, §29-4-40.
Modification of guardianship, §29-4-41.
Removal of guardianship to another county in state, §29-4-80.
Resignation of guardian, §29-4-50.
Revocation or suspension of letters or imposition of sanctions, §29-4-52.
Successor guardian, appointment.
Death of guardian, §29-4-51.
Temporary medical consent guardianship, §29-4-18.
Temporary substitute guardian.
Appointment, §29-4-60.
Termination of guardianship, §29-4-42.
Guardianships and conservatorships generally.
Citation issued to person entitled to service or notice, §29-9-12.
Consolidation, petitions for separate appointments, §29-9-11.
Verified by oath sworn or affirmed, §29-9-11.
Guardians of minors.
Appointment of guardian for minor when minor becomes adult, §29-2-30.
Dismissal of guardian from office.
Termination of guardianship, resignation of guardian, §29-2-31.
Foreign guardianships.
Receipt and acceptance of guardianship in county of state, §§29-2-65 to 29-2-68.
Permanent guardians.
Appointment, §29-2-17.

PETITIONS —Cont'd
Guardians of minors —Cont'd
Permanent guardians —Cont'd
Filing of petition of legitimation by biological father, §29-2-15.
Removal of guardianship to another county in state, §29-2-60.
Resignation of guardian, §29-2-40.
Temporary guardian.
Appointment, §29-2-5.
Standby guardians.
Filing petition after health determination, §29-2-13.
Termination of guardianship, §29-2-8.
Transfer of guardianship to foreign jurisdiction, §§29-2-69 to 29-2-73.
VA guardians.
Notice of petition for appointment, §29-7-6.
Place of filing petition for appointment, content requirements, §29-7-7.

PHEASANTS.
Shooting preserves.
Legal hunting dates and hours, §27-3-112.

PHYSICAL THERAPISTS.
Aged persons.
Protection of disabled adults and elder persons.
Reporting of need for protective services, §30-5-4.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.
Failure to report as misdemeanor, §30-5-8.

PICKEREL.
Game fish.
Defined, §27-1-2.

PICKERS.
Shellfish permits, §27-4-190.

PIERS.
Salt water fishing pier license.
Hotel or motel owning pier, §27-2-23.2.

PIGEONS.
Possessing, §27-3-22.

PIGS.
Bait for traps, §§27-3-8, 27-3-68.

PIRANHAS.
Licenses, §§27-5-4, 27-5-5.

PLUMAGE.
Permits for taking, §27-2-12.

PRESUMPTIONS.
Conservators for incapacitated adults.
Adult in need of conservator, §29-5-1.
General assembly.
Local government impact fiscal notes.
Compliance with article procedures, §28-5-56.
Guardians for incapacitated adults.
Adult presumed in need of guardian, §29-4-1.

PRIMATES.
Wild animal licenses and permits generally, §27-5-5.

PRISONS AND PRISONERS.
Claims against the state.
Wrongful conviction and incarceration claims, §28-5-87.

PRISON TERMS.
Alligators.
Feeding or baiting live alligators, §27-3-170.
Bear hunting, §27-3-26.
Unlawful use of bear bait, §27-3-27.
Blind and visually impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Cervid.
Importation of live cervid, §27-5-2.1.
Deaf and hearing impaired persons.
Denial of or interference with exercise of rights, §30-4-4.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Deer hunting.
Unlawful nighttime killing, §27-3-48.
Fertility control of wildlife, violations, §27-3-185.
General assembly.
Voucher for expenses.
Certificate that information true and correct.
False certificate, §28-1-8.
Hunting.
Carcass removal and transportation, prohibitions, §27-3-29.
Computer assisted remote hunting, §27-3-12.
Hunting of wildlife or feral hogs from boats, aircraft, etc., §27-3-13.

PRISON TERMS —Cont'd
Hunting upon or discharging weapon across public road, §27-3-10.
Seafood harvesting.
Power-driven nets.
Commercial fishing boats engaged in illegal fishing, §27-4-138.
Wildlife fertility control, violations, §27-3-185.
Wildlife violator compact, §27-2-42.

PRIVILEGES AND PRIVILEGED COMMUNICATIONS.
Attorney general.
Advisor to legislative counsel, privilege from disclosure, §28-4-5.
Legislative council.
Communications between office of legislative council and governor, lieutenant governor, general assembly and representatives, §28-4-3.1.

PROBABLE CAUSE.
Conservators for incapacitated adults.
Determining whether proposed ward in need of conservator, §29-5-12.
Emergency conservator, §29-5-15.
Guardians for incapacitated adults.
Court determination of probable cause to believe that ward in need of guardian, §29-4-11.
Temporary medical consent guardianship, §29-4-18.

PROBATE COURTS.
Conservators for incapacitated adults.
General provisions, §§29-5-1 to 29-5-140.
Conservators for minors.
General provisions, §§29-3-1 to 29-3-120.
County guardians and conservators, §§29-8-1 to 29-8-6.
Custodian and distributor of money owed minor or adult without a conservator, §§29-6-1 to 29-6-9.
Accountable on official bonds, §29-6-8.
Action to recover amount due.
Authority to employ counsel, §29-6-2.
Authority to take charge of money or funds, §29-6-1.

PROBATE COURTS —Cont'd
Custodian and distributor of money owed minor or adult without a conservator —Cont'd
Certificate of judge that no conservator appointed.
Conclusive and sufficient authority, §29-6-1.
Conservatorship.
Ordering established, §29-6-5.
Deposit of funds received, §29-6-6.
Distributions from fund received.
Authority, §29-6-4.
To conservator, §29-6-5.
Duty to turn over funds held, §29-6-9.
Employment and payment of counsel to bring action.
Authority of judge, §29-6-2.
Faithful discharge of duties.
Accountable on official bond, §29-6-8.
Insured FDIC account.
Deposit of funds received, §29-6-6.
Judges as custodians, §29-6-1.
Payment from fund received.
Authority, §29-6-4.
Records, duty to keep, §29-6-3.
When judge to turn over funds held, §29-6-9.
Guardians for incapacitated adults.
General provisions, §§29-4-1 to 29-4-98.
Guardians of minors.
General provisions, §§29-2-1 to 29-2-77.
Records.
Custodian and distributor of money owed minor or adult without a conservator.
Duty to keep records, §29-6-3.
VA guardians.
General provisions, §§29-7-1 to 29-7-18.
Wildlife.
Jurisdiction of probate courts, §27-1-35.

PROFESSIONS AND BUSINESSES.
Lobbyists.
General provisions, §§28-7-3 to 28-7-5.

PROSECUTING ATTORNEYS.
Disabled persons.
Protection of disabled adults and elder persons.
Access by agencies to records or reports of abuse, §30-5-7.

PROTECTED SPECIES.
Wildlife, §§27-1-1 to 27-5-12.

PROTECTION OF DISABLED ADULTS AND ELDER PERSONS.
Generally, §§30-5-1 to 30-5-11.

PRUDENT PERSON RULE.
Conservators for incapacitated adults.
Care required in investing and managing property, §29-5-34.
Conservators for minor.
Care required in investing and managing property, §29-3-34.

PUBLIC ACCOMMODATIONS.
Disabled persons.
Access and use, §§30-4-2, 30-4-4.

PUBLIC ASSISTANCE.
Achieving a better life experience (ABLE) accounts.
Accounts not considered in determining eligibility, §30-9-11.

PUBLICATION.
Conservators for incapacitated adults.
Notice of petition for dismissal of conservator from office, §29-5-80.
Conservators for minors.
Notice of dismissal of conservator from office, §29-3-70.
Notice of petition for appointment, §29-3-8.
General assembly.
Grant programs of agencies, §28-5-122.
Grant programs of agencies, §28-5-122.
Guardians for incapacitated adults.
Notice of dismissal of guardian from office, §29-4-43.
Guardianships or conservatorships generally.
Service when residence outside state or residence unknown, §29-9-5.
Guardians of minors.
Notice of petition to dismiss guardian from office, §29-2-31.
Permanent guardians.
Service of notice of petition for appointment, §29-2-17.
Temporary guardians.
Notice of petition.
Service on parent not consenting, §29-2-6.

PUBLICATION —Cont'd
VA guardians.
Notice of petition for appointment, §29-7-6.

PUBLIC BUILDINGS.
Access to and use of public facilities, §§30-3-1 to 30-3-9.

PUBLIC GUARDIANS, §§29-10-1 to 29-10-11.

PUBLIC HEALTH, DEPARTMENT OF.
Guardians for incapacitated adults.
Temporary medical consent guardianship.
Form to provide directions for end of life care, §29-4-18.

PUBLIC OFFICERS AND EMPLOYEES.
General assembly.
House of representatives.
Clerk of house, §§28-3-20 to 28-3-25.
Senate.
Secretary of senate, §§28-3-20 to 28-3-25.

PUBLIC RECORDS.
Achieving a better life experience (ABLE) accounts.
Records not considered to be public records, §30-9-16.
Confidentiality of information.
Inspection of public records.
Exceptions, §28-4-3.1.
Inspection of public records.
Exceptions to requirement, §28-4-3.1.
Office of legislative counsel.
Confidentiality of communications with certain persons, §28-4-3.1.
Open for inspection.
Exceptions, §28-4-3.1.

PUBLIC TRANSPORTATION.
Persons with disabilities.
Right to equal public accommodation, §30-4-2.

Q

QUAIL.
Permits.
Commercial quail breeder permits, §27-2-16.
Fees, §27-2-23.
Maintenance of records by holders, §27-2-16.

QUAIL —Cont'd
Permits —Cont'd
Commercial quail breeder permits —Cont'd
Pen raised quail.
Selling and transporting generally, §27-2-16.

R

RABBITS.
Hunting.
Taking rabbits and hares out of season, §27-3-20.
Trapping.
One's own premises or on premises of family member or landlord, §27-3-66.
Special permit to trap or sell rabbits or hares, §27-3-67.
Taking rabbits or hares out of season, §27-3-67.

RACCOONS.
Licenses.
Fur seller's license, §27-2-23.1.
Trapping.
Open seasons, §27-3-62.

RAILROADS.
Persons with disabilities.
Right to equal public accommodation, §30-4-2.

RAPTORS.
Falconry.
Defined, §27-1-2.
Permits, §27-2-17.
Duties, §27-2-17.
Permitted acts, §27-2-17.
Prohibition pertaining to permit holders, §27-2-17.

RATS AND MICE.
Defined, §27-1-2.
Trapping, §27-3-62.

RATTLESNAKES.
Wild animals.
Licenses and permits, §27-5-5.

REAL PROPERTY.
Conservators for incapacitated adults.
Certificate if ward has interest in real property.
Filing, time, requirements, recording, §29-5-13.

REAL PROPERTY —Cont'd
Conservators for minors.
Certificate filed with clerk of superior court of county in which minor owns real property.
Time for filing, requirements, recording, §29-3-10.

REAPPORTIONMENT.
General assembly.
Apportionment.
House of representatives, §28-1-1.
Districts, §28-2-1.
Residence in district, required, §28-2-1.
State divided into 180 districts, §28-2-1.
Senate, §28-1-1.
House of representatives.
Districts, §28-2-1.
Residence in district required, §28-2-1.
State divided into 180 district, §28-2-1.
Senate, §28-2-2.
Number, §28-2-2.

RECIPROCITY.
Fishing licenses.
Florida residents over 65 years of age, §27-2-4.1.
Interstate agreements with adjoining states, §27-4-234.
Hunting licenses.
Powers of department to enter into agreements, §27-2-7.

RECORDATION.
Conservators for incapacitated adults.
Bond of conservator, §29-5-40.
Certificate if ward has interest in real property, §29-5-13.
Statement of receipts and expenditures, §29-5-60.
Conservators for minors.
Certificate filed in county in which minor owns real property, §29-3-10.
Return stating receipts and expenditures, §29-3-60.

RECORDS.
Adult guardianship and conservatorship proceedings.
Communication with courts in other states, record of, §29-11-4.

RECORDS —Cont'd
Fishing.
Atlantic states marine fisheries compact.
Commission's duties, §27-4-214.
Guardianships and conservatorships.
Sealed records, examining, §29-9-18.
Public guardians, §29-10-7.

REDBREAST SUNFISH.
Game fish.
Defined, §27-1-2.

RED DOG.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

RED DRUM.
Creel and possession limits, §27-4-10.

REDEYE BASS.
Game fish.
Defined, §27-1-2.

REDFIN PICKEREL.
Creel and possession limits, §27-4-10.
Game fish.
Defined, §27-1-2.

REDISTRICTING.
General assembly.
House of representatives.
Districts, §28-2-1.
Residence in district required, §28-2-1.
State divided into 180 districts, §28-2-1.
Senate, §28-2-2.
Number of districts, §28-2-2.
Legislative apportionment.
General assembly, §28-1-1.
Local legislation.
Requirements for bills revising districts, §28-1-14.1.

RED PORGY.
Creel and possession limits, §27-4-10.

RED SNAPPER.
Creel and possession limits, §27-4-10.

REGISTERED MAIL.
Adult guardianship and conservatorship proceedings.
Notice of petition for appointment of guardian or conservator, §29-11-17.

REGISTRATION.
Adult guardianship and conservatorship proceedings.
Enforcement of registered orders, §29-11-32.
Powers authorized by registration, §29-11-32.
Registration of conservatorship order, §29-11-31.
Registration of guardianship order, §29-11-30.
Service or notice of registration, §29-11-32.
Aquaculture, §§27-4-255 to 27-4-261.
Sale of domestic fish, §27-4-255.
Application.
Contents, §27-4-257.
Filing as admission of doing business in state, §27-4-258.
Certificate as evidence of registration, §27-4-261.
Denial.
Grounds, §27-4-259.
Duty of department to register sellers, §27-4-256.
Expiration of registration, §27-4-256.
List of persons registered, §27-4-261.
Revocation, §27-4-260.

RELEASES.
Conservators for incapacitated adults.
Bond or other sufficient security by conservators.
Discharge or release of surety, §29-5-49.
Conservators for minors.
Bond or security of conservator.
Discharge or release of surety, §29-3-49.

REPORTS.
Achieving a better life experience (ABLE) accounts.
Reporting by board, §30-9-12.
Conservators for incapacitated adults.
Evaluation of proposed ward, §29-5-11.
Interim settlement of accounts.
Report accompanying petition, §29-5-61.
Petition to modify conservatorship.
Evaluation of ward, §29-5-71.
Petition to terminate conservatorship.
Evaluation report, §29-5-72.
Statement of receipts and expenses, §29-5-60.

REPORTS —Cont'd
Conservators for minors.
Interim settlement of accounts.
Report to accompany petition, §29-3-61.
Statement of receipts and expenditures.
Filing, time, requirements, change of reporting period, §29-3-60.
Disabled persons.
Protection of disabled adults and elder persons.
Multidisciplinary teams.
Reports to Georgia bureau of investigation, §30-5-11.
Fishing.
Atlantic states marine fisheries compact.
Commission, §§27-4-214, 27-4-215.
Guardians for incapacitated adults.
Evaluation report, §29-4-11.
Emergency guardianship, §29-4-15.
Guardians of minors.
Personal status report.
Filing, requirement, time, §29-2-21.
Petition to dismiss guardian from office.
Petition to contain, §29-2-31.
Predecessor guardian on appointment of successor, §29-2-52.
Temporary guardians.
Court may waive requirement, §29-2-7.
Public guardians, §29-10-7.
State revenue commissioner.
General assembly members.
Failure to file income tax returns, §28-1-8.1.

REPRESENTATION AT CONSTITUTIONAL CONVENTION.
Georgia delegates at convention to amend US Constitution.
Appointment of delegates, §28-6-8.
Oath of delegate, §28-6-8.
Recall and replacement of delegate, §28-6-8.

REPRESENTATIVE DISTRICTS.
General assembly.
House of representatives.
Districts, §28-2-1.
Residence in district required, §28-2-1.

REPRESENTATIVE DISTRICTS —Cont'd
General assembly —Cont'd
House of representatives —Cont'd
Districts —Cont'd
State divided into 180 districts, §28-2-1.

RESIDENCE.
General assembly.
House of representatives.
Residence in district required, §28-2-1.
Senate.
Residence in district required, §28-2-2.
Guardian appointed for incapacitated adult.
Establishing residence or dwelling place.
Power of guardian, §29-4-23.
Power removed from ward upon appointment, §29-4-21.
Hunting and fishing licenses.
Lifetime sportsman's license.
Proof of residency, §27-2-3.1.

RETALIATION.
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.
Protection of disabled adults and elder persons.
Reporting of need for protective services.
Discrimination or retaliation against person reporting, prohibition, §30-5-4.1.

REVENUE AND TAXATION.
State revenue commissioner.
General assembly members.
Failure to file income tax return.
Report to legislative ethics committees, §28-1-8.1.
Report.
General assembly members.
Failure to file income tax returns, §28-1-8.1.

REVISION COMMISSION.
Code of Georgia, §§28-9-1 to 28-9-5.

RHINOCEROSES.
Wild animal licenses and permits, §27-5-5.

RIFLES.
Hunting, weapons permitted, §27-3-4.

RING-NECKED PHEASANTS.
Shooting preserves.
Legal hunting dates and hours, §27-3-112.

ROAD KILL.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.

RULE AGAINST PERPETUITIES.
Community trusts.
Exemption of trust from, §30-10-9.

RULES AND REGULATIONS.
Aquaculture, §27-4-262.
Fishing.
Bow and arrow fishing, §27-4-34.
Licenses.
Disciplinary actions, §27-2-26.
Rulemaking authority, §27-4-12.
Hunting.
Licenses.
Disciplinary actions, §27-2-26.
Reciprocity, §27-2-7.
Seasons and bag limits, §27-3-15.
Shooting preserves.
Applicability of laws and regulations, §27-3-114.
Trapping.
Licenses.
Disciplinary actions, §27-2-26.
Wildlife violator compact, §27-2-41.

RUM CREEK PUBLIC FISHING AREA.
Fishing regulations, §27-4-11.1.

S

SAFE CARRY PROTECTION ACT.
Hunting.
Silencer or suppressor, use while hunting prohibited, §27-3-4.

SAILFISH.
Creel and possession limits, §27-4-10.

SALES.
Aquaculture.
Sale of domestic fish, §§27-4-251 to 27-4-263.
Deer hunting.
Sale of antlers, hides and tails of deer, §27-3-50.

SALES —Cont'd
Hunting.
Deer hunting.
Sale of antlers, hides and tails of deer, §27-3-50.
Squirrel hunting.
Sale of tails of squirrels, §27-3-23.
Squirrel hunting.
Sale of tails of squirrels, §27-3-23.
Wild animals.
Importation, transportation, sales, etc.
General provisions, §§27-5-1 to 27-5-12.

SALES AND USE TAXES.
Exemptions.
Economic analysis of tax benefits, §28-5-41.1.
Legislative committees to review, §28-12-1.

SALT-WATER FISHING.
Closing portions of salt waters.
Seafood unfit for human consumption.
Disaster causing, §27-4-133.
Commercial fishing.
General provisions, §§27-4-110 to 27-4-118.
Guides.
License, §27-2-23.2.
Customer fishing license, §27-2-23.2.
Lawful nets, §27-4-133.
License conditioned on participation in saltwater information program, §27-2-20.1.
Pier owned by hotel or motel.
Salt water fishing pier license, §27-2-23.2.
Rules and regulations.
Legislative authority to override rules affecting saltwater finfish fisheries, §27-4-12.
Shore fishing license, fee, §27-2-23.

SANCTUARIES FOR WILDLIFE.
Board of natural resources.
Powers and duties.
Purchase and development, §27-1-6.

SAND TIGER SHARK.
Creel and possession limits, §27-4-10.

SANITATION.
Oysters and clams.
Shellfish sanitation programs, §27-4-197.

SAUGER.
Creel and possession limits, §27-4-10.

SCAFFOLDING.
Wildlife violations.
Confiscation of unlawful devices, §27-3-68.

SCHOOLS AND EDUCATION.
Blind persons' literacy rights and education.
Braille skills.
Evaluation, §30-7-3.
Definitions, §30-7-2.
Individualized education program, §30-7-3.
Elements, §30-7-4.
Short title, §30-7-1.
Deaf and hearing impaired persons.
Commission for deaf or hard of hearing.
Early intervention and school-age services, §30-1-5.
Special education services, §30-1-5.
Disabilities, students with.
Deaf and hearing impaired persons.
Commission for deaf or hard of hearing.
Duties, §30-1-5.
Hunting.
Required hunter education courses, §27-2-5.
Special education services.
Deaf and hearing impaired persons.
Commission for deaf or hard of hearing.
Duties, §30-1-5.

SCIENTIFIC COLLECTING PERMITS, §27-2-12.

SEAFOOD.
Boats taking shrimp.
Identification, §27-4-133.
Civil forfeiture proceedings.
Equipment used in violation of provisions, §27-4-137.
Closing of salt waters.
Factors governing decision to close, §27-4-130.
Public notice, §27-4-130.
Commercial fishing.
General provisions, §§27-4-70 to 27-4-118.
Crabs.
Commercial crab trap.
Defined, §27-1-2.
Dealing in crabs and peelers, §27-4-150.
Defined, §27-1-2.

SEAFOOD —Cont'd
Crabs —Cont'd
Identification of boats or vessels, §27-4-151.
Possessing crabs and peelers, §27-4-150.
Power-drawn nets.
Use to fish for, §27-4-133.
Soft-shell crab.
Defined, §27-1-2.
Soft-shell crab dealer.
Defined, §27-1-2.
Taking crabs and peelers, §27-4-150.
Use of crab traps, §27-4-151.
Creel limits.
Defined, §27-1-2.
Dealers.
Definition of seafood dealer, §27-1-2.
Licenses.
Fees, §27-2-23.
Prohibited acts by licensees, §27-4-136.
Required, §27-4-136.
Recordkeeping requirements, §27-4-136.
Definitions, §27-1-2.
Game and fish code, §27-1-2.
Fishing generally, §§27-4-1 to 27-4-283.
Forfeitures, equipment used in violation of provisions, §27-4-137.
Nets.
Lawful nets, §27-4-133.
Power-driven nets.
Commercial fishing boat license.
Penalties for illegal fishing, §27-4-138.
Requirement of forfeiture bond or affidavit upon license application, §27-4-134.
Illegal fishing with power-driven nets.
Defined, §27-4-138.
When prohibited, §27-4-133.
Opening of salt waters.
Factors governing decision to open, §27-4-130.
Public notice, §27-4-130.
Oysters and clams.
General provisions, §§27-4-187 to 27-4-204.
Shedding facility, §27-1-2.
Shrimp.
Bait.
Live bait.
Fishing for shrimp to be used for, §§27-4-133, 27-4-171.

SEAFOOD —Cont'd
Shrimp —Cont'd
Bait dealers, §27-4-171.
Established bait dealer.
Defined, §27-1-2.
Boats taking shrimp.
Identification, §27-4-133.
Cast nets.
Bait shrimp cast net defined, §27-1-2.
Commercial shrimp cast netting licenses.
Issuance, §27-4-206.
Required, §27-4-205.
Food shrimp cast net defined, §27-1-2.
Limit on amount taken, §27-4-132.1.
Noncommercial purposes.
Lawful means of fishing, §27-4-132.
Limit on amount taken, §27-4-132.1.
Closing or opening waters to fishing.
Authority of commissioner, §27-4-133.
Commercial shrimping devices.
Lawful nets, §27-4-133.
Illegally fishing for shrimp for commercial sale for food purposes, §27-4-140.
Limit on amount taken, §27-4-132.1.
Opening or closing salt waters to fishing for food shrimp.
Authority of commissioner, §27-4-132.
Peeler defined, §27-1-2.
Power-drawn nets.
Use for commercial shrimping for human consumption, §27-4-133.
Taking for noncommercial purposes generally, §27-4-132.
Limit on amount taken, §27-4-132.1.
Trawling for shrimp for human consumption with certain nets, §27-4-133.
Using for recreational cast netting for commercial shrimping, §27-4-140.
Soft-shell crab dealer.
Defined, §27-1-2.

SEALS AND SEALED INSTRUMENTS.
General assembly.
Authorized use of seals, §28-1-10.

SEARCHES AND SEIZURES.
Contraband.
Wildlife.
Seizure of wild animals as contraband, §§27-5-8, 27-5-10.

SEASONS.
Hunting season, §27-3-15.

SECRETARY OF STATE.
General assembly.
Acts and resolutions of general assembly.
Publication of enrolled acts, §28-1-11.
Grants.
List compilation, §28-5-124.
Grants by agencies.
List compilation, §28-5-124.

SEEING-EYE DOGS.
Right to be accompanied by service dogs.
Common carriers and places of public accommodation, §30-4-2.
Denial of or interference with.
Penalty, §30-4-4.
Housing accommodations, §30-4-3.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.

SENATORIAL DISTRICTS.
General assembly, §28-2-2.
Number, §28-2-2.

SENIOR CITIZENS.
Abused, neglected or exploited adults.
Personal attendant care program for disabled adults, §§30-6-1 to 30-6-5.
Protection of disabled adults and elder persons, §§30-5-1 to 30-5-11.

SERGEANT-AT-ARMS.
General assembly.
Election, §28-3-1.
State senate, §28-3-1.

SERVICE CAPUCHIN MONKEYS.
Housing rights of blind or deaf persons, §30-4-3.

SERVICE DOGS.
Misrepresentation of qualification to use service dog, penalty, §30-4-4.
Right to be accompanied by, §§30-4-2, 30-4-4.
Housing accommodations, §30-4-3.
Obligations of owner and/or trainer, §30-4-2.

SERVICE DOGS —Cont'd
Right to be accompanied by —Cont'd
Persons raising or training, §30-4-2.

SERVICE OF PROCESS.
Adult guardianship and conservatorship proceedings.
Petition for appointment of guardian or conservator, §29-11-17.
Registration of guardianship order.
Service or notice of registration, §29-11-32.
Conservators for incapacitated adults.
Compensation for services rendered.
Petition for greater compensation, §29-5-52.
Final settlement of accounts, §29-5-81.
Notice granting conservator specific powers, §29-5-23.
Notice of hearing on petition to appoint conservator, §29-5-12.
Order granting conservatorship, §29-5-13.
Proceedings and petition for appointment, §29-5-11.
Emergency conservator, §29-5-15.
Resignation of conservator, §29-5-90.
Temporary substitute conservators.
Appointment, §29-5-100.
Conservators for minors.
Compensation greater than allowed by statute.
Notice of petition, §29-3-52.
Granting conservator certain continuing powers, §29-3-22.
Notice of petition for appointment, §29-3-8.
Receipt and acceptance of foreign conservatorship, §29-3-106.
Resignation of conservator.
Notice of petition, §29-3-80.
Successor conservator.
Notice of appointment on death of conservator, §29-3-81.
Notice of proceeding for appointment, §29-3-91.
Temporary substitute conservators.
Notice of appointment, §29-3-90.
Transfer of conservatorship to foreign court, §29-3-112.
Fishing licenses, §27-2-24.
Fur dealers.
License applicants.
Designation of where or upon whom notice may be served, §27-3-72.

SERVICE OF PROCESS —Cont'd
Game and fish.
Licensees, permittees and applicants, §27-2-24.
Guardians for incapacitated adults.
Notice of hearing on petition to appoint guardian, §29-4-12.
Order granting guardianship, §29-4-13.
Proceedings and petition to appoint guardian, §29-4-11.
Emergency guardianship, §29-4-15.
Resignation of guardian.
Notice of petition, §29-4-50.
Successor guardian, appointment, §§29-4-51, 29-4-61.
Temporary substitute guardian.
Appointment, §29-4-60.
Guardianships and conservatorships generally.
Service or notice.
Additional service or notice, judge directing, §29-9-7.
Mailing to last known address.
Sufficiency of service, §29-9-6.
Military personnel.
Personal service upon, §29-9-4.
Personal service, §29-9-4.
Publication, service by.
Residence outside state or residence unknown, §29-9-5.
Waiver and acknowledgment, §29-9-8.
Guardians of minors.
Foreign guardianships.
Petition for receipt and acceptance of foreign guardianship, §29-2-66.
Foreign jurisdiction.
Notice and copy of petition to transfer guardianship to, §29-2-71.
Notice of petition for resignation of guardian, §29-2-40.
Notice successor appointed, §§29-2-41, 29-2-51.
Permanent guardians.
Notice of petition for appointment, §29-2-17.
Temporary guardians.
Notice of petition for appointment, §29-2-6.
Temporary substitute guardian.
Notice of appointment, §29-2-50.

SERVICE OF PROCESS —Cont'd
Trappers.
License or permit applicants.
Designation of where or upon whom notice may be served, §27-3-72.
VA guardians.
Extraordinary services rendered.
Notice of petition and hearing for additional compensation, §29-7-15.
Notice given to office or department having jurisdiction over area, §29-7-2.
Notice of petition for appointment, §29-7-6.

SETTLEMENTS.
Conservators for incapacitated adults.
Final settlement of accounts, §29-5-81.
Interim settlement of accounts, §§29-5-61 to 29-5-63.
Power of conservator to compromise claim or debt, §29-5-23.
Conservators for minors.
Final settlement of accounts, §29-3-71.
Interim settlement of accounts, §§29-3-61, 29-3-62.
General assembly.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.
Minor's claim, §29-3-3.
VA guardians.
Final accounting and final settlements.
Discharge of guardian, §29-7-9.

SEXUAL HARASSMENT.
General assembly members.
Settlement of unlawful employment practices claims.
Subject to public disclosure, §28-1-18.

SHAD.
Closed season.
Possession of nets or other devices for taking.
Prima facie evidence of violation, §27-4-9.
Commercial shad fishing, §27-4-71.
Gill net use, §27-4-7.

SHARKS.
Creel and possession limits, §27-4-10.

SHEEPSHEAD.
Creel and possession limits, §27-4-10.

SHELLFISH.
Oysters and clams.
General provisions, §§27-4-187 to 27-4-204.
Soft-shell crab.
Defined, §27-1-2.

SHERIFFS.
Deputies.
Dogs pursuing or killing deer.
Authority to kill dog, §27-3-49.
Fishing in waters or from lands of another without permission.
Enforcement of provisions, §27-4-2.

SHOOTING PRESERVES, §§27-3-110 to 27-3-115.
Applicable laws and regulations, §27-3-114.
Bag limits, §27-3-112.
Defined, §27-1-2.
Black ducks.
Release, §27-3-111.
Commercial preserves.
Defined, §27-1-2.
Definitions, §27-1-2.
Game and fish code, §27-1-2.
Diseases.
Failure to notify department of diseases, §27-3-111.
Fishing on waters within preserve.
Permitted with shooting preserve hunting license, §27-3-114.
Hunting licenses.
Fees, §27-2-23.
Requirements, §27-3-114.
Type SP, shooting preserve license, §27-2-3.1.
Contracts with preserves for issuance and sale of licenses, §27-3-115.
Legal hunting dates and hours, §27-3-112.
Licenses.
Conditions for issuance, §27-3-110.
Contents of application, §27-3-110.
Effective dates, §27-3-110.
Hunting licenses.
Requirements, §27-3-114.
Type SP, shooting preserve license, §27-2-3.1.
Contracts with preserves for issuance and sale of licenses, §27-3-115.
Required, §27-3-110.
Mallards or black ducks.
Release, §27-3-111.

SHOOTING PRESERVES —Cont'd
Pen raised game birds, §27-3-114.
Possession of animals, §27-3-113.
Importation for possession, §27-3-113.
Private shooting preserve.
Defined, §27-1-2.
Propagation of animals, §27-3-113.
Importation for, §27-3-113.
Recordkeeping requirements.
Failure to maintain or furnish records, §27-3-111.
Release of animals, §27-3-113.
Importation for release, §27-3-113.
Mallards or black ducks, §27-3-111.
Rulemaking authority.
Applicability of laws and regulations, §27-3-114.
Untagged birds.
Removal, §27-3-111.
Wildlife laws and regulations.
Applicability, §27-3-114.

SHOTGUNS.
Hunting, weapons permitted, §27-3-4.

SHRIMP.
Bait.
Dead bait.
Packaging and labeling, §27-4-171.
Forfeitures, equipment used in violation of provisions, §27-4-137.
Live bait fishing.
Bait dealers, §27-4-171.
Facilities, requirements, §27-4-171.
Fishing for shrimp to be used for, §27-4-133.
Opening or closing waters, §27-4-171.
Power-drawn nets, use, §27-4-171.
Bait dealers, §27-4-171.
Established bait dealer.
Defined, §27-1-2.
Boats taking shrimp.
Identification, §27-4-133.
Cast nets.
Bait shrimp cast net defined, §27-1-2.
Commercial shrimp cast netting licenses.
Issuance, §27-4-206.
Required, §27-4-205.
Food shrimp cast net defined, §27-1-2.
Limit on amount taken, §27-4-132.1.
Noncommercial purposes.
Lawful means of fishing, §27-4-132.
Limit on amount taken, §27-4-132.1.
Use of recreational cast nets for commercial purposes, §27-4-140.

SHRIMP —Cont'd
Closing or opening waters to fishing.
Authority of commissioner, §27-4-133.
Forfeitures, equipment used in violation of provisions, §27-4-137.
Illegally fishing for shrimp for commercial sale for food purposes, §27-4-140.
Limit on amount taken, §27-4-132.1.
Opening or closing salt waters to fishing for food shrimp.
Authority of commissioner, §27-4-132.
Peeler.
Defined, §27-1-2.
Power-drawn nets.
Live bait, fishing for shrimp used for, §27-4-171.
Use for commercial shrimping for human consumption, §27-4-133.
Taking for noncommercial purposes, §27-4-132.
Limit on amount taken, §27-4-132.1.
Trawling for shrimp for human consumption with certain nets, §27-4-133.
Use of recreational cast netting for commercial purposes, §27-4-140.

SIAMANGS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

SIGN LANGUAGE.
American sign language.
Fully developed, autonomous, natural language.
Legislative findings, §30-1-6.

SIGNS.
Hunting.
Baited fields, posting requirements, §27-3-9.

SILENCERS.
Hunting with, §27-3-4.

SISTERS.
Hunting on land of certain relatives.
Licenses, §27-3-1.

SISTERS-IN-LAW.
Hunting on land of certain relatives.
Licenses, §27-3-1.

SMALL SHARKS.
Creel and possession limits, §27-4-10.

SOFT-SHELL CRABS.
Defined, §27-1-2.

SOFT-SHELL CRABS —Cont'd
Possession of, §27-4-150.
Soft-shell crab dealer.
Defined, §27-1-2.
License, §27-2-23.

SOLICITATION.
Wildlife.
Hiring of another to take wildlife contrary to law, §27-1-32.

SOUTH CAROLINA.
Hunting licenses.
Reciprocal agreements, §27-2-7.

SPANISH MACKEREL.
Creel and possession limits, §27-4-10.

SPAWNING.
Fish ladders, §27-1-8.

SPEARING OF FISH, §27-4-33.
Fishing generally, §§27-4-1 to 27-4-283.

SPECIAL EDUCATION SERVICES.
Deaf and hearing impaired persons.
Commission for deaf or hard of hearing.
Duties, §30-1-5.

SPECIAL MASTERS.
Crime victims' compensation.
Investigation of claim by special master, §28-5-100.

SPORT FISHING.
Trotlines, §27-4-32.

SPOT.
Creel and possession limits, §27-4-10.

SPOTLIGHTING.
Hunting at night, unlawful, exceptions, §27-3-2.
Unlawful nighttime killing of deer, §27-3-48.

SPOTTED SEA TROUT.
Creel and possession limits, §27-4-10.

SQUIRRELS.
Hunting.
Sale of tails of squirrels, §27-3-23.

STAMPS.
Wildlife.
Disciplinary action against stamp holders, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of, §27-2-27.
Administrative review, §27-2-25.
Judicial review, §27-2-25.

STAMPS —Cont'd
Wildlife —Cont'd
Disciplinary action against stamp holders —Cont'd
Rulemaking authority, §27-2-26.
Surrender of stamp, §27-2-26.
Federal migratory bird hunting and conservation stamp, §27-2-20.
Waterfowl and migratory bird stamp, §§27-2-6, 27-2-20.

STANDBY GUARDIANS.
Guardians of minors, §§29-2-9 to 29-2-13.

STATE AND LOCAL GOVERNMENT PARTNERSHIP ACT OF 1995, §§28-5-47, 28-5-56.
Short title, §28-5-47.

STATE AUDITOR.
Atlantic states marine fisheries commission.
Examination of accounts, §27-4-215.
General assembly.
Bills changing compensation or allowances of elected or appointed officials or department or agency heads.
Preparation of fiscal notes, §28-5-2.
Bills having significant impact on anticipated revenues or expenditures.
Furnishing of fiscal note, §28-5-42.
Fiscal affairs subcommittee.
Review of budget request of office of state auditor, §28-5-23.

STATE CAPITOL.
General assembly.
Meetings at state capitol, §28-1-2.
Legislative services committee.
Powers over third and fourth floors of state capitol, §28-4-2.

STATE DEPARTMENTS AND AGENCIES.
Disabled persons.
Protection of disabled adults and elder persons.
Intergovernmental cooperation, §30-5-6.

STATE GOVERNMENT.
Budget.
Fiscal affairs subcommittees, §§28-5-20 to 28-5-27.
Claims against state.
General provisions, §§28-5-60 to 28-5-108.

STATE GOVERNMENT —Cont'd
Fiscal affairs subcommittees, §§28-5-20 to 28-5-27.

STATE OF GEORGIA.
Claims against state.
General provisions, §§28-5-60 to 28-5-108.
Constitutional convention.
Georgia delegates at convention to amend US constitution, §28-6-8.

STATE TREASURER.
Achieving a better life experience (ABLE) accounts.
Comprehensive investment plan, §30-9-10.
Trust fund, administration by state treasurer, §30-9-8.

STATUTE OF LIMITATIONS.
Claims against state, §28-5-106.
Conservators for incapacitated adults.
Actions against conservators, §29-5-94.
Conservators for minors.
Actions against conservators, §29-3-84.
Guardians for incapacitated adults.
Actions against guardian, §29-4-54.
Guardians of minors.
All actions against guardians except on bond, §29-2-44.

STATUTES.
Code revision commission.
General provisions, §§28-9-1 to 28-9-5.
Fiscal notes, §§28-5-40 to 28-5-45.
Local government impact fiscal notes, §§28-5-47 to 28-5-56.

STERILIZATION OF HUMANS.
Guardian of minors.
Power to consent or approve, §29-2-22.

STINGRAYS.
Wild animal licenses and permits.
Generally, §§27-5-4, 27-5-5.

STOCK AND STOCKHOLDERS.
Conservators for incapacitated adults.
Retention of property received as conservator, §29-5-31.
Sale, power of conservators, §29-5-35.
Conservators for minors.
Retention of stock or corporate securities, §29-3-31.
Stock or other corporate securities.
Sale, §29-3-35.

STREAMS.
Artificial-lure streams, §27-4-36.
Deer hunting, §27-3-42.

STRIPED BASS.
Creel and possession limits, §27-4-10.

STURGEON.
Nets, §27-4-91.

SUBPOENAS.
Ethics committee of house and senate.
Issuance, §28-1-16.
House committee on ethics.
Issuance, §28-1-16.
Senate committee on ethics.
Issuance, §28-1-16.

SUBROGATION.
Crime victims' compensation.
Rights of state, §28-5-108.
Victim compensation payments.
Rights of state, §28-5-108.

SUGAR GLIDERS.
Animals for which license or permit required, §27-5-5.

SUMMONS AND PROCESS.
Probate courts.
Jurisdiction, §27-1-35.
Wildlife.
Jurisdiction of probate courts, §27-1-35.

SUNFISH.
Creel and possession limits, §27-4-10.
Defined, §27-1-2.
Length requirements, §27-4-10.
Taking limitations, §27-4-11.1.

SUPERIOR COURTS.
Conservators for incapacitated adults.
Appeal of final orders of court, §29-5-110.
Ethics committees' subpoenas.
Issuance, §28-1-16.
Guardians for incapacitated adults.
Appeal of final court orders, §29-4-70.

SWANS.
Hunting, §§27-2-6, 27-2-20.
Waterfowl and migratory bird stamp, §§27-2-6, 27-2-20.
Fee, §27-2-23.
Weapons permitted, §27-3-4.

SWINE.
Bait for traps, §§27-3-8, 27-3-68.

SWINE —Cont'd
Hunting feral hogs, §§27-3-4, 27-3-24.
Boats, aircraft or motor vehicles, hunting from, §27-3-13.

SWITCHES.
Lighting for dwellings, §30-3-4.

T

TAILS.
Deer.
Sale of tails of deer, §27-3-50.
Squirrels.
Sale of squirrel tails prohibited, §27-3-23.

TARPON.
Creel and possession limits, §27-4-10.

TAXATION.
Achieving a better life experience (ABLE) accounts.
Generally, §§30-9-1 to 30-9-16.
Tax exemptions, §30-9-9.
Community trusts.
Exemption of assets, §30-10-3.
Exemptions from taxation.
Community trusts.
Exemption of assets, §30-10-3.

TAXIDERMISTS.
Licenses, §27-2-9.
Unlawful conduct, §27-2-9.

TEMPORARY SUBSTITUTE CONSERVATORS.
Conservators for incapacitated adults.
Appointment, duration, powers, removal, §29-5-100.
Compensation, §29-5-54.
Revocation or suspension of letters.
Appointment pending investigation, §29-5-92.
Sale or otherwise dealing with ward's property, §29-5-35.
Conservators for minors.
Appointment, §29-3-90.
Compensation, §29-3-53.
Notice of appointment, §29-3-90.
Period of appointment, §29-3-90.
Powers, §29-3-90.
Removal, §29-3-90.
Sale of minor's property, authority, §29-3-35.

TEMPORARY SUBSTITUTE GUARDIANS.
Guardians for incapacitated adults.
Appointment, notice, duration, powers, removal, §29-4-60.
Revocation or suspension of letters or imposition of sanctions.
Appointment during investigation, §29-4-52.
Guardians of minors, §§29-2-5 to 29-2-8.

TERMINALLY ILL PERSONS.
Hunting privileges for terminally ill persons age 21 or younger, §27-2-4.3.

TESTAMENTARY CONSERVATORS.
Conservators for minors, §29-3-5.

TESTAMENTARY GUARDIANS.
Defined, §29-1-1.
Guardians of minors.
Category of guardians, §29-2-1.
Nomination by parent, §29-2-4.

THEFT.
Trapping.
Possession of wildlife removed from trap of another person, §27-3-65.
Removal of wildlife from trap owned by another person, §27-3-65.
Wildlife.
Theft by taking, §27-1-3.

THERMOSTATS.
Handicapped access to and use of public facilities.
Covered multifamily dwellings.
Thermostats to be in accessible locations, §30-3-4.

THREADFIN SHAD.
Taking.
Dip nets and cast nets.
Use authorized, §27-4-5.

TIGERS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

TIME.
Conservators for incapacitated adults.
Certificate if ward has interest in real property.
Filing, §29-5-13.
Final settlement of accounts.
Settlement period, §29-5-81.

TIME —Cont'd
Conservators for incapacitated adults —Cont'd
Hearing on petition to appoint conservator, §29-5-12.
Inventory of ward's property.
Filing, §29-5-30.
Objections, filing.
Sale, lease or exchange of ward's property, §29-5-35.
Statement of receipts and expenditures.
Filing, changing reporting period, §29-5-60.
Temporary substitute conservators.
Duration of appointment, §29-5-100.
Conservators for minors.
Certificate filed with clerk of superior court of county in which minor owns real property.
Filing, §29-3-10.
Final settlement of accounts.
Settlement period, §29-3-71.
Interim settlement of accounts.
Petition, filing, §29-3-61.
Inventory of minor's property.
Filing, §§29-3-21, 29-3-30.
Objections, filing, §29-3-8.
Return stating receipts and expenditures, §29-3-60.
Sale of minor's property, §29-3-35.
Plan for managing, expending and distributing property.
Filing, §29-3-30.
Receipt and acceptance of foreign conservatorship.
Request for hearing, §29-3-106.
Statement of receipts and expenditures.
Filing, change of reporting period, §29-3-60.
Temporary substitute conservators.
Period of appointment, §29-3-90.
Guardians for incapacitated adults.
Conducting evaluation of proposed ward, §29-4-11.
Hearing on petition to appoint guardian, §29-4-12.
Emergency guardianship, §29-4-15.
Temporary substitute guardian.
Duration of appointment, §29-4-60.
Guardianships and conservatorships generally.
Extension of time to respond.
Court ordering, §29-9-7.

TIME —Cont'd
Guardianships and conservatorships generally —Cont'd
Hearing, date for holding, §29-9-13.
Objection, filing.
Date for filing, §29-9-13.
Guardians of minors.
Foreign guardianship.
Petition for receipt and acceptance of foreign guardianship.
Request for hearing, §29-2-66.
Permanent guardians.
Objection by biological father, continuance of hearing, petition for legitimation, §29-2-15.
Personal status report.
Filing, requirement, time, §29-2-21.
Standby guardians.
Petition seeking temporary guardianship, filing, §29-2-13.
Temporary substitute guardians.
Duration of appointment, §29-2-50.
VA guardians.
Annual accounting, requirements, §29-7-13.

TRANQUILIZERS.
Wild animals.
Humane handling, care, confinement and transportation.
Specifications, §27-5-6.

TRANSPORTATION.
Wildlife.
General provisions, §§27-3-90 to 27-3-94.
Wild animals.
Importation, transportation, sales, etc., §§27-5-1 to 27-5-12.

TRAPPING.
Bag limit.
Defined, §27-1-2.
Beaver.
Upon right of way of public road or highway, §27-3-63.
Commercial trapper.
Defined, §27-1-2.
License.
Nonresidents, §27-3-61.
Required, §27-3-60.
Confiscation of unlawful devices, §27-3-68.
Criminal offenses.
General offenses and penalties, §27-3-63.
Definitions, §27-1-2.
Game and fish code, §27-1-2.

TRAPPING —Cont'd
Disposal of unlawful devices, §27-3-68.
Fees.
Schedule of fees.
Trapping licenses, §27-2-23.
Foxes.
Trapping and selling, §27-2-22.1.
Fur-bearing animals.
Defined, §27-1-2.
Fur dealers.
Agents.
License required, §27-3-69.
Definitions, §27-1-2.
Game and fish code, §27-1-2.
Disposal of carcasses of fur-bearing animals, §27-3-73.
Fur dealer's agent.
Defined, §27-1-2.
Inspection of premises, §27-3-71.
Licenses.
Filing of license application constitutes admission that applicant is doing business in state, §27-3-72.
Posting of bond by applicants, §27-3-70.
Effect of breach of conditions of bond, §27-3-70.
Required, §27-3-69.
Raccoon fur seller's license, §27-2-23.1.
Recordkeeping requirements, §27-3-71.
Reporting requirements, §27-3-71.
Interference with lawful taking of wildlife, §§27-3-150 to 27-3-152.
Licenses.
Commercial trapping license.
Nonresidents, §27-3-61.
Required, §27-3-60.
Counterfeiting or alteration of licenses, §27-2-28.
Disciplinary actions, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of disciplinary action, §27-2-27.
Administrative review, §27-2-25.
Judicial review, §27-2-25.
Rulemaking authority, §27-2-26.
Surrender of license, §27-2-26.
Effective dates generally, §27-2-3.
Fees, §27-2-23.
Filing of license application constitutes admission that applicant is doing business in state, §27-3-72.
Fur dealers, §§27-2-23.1, 27-3-69, 27-3-70, 27-3-72.

TRAPPING —Cont'd
Licenses —Cont'd
Issuance and sale.
Anatomical gift, option to make on license application, §27-2-2.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.
License agents.
Bond of license agent, §27-2-2.
Duties of license agents, §27-2-2.
Identification of purchasers required, §27-2-2.
Withdrawal of agents' authority to sell licenses, §27-2-2.
Making false statements in obtaining license, §27-2-28.
Multi-year licenses, §27-2-3.
Nonresident.
Commercial trapping license, §27-3-61.
Refusing inspection of identification, §27-2-28.
Service of process for licensees, §27-2-24.
Unlawful collection of funds, §27-2-28.
Unlawful without license or permit, §27-2-1.
Mink or otter.
Killing or injuring with firearm, §27-3-64.
Nonresidents.
Commercial trapping license, §27-3-61.
Unlawful without license or permit, §27-2-1.
Open seasons, §27-3-62.
Permits.
Filing of permit application constitutes admission that applicant is doing business in state, §27-3-72.
Rabbits or hares, §27-3-67.
Privilege to trap, §27-1-3.
Prohibited conduct.
General offenses and penalties, §27-3-63.
Rabbits.
One's own premises or on premises of family member or landlord, §27-3-66.
Special permit to trap or sell rabbits or hares, §27-3-67.
Taking rabbits or hares out of season, §27-3-67.

TRAPPING —Cont'd
Theft.
Possession of wildlife removed from trap of another person, §27-3-65.
Removal of wildlife from trap owned by another person, §27-3-65.
Unlawful conduct.
General offenses and penalties, §27-3-63.
Weapons.
Mink or otter.
Killing or injuring with firearm, §27-3-64.
Possession or sale of mink or otter or pelt, §27-3-64.

TRAWLERS.
Commercial fishing boat licenses, §27-2-8.
Trawler crew licenses, §27-2-8.
Fees, §27-2-23.

TRESPASS.
Fishing.
Fishing in waters or from lands of another without permission, §27-4-2.
Wildlife.
Criminal trespass, §27-1-33.

TRIPLE TAIL.
Creel and possession limits, §27-4-10.

TROTLINES.
Commercial fresh-water fishing.
Defined, §27-4-91.
Lawful devices, §27-4-91.
Sport trotlines, §27-4-32.

TROUT, §§27-4-50, 27-4-51.
Definitions.
Game and fish code, §27-1-2.
Fishing.
Manner of fishing, §27-4-50.
Moving of trout, §27-4-50.
Trout license, §27-2-6.
Fee, §27-2-23.
Trout waters, §27-4-51.
Mountain trout.
Defined, §27-1-2.

TRUSTS AND TRUSTEES.
Achieving a better life experience (ABLE) accounts.
Trust fund, §30-9-8.
Community trusts, §§30-10-1 to 30-10-9.
Revocation of trusts.
Conservators for incapacitated adults.
Power of conservator, §29-5-23.

TRUSTS AND TRUSTEES —Cont'd
Revocation of trusts —Cont'd
Conservators for incapacitated adults —Cont'd
Powers removed from ward, §29-5-21.
Guardian appointed for incapacitated adult.
Trust established for ward.
Power removed from ward upon appointment, §29-4-21.

TURKEY.
Defined as big game, §27-1-2.
Hunting, weapons permitted, §27-3-4.
Special turkey-hunting season for young and mobility-impaired hunters, §27-2-4.4.

TURTLES.
Fresh-water turtles.
Defined, §27-1-2.
Exporting, farming and selling, §27-3-19.1.
Sea turtles.
Game animals.
Defined as including, §27-1-2.
Seasons, §27-3-15.

TURTLE TRAPS.
Commercial fresh-water fishing.
Lawful devices, §27-4-91.

U

UNCONSCIOUS PERSONS.
I.D. cards, §30-1-3.
Peace officers.
Duty upon finding, §30-1-3.

UNDRESSED FURS.
Department of natural resources.
Transportation out of state.
Reports, §27-3-63.
Raccoon fur sellers' licenses, §§27-2-23.1, 27-3-63.

UNIFORM ADULT GUARDIANSHIP AND CONSERVATORSHIP PROCEEDINGS JURISDICTION ACT.
General provisions, §§29-11-1 to 29-11-42.
Short title, §29-11-1.

UNITED STATES.
Oysters and clams.
Shellfish facilities.
Operation of control purification facilities, §27-4-193.

UNITED STATES —Cont'd
Wildlife.
Acquisition of land for conservation purposes.
Consent to acquisition, §27-1-11.
Notice of intended use, §27-1-11.
Acquisition of land for river navigability purposes.
Consent to federal rules and regulations, §27-1-9.

UNLOADED FIREARMS.
Carrying a concealed weapon.
Closed hunting seasons, §27-4-11.1.
Wildlife management areas, §27-3-1.1.

UNMANNED AIRCRAFT SYSTEMS.
Feral hogs, use of unmanned aircraft to locate, §27-3-13.

UNTANNED ALLIGATOR HIDE, §27-3-19.

V

VACCINATIONS.
Wildlife, §§27-2-22.1, 27-5-5.

VA GUARDIANS, §§29-7-1 to 29-7-18.

VERMIN.
Rats and mice defined, §27-1-2.

VETERANS' AFFAIRS.
Fishing licenses.
Paralyzed or disabled individuals, §27-2-4.2.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Guardian and ward.
VA guardians, §§29-7-1 to 29-7-18.
Hunting licenses.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
VA guardians, §§29-7-1 to 29-7-18.

VICTIMS OF CRIMES.
Claims against state, §§28-5-100 to 28-5-108.
Award of compensation.
Action by general assembly upon recommendations, §28-5-104.
Factors to be considered, §28-5-103.
Limitations on amount, §28-5-104.
When compensation may be recommended, §28-5-103.
When not to be recommended generally, §28-5-104.

VICTIMS OF CRIMES —Cont'd
Claims against state —Cont'd
Board recommendations as to payment of compensation, §28-5-100.
Action by general assembly upon recommendations, §28-5-104.
Factors to be considered, §28-5-103.
When compensation may be recommended, §28-5-103.
When not to be recommended generally, §28-5-104.
Damage actions against persons responsible for injuries or death, §28-5-108.
Limitations on award amounts, §28-5-104.
Limitations on claims, §28-5-106.
Procedural rules, §28-5-100.
Procedure for claims, §28-5-100.
Reporting requirements, §28-5-107.
Scope of compensation, §28-5-105.
Subrogation of state to claims of persons compensated, §28-5-108.
Uniform standards for compensation, §28-5-102.
Compensation.
Claims.
Against state, §§28-5-103, 28-5-104.
Payment.
Subrogation rights of state, §28-5-108.

VISITATION.
Blind and visually impaired persons.
Child placement, custody, visitation, guardianship, foster care, or adoption.
Discrimination prohibition.
Supportive parenting services as reasonable accommodation, §30-4-5.

VOCATIONAL REHABILITATION SERVICES.
Georgia vocational rehabilitation agency.
Achieving a better life experience (ABLE) accounts.
Public information and outreach efforts, §30-9-13.
Personal assistance program for persons with disabilities.
General provisions, §§30-6-1 to 30-6-5.

VOTING.
Conservator appointed for incapacitated adult.
Not determination on right to vote, §29-5-20.
Guardian appointed for incapacitated adult.
Appointment not determination on ward's right to vote, §29-4-20.

VULNERABLE ADULT ABUSE.
Protection of disabled adults generally, §§30-5-1 to 30-5-11.

W

WAIVER.
Sovereign immunity.
Payment of claim.
Waiver to authorize payment, §28-5-85.

WALLABIES.
Animals for which license or permit required, §27-5-5.

WALLAROOS.
Animals for which license or permit required, §27-5-5.

WALLEYE.
Creel and possession limits, §27-4-10.

WARTHOGS.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

WATERFOWL.
Defined, §27-1-6.
Hunting.
Waterfowl and migratory bird stamp, §27-2-6.
Fee, §27-2-23.

WEAKFISH.
Creel and possession limits, §27-4-10.

WEAPONS.
Carrying weapons.
Bow hunting, possession of firearm, §27-3-6.
Hunting with bow and arrow.
Possession of firearm while hunting, §27-3-6.
Wildlife management areas, §27-3-1.1.

WEAPONS —Cont'd
Concealed weapons.
Bow hunting, possession of firearm, §27-3-6.
Carrying weapons generally.
Bow hunting.
Possession of firearm while hunting, §27-3-6.
Hunting with bow and arrow.
Possession of firearm while hunting, §27-3-6.
Wildlife management areas, §27-3-1.1.
Firearms.
Bobcat, hunting with center-fire firearms, §27-3-4.
Bow hunting, possession of firearm, §27-3-6.
Carrying concealed firearms.
Hunting, possession of firearm while hunting with bow and arrow, §27-3-6.
Wildlife management areas, §27-3-1.1.
Fox, hunting with center-fire firearms, §27-3-4.
Hunting fox and bobcat with center-fire firearms, §27-3-4.
Hunting with bow, possession of firearm, §27-3-6.
Silencer or suppressor, use while hunting prohibited, §27-3-4.
Wildlife management areas, §27-3-1.1.
Fishing.
Possession of firearms on public fishing areas, §27-4-11.1.
Game wardens.
Disability in line of duty.
Retention of weapon, §27-1-16.
Trapping.
Mink or otter.
Killing or injuring with firearm, §27-3-64.
Possession or sale of mink or otter or pelt, §27-3-64.
Wildlife management areas.
Carrying firearms, §27-3-1.1.

WELFARE.
Achieving a better life experience (ABLE) accounts.
Accounts not considered in determining eligibility, §30-9-11.
Eligibility for public assistance.
Achieving a better life experience (ABLE) accounts.
Accounts not considered in determining eligibility, §30-9-11.

WHITE BASS.
Creel and possession limits, §27-4-10.

WHITE CRAPPIE.
Creel and possession limits, §27-4-10.
Game fish defined, §27-1-2.

WHITE MARLIN.
Creel and possession limits, §27-4-10.

WILD ANIMALS.
Importation, transportation, sales, etc.
General provisions, §§27-5-1 to 27-5-12.

WILDLIFE, §§27-1-1 to 27-5-12.
Administrative orders, §27-1-37.
Agency review, §27-1-37.
Disciplinary actions against licensees, §27-2-25.
Alligators.
Commercial alligator farming licenses, §27-2-10.
Feeding or baiting wild alligators, §27-3-170.
Hunting at night, §27-3-2.
Hunting license, §27-2-6.
Terminally ill persons age 21 or younger, special hunting privileges, §27-2-4.3.
Weapons permitted for hunting, §27-3-4.
Appropriations.
Disposition of funds received by department, §27-1-13.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Board of natural resources.
Defined as board, §27-1-2.
Duties.
Generally, §27-1-4.
Powers.
Generally, §27-1-4.
Management of wildlife in national forests, §27-1-12.
Wild animals, §27-5-2.
Rules and regulations.
Establishment of criminal violations, §27-1-39.
Bonds, surety.
Disposition of civil penalties from bond forfeitures, §27-1-14.
Wild animal auction license, §27-5-11.
Carcass removal and transportation, prohibitions, §27-3-29.

WILDLIFE —Cont'd
Citation of title, §27-1-1.
Commercial alligator farming licenses, §27-2-10.
Commercial fishing.
General provisions, §§27-4-70 to 27-4-118.
Commercial license holders.
Inspection of business premises and records, §27-1-23.
Commercial quail breeder permits, §27-2-16.
Compacts.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Wildlife violator compact, §§27-2-40 to 27-2-42.
Conservation projects.
Assent to federal law respecting, §27-1-10.
Contraband.
Alligators, §27-3-19.
Bears.
Hunting of bear, §27-3-26.
Custody of wildlife, §27-1-3.
Deer hunting.
General provisions, §§27-3-40 to 27-3-50.
Defenses not available in prosecutions, §27-1-34.
Definitions, §27-1-2.
Department of natural resources.
Civil enforcement, §27-1-36.
Damaging or destroying department property, §27-1-27.
Disposition of funds received by department, §27-1-13.
Duties.
Generally, §27-1-6.
Powers.
Generally, §27-1-6.
Wild animals, §27-5-3.
Refund of fees or overpayments.
Department to establish policies, §27-1-13.
Disposition of fines and bond forfeitures, §27-1-14.
Dogs.
Wild or abandoned dogs.
Technical assistance for control or elimination, §27-1-7.
Emergency administrative orders, §27-1-37.

WILDLIFE —Cont'd
Endangered wildlife.
Citation of title, §27-3-130.
Duties of department and board, §27-3-132.
Powers of department and board, §27-3-132.
Protected species defined, §27-3-131.
Short title, §27-3-130.
Title of act, §27-3-130.
Violation as misdemeanor, §27-3-133.
Exhibition permits, §27-2-13.
Falconry permits, §27-2-17.
Duties, §27-2-17.
Permitted acts, §27-2-17.
Prohibitions pertaining to permit holders, §27-2-17.
Fees.
Lifetime sportsman license, §27-2-3.1.
Schedule of fees.
Customer fishing license, §27-2-23.2.
Miscellaneous licenses and permits, §27-2-23.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
Fertility control of wildlife, §§27-3-180 to 27-3-185.
Appeal of permit denial, suspension or revocation, §27-3-182.
Application for permit, §27-3-182.
Authority of department, §27-3-184.
Cease and desist order for violations, §27-3-184.
Criteria for permit issuance, §27-3-182.
Definition, §27-3-181.
Disposal of wildlife upon which fertility control administered unlawfully, §27-3-184.
Legislative findings, §27-3-180.
Penalties for violations, §27-3-185.
Permit revocation for violations, §27-3-185.
Prohibition, §27-3-181.
Rules and regulations, §27-3-183.
Film production wildlife permits, §27-2-13.1.
Fees, §27-2-23.
Fines.
Disposition of civil penalties, §27-1-36.

WILDLIFE —Cont'd
Fishing.
Commercial fishing.
General provisions, §§27-4-70 to 27-4-118.
General provisions, §§27-4-1 to 27-4-283.
Oysters and clams.
General provisions, §§27-4-187 to 27-4-204.
Seafood harvesting.
General provisions, §§27-4-130 to 27-4-206.
Trout fishing, §§27-4-50, 27-4-51.
Fish ladders.
Construction, §27-1-8.
Assessment of cost upon refusal, §27-1-8.
Requiring by private persons, §27-1-8.
Game-holding permits, §27-2-11.
Game wardens.
Agencies assigned to department.
Functions, §27-1-20.
Appointment, §27-1-16.
Arrest powers, §27-1-19.
Enforcement powers generally, §27-1-18.
Interference with duties, §27-1-25.
Procedure upon failure of person to answer charges, §27-1-19.
Deputy game wardens, §27-1-17.
Powers generally, §§27-1-18 to 27-1-21.
Establishment of unit, §27-1-16.
Powers generally, §§27-1-18 to 27-1-21.
Qualifications, §27-1-16.
Seizure and disposal of wildlife illegally taken or possessed, §27-1-21.
Civil action by possessor, §27-1-21.
Disposal of unmarketable items, §27-1-21.
Disposal of wildlife unable to be stored, §27-1-21.
Supervisory personnel, §27-1-16.
Grants.
National resources conservation camps, §27-1-13.
Habitats.
Disturbing or destroying wildlife habitats, §27-1-30.
Harvest recording and reporting requirements for game animals and game birds, §27-3-29.

WILDLIFE —Cont'd
Hunting.
Deer hunting, §§27-3-40 to 27-3-50.
General provisions, §§27-3-1 to 27-3-29.
License card carriers, §27-2-3.1.
Shooting preserves, §§27-3-110 to 27-3-115.
Importation.
Permits, §27-2-19.
Wild animals.
Importation, transportation, sales, etc, §§27-5-1 to 27-5-12.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Damages for violations, §27-3-152.
Injunctive relief, §27-3-152.
Lawful taking defined, §27-3-150.
Prohibited activities, §27-3-151.
Unlawful activities, §27-3-151.
Interstate compacts.
Atlantic states marine fisheries compact.
General provisions, §§27-4-210 to 27-4-216.
Jurisdiction of probate courts, §27-1-35.
Liberation-of-wildlife permits, §27-2-14.
Licenses.
Big game license, §27-2-6.
Commercial alligator farming licenses, §27-2-10.
Counterfeiting or alteration of licenses, §27-2-28.
Deer, hunting with dogs.
Permit issuance, §27-3-17.
Disciplinary actions, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of disciplinary action, §27-2-27.
Administrative review, §27-2-25.
Judicial review, §27-2-25.
Rulemaking authority, §27-2-26.
Surrender of license, §27-2-26.
Fishing.
Bait dealers, §27-4-171.
Blind persons.
Honorary licenses.
Reciprocal agreements, §27-4-234.
Catch-out pond licenses, §27-4-31.
Fee, §27-2-23.
Customer fishing license.
Purchase by salt water fishing guide, §27-2-23.2.

WILDLIFE —Cont'd
Licenses —Cont'd
Fishing —Cont'd
Discounted fishing licenses, §27-2-4.
Effective dates of fishing licenses, §27-2-3.
Fees, §27-2-23.
Customer fishing license, §27-2-23.2.
Lifetime sportsman license, §27-2-3.1.
Nonresidents of contiguous states without reciprocal agreements, §27-2-7.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
Florida residents over sixty-five years of age.
Fishing license reciprocity, §27-2-4.1.
Free fishing days, §27-2-29.
Honorary fishing licenses, §27-2-4.
Issuance, §27-2-2.
License card carriers, §27-2-3.1.
Lifetime sportsman license, §27-2-3.1.
Multi-year licenses, §27-2-3.
Nonresident.
Lifetime sportsman license, §27-2-3.1.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Paralyzed or disabled individuals, §27-2-4.2.
Reciprocal agreements, §27-4-234.
Alabama.
Fees where no reciprocal agreement, §27-2-7.
Fees for nonresidents of contiguous states without reciprocal agreements, §27-2-7.
Florida.
Fees where no reciprocal agreement, §27-2-7.
Sixty-five year old residents, §27-2-4.1.
North Carolina.
Fees where no reciprocal agreement, §27-2-7.
WILDLIFE —Cont'd
Licenses —Cont'd
Fishing —Cont'd
Reciprocal agreements —Cont'd
South Carolina.
Fees where no reciprocal agreement, §27-2-7.
Tennessee.
Fees where no reciprocal agreement, §27-2-7.
Requirement of license, §27-2-1.
Salt water fishing guide license, §27-2-23.2.
Salt water fishing pier license, §27-2-23.2.
Salt water shore fishing license, §27-2-23.
Screening questionnaire to be completed by applicant, §27-2-3.1.
Sportsman license, §27-2-3.1.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Hunting.
Alligator hunting license, §27-2-6.
Big game license, §27-2-6.
Fees, §27-2-23.
Discounted hunting licenses, §27-2-4.
Effective dates of hunting licenses, §27-2-3.
Fees, §27-2-23.
Lifetime sportsman license, §27-2-3.1.
Field and retriever trials.
Hunting licenses required, §27-2-21.
Honorary hunting licenses, §27-2-4.
Hunter education course.
Completion as prerequisite for license, §27-2-5.
Issuance, §27-2-2.
Lifetime sportsman license, §27-2-3.1.
Multi-year licenses, §27-2-3.
Nonresidents.
Lifetime sportsman license, §27-2-3.1.
Owner of registered vessel, three-day resident hunting and fishing license, §27-2-1.
Primitive weapon hunting license, §27-2-3.1.

WILDLIFE —Cont'd
Licenses —Cont'd
Hunting —Cont'd
Reciprocity.
Agreements, §27-2-7.
Requirement of license, §27-2-1.
Screening questionnaire to be completed by applicant, §27-2-3.1.
Shooting preserves.
Required on shooting preserves, §27-3-114.
Type SP, shooting preserve license, §27-2-3.1.
Contracts with preserves for issuance and sale of licenses, §27-3-115.
Sportsman license, §27-2-3.1.
Suspension of hunting license.
Bear hunting restrictions.
Violation of provisions, §27-3-26.
Negligent hunting, §27-2-25.1.
Power to suspend licenses, §27-2-25.2.
Veteran's lifetime sportsman's license.
Satisfactory evidence of service, §27-2-3.1.
Lifetime sportsman license, §27-2-3.1.
Making false statement in obtaining license, §27-2-28.
Multi-year licenses, §27-2-3.
Official Georgia waterfowl license, §27-1-10.
Refusing inspection of identification, §27-2-28.
Residency.
Lifetime sportsman's license.
Proof, §27-2-3.1.
Service of process for licensees, §27-2-24.
Sportsman license, §27-2-3.1.
Taxidermist licenses, §27-2-9.
Trapping.
Effective dates of trapping licenses, §27-2-3.
Fees, §27-2-23.
Generally, §27-3-60.
Issuance, §27-2-2.
Nonresidents.
Bonds, surety, §27-3-61.
Rabbit trapping on own premises.
License not required, §27-3-66.
Requirement of license, §§27-2-1, 27-3-60.
WILDLIFE —Cont'd
Licenses —Cont'd
Unlawful collection of funds, §27-2-28.
Wild animals generally, §27-5-4.
Animals for which license required, §27-5-5.
Shooting of wild animal held under license or permit, §27-5-12.
Management areas.
Feral hogs.
Controlling or regulating hunting or taking, §27-3-24.
Noncompliance with laws while on area, §27-1-33.
Motor vehicles.
Failure or refusal to bring to a stop, §27-1-25.1.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
National forests.
Protection and management of wildlife in national forests.
Federal-state cooperation, §27-1-12.
Natural resources conservation camps.
Grants and donations for, §27-1-13.
Nongame species.
Defined, §27-1-28.
Taking, §27-1-28.
Defined, §27-1-2.
Ownership of wildlife, §27-1-3.
Oysters and clams.
General provisions, §§27-4-187 to 27-4-204.
Permits.
Commercial quail breeder permits, §27-2-16.
Counterfeiting or alteration of permits, §27-2-28.
Deer.
Deer management assistance program, §27-3-15.
Killing deer causing damage to crops, §27-2-18.
Disciplinary actions against permit holders, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of disciplinary action, §27-2-27.
Administrative review, §27-2-25.
Judicial review, §27-2-25.
Rulemaking authority, §27-2-25.
Surrender of permit, §27-2-26.
Exhibition permits, §27-2-13.
Falconry permits, §27-2-17.
Film production wildlife permits, §27-2-13.1.
Fees, §27-2-23.

WILDLIFE —Cont'd
Permits —Cont'd
Importation permits, §27-2-19.
Liberation-of-wildlife permits, §27-2-14.
Making false statement in obtaining permit, §27-2-28.
Refusing inspection of identification, §27-2-28.
Rehabilitation permits, §27-2-22.
Scientific collecting permits, §27-2-12.
Service of process for permittees, §27-2-24.
Storage permits, §27-2-15.
Trapping.
Filing of permit application as admission that applicant doing business in state, §27-3-72.
Rabbits or hares, §27-3-67.
Unlawful collection of funds, §27-2-28.
Wild animals generally, §27-5-4.
Animals for which permit required, §27-5-5.
Shooting of wild animal held under or permit, §27-5-12.
Wildlife control permits, §27-2-31.
Plumage taking permits, §27-2-12.
Possessing.
Generally, §27-1-22.
Purchase of game, §27-1-29.
Quail.
Commercial quail breeder permits.
Maintenance of records by holders, §27-2-16.
Pen raised quail.
Selling and transporting generally, §27-2-16.
Recreation projects.
Assent to federal law respecting wildlife associated recreation projects, §27-1-10.
Rehabilitation permits, §27-2-22.
Releasing.
Generally, §27-1-22.
Restoration projects.
Assent to federal law respecting, §27-1-10.
Road kill.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Rulemaking authority.
Affirmation of decision by operation of law, §27-1-5.
Appellate review, §27-1-5.
Applicability of administrative procedure act, §27-1-5.
WILDLIFE —Cont'd
Rulemaking authority —Cont'd
Board of natural resources, §27-1-4.
Consent of federal rulemaking.
Acquisition of land for river navigability purposes, §27-1-9.
Criminal violations.
Rules and regulations used to establish, §27-1-39.
Disciplinary actions against licensees and stamp and permit holders, §27-2-26.
Harvest recording and reporting, §27-3-29.
Sales.
Game, §27-1-29.
Wild animals.
Importation, transportation, sales, etc, §§27-5-1 to 27-5-12.
Scientific collecting permits, §27-2-12.
Seafood harvesting.
General provisions, §§27-4-130 to 27-4-206.
Oysters and clams, §§27-4-187 to 27-4-204.
Seizure.
Wild animals.
Seizure as contraband, §27-5-8.
Disposal of recaptured animals after seizure, §27-5-10.
Seizure pursuant to administrative order, §27-5-9.
Wildlife illegally taken or possessed, §27-1-21.
Shooting preserves, §§27-3-110 to 27-3-115.
Short title, §27-1-1.
Solicitation.
Hiring of another to take wildlife contrary to law, §27-1-32.
Stamps.
Disciplinary action against stamp holders, §§27-2-25 to 27-2-27.
Administrative penalties in lieu of disciplinary action, §27-2-27.
Administrative review, §27-2-25.
Judicial review, §27-2-25.
Rulemaking authority, §27-2-26.
Surrender of stamp, §27-2-26.
Federal migratory bird hunting and conservation stamp, §27-2-20.
Fees, §27-2-23.
Waterfowl and migratory bird stamp, §§27-2-6, 27-2-20.

WILDLIFE —Cont'd
Storage permits, §27-2-15.
Taking.
Defined, §27-1-2.
Generally, §27-1-22.
Taking possession of native wildlife killed by motor vehicle, §27-3-28.
Taxidermist licenses, §27-2-9.
Title of code, §27-1-1.
Transportation of wildlife, §§27-3-90 to 27-3-94.
Carriers.
Acceptance of wildlife for shipment, §27-3-94.
Reporting requirements, §27-3-94.
Interstate, §27-3-92.
Intrastate, §27-3-91.
Propagation and scientific purposes, §27-3-93.
Requirements, §27-3-90.
Wild animals.
Importation, transportation, sales, etc, §§27-5-1 to 27-5-12.
Trapping.
Interference with lawful taking, §§27-3-150 to 27-3-152.
Trout fishing.
General provisions, §§27-4-50, 27-4-51.
United States.
Acquisition of land for conservation purposes.
Consent to acquisition, §27-1-11.
Notice of intended use, §27-1-11.
Acquisition of land for river navigability purposes.
Consent to federal rules and regulations, §27-1-9.
Unlawful concealment, possession or use of wildlife, §27-1-31.
Vessels and boats.
Failure or refusal to bring to a stop, §27-1-25.1.
Inspection of, §27-1-24.
Waterfowl.
Official Georgia waterfowl license, §27-1-10.
Wild animals.
Escape from captivity, §27-5-7.
Disposal of recaptured animals after escape, §27-5-10.
Importation, transportation, sales, etc., §§27-5-1 to 27-5-12.
Auction license, §27-5-11.
Applications, §27-5-11.
Filing requirements, §27-5-11.

WILDLIFE —Cont'd
Wild animals —Cont'd
Importation, transportation, sales, etc. —Cont'd
Care in transit, §27-5-6.
Civil action to recover seized animals as contraband, §27-5-8.
Employees, §27-5-6.
Escape from captivity, §27-5-7.
Disposal of recaptured animals, §27-5-10.
Facilities in general, §27-5-6.
Feeding, §27-5-6.
Food and water requirements, §27-5-6.
Handling, §27-5-6.
Indoor facilities, §27-5-6.
Legislative intent and findings, §27-5-1.
Licenses and permits generally, §27-5-4.
When required, §27-5-5.
Outdoor facilities, §27-5-6.
Powers of board generally, §27-5-2.
Powers of department generally, §27-5-3.
Primary enclosures used to transport animals, §27-5-6.
Public policy declaration, §27-5-1.
Release from captivity, §27-5-7.
Sanitation, §27-5-6.
Seizure as contraband, §27-5-8.
Disposal of recaptured animals, §27-5-10.
Seizure pursuant to administrative order, §27-5-9.
Separation, §27-5-6.
Space requirements, §27-5-6.
Specifications for humane handling, care, etc., §27-5-6.
Vehicles, §27-5-6.
Veterinary care, §27-5-6.
Watering, §27-5-6.
Licenses and permits.
Animals for which license or permit required, §27-5-5.
Generally, §27-5-4.
Shooting of wild animal held under license or permit, §27-5-12.
Release from captivity, §27-5-7.
Wildlife control permits, §27-2-31.
Wildlife endowment trust fund, §27-2-30.
Wildlife violator compact, §§27-2-40 to 27-2-42.

WILDLIFE CONTROL PERMITS, §27-2-31.

WILDLIFE ENDOWMENT TRUST FUND, §27-2-30.

WILDLIFE SANCTUARIES.
Board of natural resources.
Powers and duties.
Purchase and development, §27-1-6.

WILDLIFE VIOLATOR COMPACT, §§27-2-40 to 27-2-42.
Rules and regulations, §27-2-41.
Text, §27-2-40.

WILLS.
Guardians of minors.
Testamentary guardians.
Nomination by parents, §29-2-4.

WILLS —Cont'd
Testamentary guardians.
Guardians of minors.
Nomination by parents, §29-2-4.

WITNESSES.
Adult guardianship and conservatorship proceedings.
Testimony of out-of-state witnesses, §29-11-6.

WOLVERINES.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.

WOLVES.
Wild animal licenses and permits.
Animals inherently dangerous to human beings, §27-5-5.