



Judicial Council of Georgia

Court Fee Committee

Minutes of Meeting on November 10, 2005

10:00 a.m.

Administrative Office of the Courts
110 Holiday North Drive, Suite B
Macon, Georgia

A. Members present:

Judge Hugh W. Stone	Chair
Ms. Elizabeth Blackwell	Clerk, Gwinnett County Recorder's Court
Judge Edward E. Carriere, Jr.	Dekalb County State Court
Ms. Sherri Lanford	Clerk, Probate Court of Bibb County
Judge Robin W. Shearer	Judge/Clerk, Clarke County Juvenile Court
Carolyn Sullivan	Clerk, Superior Court of Houston County
Judge Susan P. Tate	Probate Court of Clarke County
Mr. P. Vinson Harris	Associate Director for Administration (AOC)
Mr. Bob Bray	Associate Director, Training and Development (AOC)

Guests present:

David L. Ratley	Director, Administrative Office of the Courts
Debra Nesbit	Associate Director Legislative and Governmental Affairs (AOC)
Vi Farness	Court Consultant/Lead Instructor (AOC)
Teresa Pumphrey	Court Consultant/Lead Instructor (AOC)
Pam Dixon	Facility Manager Macon (AOC)

Judge Hugh W. Stone opened the meeting at 10:00 a.m. he introduced himself, welcomed everyone, and asked everyone present to introduce him or herself.

B. Items of Interest and Handout Materials:

Each member received a packet of handouts which included the following materials:

- Meeting Agenda
- Minutes from the Previous Committee Meeting
- Response by the AOC to the Special Review of Court Fees by the Department of Audits
- Proposal from Legislation and Research Subcommittee of a recommendation on legislation to Judicial Council
- Proposal from Implementation and Reports Subcommittee of a recommendation on legislation to the Judicial Council
- Elements of a model fee statute
- Matrix highlighting problems identified with current fee statutes
- Relevant House and Senate Bills before legislature affecting fee and court fee operational practices
- 2006 Calendars

C. Approval of Minutes:

Minutes were approved as submitted and will be made available on the web site next week at <http://www.georgiacourts.org/councils/courtfeescomm.html>.

D. Old Business:

a. Report on the Georgia Superior Court Clerk's Cooperative Authority by Judge Stone

Judge Stone reported that he attended the meeting of the Georgia Superior Court Clerks Cooperative Authority on October 12, 2005.

The Superior Court Clerks Cooperative Authority acts as a clearing house for court fees and recently was sued due to interpretations of fee laws. The Authority is very much in favor of one fixed fee as a surcharge. This is one of the proposals that they will be discussing with the Governor when they try to tweak House Bill 1EX.

b. Report from Subcommittee on Legislation and Research

Bob Bray reported for Judge Peed on the work of the Subcommittee on Legislation and Research. Upon their committee meeting and reviewing materials from other states, the subcommittee presents a proposal to be approved by the court fee committee as a whole as a recommendation to be presented to the Judicial Council:

Position on Legislation Regarding the Court Fee Practice in Georgia Courts

The Court Fee Committee of the Judicial Council recommends that legislation be proposed as soon as possible that will simplify the current unworkable practice of determining and assessing fees and surcharges on or from fines in Georgia courts by creating one fixed fee to be assessed on all cases. Such legislation should consider and include the following matters:

- a. The amount of a one fixed percentage of the fine or filing fee to be added to the base fine or filing fee;
- b. That a fixed percentage be added in all cases, criminal, civil, ordinance; except on seat belts, parking tickets or red light camera civil traffic penalties;
- c. Determine the beneficiaries participating in the proceeds generated by this one fixed percentage fee;
- d. Upon collection by the court, the priority of partial payments as to fine, surcharge, or restitution;
- e. Upon collection of the fixed percentage fee, establish the amounts to the beneficiaries;
- f. Provide that new beneficiaries be required to participate in the fixed percentage fee fund;
- g. Determine how restitution is to be treated;
- h. Determine how local fees are to be treated;
- i. Clearly define and determine how court costs are to be treated.

The Subcommittee proposes that these suggestions be presented to the Judicial Council so when legislation is being considered the Council supports or makes these recommendations. Judge Stoned noted that the Subcommittee on Implementation and Reports made similar findings and that we should receive their report and discuss combining them in order to draft the best motion before the Council.

c. Report of the Subcommittee on Implementation and Reports

Judge Carriere as Chair of the Subcommittee on Implementation and Reports gave the report and made the following proposal to be presented for the Committee's consideration to present to the Judicial Council:

Proposal to Court Fee Committee From Subcommittee on Reports and Implementation

The Judicial Council Court Fee Committee recommends that legislation be proposed to make all fees an addition to the base fine and apply the same fees to fines, bond forfeitures and bonds. The following legislation should be considered for criminal and civil cases:

- 1) On criminal offenses there shall be no cost or fee added to or deducted from any fine or bond imposed by any court;
- 2) However, if there shall be a fee, a fixed percentage should be created to be added to the base fine and the legislature should determine who gets the monies;
- 3) Any fee on a civil case shall be added at the filing of the case and shall be assessed and collected on that one occasion.

Judge Carriere noted that all effort should be made to keep these laws simple. It was brought out in discussion that the court staffs that must understand and implement these court practices are laypersons, not lawyers or judges, who must be able to easily understand the application of these laws. By keeping this practice simple, Judge Carriere noted that the subcommittee believed that related efficiencies would be achieved and collections enhanced merely by economies of scale.

Two helpful items produced by Judge Carriere's subcommittee were:

- a. **Elements of a Model Court Fee Statute** – Bob Bray explained that a list was made of items that a good fee or surcharge statute should contain based upon an examination of all of the current fee statutes to date. (Attached as Exhibit A); and
- b. **Court Fee Statute Matrix** – Next a matrix chart was constructed that identified these elements of a model fee statute with the current fee statutes to determine how each statute rated in this comparison. (Attached as Exhibit B). It was noted that the Law Library fee was a good example of what not to do when creating fee legislation.

Associate Director of the AOC, Debra Nesbit noted that it would be helpful to have these recommendations from the Judicial Council when attending various legislative and committee meetings to be able to articulate the judges' position on court fee legislation.

c. Combined draft to propose to Judicial Council:

After receiving recommendations from both subcommittees, Judge Stone led the committee into drafting a proposal to bring to the Judicial Council on behalf of the Council, as follows:

RECOMMENDATION TO THE JUDICIAL COUNCIL FROM THE COURT FEE COMMITTEE

The Court Fee Committee recommends to the Judicial Council that legislation be proposed to make all charges that support a program or entity, hereafter "surcharge(s)", be an addition to the civil cost, penalty, or the base fine and apply such surcharge to civil costs, penalties, fines, bond forfeitures and bonds. The following elements should be considered in any legislation involving criminal and civil cases and penalties:

- 1) In criminal cases there shall be one surcharge of a fixed percentage in place of all other existing surcharges, added to the base fine. The legislation should provide:
 - a. Who gets the monies and in what amount;
 - b. Upon collection by the court, the priority of partial payments as to fine, surcharge, or restitution;
 - c. Provide that new beneficiaries be required to participate in the fixed percentage fee fund;
 - d. Determine how restitution is to be treated;
 - e. Define and determine how local surcharges are to be treated;
 - f. Clearly define and determine how court costs are to be treated.

- 2) In civil cases, any surcharge on a civil case shall be added to the initial filing or application cost of the permit, commission, license, registration, or case and shall be assessed and collected on that one occasion. In probate court only one such surcharge shall be assessed and collected per estate or guardianship and shall not apply to proceedings under Title 37.

- 3) In matters in which a civil penalty is imposed, the surcharge shall be applied as in criminal cases.

The Committee also respectfully suggests the legislature review the surcharge supported programs and entities to determine the ongoing needs of the entities or programs and the effectiveness of the services rendered, as well as consider other sources of revenue for program/entity funding, such as through the legislative appropriation process or surcharge assessment on annual corporate registrations, motor vehicle tags, hunting and fishing licenses, mobile home registrations and other state imposed costs.

Coming before the Committee on behalf of the subcommittee the recommendation was approved to present to the Judicial Council by unanimous vote. Judge Stone was given authority to draft the last paragraph and submit to the committee for approval by email.

E. New Business:

a. Pending Legislation to Date:

Associate Director Debra Nesbit identified some of the pending legislation that has been filed to date or carried over from the last session that will impact court fee practice in Georgia.

b. Report on Department of Audits Special Review of 2001 Performance Audit on Court Fees.

Bob Bray reported that

F. Announcements:

G. Next Committee Meeting:

The next meeting of the Judicial Council will be determined and notice given to the members of the Committee

H. Adjournment:

The meeting was adjourned at 12:37 p.m.

Respectfully submitted,

Bob Bray

Bob Bray

November 16, 2005