

# JUDGES PANEL

WRITTEN MATERIAL FOR  
PROFESSIONALISM AFTER THE  
STATEWIDE JUDICIAL EMERGENCY

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# COUNCIL OF SUPERIOR COURT JUDGES

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**PROFESSIONALISM AFTER THE  
STATEWIDE JUDICIAL EMERGENCY**

**SUPERIOR COURT REPORT**

**J. Wade Padgett**

President, Council of Superior Court Judges  
Judge, Columbia Judicial Circuit

Councils of all of Georgia's different classes of court regularly plan for contingencies and help prepare judges for factual scenarios that could develop in their respective courtrooms. In March 2020, our entire world found itself thrust into a situation that was truly unprecedented and for which we were all largely unprepared. The COVID pandemic tested the ingenuity of all of our courts and there were times when the realities created by the pandemic seemed to collide with constitutional and statutory mandates placed upon judges and courts by laws that were not created with an eye toward the possibility of a worldwide pandemic.

In Superior Court, we were able to pass some emergency changes to our Uniform Rules of Superior Court (U.S.C.R.) and even were able to get a few emergency statutory changes implemented. As will be noted throughout this paper, many of the statutory changes that were made on an emergency basis include "sunset provisions." To my knowledge, Superior Court does not have any intention to seek any additional changes to statutes or the U.S.C.R. beyond those already undertaken and reported herein.

## **1) LEGISLATION PASSED BY THE 2021 GENERAL ASSEMBLY**

As noted above, Superior Court was involved with statutory and uniform rule changes as a result of the realities encountered by judges dealing with the pandemic. There were a few statutory initiatives which were joined by other classes of court and/or the Judicial Council.

### **a) HB 635 (remote action by judges and more)**

This bill gives judges of the Superior Court, State Court, Probate court, and each magistrate the authority to perform any judicial act which he or she is lawfully entitled to perform, regardless of where the judge is located when the act is performed. This issue was initially brought to our legislative support team at the beginning of session by the State Court judges. We worked together to draft language allowing certain video conferencing (as already permitted by rule or statute) and the remote processing of court orders outside of the boundaries of the State. Other classes of court later asked to join, and the language of the Judicial Council's alternative locations legislation was included in this bill. As passed, the statute includes expanded bench trial and accusations legislation suggested by the COVID Task Force.

This bill allows for bench trials under certain circumstances for any felony (excluding serious violent felonies) or misdemeanor cases when elected in writing by the accused. The judge has the discretion to order a jury trial by accusation under certain circumstances (excluding serious violent felonies). These later provisions both sunset on June 30, 2022.

**b) SB 163 (tolling of speedy trial demands)**

This bill, an initiative of Judicial Council, provides for the tolling of statutory speedy trial requirements after the end of a judicial emergency under certain circumstances. In order to suspend or toll speedy trial requirements, an order must be entered by the chief judge of a circuit, either in his or her discretion or at the behest of the majority of judges in a circuit. The Chief Justice of the Supreme Court may end the tolling and reinstate the statutory speedy trial requirements at any time. There are some complicated reporting requirements that must be included within any local order which tolls statutory speedy trial demands. There are also time limitations associated with these tolling orders, based upon the terms of court of each respective circuit that chooses to enter such an order. The statute clearly establishes that these orders only toll statutory speedy trial demands and have no impact on constitutional speedy trial issues. Sunset: June 30, 2023.

**2) THE U.S.C.R., BOTH EMERGENCY AND PROPOSED PERMANENT CHANGES**

The Council of Superior Court Judges (CSCJ) worked with the Supreme Court of Georgia to amend the then-existing U.S.C.R. 9.1 and 9.2 relating to hearings that are conducted via video conferencing. Temporary modifications were made to those two rules during the pendency of the Statewide Judicial Emergency declarations. The Supreme Court then authorized an extension of those emergency changes to U.S.C.R. 9.1 and 9.2 to allow for the changes made during the Judicial Emergency to remain in effect for an additional year after the end of the Judicial Emergency. Additionally, the Court temporarily clarified the rules to allow any proceeding not otherwise allowed to be conducted by video conference so long as the judge and all the parties consent, and public access is ensured as required in the rules. Frankly, during the height of the pandemic, many of our judges found themselves in a situation where the only

viable method they could use to conduct hearings in both criminal and civil cases was via video conferencing.

**a) Permanent changes to U.S.C.R. 9.1 and 9.2 (video conferencing)**

The CSCJ has proposed permanent amendments to U.S.C.R. 9.1 and 9.2 which are presently pending review in the Georgia Supreme Court. Those proposed modifications were submitted to the Supreme Court in December 2020. The permanent changes that have been proposed appear below.

**Rule 9.1. Telephone or Video Conferencing**

The trial court on its own motion or upon the request of any party may in its discretion conduct civil pre-trial proceedings, ~~or~~ post-trial proceedings, and non-jury trials by telephone or video conference with attorneys for all affected parties, and with the parties and all necessary witnesses in the case of trials or other adjudications. The trial judge may specify:

- (A) The time and the person who will initiate the conference;
- (B) The party which is to incur the initial expense of the conference ~~call~~, or the apportionment of such costs among the parties, while retaining the discretion to make an adjustment of such costs upon final resolution of the case by taxing same as part of the costs; ~~and~~
- (C) Any other matter or requirement necessary to accomplish or facilitate the telephone or video conference; and
- (D) As it relates to trials in non-jury matters, this rule shall be applicable only to civil cases where there is no right to a jury trial, where a party has not demanded a jury trial as required by law, or where the parties have waived the right to a jury trial as provided by law. Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Georgia law. All trials conducted under this rule shall comply with all applicable constitutional requirements, including due process and public access requirements. To ensure public access, the following requirements shall apply to trials conducted under this rule:
  - (1) Notice shall be given to the parties and the public that a proceeding will occur wholly by remote video conference.
    - (a) Such notice may be given by a website posting or similar means.
    - (b) In the event a court provides public access to a livestream of all proceedings to which the right of open courts applies, the livestream may constitute such notice, provided that notice

of the livestream itself is provided through the websites of one or more of the following: the court; the clerk of court; the Council of Superior Court Judges; and the local bar association(s), if any.

(2) If a party or a member of the public objects to the remote proceeding, the court shall sustain or overrule such objection prior to conducting the proceeding.

(3) The public shall be given an opportunity to view the remote video conference, such as by joining the video conference (although unable to participate), through a livestream, or through substantially similar means.

## **Rule 9.2. Video Conferencing**

(A) The following is a non-exhaustive list of matters which may be conducted by video conference:

- ~~(1)-~~ Determination of indigence and appointment of counsel;
- ~~(2)-~~ Hearings on appearance and appeal bonds;
- ~~(3)-~~ Initial appearance hearings;
- ~~(4)-~~ Probable cause hearings;
- ~~(5)-~~ Applications for arrest warrants;
- ~~(6)-~~ Applications for search warrants;
- ~~(7)-~~ Arraignment or waiver of arraignment;
- ~~(8)-~~ Pretrial diversion and post-sentencing compliance hearings;
- ~~(9)-~~ Entry of pleas in criminal cases;
- ~~(10)-~~ Impositions of sentences upon pleas of guilty or nolo contendere;
- ~~(11)-~~ Probation revocation hearings in felony cases in which the probationer admits the violation and in all misdemeanor cases;
- ~~(12)-~~ Post-sentencing proceedings in criminal cases;
- ~~(13)-~~ Acceptance of special pleas of insanity (incompetency to stand trial);

~~(14): Situations involving inmates with highly sensitive medical problems or who pose a high security risk;~~

~~(15): Testimony of youthful witnesses;~~

~~(16): Ex-parte applications for Temporary Protective Orders under the Family Violence Act and the Stalking Statute and subsequent hearings; and~~

~~(17) Any proceedings pursuant to Title 19 of the O.C.G.A. other than jury trials;~~

~~17. (18) Appearances of interpreters; and~~

~~(19) Any other matter with the consent of the parties.~~

Notwithstanding any other provisions of this rule, a judge may order a defendant's personal appearance in court for any hearing.

(B) Confidential Attorney-Client Communication. Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Georgia law. In all criminal proceedings, the defendant and defense counsel shall be provided with a private means of communications when in different locations.

~~(C) Witnesses. In any pending matter, a witness may testify via video conference. Any party desiring to call a witness by video conference shall file a notice of intention to present testimony by video conference at least thirty (30) days prior to the date scheduled for such testimony. Any other party may file an objection to the testimony of a witness by video conference within ten (10) days of the filing of the notice of intention. In civil matters, the discretion to allow testimony via video conference shall rest with the trial judge. In any criminal matter, a timely objection shall be sustained; however, such objection shall act as a motion for continuance and a waiver of any speedy trial demand. Rule 9.2 (C) is hereby waived to the extent that it imposes notice requirements beyond those ordinarily required by law or rule for proceedings conducted in person.~~

(C) Witnesses. Subject to approval by the trial court, a witness may testify via video conference with appropriate safeguards as directed by the judge. A party desiring to call a witness by video conference shall give reasonable advance notice to the court and all parties to the action. Any objections shall be considered by the trial court prior to testimony.

A timely objection to testimony by video conference which is sustained, shall act as a motion for continuance and also, in criminal cases, as a waiver of a speedy trial demand.

(D) Recording of Hearings. A record of any proceedings conducted by video conference shall be made in the same manner as all such similar proceedings not conducted by video conference. However, upon the consent of all parties, that portion of the proceedings conducted by video



conference may be recorded by an audio-visual recording system and such recording shall be part of the record of the case and transmitted to courts of appeal as if part of a transcript.

(E) Technical Standards. Any video conferencing system utilized under this rule must conform to the following minimum requirements:

- (1). All participants must be able to see, hear, and communicate with each other simultaneously;
- (2). All participants must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method;
- (3). Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications; and
- (4). The location from which the trial judge is presiding shall be accessible to the public to the same extent as such proceeding would if not conducted by video conference. The court shall accommodate any request by interested parties to observe the entire proceeding.

Rule 9.2 (E) (4) is hereby waived to the extent that it requires that the public have access to the location at which a judge is presiding over a video conference, provided that:

(a) Notice shall be given to the parties and the public that a proceeding will occur wholly by remote video conference;

(1) Such notice may be given by a website posting or similar means.

(2) In the event a court provides public access to a livestream of all proceedings to which the right of open courts applies, the livestream may constitute such notice, provided that notice of the livestream itself is provided through the websites of one or more of the following: the court; the clerk of court; the Council of Superior Court Judges; and the local bar association(s), if any.

(b) If a party or a member of the public objects to the remote proceeding, the court shall sustain or overrule such objection prior to conducting the proceeding; and

(c) The public shall be given an opportunity to view the remote video conference, such as by joining the video conference (although unable to participate), through a livestream, or through substantially similar means.

### **3) PROFESSIONALISM**

Superior Court judges would never propose any amendment to the U.S.C.R. that would undermine or inhibit professionalism. The use of video conferencing is likely a process that will

survive the pandemic. One of the frustrations encountered by both judges and lawyers during the Judicial Emergency has been the inability of some participants to adequately connect to video hearings to ensure that everyone can be seen and heard during the process. Courts are investing in hardware and software that improve the courts' ability to host video hearings. As a matter of professionalism, it seems that lawyers will need to make a similar investment to ensure their clients are able to participate in video hearings in a meaningful manner.

There is no doubt that some lawyers (and judges) are reluctant to engage in video hearings and, in my personal experience, some participants seem to intentionally frustrate the process in an attempt to derail scheduled video hearings. We are all involved in the judicial process in an era of massive changes as evidenced by the implementation of electronic filing, video hearings and other "new" processes. We are all being required to change and adapt. Lawyers and judges are not known for their universal acceptance of change to the tried and true methods we have implemented over prior generations. Effective litigators are going to be required to invest the time and money necessary to ensure they can represent their respective clients in this era of rapid change. While the pandemic may have kickstarted some of these changes, it is clear to us that these changes are here to stay, even after we move through the pandemic.

# COUNCIL OF PROBATE COURT JUDGES

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I am pleased to have the opportunity to appear on behalf of the Council of Probate Court Judges of Georgia, where I currently serve as the President Elect. Like all classes of courts, the challenges presented by 2020 were difficult to address but the Probate Courts adapted as quickly as possible. As is often the case, the challenges also presented great opportunity. Our courts were forced to be flexible, accommodating and focused on prioritizing and achieving daily victories while focusing on larger goals. To say we emerged unscathed would be too generous but to say we emerged better prepared and more capable would not be generous enough. Essentially, for at least a generation of Probate Judges, our legal service will always be divided into B.C. (Before Covid) and A.C. (After Covid) epochs.

The Council of Probate Court Judges, through various committees and strategic planning, are applying what worked during the B.C. period to our present and A.C. future. Of most immediacy is the need to formalize rules and create best practices that allow us to implement positive rule changes we need to continue the flexibility we have gained with respect to virtual hearings, online filings, service and notice issues and maintaining office hours while ensuring public and staff safety.

Therefore, the Probate Courts are seeking to implement changes to further the advancements made during the pandemic. First, we are proposing to preserve rule changes to continue to allow virtual appearances of parties, interested parties, and the public at all probate proceedings where it is appropriate. Of course, this presents some challenges with respect to hearings and proceedings which are confidential in nature, such as guardianships and conservatorships of both minors and adults. Additionally, like all courts, we want to ensure access to justice for all while also making sure that people are not being exploited, coached or represented by people who are taking advantage of the limited field of view of virtual proceedings. As an example, virtual hearings present the problem of ensuring someone is not being provided answers by a family member “just off screen,” which could be especially troubling in cases alleging incompetence in a proposed ward.

We are also moving forward with exploring options to offer e-filing, both for attorneys and Self Represented Litigants (“SRLs”). E-filing presents its own challenges for our class of court. Given the current requirements for certain original documents to be filed in probate courts, such as last wills and testaments, a hybrid system of paper and electronic filing is one option under consideration. We plan to learn what we can from the successful implementation of e-filing procedures in the other classes of courts, while also proceeding with several ongoing pilot projects in various counties. This task is made all the more challenging by conditions that vary greatly from metro areas like downtown Atlanta to smaller rural towns like Pitts, Georgia, including access to computers, broadband internet, streaming and video services, and simple technical assistance.

All times of change are difficult for the parties involved. The Council of Probate Court Judges is striving to enlist as much help, advice and support as possible. As such, we are soliciting feedback from attorneys and judges with respect to our proposed rule and filing changes. We are also actively listening to all of our hearing participants as to what aspects of virtual hearings and appearance are successful and are defining best practices that both comply with the

law and meet the needs of the people we serve.

Again, it is my great pleasure to have this opportunity to appear on behalf of the Council of Probate Court Judges.

Sincerely,

B. Shawn Rhodes

# COUNCIL OF JUVENILE COURT JUDGES

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## **PROFESSIONALISM AFTER THE STATEWIDE JUDICIAL EMERGENCY ORDER (JUVENILE COURTS)**

The Chief Justice's Fourteenth Order Extending Declaration of Statewide Judicial Emergency allowed for parties in juvenile court proceedings to consent to remote proceedings when those hearings might not otherwise have been authorized in the Juvenile Code or in the Uniform Juvenile Court Rules. Prior to the issuance of the Chief Justice's orders, neither formal adjudicatory hearings alleging a child to be delinquent or in need of services nor hearings alleging the violation of a juvenile court protective order that might have resulted in the loss of a person's liberty could be held virtually, even with the consent of all parties.

In June of this year, Uniform Juvenile Court Rule 12.2 was amended to authorize the juvenile courts of this state to continue to conduct those hearings virtually with the consent of all parties. Were it not for the change in the Rule, the Juvenile Court would have been barred from holding those hearings virtually once the Chief Judge's emergency order expired.

This change will allow juvenile courts of our state to continue to function efficiently as they attempt to navigate the ongoing challenges that Covid-19 outbreaks present. The juvenile courts of the state are uniquely situated in that they are typically required to operate with much shorter time requirements than those statutorily imposed on other classes of courts. When dealing with juveniles, the need for the expedient administration of justice takes on added significance.

Were it not for the change to the rule, the entire administration of justice in some juvenile cases could have been impeded, if not outright halted, were a situation to arise whereby in-person proceedings were not feasible. This could have resulted in serious delays and, in circumstances where it was necessary that a juvenile be held in pre-trial detention, could have forced some juveniles to spend significant amounts of time in pre-trial detention without the ability to have their case heard, even if they wished to consent to their case being heard virtually.

The change in the rule is a substantial improvement in the law and in access to justice. It increases the ability of parties to ensure that they timely get their day in court, and it ensures that the court can continue to achieve the court's objective of advancing delinquency and CHINS cases toward completion.

By and large, juvenile courts have seen a high degree of professionalism during the pandemic. The juvenile justice and child welfare sectors of the legal community have continued to cooperate to ensure that the administration of justice has not been unduly hampered by the problems posed by the pandemic. Lawyers have cooperated with one another in discovery and pre-trial matters, in efficiently securing witnesses appearance at trial, and in other areas of trial strategy to ensure that cases are heard fairly and expeditiously. The courts hope that the candor and professionalism that have been so prevalent throughout the past year will continue to be exhibited as we all become accustomed to a new way of administering justice.

# COUNCIL OF MAGISTRATE COURT JUDGES

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# Council of Magistrate Court Judges

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## Judicial Council Panel

### Chief Justice's Commission on Professionalism Virtual CLE "Professionalism After the Statewide Judicial Emergency Order"

September 28, 2021

## Council of Magistrate Court Judges

1. The Council of Magistrate Court Judges (CMCJ) does not anticipate requesting any proposed legislation or rule to deal with the post-Judicial Emergency world. However, many of our judges have heavily relied upon our ability to conduct virtual hearings during the ongoing pandemic. There are also those who dislike the virtual model and have been more hesitant to conduct remote and virtual proceedings. We will utilize the existing rules dealing with virtual hearings to increase efficiency and to reduce the number of in-person court hearings. Virtual hearings have allowed several counties to avoid any sort of massive backlog of pending cases.

2. Our Council hopes judges and attorneys will utilize alternative dispute resolution, such as mediation, to help alleviate the number of cases requiring a hearing. Alternative dispute resolution options allow the parties to have more control of the outcome of their case. Parties will often find themselves happier with a negotiated settlement where everyone receives something they want instead of leaving it up to the judge and losing control.

If a hearing is necessary, virtual alternatives should be considered. We will encourage attorneys to be flexible with the courts and other litigants as we continue to navigate how to move forward with the pandemic still ongoing.

3. Magistrate Courts are singularly focused on providing access to a fair and timely resolution to all disputes before us, while adhering to all safety protocols. We are always mindful of the fact the vast majority of our litigants are self-represented. As such, we often have the difficult challenge of ensuring substantial justice occurs for those who chose to navigate our complicated legal system without counsel. We will continue to encourage attorneys to act professionally and to be courteous to the other party especially during a time when so many people are having such a hard time.

4. Our Council continues to encourage access to justice across the state for all litigants who appear in Magistrate Court. Continuing, and supporting, the concept of virtual hearings will allow easier access to the court system and alternative dispute resolution programs for many litigants who may not have attended court in person before.



# Council of Magistrate Court Judges

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However, we have had some litigant feedback that there are still populations of individuals who do not have access to a computer or the internet to participate in a virtual hearing. It will be necessary going forward to find a balance so that all litigants are able to access the courts and the programs offered.

5. Virtual technology necessary for Magistrate Court has been found to be extremely cost efficient for those courts who have it in their budget. It is an economical approach that will allow courts to hold more hearings in a shorter amount of time without requiring the extra personnel at the courthouse that would be required for in person hearings. However, please be mindful these alternatives are not available in every county. Our Council has and will continue to encourage our courts to engage with their local alternative dispute resolution resources to provide more services for their litigants. Our Council has also encouraged our courts to apply for any stimulus funding available to expand their resources.

6. The existing rules regarding virtual hearings require all parties to consent to the hearing being held virtually. We would ask that attorneys be flexible and courteous when these requests are made. We would ask that attorneys attempt to avoid unnecessarily litigious behavior regarding these requests to postpone or prolong a case. We are currently still in the midst of the pandemic, and everyone should make every effort to be understanding and to be adaptable to the challenges and changes that everyone is being faced with.

Quinn M. Kasper  
President – Council of Magistrate Court Judges

# COUNCIL OF MUNICIPAL COURT JUDGES

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September 17, 2021

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### "Professionalism After the Statewide Judicial Emergency Order."

The Council of Municipal Court Judges is primarily concerned with access to justice. Therefore, without reservation, it supports the permanent extension of the Uniform Rules for all classes of courts that would allow us to conduct proceedings using video and other remote technology under the rules initially adopted during the judicial emergency. We also support the permanent extension of O.C.G.A. 17-7-4(d), which is set to expire in 2022.

The Georgia Lawyer's Creed states "To my colleagues in the practice of law, I offer concern for your welfare."

Nothing could show a greater concern for the welfare of other members of the bar – and the public and our fellow members of the judiciary and the people who work for the courts and law enforcement officers and other folks who come into contact with the judicial system on a daily basis – than taking every precaution to ensure their health and safety.

There are a vast number of variables that we cannot know with superficial engagement with people. We don't know if people suffer from compromised immune systems or live with people who do. We don't know if financial difficulties or vision difficulties or other circumstances make driving impossible. We don't know if unreasonable employers refuse to work with individuals to allow them to come to court even when they are summoned or subpoenaed, placing their much-needed jobs in jeopardy. We don't know their childcare or elder care obligations that may very well be life or death obligations. We don't know who is dying or giving birth that very same day.

If there is anything good to have come out of this pandemic, it is that virtual court solves a number of problems for the access to justice for a number of people. It protects medically vulnerable people. It alleviates transportation difficulties. It alleviates job problems. It literally allows lawyers to be in three places at once, thus increasing the flow of calendars. Utilization of virtual platforms has been encouraged to our Courts throughout the pandemic, where feasibly possible, and continues to be part of the conversation regarding providing access and keeping the caseload moving.

Of course, with every new solution comes a new set of problems. The Lawyer's Creed also states that "I will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of my clients." This requires recognition that not everyone has access to computers and other internet-enabled devices at-will. In order to bring these 21<sup>st</sup> Century solutions to the courts, we need to make 21<sup>st</sup> Century technology widely available to the public, which will require funding and creative thinking, and possibly legislative changes to make it available to those in need.

## COUNCIL OF MUNICIPAL COURT JUDGES

It will also require education to teach those who are unfamiliar with the technology how to use it fluently enough to make it work. Along those lines, this Council recognizes the importance of fostering working relationships with the local Law Library as well county libraries to aide in providing access to the internet for self-represented litigants. This is an avenue that we intend to explore further.

This, of course, is not easy. No change is easy or comfortable. But, as the very first aspirational ideal says, we should “put fidelity to clients, and through, clients, to the common good, before selfish interests.” We should not refuse to make change simply because it is hard or uncomfortable. We are called upon, as the aspirational ideals state, “[t]o preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good.”

Likewise, O.C.G.A. 17-7-4(d) allows for a Defendant who has waived a jury trial to prevent the prosecution from removing the cause from municipal court to a court which has juries available. It is axiomatic that justice delayed is justice denied. Forcing a defendant to start his or her case over again, to be charged and arraigned once again in a system which more likely than not moves much more slowly than the municipal court system can often cost a defendant year, sometimes denying him or her a driver’s license for all of that time. That is not access to justice.

The pandemic has forced us to look at the world and the people we serve through a different lens. We have learned to be more generous in granting continuances and showing grace and mercy, patience and understanding. These lessons learned should not end when the pandemic ends.

The Council for Municipal Court Judges is available to serve in any capacity which would ease this process.

## O.C.G.A. § 17-7-4

Current through the 2021 Regular Session of the General Assembly.

**GA - Official Code of Georgia Annotated > TITLE 17. CRIMINAL PROCEDURE > CHAPTER 7. PRETRIAL PROCEEDINGS > ARTICLE 1. GENERAL PROVISIONS**

### **§ 17-7-4. (Repealed effective June 30, 2022.) Trial without a jury; court requirements; court ordering trial with jury; repealing provision**

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(a)As used in this Code section, the term "serious violent felony" shall have the same meaning as provided for under [Code Section 17-10-6.1](#).

(b)Except as to trials conducted under Article 2 of Chapter 10 of this title and except for trials involving a serious violent felony, the accused in any felony or misdemeanor case may elect in writing to be tried by the court sitting without a jury by filing such request with the clerk of court and serving such request upon the prosecuting attorney and the judge to whom the case is assigned or, if the case is not assigned, upon the chief judge of the court in which the case is pending.

(c)When an accused elects a trial by the court sitting without a jury, the court shall, on the record:

(1)Advise the accused about the right to a trial by jury and the differences between trial by jury and trial by a court sitting without a jury; and

(2)Inquire whether the accused's election is knowing, intelligent, and voluntary.

(d)In criminal prosecutions when a jury trial has been expressly waived, the court may nevertheless order a trial with a jury. The court shall consider the prosecuting attorney's request for a jury trial, but the prosecuting attorney's objection shall not preclude the court from granting a request by the accused for a trial by the court sitting without a jury under subsection (b) of this Code section.

(e)This Code section shall stand repealed in its entirety on June 30, 2022.

### **History**

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Code 1981, [§ 17-7-4](#), enacted by [Ga. L. 2021, p. 423](#), § 3-1/HB 635.

Annotations

### **Notes**

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**EFFECTIVE DATE. --**

This Code section became effective May 4, 2021.

### **Research References & Practice Aids**

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**Hierarchy Notes:**