

House Bill 777 (AS PASSED HOUSE AND SENATE)

By: Representatives Wilson of the 80<sup>th</sup>, Bennett of the 94<sup>th</sup>, Taylor of the 91<sup>st</sup>, Kendrick of the 93<sup>rd</sup>, Davis of the 87<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act creating the State Court of DeKalb County, formerly known as the Civil  
2 and Criminal Court of DeKalb County, approved February 14, 1951 (Ga. L. 1951, p. 2401),  
3 as amended, particularly by an Act approved March 13, 1957 (Ga. L. 1957, p. 3322), an Act  
4 approved February 18, 1960 (Ga. L. 1960, p. 2166), an Act approved March 3, 2015 (Ga.  
5 L. 2015, p. 3501), and an Act approved April 28, 2016 (Ga. L. 2016, p. 3950), so as to  
6 provide definitions; to provide that the court shall be governed by general law related to state  
7 courts; to provide for meetings of all judges of the court and a quorum thereof; to remove  
8 outdated, expired, and superseded provisions; to modify provisions related to appointment  
9 of assistant solicitors; to modify the fee schedule of said court; to provide for the chief judge  
10 of said court; to modify provisions for the punishment of contempt; to provide for a new  
11 procedure for the selection and removal of the clerk, marshal, and chief probation officer of  
12 said court; to rename the jury division of said court; to rename the traffic division of said  
13 court; to provide for the selection of a presiding judge of such division; to provide uniform  
14 compensation and joint decision making for the state court judges and chief magistrate judge  
15 of DeKalb County; to provide effective dates; to provide for related matters; to repeal  
16 conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 777

18 **SECTION 1.**

19 An Act creating the State Court of DeKalb County, formerly known as the Civil and  
20 Criminal Court of DeKalb County, approved February 14, 1951 (Ga. L. 1951, p. 2401), as  
21 amended, particularly by an Act approved March 13, 1957 (Ga. L. 1957, p. 3322), an Act  
22 approved February 18, 1960 (Ga. L. 1960, p. 2166), an Act approved March 3, 2015 (Ga.  
23 L. 2015, p. 3501), and an Act approved April 28, 2016 (Ga. L. 2016, p. 3950), is amended  
24 by adding new sections following Section 1 to read as follows:

25 **"SECTION 1.1.**

26 (a) As used in this Act, the term 'Commissioner of Roads and Revenues of DeKalb  
27 County' shall mean the governing authority of DeKalb County.

28 (b) As used in this Act, the term 'senior judge' shall mean the chief judge provided for in  
29 Section 14-A of this Act.

30 (c) As used in this Act, the term 'Division A' shall refer to the seven judgeships of the State  
31 Court of DeKalb County created prior to March 3, 2015, which shall be numbered for  
32 identification and administrative purposes in such court as Divisions 1 through 7.

33 (d) As used in this Act, the term 'Division B' shall refer to the four judgeships of the State  
34 Court of DeKalb County provided in Part 2 of this Act, which shall be numbered for  
35 identification and administrative purposes in such court as Divisions 8 through 11.

36 **SECTION 1.2.**

37 This court shall be governed by the provisions of general law contained in Chapter 7 of  
38 Title 15 of the O.C.G.A., relating to state courts, and by the provisions of this Act.

39 **SECTION 1.3.**

40 At least twice per year, all judges of the State Court of DeKalb County, including all judges  
41 of Division A and Division B, shall conduct a meeting of the entire bench of this court.

42 Nine judges shall constitute a quorum for such meetings. Any judge may add an item to  
43 the agenda for consideration at any meeting of the entire bench.

44 **SECTION 1.4.**

45 The judges of the State Court of DeKalb County may adopt such local rules as they deem  
46 necessary on any matter concerning the governance, administration, budget, staffing, docket,  
47 or case management of the court. Adoption, modification, or repeal of a local rule shall  
48 require at least eight affirmative votes from judges of the court. Such local rules shall be  
49 consistent with the provisions of this Act and other applicable law."

50 **SECTION 2.**

51 Said Act is further amended by revising subsection (a) of Section 5 as follows:

52 "(a) The State Court of DeKalb County shall have all the jurisdiction as is provided to state  
53 courts by Chapter 7 of Title 15 of the Official Code of Georgia Annotated and such  
54 additional jurisdiction as may be provided by this Act or other law."

55 **SECTION 3.**

56 Said Act is further amended by revising Section 6A as follows:

57 "SECTION 6A.

58 The solicitor, also known as the solicitor-general, of said court shall have authority to  
59 appoint such assistant solicitors as he or she deems necessary, subject to the funding for  
60 such assistant solicitors being provided by the governing authority of DeKalb County."

61 **SECTION 4.**

62 Said Act is further amended by repealing and reserving Section 7-A in its entirety.

**SECTION 5.**

63

64 Said Act is further amended by revising Section 11B as follows:

**"SECTION 11B.**

65

66 Each party filing a suit or proceeding of any character in the state court, for the services  
 67 rendered by the clerk, shall deposit with the clerk of said court, except as provided for in  
 68 this section, the costs, which includes the first judgment, fi. fa., and recording of same, for  
 69 all suits or proceedings of any character, irrespective of how they shall be terminated,  
 70 which shall be \$65.00, plus all applicable fees. The sums provided in this section are  
 71 exclusive of cost for service of process or other additional sums as may be provided by law.  
 72 Cost for filing dispossessory and distress warrants shall be \$57.00, plus all applicable fees,  
 73 plus \$10.00 for each defendant more than one which includes service. Any fees provided  
 74 for in this section may be suspended by order of this court.

75 In addition to the foregoing costs, the clerk of said court shall charge and collect costs as  
 76 follows:

77	For filing and docketing each third-party	
78	complaint . . . . .	\$10.00
79	For filing and docketing scire facias	
80	each defendant . . . . .	10.00
81	For verdict rendered more than one	
82	and docketing same . . . . .	1.00
83	For affidavit to obtain alias fi. fa.	
84	and issuing same . . . . .	8.00
85	For affidavit where no cause is pending . . . . .	5.00
86	For certified copy . . . . .	5.00
87	For filing and docketing each appeal, civil or	
88	criminal, and such fee shall be paid at the	

89	time of filing the notice of appeal . . . . .	25.00
90	For preparation of record and transcript to the	
91	Supreme Court and Court of Appeals,	
92	per page . . . . .	1.50
93	Where a transcript of the evidence and proceedings is	
94	filed with the clerk and does not require recopying, the	
95	clerk shall not receive the fee herein prescribed with	
96	respect to such transcript but shall receive, for filing	
97	and transmission of such transcript, a fee of . . . . .	5.00
98	For certification or exemplification of record,	
99	including certificates and seals . . . . .	5.00
100	For clerk's certificate . . . . .	1.00
101	For court seal . . . . .	1.00
102	For issuing subpoena, signed and sealed . . . . .	1.00
103	For filing and docketing each	
104	writ of possession . . . . .	10.00
105	For filing and docketing each	
106	additional summons of garnishment . . . . .	10.00
107	For filing and docketing each traverse to	
108	answer of garnishment . . . . .	10.00
109	For preparing Department of Public	
110	Safety Letter . . . . .	3.00
111	For providing uncertified computer or photocopies	
112	of documents, per page . . . . .	1.00

113 MARSHAL

114 To provide for the services of the marshal, the following fees shall be charged:

115 For serving copy of process or other pleading and  
116 returning original, per copy . . . . . \$35.00

117 For serving action from another county, including  
118 second original . . . . . 35.00

119 For serving subpoena . . . . . 35.00

120 For each levy or writ of fieri facias . . . . . 35.00

121 For search and return of nulla bona . . . . . 20.00

122 For serving summons of garnishment or  
123 plaintiff's traverse of garnishee . . . . . 35.00

124 Commission on sales of property:  
125 On sums of \$50.00 or less . . . . . 8%  
126 On excess above \$50.00 up to \$550.00 . . . . . 6%  
127 For all sums exceeding \$550.00, on excess . . . . . 3%

128 No commission shall be charged unless property is actually sold.

129 For removing or storing or removing and storing property and  
130 keeping and feeding animals, the cost shall be actual expense incurred.

131 For making out and executing titles to land . . . . . 25.00

132 If presented by purchaser . . . . . 13.00

133 For executing bill of sale to personal property, when  
134 demanded by purchaser . . . . . 13.00

135 For dispossessing tenant or intruder . . . . . 75.00

136 Provided, however, that the cost for serving any paper or proceeding not provided for in  
137 this Act shall be \$35.00.

138 All costs provided for under this section shall be paid to the clerk's office at the time of  
139 filing."

140 **SECTION 6.**

141 Said Act is further amended by adding a new section following Section 11B to read as  
142 follows:

143 "SECTION 11B.1.

144 (a) Each person who is ordered to pay a fine for, is convicted of, or pleads guilty or enters  
145 a plea of nolo contendere to any violation shall pay court costs of \$25.00 unless otherwise  
146 ordered by the judge. Such court costs may be included in an order of probation and paid  
147 during the probated part of any sentence. Such court costs shall be used to defray the cost  
148 of operating the state court.

149 (b) Each person who fails to appear for a scheduled court appearance, pursuant to a  
150 citation or court notice, shall pay a \$50.00 failure to appear fee, unless otherwise ordered  
151 by the judge. Such fee may be included in an order of probation and paid during the  
152 probated part of any sentence.

153 (c) Each person who requests and is granted extended time in lieu of probation to comply  
154 with the terms of a proposed sentence in a criminal case shall pay a \$10.00 fee for  
155 administrative and technology costs, unless otherwise ordered by the judge. If the case is  
156 thereafter placed on probation, such fee may be included in the order of probation and paid  
157 during the probated part of the sentence."

158 **SECTION 7.**

159 Said Act is further amended by repealing and reserving Section 12-B in its entirety.

160 **SECTION 8.**

161 Said Act is further amended by repealing and reserving Section 13 and Section 13A in their  
162 entirety.

163 **SECTION 9.**

164 Said Act is further amended by revising Section 14-A and Section 14-B as follows:

165 **"SECTION 14-A.**

166 (a) There is hereby created the position of chief judge of the State Court of DeKalb  
167 County. In all matters concerning the governance, administration, budget, staffing, docket,  
168 or case management of said court, the chief judge shall have final authority over the matter,  
169 unless the judges of the court have provided otherwise by local rule, adopted in accordance  
170 with Section 1.4 of this Act. Before deciding any such matter, the chief judge in a meeting  
171 or in writing, whether formally or informally, shall consult with the Division A judges on  
172 matters solely affecting Division A, consult with the Division B judges on matters solely  
173 affecting Division B, and consult with the Division A and Division B judges on matters  
174 affecting the entire court. This authority of the chief judge shall not extend to the hiring  
175 or removal of the clerk, marshal, or chief probation officer, which shall be carried out as  
176 provided in Sections 20, 21, and 21.1 of this Act.

177 (b) The longest serving judge of the court as of the effective date of this Act shall be the  
178 chief judge of the court until December 31, 2022.

179 (c) As of January 1, 2023, the position and duties of chief judge shall pass as provided in  
180 subsection (d) of this section.

181 (d) Except as provided in subsection (b) of this section, the term of the chief judge shall  
182 be for two years or until the person serving as chief judge resigns from the position or  
183 leaves the court, whichever time is shorter. At the end of each term of the chief judge, the  
184 position shall pass to the next judge of Division A in rotation and in order of seniority, until

185 all judges of Division A have served all or part of one term as chief judge. After the junior  
186 judge in the rotation has served as chief judge, the position shall pass to the longest serving  
187 judge and the rotation shall begin again.

188 (e) No judge of Division A shall be eligible to serve as chief judge during his or her first  
189 four years of service on Division A. If any part of a judge's first term as chief judge would  
190 coincide with his or her first four years of service on Division A, the rotation provided in  
191 subsection (d) of this section shall skip that judge and he or she shall be eligible for his or  
192 her first term as chief judge in the next full rotation.

193 (f) No person serving as a judge on Division B of this court shall be eligible to serve as  
194 chief judge.

195 **SECTION 14-B.**

196 The chief judge when he or she deems necessary may request, in writing, the services of  
197 an acting judge who shall be a judge, associate judge, or senior judge on any appellate,  
198 superior, state, magistrate, juvenile, probate, or municipal court of this state who is  
199 otherwise qualified. When any such acting judge serves on this court, he or she shall be  
200 compensated at a rate to be determined by the chief judge in an annual standing order for  
201 compensation according to the complexity of assigned cases."

202 **SECTION 10.**

203 Said Act is further amended by revising Section 15 as follows:

204 "SECTION 15.

205 The selection of juries in all cases before this court shall conform to all applicable  
206 requirements of Article 5 of Chapter 12 of Title 15 of the Official Code of Georgia  
207 Annotated."

208 **SECTION 11.**

209 Said Act is further amended by repealing and reserving Section 16 in its entirety.

210 **SECTION 12.**

211 Said Act is further amended by revising Section 17 as follows:

212 "SECTION 17.

213 The judges of this court shall have authority to punish contempt to the extent provided in  
214 Section 15-7-4 of the Official Code of Georgia Annotated."

215 **SECTION 13.**

216 Said Act is further amended by repealing and reserving Section 17-A in its entirety.

217 **SECTION 14.**

218 Said Act is further amended by revising Section 20 and Section 21 as follows:

219 "SECTION 20.

220 (a) The clerk of the State and Magistrate Courts of DeKalb County shall be appointed by  
221 and may only be removed by a vote of at least eight judges of the state court, and the chief  
222 magistrate judge.

223 (b) Upon the position of clerk becoming vacant, the chief judge, the presiding judge of  
224 Division B, and the chief magistrate judge of DeKalb County shall meet and nominate a  
225 person to serve as clerk. Such nomination must be unanimous and shall be subject to  
226 approval as provided for in subsection (a) of this section.

227 (c) The clerk on the effective date of this Act shall remain in that position unless he or she  
228 resigns or is removed pursuant to subsection (a) of this section.

229 (d) The clerk shall have the authority to appoint and remove such deputy clerks as he or  
230 she deems necessary.

231 (e) The clerk shall have authority to file all papers, suits, and documents; sign all  
232 summons, subpoenas, warrants, executions, and documents; to make all necessary records  
233 and entries on the docket; and to perform such duties as required by the judges not  
234 inconsistent with the law. The clerk shall be an ex officio deputy marshal.

235 (f) If the chief magistrate judge elects to appoint a separate clerk to serve the Magistrate  
236 Court of DeKalb County, or if at least eight judges of the state court elect to appoint a  
237 separate clerk to serve the State Court of DeKalb County, the chief magistrate judge shall  
238 cease to participate in and shall not be counted regarding the appointment, removal, and  
239 nomination processes established in subsections (a) and (b) of this section.

240 SECTION 21.

241 (a) The marshal of the State and Magistrate Courts of DeKalb County shall be appointed  
242 by and may only be removed by a vote of at least eight judges of the state court, and the  
243 chief magistrate judge.

244 (b) Upon the position of marshal becoming vacant, the chief judge, the presiding judge of  
245 Division B, and the chief magistrate judge of DeKalb County shall meet and nominate a  
246 person to serve as marshal. Such nomination must be unanimous and shall be subject to  
247 approval as provided for in subsection (a) of this section.

248 (c) The marshal on the effective date of this Act shall remain in that position unless he or  
249 she resigns or is removed pursuant to subsection (a) of this section.

250 (d) The marshal shall have the authority to appoint and remove such deputy marshals as  
251 he or she deems necessary.

252 (e) The marshal and deputy marshals shall have the same powers, duties, and authority  
253 within DeKalb County as provided by law to sheriffs and deputy sheriffs. All process  
254 executions, warrants, or summary process of any kind issued from the court shall be levied,

255 served, or executed by the marshal or deputy marshals or by the sheriff of DeKalb County  
256 or any of his or her deputies.”

257 **SECTION 15.**

258 Said Act is further amended by adding a new section following Section 21 to read as follows:

259 **SECTION 21.1.**

260 (a) Notwithstanding any other provision of this Act to the contrary, the chief probation  
261 officer shall be appointed by and may only be removed by a vote of at least eight judges  
262 of the state court.

263 (b) Upon the position of chief probation officer becoming vacant, the chief judge of the  
264 State Court of DeKalb County and the presiding judge of Division B shall meet and  
265 nominate a person to serve as chief probation officer, with such nomination subject to  
266 approval as provided for in subsection (a) of this section.

267 (c) The chief probation officer on the effective date of this Act shall remain in that position  
268 unless he or she resigns or is removed pursuant to subsection (a) of this section.

269 (d) The chief probation officer shall have the authority to appoint and remove such  
270 probation officers as he or she deems necessary.

271 **SECTION 16.**

272 Said Act is further amended by adding a new section to read as follows:

273 **SECTION 21.2**

274 (a) Notwithstanding any provision of law to the contrary, the eleven judges of the State  
275 Court of DeKalb County and the chief magistrate judge of DeKalb County shall each  
276 receive an annual salary equal to 90 percent of the gross salary defined in Section 1 of the

277 Act providing for the compensation of certain county officers and officials of DeKalb  
278 County, approved March 31, 1976 (Ga. L. 1976, p. 3986), as amended.

279 (b) The annual salary provided to each judge pursuant to this section shall be paid in equal  
280 monthly installments from the funds of DeKalb County.

281 (c) The annual salary provided to each judge pursuant to this section may be further  
282 supplemented by ordinance or resolution of the governing authority of DeKalb County.

283 **SECTION 17.**

284 Said Act is further amended by repealing and reserving Section 23 and Section 24 in their  
285 entirety.

286 **SECTION 18.**

287 Said Act is further amended by repealing and reserving Section 31.

288 **SECTION 19.**

289 Said Act is further amended by repealing and reserving Section 32.

290 **SECTION 20.**

291 Said Act is further amended by repealing the existing Part 2 and enacting a new Part 2 to read  
292 as follows:

293 "Part 2

294 SECTION 2-1.

295 There is created a division of the State Court of DeKalb County to be known as Division B,  
296 formerly known as the 'traffic division.' Division B of the state court shall be governed by

297 the provisions of general law contained in Chapter 7 of Title 15 of the O.C.G.A., relating  
298 to state courts of counties, and by the additional provisions of this part.

299 SECTION 2-2.

300 (a) In addition to all other judges of the state court, there shall be four judges of Division B  
301 who shall be judges of the state court. The qualifications and election of the Division B  
302 judges shall be as provided by general law.

303 (b) Those judges serving on the traffic division of the state court immediately prior to the  
304 effective date of this Act shall serve out all terms of office for which they are elected or  
305 appointed until their respective successors are elected or until they resign, provided that on  
306 and after the effective date of this Act they shall be known as judges of Division B of the  
307 State Court of DeKalb County. Their successors shall be elected to terms of four years and  
308 all such elections shall be as provided by law.

309 (c) Except as specifically provided for in this part, all provisions of this Act relating to the  
310 authority and jurisdiction of other judges of the state court shall be applicable to the judges  
311 of Division B.

312 (d) The four judges of Division B are designated as full-time judges and may not engage  
313 in the private practice of law.

314 (e) Judges of Division B shall not be eligible to serve as chief judge of the state court.

315 SECTION 2-3.

316 (a) Division B shall have a presiding judge who shall have primary responsibility for the  
317 governance, administration, budget, staffing, docket, and case management of Division B.  
318 The four Division B judges, in performing their duties and responsibilities, shall share,  
319 divide, and allocate the work and duties to be performed by each of them. In the event of  
320 disagreement among the Division B judges with respect to such matters, the decision of the

321 presiding judge shall govern unless the remaining judges of Division B unanimously vote  
322 to overrule such decision.

323 (b) The term of the presiding judge shall be for two years or until the person serving as  
324 presiding judge resigns from the position or leaves the court, whichever time is shorter.  
325 At the end of each term of the presiding judge, the position shall pass to the next judge of  
326 Division B in rotation and in order of seniority, until all judges of Division B have served  
327 all or part of one term as presiding judge. After the junior judge in the rotation has served  
328 as presiding judge, the position shall pass to the longest-serving judge and the rotation shall  
329 begin again.

330 (c) No judge of Division B shall be eligible to serve as presiding judge during his or her  
331 first four years of service on Division B. If any part of a judge's first term as presiding  
332 judge would coincide with his or her first four years of service on Division B, the rotation  
333 provided in subsection (b) of this section shall skip that judge and he or she shall be eligible  
334 for his or her first term as presiding judge in the next full rotation.

335 (d) A judge's service on the former traffic division of the state court shall be counted for  
336 purposes of this section.

337 SECTION 2-4.

338 (a) Division B judges may hear and decide any matter within the jurisdiction of the state  
339 court, but Division B judges shall hear and decide only such matters as were assigned to  
340 the former traffic division of the state court by order of the chief judge or senior judge of  
341 the state court set forth in a standing order prior to the effective date of this Act. On and  
342 after the effective date of this Act, any change to the matters assigned to the Division B  
343 judges shall require the affirmative vote of five judges of Division A and three judges of  
344 Division B.

345 (b) This section shall not limit the power of the Division B judges to punish contempt  
346 actions in the same manner as any other judge of the state court.

347 (c) This section shall not limit the power of Division B judges to provide judicial  
348 assistance to other courts pursuant to Code Section 15-1-9.1 of the O.C.G.A. or any other  
349 applicable provision of law, to hear and decide any matter due to the recusal of another  
350 state court judge anywhere in the state, or to provide judicial assistance to Division A.

351 **SECTION 2-5.**

352 The Division B judges shall take an oath to faithfully administer and discharge the duties  
353 of their offices in accordance with the Constitution and laws of the State of Georgia and  
354 the Constitution of the United States, which oath may be administered by any officer  
355 authorized under the laws of this state to administer oaths.

356 **SECTION 2-6.**

357 The solicitor of the state court shall be the solicitor of Division B.

358 **SECTION 2-7.**

359 The clerk of the state court shall be the clerk of Division B. All records of the former  
360 Traffic Division shall be transferred to and maintained by the clerk of the state court."

361 **SECTION 21.**

362 An Act to amend an Act approved February 14, 1951, (Ga. L. 1951, p. 2401) creating and  
363 establishing the Civil Court of DeKalb County, and acts amendatory thereof, approved  
364 March 13, 1957 (Ga. L. 1957, p. 3322), is amended by repealing Section 2 and Section 5 in  
365 their entirety.

366 **SECTION 22**

367 An Act to amend an Act approved February 14, 1951 (Ga. L. 1951, p. 2401), creating and  
368 establishing the Civil Court of DeKalb County and all acts amendatory thereof, approved

369 February 18, 1960 (Ga. L. 1960, p. 2166), is amended by repealing Section 3 and Section 10  
370 in their entirety.

371 **SECTION 23.**

372 This Act shall become effective on January 1, 2022.

373 **SECTION 24.**

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