

State Bar Legislative Agenda for 2006

1. Senate Bill 469

This is the Corporate Section's corporate revision that would amend statutory language relating to business opportunity, merger and share exchange, certain shareholder approvals, indemnification, bankruptcy status, and technical and conforming corrections.

2. House Bill 1130:

This is the Fiduciary Law Section proposal that provides corrective amendments to the Guardianship Code of 2005. The proposal would 1) change language in Title 10 relating to health care powers of attorney to reflect the new terminology of the Guardianship Code of 2005; 2) reinstate previous provisions relating to the jurisdiction for temporary guardianships; 3) reinstate provisions relating to allocation of expenses of hearings on guardianship and conservator petitions; 4) raise to \$15,000 the amount that a probate judge can hold as custodian; 5) expand the circumstances under which an interested person can have access to sealed guardianship records; and 5) incorporate 2005 changes relating to the legitimating of children.

3. Oppose Caps on Legal Fees

The State Bar **opposes** HB 763 which caps contingent legal fees in tort cases at 30% of the first \$500,000 recovered, 20% of the next \$500,000, and 10% over \$1 million.

4. Fiduciary Law Section

This proposal seeks to clarify the insurable interest statute by codifying existing common law. This bill amends O.C.G.A. §33-24-3.

5. Appellate Practice and Educational Resource Center:

The Resource Center seeks a state appropriation totaling \$1,185,000, an increase of \$385,000 over the current continuation funding of \$800,000.

6. Georgia Public Defender Standards Council

- 1) **'07 Budget Request:** The Council seeks a budget appropriation of \$30,724,136, which is the amount collected by the Indigent Defense fund that is administered through the Clerk's Authority. They also seek an additional 'off-line' appropriation of \$15,449,806 for the additional needs. This 'off-line' budget request is necessary because the state law limits their request to the amount collected through the current funding mechanism.
- 2) **Supplemental Budget Request:** The Council seeks a supplemental budget request of \$44,798,208.

- 3) **Council Standards:** The Council seeks legislative ratification of each of the Council's adopted standards, including standards on death penalty defense, definition of a case, and removal of a Circuit Defender for cause.
- 4) **Staggered Terms:** The Council is asking for staggered terms for Council members.
- 5) **Public Defender Salaries:** The Council seeks to change the public defender's salary to be based on 90% of the district attorney's salary instead of a set amount.
- 6) **Assistant Public Defenders:** The Council seeks an additional assistant public defender to be provided for the juvenile division.

7. Georgia CASA

Georgia CASA is requesting a \$656,000 increase, for a total budget of \$1,200,000, to support 3,000 more children and 20 new counties.

8. Women and Minorities in the Profession

A budget of \$2,200,000 for FY '07 is being requested for domestic violence legal services for the poor. This is approximately a 5% increase.

9. Committee on the Judiciary

- 1) **Non-Partisan Judicial Elections:** The State Bar approved the Committee on the Judiciary's request the State Bar take a position favoring non-partisan judicial elections. The proposal would cover bills brought by courts that are seeking to become non-partisan (i.e. Probate Courts). The motion would also guide our lobbyists on bills such House Resolution 855, which the ACL voted to oppose. This bill, filed in the waning days of the 2005 session, would create a ballot referendum to change the Georgia Constitution to make trial judges and appellate judges partisan candidates.
- 2) **Exception for Political Party Contributions/Expenditures:** The Committee on the Judiciary also requests that the State Bar take a position supporting HB 46, which specifies that the exception for political party contributions/ expenditures would apply only to candidates running in partisan races. Currently, the law allows political parties to contribute money to non-partisan races. The ACL voted to support HB 46.

The following State Bar positions carry over from 2005:

SB 253: This is the Property Section's effort to assist the Georgia Manufactured Housing Association's effort to clarify the law relating to certain

manufactured homes. This bill provides for the immediate conversion of a mobile home that is permanently attached to the ground from a personal property interest to a real property interest. This bill amends O.C.G.A. 8-2-181, et seq. The bill will benefit closing attorneys by clarifying that underlying assets are 'real property'. The bill has passed the Senate and was favorably reported by the House Judiciary Committee on January 24, 2006. The bill is now in House Rules Committee where it awaits approval to be placed on an agenda for a full vote by the House of Representatives.

HB 150: This bill by Rep. Bobby Franklin (R- Cobb) would amend the statute to require the Board of Bar Examiners to seat students from unaccredited law schools to take the bar exam if they had been admitted to practice in any other state. This bill passed the House on March 11 and remains in the Senate Special Judiciary Committee. The State Bar opposes the bill.