

PROPOSAL RE: AMENDING THE LONG ARM STATUTE TO EXTEND APPLICATION TO ADDITIONAL DOMESTIC RELATIONS MATTERS

1. Specific legislation has been prepared and is attached hereto as Exhibit A. Said proposed legislation amends O.C.G.A. § 9-10-91(5) and adds (6) to provide more comprehensive application in domestic relations cases.
2. The issue to be addressed by the legislation includes the problem identified in Daniels v. Barnes, 289 Ga. App. 897, 658 S.E. 2d 472 (2008) in that Georgia trial courts do not have personal jurisdiction over non-residents under the Uniform Child Custody Jurisdiction and Enforcement Act with respect to motions for contempt.
3. The existing domestic relations long-arm statute was enacted in 1983. The statute is not presently specific in its application to enforcement actions or custody matters. Litigants rely on case law and judicial interpretation for the exercise of jurisdiction in certain contempt matters against non-residents.
4. There are no known opponents of the proposed legislation.
5. The General Trial Practice Section may have an interest in the legislation. We are soliciting comments from other sections of the State Bar.
6. The Family Law Section recommends that this proposal be adopted by the State Bar of Georgia.

EXHIBIT A

A BILL TO BE ENTITLED

AN ACT

To amend Chapter of Title 9 of the Official Code of Georgia Annotated relating to

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Previous Section O.C.G.A. § 9-10-91(5) is repealed.

Section 2. A new Section O.C.G.A. § 9-10-91(5) of the Official Code of Georgia Annotated is established as follows:

(5) With respect to proceedings for divorce, separate maintenance, annulment or other domestic relations action or with respect to an independent action for support of dependents, maintains a matrimonial domicile in this state at the time of the commencement of this action or if the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not, notwithstanding subsequent departure from the state and as to all obligations arising from alimony, child support, apportionment of debt or real or personal property orders or agreements if one party to the marital relationship continues to reside in the state. This paragraph shall not change the residency requirement for filing an action for divorce.

Section 3. A new Section O.C.G.A. § 9-10-91(6) of the Official Code of Georgia Annotated is established as follows:

(6) Has been subject to the exercise of jurisdiction of a court of this state which has resulted in an order of alimony, custody, child support, equitable apportionment of debt or equitable division of property, notwithstanding the subsequent departure of one of the original parties from the state, if the action involves modification of such order or orders and the moving party resides in the state, or if the action involves enforcement of such order notwithstanding the domicile of the moving party.

Section 4. Existing sub-sections (1)(2)(3)and (4) of Section O.C.G.A. § 9-10-91 of the Official Code of Georgia Annotated remain unamended