Georgia Probate Notes

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In This Issue:

Addressing Mental Health Issues in the Wake of the Virginia Tech Shootings

The tragic shootings at Virginia Tech and their bearing on the issuance of firearms licenses and the administration of the mental health law by the Georgia probate courts gave rise to the following two articles.

The first article was written by Jefferson James Davis, an Atlanta attorney who for more than 25 years practiced in the mental health field. In addition to his other practice, Jeff represented Georgia Regional Hospital, Atlanta before the metropolitan Atlanta probate courts. Jeff can be reached at davisanddavis@bellsouth.net. The article was first printed in the *Daily Report* on May 3, 2007. *Georgia Probate Notes* expresses its appreciation for permission to reprint the article.

The second article was written by Judge Susan Tate of the Clarke County Probate Court. Judge Tate has maintained a special interest in mental health since her election. She also served as chairperson of the Georgia Probate Court Firearms Law Committee. *Georgia Probate Notes* expresses its appreciation to Judge Tate for contributing the article.

The editor hopes that these articles will generate a discussion of the issues, lead to an examination of the present law, and consideration of legislation which will make a Virginia Tech situation less likely in the future.

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GEORGIA PROBATE NOTES
MARION GUESS, PUBLISHER AND EDITOR

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Mental Health Law Needs Closer Look

Jefferson James Davis
Davis and Davis

A physician who conducted a court-ordered evaluation of Virginia Tech killer Cho Seung-Hui in December 2005 certified that, in the words of Virginia's commitment statute, Cho did not present an imminent danger to himself or others as a result of mental illness, and was not so seriously mentally ill as to be substantially unable to care for himself. Even so, at a hearing the same day, the court somehow rejected that expert opinion; it found that Cho presented a danger to himself and committed him to involuntary outpatient treatment. But after the killings, a spokesman for the local mental health agency said that an outpatient-treatment order "can't actually be enforced," and that "the matter of the individual actually following up and going to that appointment is his or her prerogative."

In the unfinished mosaic that constitutes our present understanding of the Blacksburg tragedy, these three factual pieces stand out. Together they offer real insight into why Cho killed, and why he was able to do so. They show the real-world consequences of the choices made by courts and legislatures for the substantive standard of involuntary mental health treatment and for the means to assure the delivery of that care.

These issues affect all jurisdictions, and Virginia's statutory responses to them should, after Blacksburg, particularly concern Georgia and the three other states that share with Virginia a commitment standard requiring "imminent" danger. This concern provides reasonable cause for legislatures, including Georgia's General Assembly, to reconsider their substantive standards. As former President Clinton said recently, the Virginia Tech incident "gives occasion to look at how the legal and mental health systems work – and recognize that there need to be serious changes in the way both function."

The issues can be better understood in their historical context. In the early days of this nation, the substantive standard for involuntary treatment of the mentally ill was based on both the state's police-power concern for public safety and its *parens patriae* interest in providing care for the infirm. These twin bases retained their vitality in most states until the 1970s.

After World War II, however, a number of sociologists, probably spurred by recurring exposés of appalling conditions at some state hospitals (including Georgia's), began to formulate various anti-institutional and even anti-treatment theories. Also, the advent of effective antipsychotic medications in the early 1950s held out the promise of successful outpatient treatment for many.

By the early 1960s, the new theories had gained currency with small but influential groups within the psychiatric and legal communities. These groups, acting through the courts and legislatures over a 20-year period, initiated a wide range of state statutory protections for the mentally ill: a heightened standard for commitment, a full panoply of procedural safeguards, a right to treatment, a right to refuse treatment, and a right to be treated in a "least restrictive" setting. As a result, 80 per cent of the beds in state mental hospitals were taken out of use between 1955 and 1984, even while state populations grew.

No reasonable person regrets the reforms that ended kangaroo-court commitment procedures and the warehousing of patients on back wards, of course. It is the substantive standard for initiating treatment that demands continuing concern and scrutiny. The legal rationale underlying the narrowing of that standard can best be seen in specific cases from the reformist period, and frankly it's a disturbing view. A good example from the lower courts is Wyatt v. Aderholt, a 1974 Fifth Circuit panel decision on the right to treatment.

In Wyatt, Alabama officials unsuccessfully argued that a mentally ill person's need for custodial care by itself was a valid constitutional basis for commitment. Judge John Minor Wisdom, writing for the panel, first assumed that Alabama's argument extended to the need for mental health care, as well as for custodial care.

Then he proclaimed: "At stake in the civil commitment context … are 'massive curtailments' of individual liberty. Against the sweeping personal interests involved, Governor Wallace would have us weigh the state's interest [in providing care], and the interest of friends and families of the mentally handicapped in having private parties relieved of the 'burden' of caring for the mentally ill. The state interest thus asserted may be, strictly speaking, a 'rational' state interest. But we find it so trivial beside the major personal interests against which it is to be weighed that we cannot possibly accept it as a justification for the deprivations of liberty involved." In essence, Judge Wisdom jettisoned the *parens patriae* basis for commitment.

The next year, the Supreme Court seemed at first blush to approve Judge Wisdom's dismissive view of the need-for-care basis in another treatment case from the Fifth Circuit. In O'Connor v. Donaldson, Justice Potter Stewart held for the full Court that "a State cannot constitutionally confine without more a nondangerous individual who is capable of surviving safely in freedom by himself or with the help of willing and responsible family members or friends."

But then he emphasized the narrowness of that ruling: "We need not decide whether, when, or by what procedures, a mentally ill person may be confined by the State on any of the grounds which, under contemporary statutes, are generally advanced to justify involuntary confinement of such a person – to prevent injury to the public, to ensure his own survival or safety, *or to alleviate or cure his illness*. For the jury found that none of the above grounds for continued confinement was present in Donaldson's case." The Court vacated and remanded the Fifth Circuit's decision, one also written by Judge Wisdom and used by him as a basis for his Wyatt opinion.

The problem with the rationale expressed in Wyatt and palely reflected in O'Connor is that, by eliminating the need-for-care basis and leaving only the danger basis for committal, it completely omits from consideration a whole subset of persons with mental illness. That subset consists of those who do not clearly appear to be imminently dangerous to themselves or to others or substantially unable to take care of their own immediate physical needs, but who nonetheless are incapable of functioning adequately in society and are unwilling to accept treatment for their incapacitating illness – persons like Cho, based on what we know of him.

These are not persons who are merely "different" or who impose "trivial" burdens on uncaring families and friends. Instead they do such things as breaking into a neighbor's house to take a bath, demanding to have a date with an unwilling acquaintance, repeatedly entering a church during services and making obscene gestures at the minister, running away from their spouse and children to wander across the country and sleep in the back seat of their car, and insisting that they can live in the lobby of the local courthouse.

None of these examples is fictional. And none of them would permit judges conscientiously following either Virginia or Georgia commitment law to require mental health treatment for persons who acted in these ways. Both of these states' statutes require for commitment that the danger to self or others be imminent or that the inability to care for physical needs be substantial. Georgia's goes even further by requiring that the danger assessment be based on a recent overt act or a recent credible threat of violence, or that the inability to care for self create an imminently life-endangering crisis.

What should the General Assembly do? It should consider, as a policy matter, whether to recalibrate the balance between individual rights and societal interests by removing the "imminent" and "overt" requirements from the police-power branch of the standard, as well as by removing the "life-endangering" requirement from the *parens patriae* branch and adding an alternative "grave disability" factor of severe or deteriorating inability to function independently. (Washington, Indiana, and other states have versions of the grave-disability factor in their standards.)

At the same time the General Assembly must, as a practical matter, collect and study current mental health treatment data and also make cost projections to try to foresee the real-world impact of any changes in the substantive standard. The projections should reflect a continued emphasis on judicially ordered and monitored outpatient treatment (including involuntary medication regimens), as well as the continued maintenance of an adequate hospital capacity for last resort intensive treatment. The data and the projections must then be applied to the policy determinations.

The legal director for the National Alliance for the Mentally Ill recently told the *Washington Post* that the imminent-danger standard is too narrow. "But if we're going to broaden the standard," he said, "we need to do it very carefully and make sure we don't turn the clock back 30 or 40 years." By making its policy choices on the basis of data and reasonable projections, the General Assembly can accomplish both goals.

Striking the Balance: Mental Health, Individual Liberties and Security

Judge Susan Tate
Athens-Clarke County Probate Court

Amidst the shock and sadness at the terrible tragedy at Virginia Tech, we ask once again how we can do a better job of preventing more massacres in the future and we examine how we balance the competing interests of individual liberties and the security concerns of the wider community.

My job as probate judge of my county frequently entails balancing these interests. We hear "civil commitment" cases -- petitions by treating facilities for a patient to be ordered to receive involuntary treatment for a mental illness or addictive disease -- and applications from family members, friends and acquaintances who have witnessed disturbing behavior for an order requiring the person to be evaluated by a mental health professional to see if the person needs to be ordered into treatment. Due process is accorded to anyone whose liberty is threatened by treatment proceedings. An attorney is appointed, notices are given, and a hearing is held. The patient is encouraged to name two people, usually family members, as "patient representatives."

College officials reviewing their security vs. liberty policies might consider requiring students, as a condition of admission, to name their parents or other individuals as patient representatives in an advance directive -- which would also authorize the release of mental health information to such persons in the event legal authorities determine there is reason to believe a mental illness or addictive disease may be present. Colleges are particularly likely to be on the front lines in catching these problems early, given that colleges are fertile ground for substance abuse problems to develop and that schizophrenia and other mental illnesses most often manifest in late adolescence or young adulthood. Similar advance consent to random drug screens as a condition of employment has passed constitutional muster, despite its impingement on privacy rights.

Clear guidance is needed from federal authorities regarding how *outpatient* commitment affects eligibility for a firearms license or to purchase weapons. We only know definitively that *inpatient* commitment makes a person ineligible and an order for *evaluation* does not. Reporting of involuntary outpatient treatment orders (not just inpatient orders) to state criminal information center databases should be required, so that the fact of mandated treatment is accessible to courts, law enforcement and license-issuing authorities. Absent a federal rule, states could require firearms license applicants to authorize release of treatment information to the court or other issuing agency so that an appropriate determination could be made on a case-by-case basis. Many people can function in the community for long periods of time with treatment, but some experience occasional episodes during which they could be a security risk.

The common legal standard which must be met before inpatient treatment can be ordered is, in essence, that the person must be a danger to himself or others. Legal standards for involuntary outpatient treatment or for an order to have someone evaluated are usually more difficult to apply and are often set almost at the point of a person's having to be

hospitalized. That is too late. We should send sick people to be evaluated nearer to the beginning, not the end, of their downhill slide. The end can come all too quickly. Laymen without any mental health training can recognize the signs of increasing mental disturbance: disorganized thinking, increasing self-isolation, delusions, paranoia, hallucinations, manic episodes or being the star of one's own violent fantasies. Yet, time and again, if the person has not specifically threatened anyone or behaved aggressively, when people around them seek assistance they are told "I'm sorry; there's nothing we can do."

Even voluntary treatment is less used than it should be. There is still a stigma attached to being labeled mentally ill, even though symptoms are manifestations of a physical condition or disease just as with any other medical condition. Community treatment has never been adequately funded, even when institutional treatment was severely curtailed. Central State Hospital in Milledgeville, Georgia used to be the largest mental health facility in the world. Now it is the Los Angeles County Jail. Most people suffering from mental illness are not dangerous and are caught up in the criminal justice system for minor offenses -- trespassing, disorderly conduct or petty theft. Jails are no place for them – special handling taxes deputies, the cost of medications strains budgets, and most incarcerated mentally ill offenders get worse, traumatized by the experience. They often are trapped in a revolving door between jail, the streets and mental hospitals. This costs an enormous amount of tax dollars. Some studies estimate that community treatment for "frequent flyers" would save $25,000 per year per person in jail and court costs but – shortsightedly – we just build more and bigger jails and prisons.

Another factor contributing to this revolving door is that doctors in psychiatric hospitals are reluctant to ask courts to order outpatient treatment following an involuntary hospitalization. The patient is simply released with an admonition to take his medicine and go to counseling. Some are unwilling or unable to comply. Outpatient committal is the most underutilized tool we have in an array of therapeutic approaches and avenues into treatment. Contrary to traditional opinion, patients ordered to receive treatment are often able to become stabilized and to become functional in the community, but it sometimes takes a while to find the right mix of medications and right dosages, and longer (6 to 18 months) for a patient to see results in their quality of life.

I fully respect a person's right to refuse treatment and to participate in treatment decisions; I don't always decide in favor of the treating facility. Even so, I believe we have too narrowly applied constitutional case law which allows a lucid person to refuse medical treatment. In my view, there is nothing to prevent states from enacting an "informed refusal" requirement, so that a person must be able not only to articulate reasons for refusing treatment, but also to understand the possible risks, benefits and consequences of their decision. People who are normally able to make informed decisions about their health care may be unable to do so when they are seriously ill due to lack of insight, judgment or a clear perception of reality. As it is, for all these reasons, continuity of care is a huge crack in our treatment system into which thousands of people fall.

Unless we put our money where it counts, on treatment and prevention, and tailor our laws to enable a larger portion of our populace to lead productive lives and ease the strain on their families, we will only be adding to our problems. Growing up in a household with a mentally ill or substance-abusing parent can itself trigger mental illness or addictive behavior in susceptible children. It's not just paying for all those jails and prisons I'm worried about – it's the ripple effects of our failure to provide needed treatment -- effects which will be felt in our high schools, on our college campuses and out in the community, for generations to come.

Improper Attestation of a Will

In the following order, Judge Walter J. Clarke of Gwinnett County denies probate of a will which he found to be improperly executed

IN THE PROBATE COURT OF GWINNETT COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF	)	ESTATE NO. 06-E-000880
DORIS LAURICE MEBANE,	)	
DECEASED	)	PETITION TO PROBATE WILL IN
	)	SOLEMN FORM; CAVEAT

FINAL ORDER

Findings of Fact

On August 11, 2006, Charlene Mebane Johnson (Johnson), daughter and heir at law of the decedent, filed a Petition to Probate in Solemn Form a document purporting to be the October 22, 2005 will of Doris Laurice Mebane, testator. Notice was published according to law.

On September 11, 2006, Chelle Cook (Cook), daughter and heir at law of the decedent, filed a Caveat to the Petition alleging the purported will is invalid due to lack of testamentary capacity, undue influence, and other identified grounds. A hearing was held on Monday, January 29, 2007 at which Ronald Arenson, attorney, appeared for Johnson and Cook appeared pro se.

Joel Addison testified that he owned the assisted living facility in which the decedent lived from December 2004 until her death. As part of her admission to his facility, the decedent was evaluated and found not to be memory impaired, she became an active member of the facility, was alert and able to express her desires. Addison further testified that he never saw anything that raised a question regarding the decedent's mental capacity.

Mary Hughes, a senior teller at BB&T bank and witness to the will, then testified that she did not recall signing as a witness to the will. Hughes knew the decedent as a customer of the bank. Zondrea Hooks Phillips formerly Zondrea Hooks, a teller at BB&T bank and the second witness to the will, testified that it was the routine of Telena Conner, an employee of BB&T and the notary to the self-proving affidavit attached to the decedent's will, to bring wills to tellers for witnessing. Phillips stated that Conner would bring a will and the driver's license of the testator to a teller and ask the teller to witness that the testator had signed his/her will. Phillips testified that, although she can see through the glass into Conner's office, she may never see the actual execution of such wills.

Telena Conner testified that the decedent's will was executed in her office, which was approximately 20 feet away from the tellers who signed as witnesses to the decedent's will. After the decedent executed her will, Conner took the decedent's will and driver's license to Phillips and Hughes for them to sign as witnesses. The tellers relied upon the signature on the testator's drivers license and on Conner that the will was signed by the testator. Although Conner stated that the tellers can see into her office, there was no evidence that the tellers were notified in advance that a will was being executed or that they were going to be asked to serve as witnesses so that they could attempt to view the testator signing her will through the office window. In addition, there was no evidence that they saw the testator sign her will or that they heard the testator acknowledge her signature to them. Conner further testified that the decedent appeared of sound mind when she executed her will. There was no evidence whether the decedent saw the witnessing of her will. She apparently could have seen the two bank tellers witness her will if she had chosen to turn around and look through the glass in Conner's office.

Conclusions of Law

The Last Will and Testament of Doris Laurice Mebane is invalid because of improper execution. "The proper execution of a will requires nothing more than a writing signed by the maker and the attestation of two competent witnesses in the maker's presence. The testator may either sign the will in each witness's presence or acknowledge her signature to the witnesses. The witnesses are not required to sign in the presence of each other." Miles v. Bryant et al, 277 Ga. 362 (589 SE2d 86) (2003). Telena Conner's signature on the self-proving affidavit and her testimony that she actually saw the testator sign her will is sufficient to make her one of the two required witnesses to the will. Miles v. Bryant, supra. As to the other possible witness, it appears that although Conner observed the execution of the testator's will in her office, she then took the executed will and the testator's drivers license to two tellers for them to sign as witnesses. It does not appear that the tellers were notified in advance of such signing and although they could have observed the signing by looking through the glass in Conner's office, there was no evidence that they did. They may have been away from their teller station or may have been distracted because of waiting on other customers at the time the testator actually signed her will. Mary Hughes, did not recall witnessing the testator's will, thus could not provide evidence that she actually saw the decedent sign her will or was in a position to see the execution of the will if she had chosen to do so. Zondrea Hooks Phillips testified that it was the routine of Conner to bring wills

for tellers to sign as witnesses. Conner would also bring the driver's license of the testator as proof that the testator signed the will. Phillips could also see through the glass of Conner's office, but could not testify that she saw or could have seen the testator sign her will.

"Attestation is the act of witnessing the actual execution of a paper, and subscribing one's name as a witness to that fact. . . . A witness to an instrument can not know that the signature of the maker thereto is his signature unless he either sees the maker sign the instrument, or unless the maker acknowledges to the witness that the signature thereto is his signature." Sears Mortgage Corporation et al. v. Leeds Building Products, Inc., 219 Ga. App. 349 (464 SE2d 907) (1995) citing Wood v Davis, 161 Ga. 690, 694 (131 SE 885) (1926). Even though both witnesses to the will signed a self proving affidavit which was attached to the decedent's will, the evidence taken during the trial showed that neither Phillips or Hughes saw the testator sign her will or heard the testator acknowledge her signature to them, but that both Phillips and Hughes relied upon Conner's representation that the testator signed her will. Therefore, although no evidence was presented that the testator lacked testamentary capacity or was subject to undue influence at the time she executed her will, it is

ORDERED that the October 22, 2005 will of Doris Laurice Mebane is denied probate for lack of proper attestation.

SO ORDERED, this 14th day of February, 2007.

_____

Walter J. Clarke, Probate Judge

Georgia Probate Notes
Survey of Local Administrative Procedures

In 2007, *Georgia Probate Notes* conducted a survey of all Georgia Probate Courts to determine certain administrative procedures observed in the various courts. The survey was conducted to provide quick answers to five common questions which may arise when doing business with the probate court.

Out of 159 courts, 81 returned the survey, including all the metro Atlanta counties. The following pages contain their answers to the survey questions.

Georgia Probate Notes								
County	**Judge**	**General Probate & Administration Contact**	**Guardianship Contact**	**Mental Health Contact**	**Does your court allow an attorney to nominate a guardian ad litem when he/she files a petition requiring the appointment of a guardian ad litem by the court?**	**Does your court allow the appointment of an <u>out of county guardian ad litem?</u>**	**Will your court accept fiduciary bonds from an <u>out of county surety company</u> provided it is otherwise under state law?**	**Does your court have any special requirements for filing petitions which an <u>out of county attorney</u> might not be familiar?**
Bacon	Joe Boatright	912-632-7661 Chandra Jarrard	Same	Same	Yes, but court must approve first.	Yes	Yes	No
Barrow	Tammy Brown	770-307-3045, Ext. 8973 Gail Collins	Same	Same	Yes	No	Yes	No
Bartow	Mitchell Scoggins	770-387-5075 Rhonda Clark	770-387-5075 Carol Surrat	770-387-5075 Rhonda Clark	Yes	No	Yes	No
Ben Hill	Tommy Walton Ash	229-426-5137 Melinda Marsh	Same	Same	Yes	No	Yes	No
Berrien	Susan W. Griner	229-686-5213 Judge Griner	Same	Same	Yes	No	Yes	No
Bibb	William J. Self	478-621-6494 Any Clerk	478-621-6494 Susan Reich, Ch. Deputy Clerk – Court Division	478-621-6494 Susan Reich or Carrie Bloods-worth	The court accepts, but is not bound by, a nomination for GAL from the petitioner's attorney.	The court appoints a GAL from another county if the circumstances warrant, but generally prefers an in-county GAL.	The court accepts fiduciary bonds issued by an agency in another county, provided the surety company is properly licensed in GA and the agent holds a current and sufficient power (or the bond is signed by some other authorized agent.	See footnote #11.
Bleckley	Kenneth Powell	478-934-3204 Sue Lucas	Same	Same	Yes	No	Yes	None
Brantley	Johnnie E. Crews	912-462-5882 Shirley White or 912-462-5192 Karen Batten	Same	Same	No	Yes	Yes	No
Bryan	Sam C. Davis	912-653-3856 Carol Groover	Same	Same		Yes	Yes	No
Bulloch	Lee H. DeLoach	912-489-8749 Patricia Lanier	Same	Same	Yes	Yes	Yes	Pay court cost upon filing. Call and ask questions before filing.
Burke	Preston B. Lewis, III	706-554-3000 Denise S. Quick	Same	Same	Yes	Yes	Yes	No

1 Bibb Co. Special Requirements: This is an Article 6 Probate Court. Internal Operating Procedures available on court's web site. Standing Order in adult guardianship proceedings also on web site. Court requires a formal hearing and the attorneys presence for most proceedings, even if uncontested. Court requires use of its forms for the following: Personal Status Reports, Annual/Final Returns. Court requires that the "court" portion of all GPCSF forms, except for the final order and any letters, be completed for filing with the "Petitioners" portion. Court will prepare the final order and any letters. Final costs must be paid before the issuance of the final order or letters. Personal checks are not accepted. Attorney/law firm checks are accepted.

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Calhoun	Annie Doris Holder	229-849-2115 Kathy Johnson	Same	Same	It depends on a case by case basis.	It depends	Possibly	Not really
Catoosa	Gene Lowery	706-935-3511 Alice Payne	Same	Same	By Judge's expressed permission only.	Yes	Yes	No
Charlton	Robert F. Phillips	912-496-2230 Sheila Woolard	Same	Same	Nominate – Yes	Yes, after consideration.	Yes	No
Chatham	Harris Lewis	912-652-7276 Kim Birge	912-652-7367 Julia Misroon	912-652-7264 Glenda Forbes	Yes, if ask, and there is no conflict.	Yes	Yes with a power of attorney.	No
Cherokee	Kipling L. McVay	678-493-6160 Keith Wood	Same	Same	No	No	Yes, if the company has a good rating.	Yes- Lengthy personal questionnaire on guardianship, temp. guardian and mental drug-alcohol cases.
Clarke	Susan P. Tate	706-613-3320 Ext. 403 Sherry Moore	Same	Same	Yes, but the court does not always name the person requested, especially where it appears that the nominated person is unqualified or might have a conflict of interest.	Sometimes, depending on circumstances.	Yes, if qualified acceptable.	See footnote #2.2
Clinch	Kathleen S. O'Berry	912-487-5523 Mary Jane Young	Same	Same	With approval, yes.	Not at present.	Yes	No
Cobb	David Dodd	770-528-1909 Charles A. Evans	Same	Same	Yes	Yes	Yes	No
Coffee	Sylvia Stone	912-384-5213 Beverly Johns	Same	Same	Yes	Yes	Yes	Petitions for compromise settlements need to be sent or faxed ahead of time for review by the Judge.
Colquitt	Wesley J. Lewis	229-616-7415 Jennifer, Melisa, or Wes	Same	Same	Yes, subject to court approval.	No	Yes, as long as the requirements of GA law are met.	No, any questions you have may be answered by calling the office.
Columbia	Pat Hardaway	706-312-7254 Joyce Wiley or Lynn Taylor	Same	Same	Yes	Yes	Yes	Maybe

2 Clarke Co. Special Requirements: We very much appreciate margins at the top of 1" or greater, as we are still using bluebacks to separate petitions within an estate file. We insist that emergency guardianship petitions be true emergencies and we expect that the attorney or petitioner have some idea of who can do the evaluation and get it back to the court within 24 hours. We believe that a PSF petition should be completed where appropriate, whether to state facts which rule out the existence of heirs of higher priority, the deceased ancestors through whom a person is related if not immediate family or why an executor of higher priority is not seeking to qualify. Including this information often makes case processing much faster.

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Decatur	Edwin J. Perry	229-248-3016 Becky Guest	Same	Same	Yes	Usually use one in our county.	Yes	Yes, filing fees, sheriff services, certified mailings, notices, etc.
Dougherty	Nancy Stephenson	229-431-2102 Gloria Newberry, Chief Clerk, or Delma Hope	Same, and Carla Jester	Same and Cynthia Carr	Yes, preferred.	Yes	Yes	See footnote #3.3
DeKalb	Jeryl Rosh	404-371-2608 Carmen Rudica	Adult- Angela Darwin 404-371-2663 Minor w/ Property- Shirley Dodson 404-371-2609	Belinda Brain 404-687-3455 Minor -(person only) Vickie Hamm 404-371-2892	No	Yes	Yes	No
Echols	Carlos L. Rodgers	229-559-7526 Cindy Zeigler	Same	Same	Yes	Yes	Yes	No
Elbert	Susan R. Sexton	706-283-2016 Stephanie Guest	Same	Same	Yes, but sometimes Judge will appoint.	Yes, sometimes.	Yes	Filing fee must be paid at time of filing.
Effingham	Frances Y. Seckinger	912-754-2112 Judy C. Suhor	Same	Same	If it is an attorney. Rarely will we let other family members.	Rarely if the ward or minor are out of the county.	Yes	Must be typed. Added $15.00 fee and a $5.00 fee on many petitions
Emanuel	Don E. Wilkes	478-237-7091 Nita Harrell	Same	Same	No	No	Yes	No
Evans	Darin McCoy	912-739-4080 Paula P. Todd	Same	Same	Yes	Yes	Yes	No
Fayette	Martha Stephenson	770-716-4224 Betty Johnson	Same	Same	Yes, but seldom happens.	Yes, but seldom happens.	Yes	No
Fulton	Pinkie Toomer	404-730-4694 Lillian Scruggs	404-730-4697 Thomas Scott	404-730-4693 Jamida Orange	Yes	Yes	Yes	No
Gilmer	Anita Mullins	706-635-4763 Amy Arnold	Same	Same	At Judge's discretion.	At Judge's discretion.	Yes	No
Glynn	Debra G. Howes	912-554-7233 Barbara S. McDonald	Same	Same	No	Yes, if family member w/ consent and any other necessary requirements.	Yes	No
Grady	Sadie W. Voyles	229-377-4621 Lizzie S. Garrette	Same	Same	Yes	Yes, if it is a family member.	Yes	No

3 Dougherty Co. Special Requirements: Yes. Judge prefers letters to be prepared by the attorney. Also in settlements of minors' claims, Judge requires the attorney to submit (fax is ok) a copy of all pleadings at least 4 days prior to the court date.

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Greene	LaVerne C. Ogletree	706-453-3346 Tricia Kroeger	Same	Same	No	Yes	Yes	No
Gwinnett	Walter J. Clarke	770-822-8255 Dean McCullers	Same	Same	No	Yes	Yes	Copy of Death Certificate on deceased estate
Harris	Martha M. Hartley	706-628-5038 Sherry Phillips	Same	Same	Yes	Yes	Yes	No
Houston	Janice D. Spires	478-218-4710 ext. 6 Lynn Elvins or Judith Borum	478-218-4710 ext. 5 Kim Willson	478-218-4710 ext. 6 Judge Spires	Rarely	Yes	Yes	No
Irwin	Allen Gay	229-468-5138 Ann Kind	Same	Same	Attorney may nominate a guardian ad litem. Court may hold a hearing on the matter.	Yes	Yes	No. May require hearing.
Jackson	Margaret Deadwyler	706-387-6277 Susan Garmon	706-387-6276 Jennifer Gearing	706-387-6276 Jennifer Gearing	No	Yes	Yes	No
Jasper	Linda M. Mock	706-468-4903 Andrea Brown	Same	Same	Yes	Yes	Yes	No
Jenkins	Wanda Burke	478-982-5581 Gail Boyd	Same	Same	Yes	Yes	Yes	No
Lamar	Kathryn B. Martin	770-358-5155 Machele, Tanisha, or Susan	Same	Same	No	Only when a local attorney is not available.	Yes	Should fill out as much of court's petition as possible.
Laurens	Helen W. Harper	478-272-2566 Gail Belflower	Same	Same	No	No	Yes	No
Lee	John Wheaton	229-759-6005 Ann Hester	Same	Same	Yes	Yes	Yes	No
Lincoln	Lee D. Moss	706-359-5528 Jaime Littleton	Same	Same	Yes, as long as the court is familiar with the attorney.	Yes, as long as the court is very familiar with the attorney.	Yes, in most cases.	See footnote #4.4
Long	Marie H. Middleton	912-545-2131 Tiffinie Deloach	Same	Same	No	Yes	Yes	Filing fee must be paid at time of filing.
McIntosh	Gordon S. Shuman	912-437-6636 Mavis Poppell, Chief Clerk, or Tracy	912-437-6636 Judge Shuman or Chief Clerk Mavis Poppell	912-437-6636 Judge Shuman or Chief Clerk Mavis Poppell	Depends on circumstances.	Not always.	Yes	Yes – Use standard Probate forms.

4 Lincoln Co. Special Requirements: The court requires court costs to be paid at time of filing. The court requires the attorney to be responsible for getting all legal publications to local newspaper and pay costs. The court requires the attorney to give his/her client a full explanation of the procedures of the petition being filed.

Georgia Probate Notes								
County	**Judge**	**General Probate & Administration Contact**	**Guardianship Contact**	**Mental Health Contact**	**Does your court allow an attorney to nominate a guardian ad litem when he/she files a petition requiring the appointment of a guardian ad litem by the court?**	**Does your court allow the appointment of an out of county guardian ad litem?**	**Will your court accept fiduciary bonds from an out of county surety company provided it is otherwise under state law?**	**Does your court have any special requirements for filing petitions which an out of county attorney might not be familiar?**
Meriwether	Stiles Estes	706-672-6617 Amber McElwaney	Same	Same	Possibly	Yes	Yes	No
Mitchell	Susan Taylor	229-336-2015 Kathy Lewis	Same	Same	Attorney can suggest and the court will consider.	No	Yes, if qualified under state law.	No
Montgomery	Rubie Nell Sanders	912-583-2681 Tiffany McLendon	Same	Same	Yes, but only upon the courts approval.	Yes	Yes, if qualified under state law.	No
Newton	Henry A. Baker	770-784-2045 Peggy Lassiter	Same	Same	Yes	Yes	Yes	No
Oglethorpe	Beverly W. Nation	706-743-5350 Any clerk	Same	Same	Yes	Yes	Yes	No
Paulding	Deborah Andersen	770-443-7541 Lori Elyard	770-443-7541 Carla Puckett or Aiki Skelton	770-443-7541 Rhonda Young	Yes	Yes	Yes	No
Peach	Deborah W. Hunnicutt	478-825-2313 Connie Smith	Same	Same	Yes		Yes	No
Pierce	Brenda Howard	912-449-2029 Sue W. Bradford	Same	Same	Yes	No	Yes	
Pike	Lynn Brandenburg	770-567-8734 Clerk Sandy Mitchell or Judge	Same	Same	Yes	Yes	Yes	No
Pulaski	Jeffrey Jones	478-783-2061 Rhonda (Penny) Dunogon	Same	Same	Sometimes	Sometimes	Yes	No
Putnam	Patrice Howard	706-485-5476 Pauline	Same	Same	No	Yes	Yes	See footnote #5.5
Rabun	Lillian W. Garrett	706-782-3614 Linda Ramey	Same	Same	No	No	Yes	No
Schley	Mitzi E. Way	229-937-2905 Judge Mitzi Way (No Clerk)	Same	Same	Yes	Yes	Yes	Judge likes a faxed copy for review prior to filing. Can call Judge.
Screven	Debbie Brown	912-564-2783 Ella Rhodes	912-564-2783 Ella Rhodes	912-564-2783 Debbie Brown	Yes	Yes	Yes	No

5 Putnam Co. Special Requirements: Any fee for sheriff service must be paid at filing or prior to service being made. Petitioner is responsible for delivery of any publication notices to county of origin. Request for continuance, except in extreme emergency, needs to be in writing.

Georgia Probate Notes								
County	**Judge**	**General Probate & Administration Contact**	**Guardianship Contact**	**Mental Health Contact**	**Does your court allow an attorney to nominate a guardian ad litem when he/she files a petition requiring the appointment of a guardian ad litem by the court?**	**Does your court allow the appointment of an <u>out of county guardian ad litem?</u>**	**Will your court accept fiduciary bonds from an <u>out of county surety company</u> provided it is otherwise under state law?**	**Does your court have any special requirements for filing petitions which an <u>out of county attorney</u> might not be familiar?**
Seminole	J.E. Earnest	229-524-5256 Amy Bagwell or Lavonia Bryan	Same	Same	Yes	Yes	No	None
Spalding	Dewitt Simonton	770-467-4340 Chief Clerk Jan Hunt	770-467-4340 Chief Clerk Jan Hunt	770-467-4340 Chief Clerk Jan Hunt & Judge Dewitt Simonton	The court normally appoints the guardian ad litem.	Yes	Yes	No
Talbot	Joe S. Johnson	706-665-8866 Cynthia Bentley	Same	Same	Yes	Yes	Yes, if qualified under state law.	No, but please pay special attention to the form that is sent back.
Tattnall	Gloria Dubberly	912-557-6719 Janet L. Allen, Chief Clerk	Same	Same	Court appoints guardian ad litem.	No	No	No
Telfair	Dianne Walker	229-868-6038 Betty Johnson	Same	Same	Yes	Yes	Yes, if qualified under state law.	No
Towns	Wayne Garrett	706-896-3467 Mary Garrett or Bonnie Dixon	Same	Same	No	Not usually.	Yes, if qualified under state law.	No
Treutlen	Torri M. Hudson	912-529-4320 Jackie Gressinger	Same	Same	Yes	Yes	Yes, if qualified under state law.	No
Troup	Donald W. Boyd	706-883-1690 Debbie Wade	Same	Same	No	Sometimes	Yes, if qualified under state law.	Use standard forms and pay filing fee.
Turner	Penny E. Thomas	229-567-2151 Ruth Roberts Prefer that attorney or secretary call office ahead of time to discuss forms and procedures.	Same. Call office ahead of filing forms and procedures.	Same. Call office for scheduling.	The Judge has final decision, but suggestions may be considered.	Depends on the situation. It is more convenient for everyone if GAL is in the county.	If qualified under state law, and it has to be a licensed commercial surety authorized to transact business in this state.	Call ahead to discuss forms and procedures. Include all paperwork, and some attorneys prefer to send payment with petition.
Twiggs	Kenneth E. Fowler	478-945-3390 Brenda Ellington	Same	Same	Yes	Yes	Yes, if qualified under state law.	No
Union	Dwain Brackett	706-439-6006 Kristin Stanley	Same	Same	No	Yes	Yes, if qualified under state law.	No
Walker	Foye L. Johnson	706-638-2852 Christy Anderson	706-638-2852 Christy Anderson	706-638-2854 Judy Neal	Yes	Yes	Yes, if qualified under state law.	No

Georgia Probate Notes								
County	**Judge**	**General Probate & Administration Contact**	**Guardianship Contact**	**Mental Health Contact**	**Does your court allow an attorney to nominate a guardian ad litem when he/she files a petition requiring the appointment of a guardian ad litem by the court?**	**Does your court allow the appointment of an out of county guardian ad litem?**	**Will your court accept fiduciary bonds from an out of county surety company provided it is otherwise under state law?**	**Does your court have any special requirements for filing petitions which an out of county attorney might not be familiar?**
Walton	Greg Adams	770-266-1752 Claudette E. Perry, Chief Clerk	Same	Same	No	Yes	Yes, if qualified under state law.	No
Ware	Calvin Bennett	912-287-4315 Vanessa McQuaig	Same	Same	Yes	Yes	Yes, if qualified under state law.	No
Webster	Lorene W. Tindol	229-828-3615 Please contact the Judge.	Same	Same	No	Yes	Yes, if qualified under state law.	No
Whitfield	Ray Broadrick	706-275-7400 Linda White	706-275-7400 Linda White	706-275-7400 Debbie Clark	As long as the nominated party is an attorney.	No	Yes, if qualified under state law.	No
Wilkes	Jim Burton	706-678-2523 Kay W. Finney	Same	Same	Yes	Yes, it depends on the case.	Yes, if qualified under state law.	No
Worth	Sheryl H. Hall	229-776-8207 Ann Goldinger	229-776-8207 Ann Goldinger	229-776-8207 Sheryl H. Hall, Judge	Yes	Yes	Yes, if qualified under state law.	We request a filing fee at the time of filing. We require petitions to be typed.

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Georgia Probate Notes

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