

SUPREME COURT OF GEORGIA

Atlanta November 3, 2004

The Honorable Supreme Court met pursuant to adjournment.
The following order was passed:

It is ordered that Rule 1 of the Uniform Probate Rules is hereby amended to read as follows:

Rule 1. Preamble.

Pursuant to the inherent powers of the Court and Article VI, Section IX, Paragraph I of the Georgia Constitution of 1983, and in order to provide for the speedy, efficient and inexpensive resolution of disputes and prosecutions, these rules are promulgated. It is not the intention, nor shall it be the effect, of these rules to conflict with the Constitution or substantive law, either per se or in individual actions and these rules shall be so construed and in case of conflict shall yield to substantive law.

1.1. Repeal of local rules. All local rules of the probate courts except those relating to drawing of jurors by mechanical or electronic means pursuant to OCGA §§ 15-12-40(b) and 15-12-42(b) et seq. in effect as of the effective date of this Rule are hereby repealed.

1.2. Authority to enact rules which deviate from the Uniform Probate Court Rules.

A) The term "local rules" will no longer be used in the context of the Uniforms Probate Court Rules.

B) Each probate judge, from time to time, may propose to make and amend rules which deviate from the Uniform Probate Court Rules provided such proposals are not inconsistent with the Georgia Civil Practice Act, general laws, these Uniform Probate Court Rules, or any directive of the Supreme Court of Georgia. Any such proposals shall be filed with the clerk of the Supreme Court; proposals so submitted shall take effect 30 days after approval by the Supreme Court. It is the intentment of these rules that rules which deviate from the Uniform Probate Court Rules be restricted in scope.

C) Notwithstanding the repeal of local rules pursuant to Rule 1.1 courts may continue to promulgate rules which relate only to internal procedure and do not affect the rights of any party substantially or materially, either to unreasonably delay or deny such rights. These rules, which will be designated "internal operating procedures," do not require the approval of the Supreme Court. "Internal operating procedures," as used in these Uniform Probate Court Rules, are defined as rules which relate to case management, administration, and operation of the court or govern programs which relate to case management, administration, and operations of the court.

D) The above provisions notwithstanding, each probate court defined in and governed under OCGA §§ 15-9-120 et seq. may retain or adopt without specific Supreme Court approval a local rule relating to drawing of jurors by mechanical or electronic means pursuant to OCGA §§ 15-12-40(b) and 15-12-42(b) et seq. and an order establishing guidelines governing excuses from jury duty pursuant to OCGA § 15-12-10.

E) Notwithstanding these uniform rules, a probate judge may adopt experimental rules applicable to pilot projects, upon approval of the Supreme Court, adequately advertised to the local bar, with copies to the State Bar of Georgia, not to exceed a period of one year, subject to extension for one additional year upon approval of the circuit judges and the Supreme Court. At the end of the second year, any such pilot projects will either be approved by the Supreme Court or will be allowed to sunset. Programs developed under the Alternative Dispute Resolutions Rules of the Supreme Court will be approved by the Georgia Commission on Dispute Resolution before attaining permanent status under these rules.

F) Rules which are approved as deviations from the Uniform Probate Court Rules and internal operating procedures of courts shall be published by the probate court in which the rules are effective. Copies must be made available through the clerk of the probate court for such county where the rules are effective. Any amendments to deviations from the Uniform Probate Court Rules or to internal operating procedures must be published and made available through each probate court clerk within 15 days of the effective date of the amendment or change.

G) Internal operating procedures effective in any court must be filed with the Supreme Court even though Supreme Court approval is not needed for these rules.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from
the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto
affixed the day and year last above written.

, Clerk