

House Bill 97 (AS PASSED HOUSE AND SENATE)

By: Representatives Leverett of the 33rd, Fleming of the 121st, Scoggins of the 14th, Oliver of the 82nd, Wilson of the 80th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated,
2 relating to jurisdiction, power, and duties, so as to require and to provide for an oath for
3 certain clerks of the probate court; to provide for related matters; to repeal conflicting laws;
4 and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to
8 jurisdiction, power, and duties, is amended by revising Code Section 15-9-36, relating to
9 judges of probate courts as clerks thereof, chief clerk, powers of clerks, and uncontested
10 matters, as follows:

11 "15-9-36.

12 (a) The judges of the probate courts are, by virtue of their offices, clerks of their own
13 courts; but they may appoint one or more clerks, for whose conduct they are responsible,
14 who hold their offices at the pleasure of the judge. The judges of the probate courts shall
15 also have the authority to appoint one of their clerks as chief clerk of the probate judge

16 unless otherwise provided by local law. Any individual appointed as chief clerk shall take
17 the oath provided for under subsection (d) of this Code section.

18 (b) The appointed clerks, including the chief clerk of the probate judge, may do all acts the
19 judges of the probate courts could do which are not judicial in their nature. The chief clerk
20 of the probate judge shall also have the authority prescribed in Code Section 15-9-10.

21 (c)(1) In addition to other powers granted to appointed clerks, the chief clerk of the
22 probate judge or, if there is no chief clerk, a clerk designated by the judge may exercise
23 all the jurisdiction of the judge of the probate court concerning uncontested matters in the
24 probate court. Such clerk may exercise such power regardless of whether the judge of
25 the probate court is present and shall take the oath provided for under subsection (d) of
26 this Code section.

27 (2) The powers granted by paragraph (1) of this subsection shall be exercised only by a
28 chief clerk or designated clerk who has been a member of the State Bar of Georgia for
29 at least three years or has been a clerk in the probate court for at least five years.

30 (d)(1) Any individual appointed as chief clerk or as a designated clerk under paragraph
31 (1) of subsection (c) of this Code section shall take the oath required of all civil officers
32 and, in addition, the following oath:

33 'I do swear that I will well and faithfully discharge the duties of (chief clerk or
34 designated clerk) of the probate court for the County of _____, during my
35 continuance in office, according to law, to the best of my knowledge and ability,
36 without favor or affection to any party. So help me God.'

37 (2) The oath provided for under paragraph (1) of this subsection shall be taken by such
38 individual prior to discharging of his or her duties, shall be administered by the judge of
39 the probate court, and, the taking of which, shall be recorded in the minutes of the probate
40 court."

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SECTION 2.

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