

January 31, 1996

HISTORY OF STUDY AND RECOMMENDATIONS
REGARDING
COURT OF APPEALS CASELOAD

1961 - General Assembly. Ga. Laws 1961 p. 140 (currently OCGA § 15-3-1).

The number of judges on the Court of Appeals was increased from seven to nine.

1975 - The Governor's Commission on Court Organization and Structure.

Report: "The Georgia Court of Appeals ranked 6th nationally in published opinions for 1974 among the intermediate state appellate courts. When it is recognized that the first five intermediate courts in New York, Florida, Texas, Illinois and Louisiana each have twenty (20) or more judges, it appears safe to say that the Georgia Court of Appeals has close to the highest, if not the highest, case load per appellate judge in the United States."

Recommendations: "Summary Review. In order to immediately relieve some of the case load pressure from the Appellate Courts, the Commission recommends that the Constitution and laws of the State be amended or clarified to provide that in appropriate cases, either appellate court may, in its discretion, render a summary opinion without the necessity of oral argument."

1981 - Georgia Select Committee on Constitutional Revision, 1977-1981.

In the various committee meetings in which the Court of Appeals was discussed, the Transcripts show there was consensus that the Court was then overloaded; it was reported

that in 1976 each judge was assigned 177 direct appeals.¹ More support existed for attempting to reduce the caseload by making appeals discretionary by certiorari rather than by adding more judges at that time. Some expressed the belief that judges on the Court were opposed to adding to their number. However, recognizing that the caseload would continue to increase, requiring the addition of new judges, the Committee adopted the current constitutional provision that the Court should "consist of not less than nine Judges" rather than freezing the number at nine.

1981 - State Bar of Georgia. Executive Committee and Board of Governors.

Considered was the Proposed Judicial Article of the draft of a new State Constitution which was being considered by the Legislative Overview Committee. The Board, by resolution, recommended to the Overview Committee and the Select Committee on Constitutional Revision (as related to appellate review):

- * preserve the right of appeal as it then existed;
- * add five judges to the Court of Appeals because of "extraordinary appellate case load";
- * create a rotating criminal division in Court of Appeals;
- * transfer all criminal cases except those involving death penalty, and divorce cases, to Court of Appeals.²

1985 - Governor's Judicial Process Review Commission. "Justice 2000" Report.

"Every available study indicates that the caseload burden upon the Judges of the Court of Appeals and the Justices of the Supreme Court is among the highest in the United States. There has been no suggestion that the quality of the work of these courts is adversely affected at present. There is, nonetheless, a limit as to what even the most productive jurist can do, and continually stretching those limits will ultimately have the potential for judicial 'burn-out' and a

¹ In 1985 the average direct appeals per Court of Appeals judge was 216 and in 1994 the average was 320.4.

² The Administrative District Forums at the Judicial Article Conference in 1980 also addressed the Court of Appeals caseload.

delay in administering justice. The Committee studying Court Organization and Structure consulted those statistics which were available, interviewed most of the justices and judges of the appellate courts, explored solutions considered by other states, and then recommended changes in the jurisdiction and size of our appellate courts. The full Commission agreed, for the most part, with the findings of the Committee and makes these recommendations:

* "[Revise jurisdiction between the two courts.]

* "THE COURT OF APPEALS...The General Assembly should add a panel of three judges to the Court of Appeals so that the Court of Appeals would consist of 12 judges. Because of the extremely high caseload of the Court of Appeals, three judges should be added whether or not the Supreme Court's jurisdiction is changed."

It was noted that if jurisdiction between the two courts were revised, there could be "an increased caseload burden per judge of the Court of Appeals despite the additional three judge panel."

1995 - State of the Judiciary Address. January 11, Chief Justice

Willis B. Hunt Jr.

"I have not overlooked our Court of Appeals. I have saved them for last because they need your help, and you can help them. For every one opinion that I and my colleagues on the Supreme Court write, my colleagues on the Court of Appeals each write five--or is it six? They are basically writing one opinion for each workday, an enormous load--an impossible load. They seek your help in order to provide sufficient staff to keep them afloat and I know you will be responsible and meet their needs. Be generous with them. Don't compromise, be generous. They are the hardest working appellate judges in the country, and they need and deserve your help.

"To be honest, they need more than staff. They need, although they may not agree with me, they need the benefit of a restructured appellate court system. They need more judges--either on their court or at least on another appellate tier--but you cannot solve that now, even if we were to agree how to solve it."

1995 - Letter from Chief Judge, Court of Appeals, to The Honorable Zell Miller, Governor of Georgia. September 12.

"...We appreciate your inquiring whether the members of the Court would favor additional judges, as has been proposed repeatedly over the last several years by those who have

studied this Court's workload....We recommend additional judges, and it appears that the addition of four judges would be the simplest and most direct solution to the adequate handling of this Court's workload."

1996 - State of the Judiciary Address. January 11, Chief Justice

Robert Benham.

"[W]e do share the concern of the Court of Appeals as to its tremendous caseload. Having served on that court for almost six years, I am keenly aware of the tremendous burden placed on that court. So I hope you will be able to give the Court of Appeals some assistance in alleviating the heavy burden it already has."

1996 - House Bill 1538. January 31.

Add to the Court of Appeals a division of three judges plus a thirteenth judge to act as chief administrative judge with a reduced caseload. A case in which there is a dissent on the division will be voted on by two divisions plus a seventh judge. All thirteen judges will vote only in the event a majority of a division or of a seven-member panel requests it, or to overrule an earlier "whole court" case.

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