

1 **RESOLUTION TO EXERCISE HOME RULE TO REPEAL SECTION 1 OF LOCAL**
2 **LAW 1960 Ga. L. 2347; TO AMEND SECTION 10 OF LOCAL LAW 1976 Ga. L. 3023;**
3 **TO ESTABLISH THE SALARY OF THE MARSHAL PURSUANT TO O.C.G.A. § 15-**
4 **10-100; AND FOR OTHER PURPOSES.**
5

6 **WHEREAS**, O.C.G.A. § 15-10-100(c.1)(1) allows “the governing authority” of a
7 county to employ a marshal in lieu of a constable to serve magistrate court; and

8 **WHEREAS**, in Fulton County, the Marshal serves both the State Court and the
9 Magistrate Court, but is appointed under the process applicable for serving State Court;
10 and

11 **WHEREAS**, Section 1 of 1960 Ga. L. p. 2347 (“1960 Local Law”) set the salary of
12 the Marshal as \$11,000.00 per annum (a true and correct copy of the 1960 Local Law is
13 attached hereto as Exhibit A); and

14 **WHEREAS**, 1976 Ga. L. p. 3023 (“1976 Local Law”) consolidated the Civil Court
15 of Fulton County and the Criminal Court of Fulton County to create the State Court of
16 Fulton County (a true and correct copy of the 1976 Local Law is attached hereto as Exhibit
17 B); and

18 **WHEREAS**, pursuant to Section 10 of the 1976 Local Law, the compensation of
19 the Marshal remains as previously set by the 1960 Local Law; and

20 **WHEREAS**, Article 9, Section 2, Paragraph I(b) of the Georgia Constitution
21 provides each county with Home Rule authority to repeal and amend Local Acts that are
22 applicable to that particular county; and

23 **WHEREAS**, on January 21, 1998, the Board of Commissioners adopted a
24 Resolution establishing the salary for the Marshal equal to seventy-five percent (75%) of
25 the total compensation of the State Court Judges of Fulton County (“1998 Resolution”);
26 and

27 **WHEREAS**, the 1998 Resolution was not adopted using the Fulton County Board
28 of Commissioners’ Home Rule authority and therefore did not repeal or amend the
29 compensation provisions of the 1960 and 1976 Local Laws; and

30 **WHEREAS**, the Board of Commissioners elects to exercise its Home Rule power
31 to repeal Section 1 of the 1960 Local Law to remove the provision which sets the
32 compensation of the Marshal at \$11,000 annually; and

1 **WHEREAS**, the Board of Commissioners elects to exercise its Home Rule power
2 to amend Section 10 of the 1976 Local Law to remove the provision which sets the salary
3 of the Marshal as the amount set by the 1960 Local Law to read as follows:

4 **Section 10.** At the time of the creation of this Court the Marshal and Deputy
5 Marshals of the Civil Court of Fulton County shall become the Marshal and
6 Deputy Marshals of the State Court of Fulton County, and exercise the
7 same jurisdiction, power and authority as was reposed in them as the
8 Marshal and Deputy Marshals of the Civil Court of Fulton County. The
9 qualifications, method of election or selection, and terms of office for the
10 Marshal and Deputy Marshals of the State Court of Fulton County will be
11 the same as provided for them as Marshal and Deputy Marshals of the Civil
12 Court of Fulton County at the time of the creation of this Court. [Sidenote:
13 Marshal, etc.]

14 **NOW, THEREFORE, BE IT RESOLVED**, that pursuant to its Home Rule authority,
15 the Board of Commissioners hereby repeals Section 1 of the 1960 Local Law and amends
16 Section 10 of the 1976 Local Law to change the salary of the Marshal.

17 **BE IT FURTHER RESOLVED**, that the salary of the Marshal shall be \$173,192
18 per annum until such time as a new salary is adopted by the Board of Commissioners or
19 is otherwise provided by law.

20 **BE IT FURTHER RESOLVED**, that the Clerk of the Fulton County Board of
21 Commissioners shall insure that this resolution is duly adopted at two regular consecutive
22 meetings of the Board of Commissioners not less than seven nor more than sixty days
23 apart; shall file a copy of the proposed repeal and amendment with the Clerk of the
24 Superior Court of the County for the purpose of examination and inspection by the public;
25 shall publish a notice containing a synopsis of the proposed repeal and amendment in
26 the official county organ once a week for three weeks within a period of sixty days
27 immediately preceding its final adoption (such notice shall state that a copies of the
28 proposed repeal and amendment are on file in the office of the clerk of the superior court
29 of the county for inspection by the public) and shall file with the Secretary of State of
30 Georgia a copy of this Resolution as finally adopted along with the notice of publication
31 and affidavit of publication.

1 BE IT FURTHER RESOLVED, that this Resolution shall become effective upon
2 adoption.

3 BE IT FINALLY RESOLVED, that all ordinances and resolutions, including the
4 1998 Resolution as it relates to the Marshal, parts of ordinances and resolutions in conflict
5 with this Resolution are hereby repealed to the extent of the conflict.

6 PASSED AND ADOPTED this 16th day of March, 2022 and this 13th
7 day of April, 2022.

8 FULTON COUNTY
9 BOARD OF COMMISSIONERS

10 

11 Chairman Robert L. Pitts

12
13
14
15 ATTEST:

16 

17
18 Tonya R. Grier
19 Clerk to the Commission



20 APPROVED AS TO FORM:

21 

22
23 Y. Soo Jo
24 County Attorney

25
26
27
28 P:\CAProjects\Persn\Salary and Supplements for Elected Appointed Officials\Resolutions per 21-
29 0913\Resolution_Marshal - salary (3.8.22).docx

ITEM # 22-0194 RCS 3/16/22
RECESS MEETING

ITEM # 22-0194 RM 4/13/22
REGULAR MEETING

RESOLUTION TO EXERCISE HOME RULE TO REPEAL SECTION 1 OF LOCAL LAW 1960 Ga. L. 2347; TO AMEND SECTION 10 OF LOCAL LAW 1976 Ga. L. 3023; TO ESTABLISH THE SALARY OF THE MARSHAL PURSUANT TO O.C.G.A. § 15-10-100; AND FOR OTHER PURPOSES.

EXHIBIT A

LOCAL AND SPECIAL ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1960

[missing title]

1960 Vol. 2 -- Page: 2347

Sequential Number: 084

Short Title: CIVIL COURT OF FULTON COUNTY -- COMPENSATION OF CLERK AND MARSHAL.

Law Number: No. 584

Origin: (House Bill No. 938).

Full Title: An Act to amend the Act relating to the abolition of Justice Courts in the City of Atlanta, Georgia, and establishing in lieu thereof the Civil Court of Fulton County (Ga. L. 1913, pp. 20 et seq.), as amended, so as to increase the compensation of the clerk and marshal of said court; to repeal conflicting laws, and for other purposes.

Be it enacted by the General Assembly of Georgia that the Act relating to the abolition of Justice Courts in the City of Atlanta, Georgia, and establishing in lieu thereof the Civil Court of Fulton County (Ga. L. 1913, pp. 20 et seq.), as amended, be and the same is further amended as follows:

Section 1. Effective on the first day of the month following the approval of this Act, the salary of the clerk and of the marshal of said court shall each be \$11,000.00 per annum, payable in equal monthly or semi-monthly payments

Section 2. Be it further enacted by the authority aforesaid, that the General Assembly finds upon investigation and declares that notice of intention to apply for the enactment of this Act was published in the manner required by Article III, Section VII, Paragraph XV of the Constitution of Georgia of 1945. Copy of said notice with proof of publication is hereto attached and made a part hereof.

Section 3. All laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Publisher's Affidavit.

State of Georgia, County of Fulton.

Before me, the undersigned, a Notary Public, this day personally came Bessie K. Crowell, who, being first duly

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sworn, according to law, says that she is the secretary of the Daily Report Company, publishers of the Fulton County Daily Report, official newspaper published at Atlanta, in said county and State, and that the publication, of which the annexed is a true copy, was published in said paper on the 3, 10, 17 days of December, 1959, as provided by law.

/s/ Bessie K. Crowell.

Notice of Intention to Apply for Local Legislation.

Pursuant to the provisions of Article III, Section VII, Paragraph XV of the Constitution of Georgia of 1945, notice is hereby given of intention to apply at the next regular session of the General Assembly of the State of Georgia, which will convene on the second Monday in January, 1960, for the enactment of local legislation to amend the Act creating the Civil Court of Fulton County (formerly Municipal Court of Atlanta), approved August 20, 1913, as heretofore amended. Said Act appears in Georgia Laws 1913, pages 145 through 177.

This the 2nd day of December, 1959.

Hewitt W. Chambers, Clerk, Civil Court of Fulton County. Subscribed and sworn to
before me
this 1st day of February, 1960.
/s/ Mildred N. Lazenby,
Notary Public, Georgia, State at Large.
My Commission Expires Oct. 18, 1963.
(Seal).

Approval Date: Approved March 7, 1960.

EXHIBIT B

Act/Resolution 2 of 2

ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1976

ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1976

1976 Vol. 2 -- Page: 3023

Sequential Number: 096

Short Title: STATE COURT OF FULTON COUNTY CREATED.

Law Number: No. 1004

Origin: (House Bill No. 660).

Full Title: An Act to create a State Court of Fulton County by consolidation of the existing Civil Court of Fulton County and the Criminal Court of Fulton County; to provide for the jurisdiction and power of said Court; to provide for the title, authority, power and jurisdiction of the Judges of said Court; to provide for an additional judge for the Criminal Court of Fulton County and his powers, duties, authority, appointment, election and compensation; to provide for a chief judge and his duties and powers; to provide for the title, authority, power and jurisdiction of Officers and employees of said Court; to provide for a chief clerk and his duties, powers and compensation; to provide for the jurisdiction and place of sitting and holding Court; to incorporate existing laws by reference; to provide for severability; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. Pursuant to Article VI, Section VII, Paragraph I, of the Constitution of Georgia of 1945, there is hereby created and established for Fulton County, by the consolidation of the existing Civil Court of Fulton County and the Criminal Court of Fulton County, a Court to be known as the State Court of Fulton County.

[Sidenote: Creation.]

Section 2. Said State Court of Fulton County shall have the jurisdiction, power and authority, coextensive with that held and exercised by both the Civil Court of Fulton County and the Criminal Court of Fulton County on the date of the creation of this Court. Such jurisdiction and power of the State Court of Fulton County to inquire into, hear and determine cases, shall be that collective jurisdiction and power as was exercised by both the Civil Court of Fulton County and the Criminal Court of Fulton County at the time of the creation of this Court.

[Sidenote: Jurisdiction.]

Section 3. The State Court of Fulton County shall have jurisdiction throughout Fulton County, either concurrently with, or supplemental to, or in lieu of Justice Courts, as may be now or hereafter provided by law. The Judges of the State Court of Fulton County shall be able to sit and hold court in any court house within the boundaries of Fulton County, which has been designated for such purpose by the governing authority of Fulton County.

[Sidenote: Same.]

Section 4. The State Court of Fulton County is not subject to the rules of uniformity laid down in Paragraph I of Section IX, of Article VI, of the Constitution of Georgia.

[Sidenote: Uniformity.]

Section 5. The Judges of the State Court of Fulton County shall be those judges of the Civil Court of Fulton County and of the Criminal Court of Fulton County at the time of creation of this Court. They shall have the title of Judge of the State Court of Fulton County and their total number shall be the same as the combined total of the number of Judges of the Civil Court of Fulton County and of the Criminal Court of Fulton County at the time of the creation of this Court. Each Judge of the State Court of Fulton County shall have the reciprocal and collective jurisdiction, power and authority as was reposed in both the Judges of the Civil Court of Fulton County and the Judges of the Criminal Court of Fulton County at the time of the creation of this Court. When Judges of the State Court of Fulton County are sitting as judges to hear and determine matters which were previously heard and determined by Judges of the Civil Court of Fulton County, the Judges of the State Court of Fulton County shall exercise the same jurisdiction, power

and authority as was formerly exercised by Judges of the Civil Court of Fulton County at the time of the creation of this Court. When Judges of the State Court of Fulton County are sitting to hear and determine matters which were previously heard and determined by Judges of the Criminal Court of Fulton County, the Judges of the State

Court of Fulton County shall exercise the same jurisdiction, power and authority which was formerly exercised by the Judges of the Criminal Court of Fulton County at the time of the creation of this Court.

[Sidenote: Judges.]

- **Section 6.** (a) Except as provided in subsection (b), the number of Judges of the State Court of Fulton County shall be the same as the combined total of the Judges of the Civil Court of Fulton County and of the Criminal Court of Fulton County at the time of the creation of this Court. The salaries, terms, qualifications and method of election, of the Judges of the State Court of Fulton County shall be provided for the Judges of the Civil Court of Fulton County at the time of the creation of this Court. The current term of office of each Judge at the creation of the State Court of Fulton County shall be the same as provided by law prior to said Court's creation.
[Sidenote: Same.]
- (b) In addition to the judges provided for in subsection (a), an additional judge is hereby provided for the Criminal Court of Fulton County. Such judge shall be appointed by the Governor prior to the first day of the month following the month in which this subsection becomes effective, and such judge shall take office on said first day of such month. Such judge shall serve until January 1, 1977. A successor to such judge shall be elected at the general election in November, 1976, for a term of six years beginning January 1, 1977, and until his successor shall have been elected and qualified. The successor to the appointed judge shall become a judge of the State Court of Fulton County on January 2, 1977, when the State Court of Fulton County comes into existence as provided in this Act. All future elections for such judge shall be held and conducted as is now or may hereafter be provided by law and the term shall be for six years and until a successor is elected and qualified. The qualifications of said additional judge shall be the same as

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are now provided for by law for the present or existing judges of said court, and his compensation shall be the same as that of the present or existing judges of said court, and said salary shall be paid to said judge out of the treasury of Fulton County in the same manner as the salary of the present or existing judges of said court is now paid. Said additional judge shall have the same powers, jurisdiction, duties and dignity as are now provided for the present judges.

[Sidenote: Additional judge.]

- (c) The judges of the Court shall, within thirty days of the effective date hereof, and thereafter during the first week in January of each successive year, by a majority vote, elect from their number a chief judge of the court to serve during the remainder of such year. A majority of the judges of said court may remove such chief judge from the office as chief judge, and may fill any vacancy occurring in the office of chief judge. Such chief judge shall be responsible for the administration and the expeditious disposition of the business of the court, and shall have power to make such rules as he shall deem necessary or proper for such purpose, but not in conflict with the general laws of this State, which rules, when entered on the minutes of said court, shall be binding upon the other judges of the court, until the same shall be overruled by an order signed by a majority of the judges of the court. Such chief judge, by published rule, or from time to time by order, may allocate the jurisdiction and powers of the court, and the duties of the judges thereof, among the judges of the court; may assign to the judges of said court such of the business of the court as he shall deem appropriate, provided that any assignment of cases to or among the other judges of the court shall be in accordance with a published rule of the court; may make and publish calendars; may require reports from the clerk of the court and the other judges of the court relative to business pending before the court; and generally shall supervise and direct the disposition of all the business of the court.

[Sidenote: Chief judge.]

Section 7. There shall be a chief clerk of the State Court of Fulton County who shall be responsible for the operation of the civil and criminal divisions of the clerk's office. The

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chief clerk shall be elected by the judges of the court from among the qualified electors and residents of Fulton County. The chief clerk shall serve at the pleasure of the judges. The chief clerk shall receive such compensation as may be fixed by the Board of Commissioners of Fulton County. The chief clerk shall have such powers and duties as may be prescribed by the judges of the State Court. Such chief clerk shall also serve as the Clerk of the Civil Division of the Court or as Clerk of the Criminal Division of the Court but not in both positions.

[Sidenote: Chief Clerk.]

- **Section 8.** (a) At the time of the creation of this Court the Clerk of the Civil Court of Fulton County and his Deputy and Assistant Clerks, shall become the Clerk and the Deputy and Assistant Clerks of the Civil Division of the State

Court of Fulton County. The Clerk and his Deputy and Assistant Clerks shall have the same jurisdiction, power and authority as was reposed in them formerly as the Clerk and Deputy and Assistant Clerks of the Civil Court of Fulton County. The Clerk and his assistant clerks shall have the same terms, salaries, qualifications and methods of election or selection as they had as Clerk, and Deputy or Assistant Clerks of the Civil Court of Fulton County. [Sidenote: Deputy clerk, etc.]

- (b) At the time of the creation of this Court the Clerk and the Deputy and Assistant Clerks of the Criminal Court of Fulton County shall become the Clerk and the Deputy and Assistant Clerks of the Criminal Division of the State Court of Fulton County. The Clerk and the Deputy and Assistant Clerks of the Criminal Division of the State Court of Fulton County shall have the same jurisdiction, power and authority as was reposed in them formerly as the Clerk, and the Deputy or Assistant Clerks of the Criminal Court of Fulton County. The salaries, qualifications, methods of selection or election and the terms of the Clerk and the Deputy or Assistant Clerks of the Criminal Division of the State Court of Fulton County shall be the same as was held by them as Clerk and Deputy or Assistant Clerks of the Criminal Court of Fulton County.

Section 9. At the time of the creation of this Court the Solicitor General and Assistant Solicitors General of the Criminal Court of Fulton County shall become the Solicitor General and Assistant Solicitors General of the State Court of Fulton County, and shall exercise the same jurisdiction, power and authority as was formerly reposed in them as the Solicitor General and Assistant Solicitors General of the Criminal Court of Fulton County. The qualifications, method of election or selection, salary, and terms of the Solicitor General and the Assistant Solicitors General of the State Court of Fulton County shall be the same as provided for the Solicitor General and Assistant Solicitors General of the Criminal Court of Fulton County at the time of the creation of this Court.

[Sidenote: Solicitor general, etc.]

Section 10. At the time of the creation of this Court the Marshal and Deputy Marshals of the Civil Court of Fulton County shall become the Marshal and Deputy Marshals of the State Court of Fulton County, and exercise the same jurisdiction, power and authority as was reposed in them as the Marshal and Deputy Marshals of the Civil Court of Fulton County. The qualifications, method of election or selection, salaries, and terms of office for the Marshal and Deputy Marshals of the State Court of Fulton County will be the same as provided for them as Marshal and Deputy Marshals of the

Civil Court of Fulton County at the time of the creation of this Court.
[Sidenote: Marshal, etc.]

Section 11. The Civil Court of Fulton County and the Criminal Court of Fulton County are hereby consolidated into the State Court of Fulton County and they shall have no further identify as separate courts.
[Sidenote: Consolidation.]

Section 12. As relates to the jurisdiction, power, authority and duty of the Civil and Criminal Courts of Fulton County, its Judges, and all of its other Officers and employees, the law (Ga. L. 1913, p. 145), as amended, with respect to the Civil Court of Fulton County, and the law (Ga. L. 1891, p. 935), as amended, with respect to the Criminal Court of Fulton County, as these laws existed at the time of the creation of this Court, are hereby incorporated by reference and made a part of this Act, and

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such laws shall have general application to this Court, its Judges, and equivalent Officers and employees, where not inconsistent herewith.
[Sidenote: Powers.]

Section 13. The organization of the said State Court of Fulton County, its procedures, and practices, its officers and employees, and its power and jurisdiction, are by the provisions in this Act unchanged, unaltered and undiminished, and the same original Acts, and the amendatory Acts thereof, establishing the Criminal Court of Fulton County and the Civil Court of Fulton County are brought forth as if fully reenacted herein and are made the law governing the State Court of Fulton County.
[Sidenote: Organization.]

Section 14. Any and all accusations, warrants, motions, petitions, processes, summons, subpoenas, executions, fi. fas., documents, proceedings and papers, of whatever nature which are, on the effective date of this Act, in the Criminal Court of Fulton County and the Civil Court of Fulton County shall be construed to be in the State Court of Fulton County, which by the terms of this Act becomes the official, legal title and name of said Court.
[Sidenote: Procedure.]

Section 15. All accusations, warrants, orders, motions, petitions, processes, summons, subpoenas, executions, fi. fas., documents, and proceedings, or papers of whatever nature, in the Courts known by the legal designations of the Criminal Court of Fulton County or the Civil Court of Fulton County shall hereafter designate said Court by the

name of the State Court of Fulton County, and the aforesaid name shall be construed to constitute the full legal title and name of said Court.

Section 16. Nothing in this Act shall be construed or interpreted to have changed, altered, modified or diminished the jurisdiction, power, authority, or term of office of any Judge, Officer, or employee of the Criminal Court of Fulton County or of the Civil Court of Fulton County, and all the rights, titles, emoluments, powers, jurisdiction and authority of said judges, officers, and employees of said Courts are brought forth unchanged, unaltered, and undiminished into the State Court of Fulton County, and each

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of said Judges are by the terms of this Act designated as Judge of the State Court of Fulton County.

Section 17. The State Court of Fulton County shall be a State Court within the meaning of Ga. L. 1970, p. 679, and the State Court of Fulton County shall be subject to the provisions of that Act as may now or hereafter be amended. In all cases where there is a conflict between the provisions of that Act, Ga. L. 1970, p. 679, as amended, and this Act, the Act with respect to practice and procedure in certain courts below the Superior Court level, Ga. L. 1970, p. 679, as amended, Ga. Code Ann. Section 24-2101(a) et seq., shall take priority and be controlling.

Section 18. Should any section or part of any section of this Act be declared to be unconstitutional or invalid for any reason, the same shall not affect the remainder of this Act or any part thereof other than the part so held to be invalid.
[Sidenote: Severability.]

Section 19. This Act shall become effective on January 2, 1977, except the provisions of section 6(b), which shall become effective immediately upon approval of this Act by the Governor or upon its becoming law without his approval for the purpose of appointing and electing the additional judge provided for in said section 6(b).
[Sidenote: Effective date.]

Section 20. All laws and parts of laws in conflict with this Act are hereby repealed.

Notice of Intention to Apply for Local Legislation.

Pursuant to the provisions of Article III, Section 7, Paragraph XV of the Constitution of Georgia of 1945, notice is hereby given of intention to apply at the regular session of the General Assembly of Georgia, which will convene on the 13th day of January 1975, for local legislation affecting the Criminal Court of Fulton County for the following purposes: (1) To increase the number of jurors to serve in said court from five to six, to be selected from a panel of twelve prospective jurors. (2) To amend and change the procedure for filing demands for trials by defendants in said court. (3)

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To increase the maximum salaries of the First Assistant Solicitor and the Assistant Solicitors of said court. (4) To consolidate and merge the said Criminal Court of Fulton with the Civil Court of Fulton County under the name of "The State Court of Fulton County." (5) For other purposes affecting the Criminal Court of Fulton County, (6) To repeal conflicting laws.

This, the 13th day of December, 1974.

Hinson McAuliffe Solicitor General Criminal Court of Fulton County

Georgia, Fulton County.

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, John W. Greer who, on oath, deposes and says that he is Representative from the 43rd District, and that the attached copy of Notice of Intention to Introduce Local Legislation was published in the Fulton County Daily Report which is the official organ of Fulton County, on the following dates: December 16, 23, 30, 1974.

/s/ John W. Greer Representative, 43rd District

Sworn to and subscribed before me,

this 12th day of February, 1975.

/s/ Susan Gordon
Notary Public, Georgia State at Large.

My Commission Expires Dec. 18, 1976.
(Seal).

Approval Date: Approved March 24, 1976.