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June 12, 2006

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John Earle, Project Manager
Fines and Fees Division
Georgia Superior Court Clerks' Cooperative Authority
Suite 100
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Atlanta, Georgia 30345

Re: Senate Bill 203; O.C.G.A. § 15-21-132

Dear John:

Pursuant to your request, I have reviewed Senate Bill 203. I have specifically focused on the amendment of O.C.G.A. § 15-21-132. As you have noted, Section 8 of Senate Bill 203 provides that it becomes effective on July 1, 2006.

As you know, O.C.G.A. § 15-21-131 provides as follows:

- (a) In every case in which any court of this state or any municipality or political subdivision of this state shall impose a fine, which shall be construed to include costs, for any criminal offense or any criminal ordinance violation, there shall be imposed as an additional penalty a sum equal to 5 percent of the original fine.
- (b) Such sums shall be in addition to any amount required by Code Section 47-17-60 to be paid into the Peace Officers' Annuity and Benefit Fund and in addition to any other amounts provided for in this chapter.

The amounts collected under O.C.G.A. § 15-21-131 are intended "to provide for funding for local victim assistance programs." O.C.G.A. § 15-21-130.

Under current law, O.C.G.A. § 15-21-132 provides that the amounts collected under O.C.G.A. § 15-21-131 are "paid over to the Georgia Superior Court Clerks Cooperative Authority." O.C.G.A. § 15-21-132(a). The Authority receives the funds collected under

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O.C.G.A. § 15-21-131 and remits those funds to the district attorney of the circuit in which the collecting court is located or to the county governing authority in which the collecting court is located. O.C.G.A. § 15-21-132(a)(1) & (2).

As amended by Senate Bill 203, O.C.G.A. § 15-21-132 will no longer require that funds collected pursuant to O.C.G.A. § 15-21-131 be paid over to the Authority. Instead, O.C.G.A. § 15-21-132(a)(1) & (2) will require that the funds collected be remitted directly by the collecting court to either the district attorney or the county governing authority. O.C.G.A. § 15-21-132(b) will require that the collecting courts submit a monthly report of the amounts collected to the Authority.

You have asked me how collecting courts should handle funds that they collected prior to July 1, 2006 pursuant to O.C.G.A. § 15-21-131, but that the collecting courts are still holding as of July 1, 2006. It is my understanding that these funds will consist primarily of the collections for the month of June of 2006, but that, in some cases, collections for other prior months may still be held by some courts. As of July 1, 2006, O.C.G.A. § 15-21-132 will no longer provide that any of the amounts collected under O.C.G.A. § 15-21-131 should be remitted to the Authority. Instead, the amounts collected are to be remitted directly to the district attorney or the county governing authority depending on whether the county operates a victim assistance program certified by the Criminal Justice Coordinating Council.

As we have discussed, as it amends O.C.G.A. § 15-21-132, the primary purpose of Senate Bill 203 is to eliminate the step of having local collecting courts remit local victim assistance funds to the Authority that are then simply returned to the local district attorney or county governing authority. Thus, if funds collected under O.C.G.A. § 15-21-131 are remitted to the Authority on or after July 1st, the Authority will do nothing with those funds other than remit them to the proper district attorney or county governing authority. Obviously, this is the same action that the Authority would take under the current law.

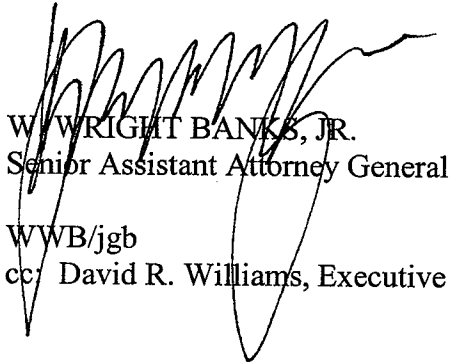
From my review, on or after July 1st, collecting courts will no longer be directed to remit the funds collected pursuant to O.C.G.A. § 15-21-131 to the Authority and the Authority will no longer be directed to collect those funds. Therefore, it seems that, on or after July 1st, collecting courts should not remit funds collected pursuant to O.C.G.A. § 15-21-131 to the Authority. Instead, the funds should be remitted to the district attorney or county governing authority in accordance with the amended version of O.C.G.A. § 15-21-132.

I hope that this is helpful. If you would like to discuss, please contact me.

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Please keep in mind that this letter is informal advice and does not constitute the official or unofficial opinion of the Attorney General.

Sincerely,



W. WRIGHT BANKS, JR.
Senior Assistant Attorney General

WWB/jgb
cc/ David R. Williams, Executive Director