

15-18-22. Use of third-year law students and law school staff instructors as legal assistants in criminal proceedings.

- (a) This Code section shall be known and may be cited as "The Law School Public Prosecutors Act of 1970."
- (b) With the increasing docket in criminal matters, it is in the public interest to provide legal assistance to district attorneys and, in connection therewith, to utilize the services of third-year law students and staff instructors in criminal proceedings as a form of legal intern training which will promote the efficiency of criminal proceedings.
- (c) As used in this Code section, the term:
 - (1) "Criminal proceeding" means any investigation, grand jury, trial, or other legal proceeding by which a person's liability for a crime is investigated or determined, commencing with the investigation, return of an indictment, or filing of the accusation and including the final disposition of the case.
 - (2) "District attorney" means any district attorney of this state, the Attorney General, the director of the Prosecuting Attorneys' Council of the State of Georgia, or any solicitor-general or solicitor of a state, municipal, or recorder's court or any assistants of such officers.
 - (3) "Law school" means a law school within or outside this state which is approved by the American Bar Association or which is authorized to operate under Code Section 20-3-250.8 or which was chartered and began operation in this state prior to February 10, 1937, and continued in operation in this state on July 1, 1970.
 - (4) "Staff instructor" means a full-time professional staff instructor of a law school in this state who has been admitted to the bar of another state but who has not yet been admitted to the bar of this state.
 - (5) "Third-year law student" means a student regularly enrolled and in good standing in a law school within or outside this state who has satisfactorily completed at least two-thirds of the requirements for the first professional degree in law (J.D. or its equivalent) in not less than four semesters or six quarters of residence.
- (d) An authorized third-year law student or staff instructor, when under the supervision of a district attorney, may assist in criminal proceedings within this state as if admitted and licensed to practice law in this state except that all indictments, presentments, pleadings, and other entries of record must be signed by a district attorney or by his duly appointed assistant and that, in the conduct of a grand jury investigation, trial, or other criminal proceeding, a district attorney or his duly appointed assistant must be physically present.
- (e) A third-year law student or staff instructor may be authorized to assist a district attorney in such form and manner as the judge of the superior court may prescribe, taking care that the requirements of this Code section and the good moral character of the third-year student or staff instructor are properly certified by the dean of the law school. Before entering an order authorizing him to assist the district attorney, the judge shall further require of the student or instructor an oath similar to the oath required by a district attorney.
- (f) As to each third-year law student or staff instructor authorized to assist a district attorney, there shall be kept on file in the office of the clerk of the superior court in the county where such authority is to be exercised the dean's certificate, the student's and instructor's

oaths, and the judge's order as contemplated under subsection (e) of this Code section. The authority to assist a district attorney as allowed under this Code section shall extend for no longer than 18 months. If during this period any change occurs in the status of the student or instructor at the law school in which he or she was enrolled or employed, that is, if the student ceases his or her enrollment, is suspended, or is expelled or if the instructor ceases his or her employment or is released by the school, any such authority shall terminate and be revoked.

- (g) Any third-year law student or staff instructor authorized to assist a district attorney under this Code section is not required to possess the qualifications for election or appointment to the office of district attorney or assistant district attorney as defined in Code Section 15-18-3.

(Code 1933, § 9-401.2, enacted by Ga. L. 1970, p. 336, § 2; Ga. L. 1978, p. 1949, § 1; Ga. L. 1990, p. 8, § 15; Ga. L. 1990, p. 1166, § 1; Ga. L. 1994, p. 313, §§ 1, 2; Ga. L. 1996, p. 748, § 4; Ga. L. 1997, p. 1319, § 14.)

Cross references. - Regulation of practice of law generally, § 15-19-50 et seq.
Law school legal aid agencies, § 15-20-1 et seq.

JUDICIAL DECISIONS

Physical presence of district attorney not required. - The existing statutory framework constitutes an express authorization for a district attorney to delegate to his assistants the performance of such of his prosecutorial duties as the law formerly required that he personally perform; accordingly, any former requirement that a district attorney's "direction and control" of a prosecution be evinced by his physical presence is now obviated. *State v. Cook*, 172 Ga. App. 433, 323 S.E.2d 634 (1984).

OPINIONS OF THE ATTORNEY GENERAL

Student assistants not admitted and licensed in general sense. - The statement that the student may assist the district attorney "as if admitted and licensed" necessarily implies that the student has not actually been admitted and licensed; the fact that there are strict rules governing what a student prosecutor may and may not do makes it clear that, while the student is practicing law in the sense that he is performing acts that a layman is not authorized to perform, he has not thereby been admitted and licensed to practice law in a general sense. 1976 Op. Att'y Gen. No. 76-28.

Third-year practice does not affect eligibility for district attorney. - A third-year law student who serves as a legal assistant to a district attorney pursuant to this section does not thereby become "duly admitted and licensed to practice law in the superior courts" for the purposes of determining eligibility to the office of district attorney under § 15-18-3. 1976 Op. Att'y Gen. No. 76-28.