

COURTS IN CRISIS

Exploring the Impact of COVID-19 on
Eviction Court in Georgia

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About the Center for Access to Justice

The Center for Access to Justice at Georgia State University College of Law supports those working to ensure meaningful access to the courts and equal treatment in the civil and criminal justice systems, with a regional focus on the South. To that end, the Center convenes stakeholders, engages in research and public education, and trains the next generation of lawyers to serve the public interest.

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About this report

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Courts in Crisis: Exploring the Impact of COVID-19 on Eviction Court in Georgia

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There's a common quip in Georgia – the fact that the state has 159 counties means there are 159 different ways to do just about anything having to do with local governance. Perhaps surprising for a state its size, Georgia's abnormally high number of counties is second only to Texas, and nearly three times that of California.¹ In addition to its fragmented local government structure, Georgia's state court system is decentralized, meaning that the state's more than 900 trial-level courts all function in a slightly different way. Although under normal circumstances this might cause confusion for litigants, frustrate researchers attempting to collect and analyze statewide data, or pose an obstacle for those attempting to implement statewide reform, it has caused unique issues in the context of a pandemic. As courts respond to changing social conditions and orders handed down by the state supreme court, there remain stark contrasts in how courts are functioning and thus how residents can access the judicial process.

To illustrate this problem, we have analyzed data compiled in early to mid-April through efforts directed by Georgia Appleseed and the State Bar of Georgia's Pro Bono Resource Center regarding the operation of Georgia's magistrate and superior courts.² In addition to general information regarding whether courts are open or closed, the data specifically probe how Georgia's dispossessory courts—those tasked

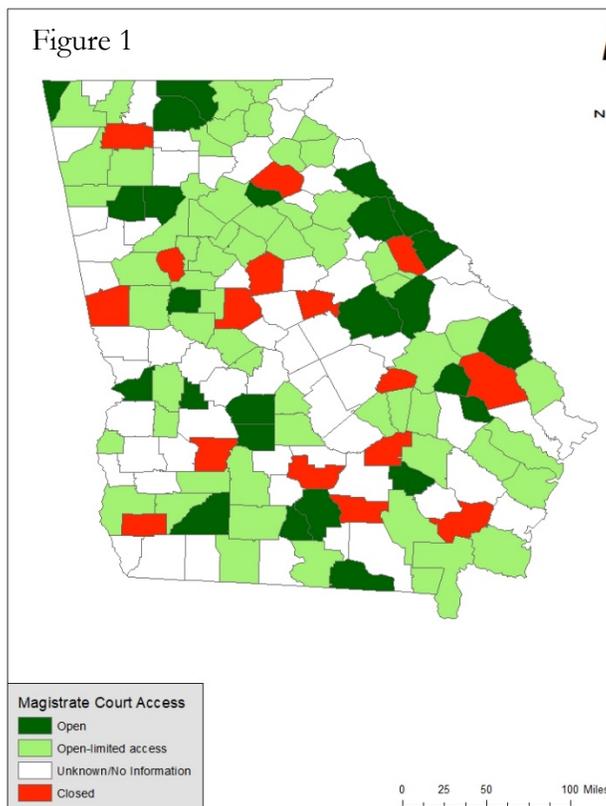
¹ Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway, and Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15, 67 (2018).

² Data were collected April 8-17, 2020 by calling magistrate and superior courts and asking a specified set of questions—related to general court operations and dispossessory case procedures—to available court personnel; these efforts were conducted by volunteer attorneys and law students and data were entered onto a master spreadsheet. Those data were supplemented by the authors with publicly available information posted on court websites.

Ninety of 159 counties responded to most or all survey questions. The remaining counties either did not respond or responded only to more general questions (e.g., open/closed); eviction-specific data is not included for those counties that did not respond unless it was clear from information (e.g., published guidance or order) posted and publicly available on the court website.

with hearing eviction cases—have responded in light of the state supreme court’s [emergency order](#) suspending non-essential court functions. These data show that courts across the state have adopted a range of responses, allowing for varied access to the dispossession process. Some courts have remained fully open, others have continued operations behind locked doors, and others have attempted to transition all essential operations online. Although courts have suspended hearings, some are continuing to issue judgments and writs, and a majority have continued to accept eviction filings. This variation in policy and procedure means not only that eviction litigants in Georgia will be treated differently in the time of COVID, as well as in the immediate aftermath, but also that all parties may find it more difficult to navigate the eviction process.

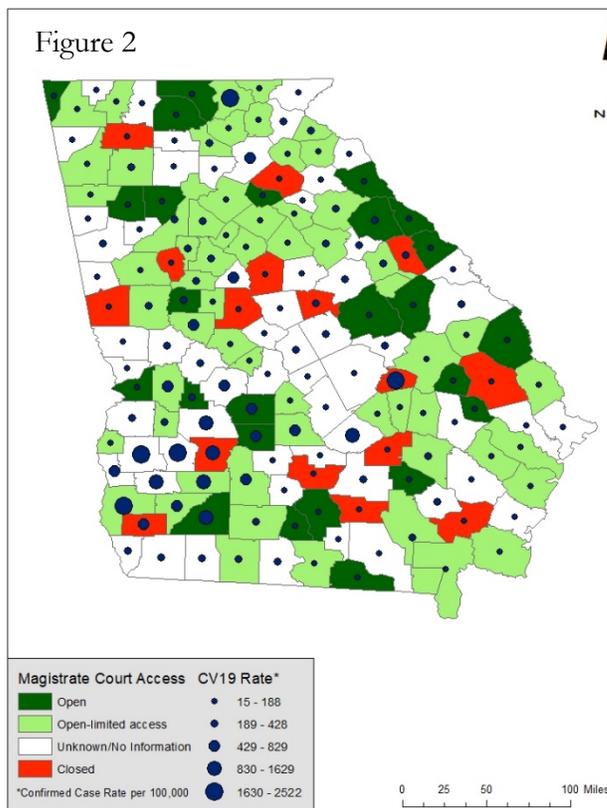
Keeping the Courthouse Doors Open, Closed, or Virtual



In looking at which courts are open, and which are closed [Figure 1], it is apparent that courts have adopted a patchwork of responses to the COVID-19 crisis. Most of the courts in the metropolitan Atlanta area are open with limited access—and many are moving forward with essential hearings online. In some counties, like Fulton County (where the state’s capitol is located), the public can attend court hearings [virtually](#), through video conferencing systems. In

more remote areas, it is perhaps unsurprising that courts have chosen to remain open with fewer restrictions. This is likely a function, at least in part, of their inability to fully transition to virtual proceedings—doing so might be of dubious value, given [limited](#)

[internet access](#) in more rural parts of the state. Thus, for the more rural courts that have remained open, other than limiting physical access, many seem to be stuck with usual operating procedures. Other courts have adopted measures that fall somewhere in between. For example, in Henry County, litigants seeking to file in person can [speak to clerks remotely](#) through a computer in the court lobby. Our data show that almost eighty-four percent of courts across the state have chosen to remain open in some fashion (fifty-nine percent have remained open with limited access), instituting a range of limitations including operating by appointment only; remaining open but closed or semi-closed to the public; or remaining open for limited staff, but keeping most or all doors locked.



When aligned with [data](#) from the Georgia Department of Public Health regarding COVID rates by county,³ there is no statistically significant association between rates of confirmed cases and the decision whether to keep the courthouse open or closed [Figure 2]. Of the counties with the lowest rates of confirmed COVID cases, as of the time the survey was conducted, three counties' magistrate courts were open without any apparent restrictions and three were closed (twelve were open with limited

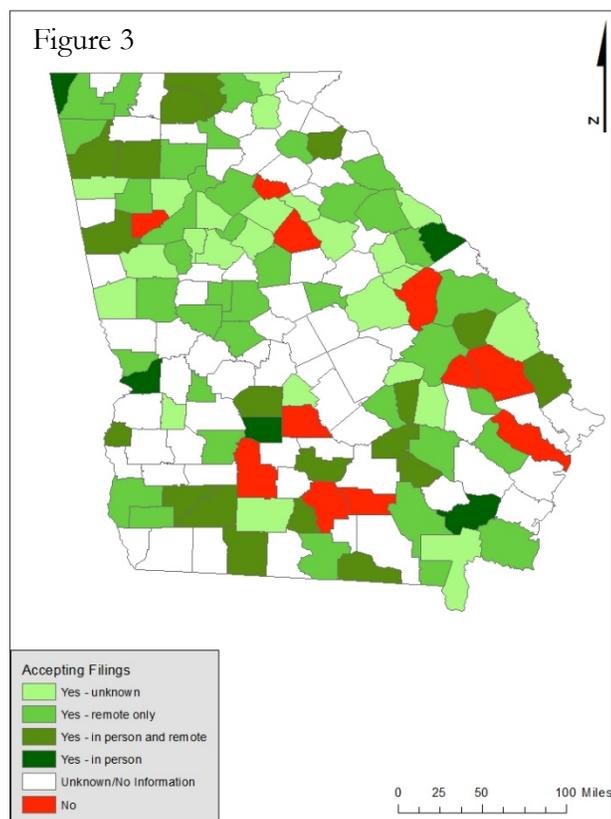
access). Of those counties with the highest rates, six were open, four closed and twenty-four were open with limited access. Perhaps notable, several courts in the southwestern part of the state—highlighted by [several publications](#) for its startlingly

³ For our analysis, we used cases reported by the Georgia Department of Public Health as of April 27, 2020.

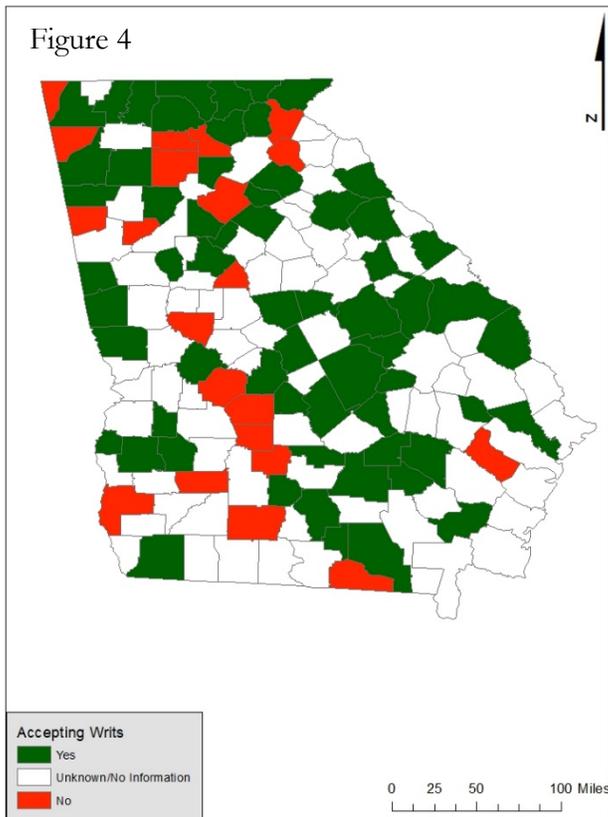
high COVID case numbers and their impact on [African American communities](#)—have remained open or open with limited access.

Evictions Have Slowed, but Filings Continue

When courts were asked about their specific policies or procedures regarding eviction cases, there was also a range of responses. The supreme court’s [emergency order](#), originally issued on March 13 and later [extended](#) until May 13, mandated only that courts should remain as open as possible “to address essential functions” and tolled filing deadlines and statutes of limitations in civil and criminal cases as well as administrative matters. The order provides no specific guidance as to how local courts should handle other aspects of dispossession cases and, unlike in [other states](#), there has been no separate action from the judicial, executive, or legislative branches imposing a moratorium on evictions. Most courts in the state have continued to accept eviction filings, although a handful (eleven of ninety-six)—mostly in the southern and eastern parts of the state—have stated that they are not accepting eviction filings at this time. [Figure 3.] The method for accepting filings varies, with many counties closer to urban areas accepting only remote filings, while some in more rural areas are accepting in-person filings, either exclusively or in addition to remote filings.



Only eleven counties in the survey are both accepting filings and serving warrants; two counties are serving existing warrants but not currently accepting filings.



Seventy-five percent of courts are still accepting applications for writs of eviction [Figure 4], but most courts have stopped issuing writs of eviction—providing the legal basis for a tenant to be forcibly evicted. Two counties issued writs after March 13, in one or two cases filed before the emergency order was issued. Just three of eighty-three courts responded that they would continue to issue new writs during the emergency period.

Although a handful of courts responded that they would issue defaults or issue judgments during this period, for the most part, courts are not holding hearings or directing law enforcement to evict tenants. Survey responses did not produce any evidence of law enforcement actually evicting tenants, other than in one or two cases where the writ had issued prior to March 13. Yet because the vast majority of courts are continuing to accept eviction filings, the courts will have full dockets to dispose of once the stay is lifted. It is worth noting that thirteen counties said they were continuing to calendar cases (seventy-three were not), likely allowing for a swifter return to processing cases once the tolling period has ended. In almost all courts—with one exception, where more time has been allowed—the time to file an answer will restart once the order is lifted on May 13 (barring any further extensions). A few courts have responded that they are not extending the time to file an answer, but this most likely means they have not extended the time beyond what the state supreme court's order requires, as they do not appear to be holding hearings and have otherwise tolled proceedings.

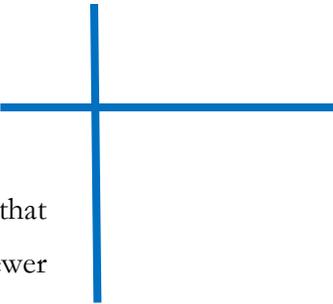
There is also a range in terms of accessibility of information and how courts are communicating to the public about their current state of operations. Some courts have posted copies of the state supreme court order, or—in the case that one has been issued—the local court’s own subsequent order. Without further guidance, however, the language of the orders may be difficult for the average lay litigant to fully understand or apply to their own circumstances. Others, like Cobb County’s magistrate court, have taken a more user-friendly approach, answering [common COVID-19 related questions](#) like “I am a landlord. Can I still file a new eviction case?” or “When do I need to file an Answer”? Other courts do not maintain independent websites (distinct from the county as a whole), so if that court is not open or only operating on a limited basis, the ability of litigants to find any answers to their questions under the current conditions may be extremely limited.

Conclusion

What are we to make of this patchwork approach to eviction court in a pandemic? Hard to say, given the smattering of responses received from courts across the state. But, as researchers who have studied access to the courts in a range of settings, including eviction, a few takeaways are worth mention. **First**, maintenance of a decentralized court system means that it will be harder to implement clear, consistent policies in the context of a pandemic, creating confusion and uncertainty both for the people working in these courts and those using them.

Second, while the vast majority of courts appear to be complying with the state supreme court’s order, the fragmentation of a court system like Georgia’s means that it is hard to track or ensure compliance, risking inconsistent treatment of litigants and—more important—the risk that someone may receive an adverse outcome, without any assistance or due process, even in spite of contrary guidance from the state’s highest court.

Last, exacerbating the fact that procedures are varied from county to county is the fact that many courts, under extraordinary pressure and stress, may be hard pressed to effectively communicate their current policies to litigants. Larger courts may have staff



devoted to communication and are able to post information to a central website that many litigants will think to consult, while smaller courts are often left with fewer resources and limited means for communicating with potential litigants.

Chaos in the time of crisis—and the consequent inability to obtain clear guidance on how to handle something as stressful as the possibility of eviction—will only exacerbate existing inequalities. Families suffering economic losses may now also lose the ability to shelter in place, jeopardizing their safety, security, and their children’s educational progress (as homes now also function as schoolhouses). At a time when many individuals should be able to prioritize their health and well-being, the stress and frustration of navigating an uncertain legal process with so much at stake will put society’s most vulnerable at an even greater disadvantage.