

The Atlanta Journal-Constitution

To the judges:

The reporting in this entry exposed how Georgia's House speaker, an attorney in private practice, routinely delayed the court cases of criminal clients by claiming legislative obligations.

The reporting found that child molesters, drunk drivers and defendants accused of violent crimes sought out the speaker's representation because they knew he could [delay their cases](#) to the point that charges were dropped, downgraded or postponed indefinitely.

David Shell, a felon with a history of beating women, put his strategy for retaining House Speaker David Ralston to escape domestic violence charges this way:

"The longer things wait, the less you remember," Shell told the newspaper. "People move away – they've gone. And if they can't find this girl – which I don't even know where she's at anymore anyway – and when it comes to court and they ain't got a witness or whatever, what are they going to do then?"

"That's why I gave him 20,000 bucks. He's worth every penny of it."

Lucrative for Ralston, but devastating for those who waited years for justice.

At the time the AJC published its first story Feb. 17, a Georgia teenager had been waiting five years for a traveling evangelist to face charges that he molested her when she was 14.

The molester's attorney was Speaker David Ralston, who filed eight leaves of absence in the girl's case.

"I just feel like this attorney is wounding my daughter over and over again," her mother told the AJC. "Every time we get our hopes up to get some release from the past, it's always a setback. There's no closure. There's no moving forward from this."

"I think Mr. Ralston knows exactly what he's doing."

Ralston got away with such tactics thanks to a [permissive](#) legal provision available to attorney-legislators of the Georgia General Assembly that allowed them to justify leaves of absences with a claim of legislative obligation.

Over a two-year period in just four Georgia counties, Ralston was granted 57 continuances in 21 cases. The case of David Shell, the domestic abuser, was delayed more than four years. A DUI case languished more than a decade.

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On some dates definitively identified by the reporters, Ralston was speaking to middle school students, attending a Chamber of Commerce breakfast or taking a political meeting with Vice President Mike Pence.

His requests to judges were often delivered in batches with no explanation. Reporters discovered one possible reason why the process was so easy: [Ralston helped rewrite](#) the leave law in 2006.

To report the stories, reporters spent hours in North Georgia courthouses, pulling case files and documenting the speaker's leave requests.

They also faced extraordinary pressure. Ralston, Georgia's third most powerful elected official, lobbied editors to back off, refused to be interviewed and declined to provide copies of his calendars.

After publication, only 10 members of the 236-member General Assembly were publicly willing to criticize the speaker. Those members, as detailed in AJC stories not included in this entry, subsequently saw their bills [buried or tabled](#), and one was [stripped of his committee](#) assignment.

Judges and prosecutors from Ralston's North Georgia district, who colluded to some extent in the numerous delays of Ralston's cases, declined to speak to reporters and put up additional roadblocks.

The reporters persevered, and their reporting produced [results](#). Seven weeks after the AJC's first story, lawmakers tightened the legislative leave law, making it more difficult for Ralston and other attorney-legislators to claim legislative conflicts in court.

The AJC believes its most fundamental mission is to check the abuse of power and expose practices that deny citizens fairness.

Thanks to the reporters' work in this submission, crime victims stand a better chance of receiving justice when the defendant on the other side is represented by a member of the Georgia General Assembly.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin G. Riley". The signature is stylized and cursive, with a large loop at the end.

Kevin G. Riley
Editor, The Atlanta Journal-Constitution

The Atlanta Journal-Constitution

Table of Contents

	Page
<u>Alleged victims say powerful Georgia lawmaker repeatedly delays cases</u>	4
<u>Ralston helped write the law allowing him to delay criminal cases</u>	10
<u>Georgia gives lawyer-legislators liberal privileges to delay cases</u>	15
<u>Ralston client charged in brutal hammer attack while earlier case was on hold</u>	21
<u>Legislature tightens law that allowed House speaker to delay his cases</u>	24

The Atlanta Journal-Constitution

FEBRUARY 17, 2019

Alleged victims say powerful Georgia lawmaker repeatedly delays cases



Speaker of the House David Ralston, seen here at this year's Eggs and Issues breakfast hosted by the Georgia Chamber of Commerce, declined to speak with The Atlanta Journal-Constitution and Channel 2 Action News for this story. He also declined to release his calendars or provide his whereabouts on dozens of missed court dates. BOB ANDRES / BANDRES@AJC.COM

By Johnny Edwards | jedwards@ajc.com

David Shell has a long record of beating up women.

He once beat his ex-wife so badly she blacked out, her left eye nearly swollen shut, then he locked her in their home so she couldn't reach a hospital, she said.

Another time, he threw a girlfriend to the ground and slapped and choked her, court records show.

So when another bruised and bloodied girlfriend told police he had flown into a rage and head-butted her and bit her finger at a camper park in Ellijay, Shell faced serious consequences. A grand jury charged him as a repeat offender, which could mean up to 20 years in prison for aggravated assault.

Yet more than four years after his indictment, Shell remains a free man, the charges against him stymied. A big reason: He paid a large retainer fee to hire an attorney who is also one of Georgia's most powerful lawmakers, state Speaker of the House David Ralston.

Just as Ralston has done for other clients charged with violent or heinous crimes, he used his elected position to delay hearings and court dates, preventing the case from moving forward in the Gilmer County justice system.

"That's why I gave him 20,000 bucks," Shell told The Atlanta Journal-Constitution. "He's worth every penny of it."

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A joint investigation by the AJC and Channel 2 Action News found that Ralston appears to be misusing the power of his public office to benefit his private law practice. By doing no more than writing letters to judges declaring that court dates interfere with his lawmaking duties, he has been able to keep cases perpetually off the docket. But his tactics can thwart justice, harm crime victims and put the public at risk.

Ralston has tied up cases for clients charged with child molestation, child cruelty, assault, terroristic threats, drunk driving and other crimes.

Often, he writes letters that stave off cases in bulk. That keeps his clients free on bond, while their chances of escaping harsh punishment get better with every passing year.

“Please be advised that I am hereby requesting a continuance of these three cases from the criminal calendar call,” reads one of Ralston’s typical letters. “I hereby certify to the Court that my legislative duties and obligations will require that I be elsewhere on that date.”

Under a state law dating back to 1905, judges and prosecutors must defer to the legislative schedule of any practicing attorney who serves in the General Assembly. Other attorney-lawmakers, though, are mainly relegated to claiming the exemption during the annual 40-day legislative sessions.

As House speaker, Ralston, who practices law in the rural, mountainous counties of North Georgia, can claim conflicts year-round. In 21 cases examined in four counties over a two-year period, he filed 57 requests for continuances.

Of the 93 days he claimed to be unavailable for court, 76 were outside of legislative sessions and special sessions. Speaker duties during those times could include overseeing legislative offices and staff, appointing committee chairs and members, and appearing at conferences, civic meetings and party functions.

Ralston declined to grant an interview for this story, instead issuing a written statement through a spokesman.

“Legislative leave is a long-established provision of Georgia law which recognizes the unique needs of a citizen-legislature and protects the independence of the legislative branch of state government,” the statement said. “Like other members of the General Assembly, I utilize this provision outside of the legislative session, when necessary, to attend to my legislative duties as both a state representative and Speaker of the House.”



A Blairsville woman holds hands with her 20-year-old daughter, who told police that a traveling evangelist raped and molested her in 2012. CHANNEL 2 ACTION NEWS

In case after case reviewed by the newspaper and Channel 2, Ralston utilized the provision repeatedly. One man’s DUI case has been pending for more than a decade, delayed at least 17 times by Ralston. A man charged with enticing a child for indecent purposes has been awaiting trial since 2009, with Ralston filing for 14 delays.

It’s been more than five years since a 14-year-old girl told police that a traveling evangelist who preached at her church and stayed over in her Hiawassee home raped and molested her. Ralston has put off that case in Towns County Superior Court at least eight times citing legislative duties and sessions.

Now a young adult, the victim goes to therapy every week trying to heal, but she also must preserve every memory of that night in case she’s ever cross examined, her parents told the AJC and Channel 2.

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"I just feel like this attorney is wounding my daughter over and over again," her mother said. "Every time we get our hopes up to get some release from the past, it's always a setback. There's no closure. There's no moving forward from this.

"I think Mr. Ralston knows exactly what he's doing," she said.

Time on his side

Stalling can be an effective defense tactic, allowing the passage of time to ravage the state's evidence against a defendant, said David LaBahn, president and CEO of the Washington-based Association of Prosecuting Attorneys.

As the years pass, victims become frustrated and give up; witnesses back out of testifying, LaBahn said. Child victims grow up into less-sympathetic adults, diminishing the impact on a jury. Police officers and investigators retire or move on to other jobs. Evidence gets lost. Memories fade. Exasperated prosecutors become more willing to drop or reduce charges.

"On the prosecution side, it's 'justice delayed is justice denied,'" LaBahn said. "As it relates to the criminal defense community, they'll say that the criminal case is much like fine wine. It improves over time."

LaBahn said some of Ralston's DUI cases are taking two and three times longer to settle than most murder cases.

"You clearly have a situation where, if you are accused in that jurisdiction, if you go and retain this individual to be your lawyer, you know that there's not going to be anything near speedy justice," LaBahn said. "And you know you pretty much have bought yourself a lot of time on your case. And that is not equal justice."

Ralston has put off hearings at least seven times for David Shell, the client who says he paid him \$20,000. Shell's previous domestic violence charges in South Georgia and Cobb County took less than a year to resolve, and several led to stints in jail.

In a phone conversation with the AJC, Shell said he's optimistic the district attorney will drop the latest charges, which he said are "nothing but a lie" because he was the victim in the incident. He said when he hired Ralston, the speaker explained to him upfront that he would delay his case "because he's running for public office."

Since taking on Shell's case, Ralston has been re-elected twice, both as House speaker and as his district representative.

Shell explained his strategy in hiring him:

"The longer things wait, the less you remember," he said. "People move away – they've gone. And if they can't find this girl – which I don't even know where she's at anymore anyway – and when it comes to court and they ain't got a witness or whatever, what are they going to do then?"



Jydon Carpenter told police that her ex-fiancé, David Shell, violently assaulted her in a camper park in Ellijay more than five years ago. But since Shell hired Speaker of the House David Ralston as his attorney, Carpenter has little hope the case will go to trial. JOHNNY EDWARDS / JREDWARDS@AJC.COM

The victim in his case, ex-fiancé Jydon Carpenter, said if she ever gets a court date, she'll be there. After Shell's arrest, she sought help from a domestic abuse shelter and received treatment for PTSD. She wants closure.

But in an interview with the AJC and Channel 2, she struggled at times to recount what happened that night more than five years ago. She often conflated the events with other bad memories involving her ex, which she knows could be problematic on the stand.

"I'm never going to forget that night, but I might forget what led up to it, and other details," she said. "It does piss me off that money can make things go away, and Ralston is charging people exorbitant amounts of money to make things go away."

Waiting in vain

The law that allows attorney-legislators to delay cases includes no mechanism for a judge or opposing attorney to challenge a request for continuance. However, attorneys have a duty of candor to the court under State Bar of Georgia ethical rules, so judges can demand an explanation as to why a legislator can't be in court, or ask for his or her calendar so a trial could be set during an open week.

That can be complicated when the attorney in question is arguably as powerful as the governor. Ralston has been known to throw his support behind opposing candidates running against elected officials who cross him, as he did with ex-representatives [Sam Moore and Charles Gregory](#) and current Rep. [Matt Gurtler](#). Ralston also has two appointments to the Judicial Qualifications Commission's investigative panel, which can investigate judges and recommend discipline.

One court official who declined to be interviewed for this story said it was because of fears of such political retribution.

Years ago, when a judge asked Ralston why he couldn't be in court, he cited a luncheon, a conference at St. Simons, a party meeting in Florida and a speech in Savannah. His Facebook posts show that on some of the recent weeks he opted out of court, he was talking to middle schoolers, attending a Chamber of Commerce breakfast, meeting with then-gubernatorial candidate Brian Kemp in Athens or greeting Vice President Mike Pence.

Ralston declined to share his calendars with reporters or provide his whereabouts on dozens of missed court dates over the past three years. Because the Legislature exempted itself from the Open Records Act, he doesn't have to provide documents. The AJC and Channel 2 found no indications in case files of judges pushing back on Ralston's numerous delays.

N. Stanley Gunter, chief judge over the four-county Enotah Judicial Circuit, did not return phone calls. Brenda Weaver, chief judge for the three-county Appalachian Judicial Circuit, backed out of a scheduled interview and said in a text message "any cases that were continued for legislative leave on my calendars were continued based on a proper request that met all of the requirements of the statute."

Appalachian circuit District Attorney B. Alison Sosebee said that "as quickly as these cases can be tried would certainly be ideal."

"I believe if there was a concern about a case being unnecessarily delayed, that my office or the judges would address that through the proper legal channels," she said.

Asked if she's ever had such concerns about Ralston's delays, the DA said, "I'm not going to answer any more questions at this point."

Ralston's tactics have become so well known in North Georgia, several victims described receiving the crushing news of his involvement in their case. The mother of the now-20-year-old in the molestation case said she had a consoling conversation with an assistant district attorney, who warned her to brace for a long, long wait.

The family had expected to finally have their day in court in December. But court records show Ralston wrote to Judge Gunter, saying the governor had called for a special session in November and the law exempts him from court for three weeks after adjournment.

The 20-year-old said she almost told the assistant district attorney she can't do this anymore.

"But if I were to do that, that would be giving up," she said. "We're not quitters."

Her case dates back to 2012, when the family was hosting Jason Brothers, an evangelist who has cerebral palsy and uses a wheelchair, when he was in Georgia to preach at North Mt. Zion Church of God.

The daughter, who suffers from a congenital heart defect, got up during the night for a glass of water. She said Brothers asked her for a hug, then grabbed her.

After the family went to police, they said some in their church shunned them and rallied around Brothers. They told the AJC and Channel 2 they thought the trial would finally clear their names.

Brothers, who is under house arrest at his family's house in Ohio, declined to speak to a reporter.



George Leonard Poole, left, convicted of driving under the influence in a 2010 crash in Hiawassee that injured Melissa Reeve, right, had his case delayed for three years by David Ralston. A jury found him not guilty of nine other charges. Reeve, of Round Rock, Texas, had to be airlifted to Grady Memorial Hospital after the crash. When Poole hired Ralston to be his attorney, Reeve said she knew the case would be stalled. PHOTO: SPECIAL

Escaping consequences

Ralston's maneuvering works so well, his cases often end in golden tickets to freedom for his clients.

In one example, he stalled a felony cruelty to children case, with a client charged with striking a child with a belt, for almost nine years. The district attorney finally dropped the charge, saying the victim had long since moved to New York.

After stalling another case for years, Ralston managed to get a drunk driver off light. George Leonard Poole, who had a prior DUI conviction in Tennessee, crossed the center line of a two-lane road in Hiawassee in 2010 and slammed head-on into a car driven by Melissa Reeve, according to a crash report. She had to be extricated from her mangled Kia Optima. She suffered a dislocated hip, a gash to her forehead, four broken bones in her left foot and a broken right toe.

Poole's first legal team cut a plea deal with the district attorney's office for six months in jail. In 2012, a judge rejected that deal as too lenient.

Then Poole hired Ralston, who wrote seven letters to the court delaying the case, court records show.

"When he acquired the guy and we checked into him, we knew that this was what he was going to do," Reeve said. "We just didn't feel like there was anything we could do about it."

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The case finally went to trial in 2015. By then, the state trooper who worked the crash had been fired over procedural errors in other reports, among other things. Ralston grilled him on the stand about details of his 2010 investigation, suggesting it wasn't thorough.

The jury convicted Poole of just one count — driving under the influence — declaring him not guilty of reckless driving, failing to maintain his lane and six counts of serious injury by vehicle. Contacted by phone, Poole said he was not the cause of the crash. "That was proved in court."

His sentence: 10 days in jail.

CASE DELAYS

These are among the cases where David Ralston wrote to judges asking for legislative leaves and other delays.

CLIENT

Paul Jason Brothers

DATE OF ALLEGED CRIME

Between Oct. 26 and Oct. 28, 2012

CHARGES

Rape, statutory rape, two counts of aggravated child molestation, three counts of child molestation, simple assault



RALSTON'S DELAYS

Aug. 14, 2014; Sept. 17, 2014; March 19, 2015; Oct. 26, 2016; Feb. 27, 2017; March 30, 2018; June 26, 2018; Nov. 5, 2018

CLIENT

David Thomas Shell

DATE OF ALLEGED CRIME

July 18, 2013

CHARGES

Aggravated assault (family violence), two counts of battery (family violence), simple battery (family violence), recidivist



RALSTON'S DELAYS

Aug. 31, 2015; Oct. 5, 2015; Dec. 3, 2015; Jan. 11, 2016; Aug. 16, 2017; Dec. 29, 2017; Aug. 31, 2018

CLIENT

Derek J. Key

DATE OF ALLEGED CRIME

Between Aug. 1, 2008 and Oct. 31, 2008; between June 1, 2006 and Aug. 1, 2006

CHARGES

Electronically furnishing obscene material to minors, enticing a child for indecent purposes



RALSTON'S DELAYS

July 11, 2011; April 2, 2012; Aug. 14, 2012; July 8, 2013; Jan. 21, 2014; Feb. 1, 2016; May 18, 2016; Sept. 1, 2016; Sept. 8, 2016; Dec. 12, 2016; Oct. 27, 2017; Oct. 31, 2017; Feb. 6, 2018; Sept. 4, 2018

The Atlanta Journal-Constitution

FEBRUARY 24, 2019

Ralston helped write the law allowing him to delay criminal cases



House Speaker David Ralston last week defended his use of the legislative stay, saying he has no plans to step down as speaker after criticism that he was abusing his power. BOB ANDRES / BANDRES@AJC.COM

By Johnny Edwards | jedwards@ajc.com and Chris Joyner | cjoyner@ajc.com

Ten years ago, a grand jury indicted a Georgia man on charges of illicit sexual behavior with young teens. One of the alleged victims said it's been so long since he heard from prosecutors, he figured the case was over with.

But it's not. It's among dozens of criminal cases repeatedly delayed from going to court — 14 times in this case — by defense attorney and state Speaker of the House David Ralston.

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After [an investigation by The Atlanta Journal-Constitution and Channel 2 Action News](#) revealed earlier this month that Ralston was using legislative privilege to delay court dates, he has come under fire from voters, Republican activists and purported victims in the cases.

“What is most infuriating is the fact that this man’s attorney is one of the most influential people in Georgia politics,” said an alleged victim of one of Ralston’s clients, Derek Key. Key was accused of enticing a child for indecent purposes and electronically furnishing obscene materials to minors.

For more than a week, most of Ralston’s peers serving with him in the House would not touch the issue in the wake of the AJC-Channel 2 investigation, a reluctance seemingly rooted in Ralston’s substantial political power. And Ralston received a spontaneous round of applause at a closed-door meeting of Republican lawmakers Tuesday at the Capitol, the AJC learned from several sources.

But by week’s end, battle lines were drawn. Nine House Republicans signed on to a resolution introduced by Rep. David Clark calling on Ralston to resign as speaker, while such heavy hitters as Gov. Brian Kemp and two former governors signaled they support Ralston.

Now, the AJC has learned how the law came about that Ralston has been invoking to create case delays: He helped write it.

For a century, elected lawmakers who make their living as attorneys could only cite the law to delay court while the General Assembly was in session and for three weeks after. But in 2006, lawmakers in the House and Senate passed Senate Bill 503, which expanded the privilege to cover any time a lawmaker’s “presence elsewhere is required.”

Originally, the bill dealt with unrelated legal issues, then passed through the House and Senate in different forms. On the final day of that year’s session, then-House Speaker Glenn Richardson named Ralston, then a state representative who chaired the House Judicial Non-Civil Committee, to a joint conference committee to work out the differences between the House and Senate versions.

Although it is unknown what role Ralston played in conference negotiations, the legislation that emerged included the language that Ralston, who became speaker in 2010, would later apply to his own law practice. It came before the House for approval just 90 minutes before the session’s required end at midnight, passing in the House 158-2, then in the Senate unanimously.

There had been an earlier attempt that year to alter the legislative leave law. Former GOP Rep. Ed Lindsey filed a bill expanding leave to include committee meetings held outside of session. His bill also required the legislator-lawyer to give “the specific basis for the continuance and stay.”

The law that passed out of Ralston’s conference committee has no such requirement and did not limit leave to committee meetings.

Under state law, all Ralston must do to keep a client out of court is to write to the judge, saying the dates would interfere with his lawmaker duties. He can do it year-round, and judges and district attorneys have little recourse. The AJC and Channel 2 found that Ralston has written some letters in bulk to delay cases. In 21 cases examined over a two-year period, he filed 57 requests for continuances.

Asked to respond to the AJC’s findings, Ralston declined to be interviewed by the reporters of this article. However, in an interview Thursday with Channel 2, he said he had not misused the law. “To say that I’m thwarting justice and that I’m putting the public at risk, those are things that are completely not me,” he told the station.

Two Republican leaders the AJC contacted at the recommendation of Ralston’s office responded with statements of support.

House Majority Whip Trey Kelley, R-Cedartown, said he doesn’t believe the North Georgia cases are being delayed by Ralston alone.

"It's really unfair to the speaker, because he also has a pretty important duty and an absolute right of privilege that exists between him and his client," said Kelley, who is also an attorney. "So really, in my mind, the (AJC) article does three things: It attacks the constitutional separation of powers, it attacks the constitutional protections that the accused are afforded and then have the right to adequate representation, and it attacks the long-established legal principal of privileged conversations between an attorney."

While case records reviewed by the AJC and Channel 2 did find occasional delays prompted by prosecutors or by Ralston's having a conflict with another scheduled trial, his frequent use of legislative delays was what caused them to drag out for years.



Rep. Matt Gurtler, R-Tiger, seen here in 2017, is one of only two Republican representatives to speak out publicly last week against House Speaker David Ralston's legal delays. "What is wrong remains wrong even if it's legal," Gurtler said in a statement. BOB ANDRES / BANDRES@AJC.COM

Speaker Pro Tem Jan Jones, R-Milton, said in a written statement that Ralston is "a man of integrity" who has devoted his life to public service.

"I trust that the speaker is fully committed to both his demanding professional and public service obligations," Jones said.

But Rep. Clark, R-Buford, said that after he received numerous messages from concerned constituents, he met privately with Ralston and found his answers about specific delayed cases vague.

Among the Republicans who signed on to his resolution Friday seeking Ralston's ouster was Rep. Matt Gurtler, R-Tiger. [Ralston supported Gurtler's Republican opponent in last year's primary.](#)

"What is wrong remains wrong even if it's legal," Gurtler said in a statement, "and Ralston's abuse on our judicial system and failure to live up to the standard we should expect of our elected officials in this case, and others, is detrimental to the proper role of government: protecting and defending life, liberty and property."

Some other legislators, on background, described receiving reams of emails and dozens of calls from constituents outraged about the issue.

A code of silence

Most calls the AJC placed to other key House leaders, including Democrats, seeking comments about Ralston's delays in North Georgia courts weren't returned.

Rebuke, however, [came from right-leaning pundits and activists](#). Neal Boortz, the former radio talk show host, said Ralston should face ethics charges and sanctions from the state Bar of Georgia. Erick Erickson, the WSB radio host and editor of The Resurgent, accused Republicans of "enabling this and letting it happen."

Debbie Dooley, president of the Atlanta Tea Party, said Ralston's prolonging of heinous criminal cases could haunt the Republican ticket in 2020.

“Their silence,” and the applause, Dooley said, “those are people that rubber stamp what he is doing. They rubber stamp him protecting accused child molesters, and rapists, and those that like to beat up women ... Is that really what the Republicans in the Georgia House really want to stand for?”

There is something more basic at work in the silence from the House. A tradition, an informal rule that no one talks. It’s a code of silence in a legislature where members exchange campaign contributions and some have been punished for political disloyalty.

In the past 12 years, Ralston has donated nearly \$150,000 to the Georgia Republican Party. He’s contributed nearly \$300,000 to various House members’ campaign committees over the same time period.

Ralston supports representatives facing tough or expensive primary or general election challenges, but he also donates to candidates at no real risk at losing their seats. With the exception of Speaker Pro Tem Jones, Ralston has donated, at some point, to the campaign of every Republican member of the House Ethics Committee.

Dooley said few lawmakers are going to challenge Ralston in the midst of a session, when he can directly affect how much they get done for their districts.

“He will remove them from committees. He won’t allow any legislation passed that they’re interested in. He can kill it. There’s a lot of things that he can do,” she said.

A reader who contacted the AJC last week said he reached out to his state senator about Ralston. He provided the Democrat’s emailed response: “I am very worried about this and agree it is problematic. I am coordinating with my colleagues about the proper response. It is tricky because Ralston as Speaker wields a lot of power in state government.”

The Georgia Democratic Party released a statement that, while strongly worded, called for no changes other than for Ralston to keep tabs on himself. It was attributed to the state party’s communications director: “These revelations show that Speaker Ralston has abused his power as a public servant to delay and deny justice for crime victims. As a legislator who has been given the trust of his constituents, he needs to remember his duty and put the needs of Georgia families before his own self-interest.”



Amanda Mosher, whose husband and 4-year-old daughter died in 2005 car crash, began speaking publicly about David Ralston’s case delays in 2012. Ralston represented the at-fault driver, and the case didn’t end until 2014. JOHNNY EDWARDS / JREDWARDS@AJC.COM

Victims uniting

Well before last week’s revelations, Ralston’s repeated use of legislative leave had drawn public criticism. Case delays played into a 2012 bar complaint filed by one of Ralston’s own clients in a civil case, who said that he put off his auto accident injury case. Four years later, [Ralston agreed to a public reprimand](#) for advancing the client \$22,000 from his law firm’s trust account.

Around that same time, Amanda Mosher was publicly blasting Ralston for delaying a vehicular homicide case. Mosher’s husband and 4-year-old daughter died in a 2005 crash in Ellijay, and Ralston represented the man charged.

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The case took more than eight years to go to court — with Ralston’s delays accounting for at least five years of waiting, Mosher said. On multiple occasions, she sat in court waiting for a hearing, only to hear the judge announce that Ralston had put off court yet again. She said that before trial, an investigator with the district attorney’s office told her that evidence had “gone stale” and witnesses had backed out of testifying.

Ralston’s client ultimately took a plea deal: one year on probation and a \$1,000 fine.

Mosher, who lives in Blue Ridge, said it’s well known that clients who can afford to hire Ralston can have their cases delayed, weakening prosecutors’ cases. One of his current clients explained that strategy to the AJC and said, “That’s why I gave him 20,000 bucks.”

“Everyone says, hire him, you’ll never go to court,” Mosher said. “People talk. This is a small town.”

Mosher now wants to organize other alleged victims of Ralston’s clients and file a joint complaint with the State Bar of Georgia. She’s already been joined by a woman in a domestic violence case, the parents of a woman allegedly molested by an evangelist at age 14, and a party in a divorce case.

“If people will stand up to him, we can bring him down I think,” Mosher said. “I think we can make this stop.” The alleged victim of Derek Key said it troubles him that Key has been free on bond for so many years after his alleged crime. Key is accused of driving him to another county for the purposes of molesting him, and of sending pornographic messages to another teenager.

“I do not want someone else to be enticed into a situation they do not want to be in,” he said in a statement to the newspaper.

The Atlanta Journal-Constitution

MARCH 3, 2019

Georgia gives lawyer-legislators liberal privileges to delay cases

Other states have tighter limits on lawmakers who say they can't make court dates because of their legislative obligations.



House Speaker David Ralston leaves the well to a standing ovation on Monday after he addressed accusations that he has abused his authority by delaying court cases for clients of his law practice. Some Republican lawmakers signed onto a resolution calling for Georgia House Speaker David Ralston to resign over the issue. Bob Andres / bandres@ajc.com

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By Chris Joyner | cjoyner@ajc.com and Yamil Berard | yberard@ajc.com

State Rep. Scot Turner was so upset about Georgia House Speaker David Ralston's [use of a state law](#) allowing lawyers serving in the General Assembly to repeatedly delay court cases that he released a statement condemning his fellow Republican.

Part of what angered Turner was that one of the cases — a charge of aggravated child molestation — was dropped by the district attorney five years after indictment. Turner was shocked when he learned the full story.

Court records show Ralston, R-Blue Ridge, cited legislative duties to delay the trial of his client, Ellijay resident Derek Key, 27 times from January 2010 through September 2014. Add to that an unspecified leave of absence Ralston took in May 2014 and the delays total 28.

"I'm stunned," the four-term lawmaker from Holly Springs said. "I know the time period looked bad, but 28 times?" Such serial delays of criminal trials are so concerning that many states do not allow them, particularly when a child victim is involved. But a review of laws and practices around the nation by The Atlanta Journal-Constitution found Georgia's legislative exemption is one of the most permissive.

"What's going on in Georgia is nuts, absolutely nuts," said Tony McDonald, an Austin attorney who handles cases involving legislative issues. "It's just a raw abuse. It's the most flagrant abuse of legislative continuances that I've ever seen."

Since 2006, Georgia has allowed state lawmakers with private law practices to delay court appearances any time they assert that they have legislative business. State law doesn't require legislators to provide proof of their legislative duties, submit the continuances in writing or offer alternate dates, and judges are required to grant the requests.

But elsewhere, states that allow for the privilege commonly limit the automatic stays to periods around legislative sessions and legislative committee meetings. Some block lawyer-legislators from filing last-minute continuances, allow the judge to reject some requests, require legislators to file for the stays in writing or require proof of legislative responsibilities outside of session. Maryland acknowledges the potential harm of the delays, calling for lawyer-legislators to consider the impact of excessive continuances or postponements on the judicial system, the bar and the public.

In Texas, after a public outcry over attorney-lawmakers routinely abusing the privilege to delay cases, the legislature came up with what may be a unique approach to prevent abuse. There, legislators have to file documents publicly listing all the continuances they get.

Ralston's letters requesting delays are tucked into criminal files in county courthouses across north Georgia. Reporters for the Atlanta Journal-Constitution and Channel 2 Action News spent weeks thumbing through thousands of pages of court records in their review of Ralston's cases to locate the requests. It's unlikely the investigation located all of them.

Facing calls for his resignation from [within his own party](#), Ralston admits no wrongdoing in the way he applies the legislative exemption. But in an emotional speech Monday in front of his House colleagues, he said [he would support a change in the law](#).

Ralston's office did not respond to an AJC request for an interview, but he released a statement and penned a separate op-ed for the newspaper.

Tough questions

Texas enacted reforms in 2003 after controversies about lawyer-lawmaker involvement in high-profile cases, such as one in McAllen, on the southern tip of Texas.

In that case, State Sen. Juan "Chuy" Hinojosa, a former farm worker who had worked his way through law school, was hired onto the defense team for Bridgestone-Firestone, which was facing accusations that defective tires on a Ford Explorer caused an accident that left a 39-year-old mother of three crippled.

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Hinojosa had been hired a week before the trial was to open, then filed for a motion to delay the proceedings. Because he was a lawmaker, he could tap a state perk that allowed him to push the case back until his duties as a legislator were over. That could delay the case for up to a year or more and would mean that the victim would have to wait months for medical care and treatments, said Tab Turner, the attorney for the woman's family.

"The judge saw right through what was going on," Turner said. "He asked him some very tough questions, like 'Mr. Hinojosa is being brought in here last minute to try to get a continuance. What role is he to play here? Is he going to question all the witnesses?'"

Hinojosa also saw the light. He joined forces with another state representative to introduce legislation requiring the disclosures, saying he realized that it was wrong to use the privilege as a delaying tactic.

"It's ethically challenging to use your authority, quite frankly abuse to just hold the case and get paid for it," he told the AJC.

Texas attorney-lawmakers now must file a document with the state's ethics commission within three days after applying for a continuance. Continuances also must be pinned to each legislator's financial disclosures.

Legislators also must demonstrate to the court that they intend to participate actively in any case for which they file a continuance, and if they are hired within 30 days before a trial, it's up to the court to decide whether to grant one. It's not automatic.

Still, the disclosures have not put a stop to the conflicts and abuses, said McDonald, the Austin attorney.

Records kept by the state's ethics commission show one Texas lawmaker claimed 360 continuances since 2013; another claimed 338 before being defeated in his primary last year.

Now, Hinojosa said Texas may need to tighten the law more. One potential change he suggests: requiring legislators to give more notice that they will seek a continuance in a case "because it's still a problem."

Serial delays

It's only because Rep. Turner released a statement condemning Ralston's delays that the AJC discovered the serial delays in the Key case in Cherokee.

Turner applauded the speaker for moving to reform the legislative leave law, but criticized him for not accepting that "his actions have caused people harm.

"I learned of a case just this morning of a child molester in Cherokee County from 2009 that was (dismissed) in 2015 because the victim could not be found after six years of legislative delays," Turner said in the statement.

Following the release of the statement, the AJC examined the court records in Cherokee County, which shed more light on the case.

Court records show Key was indicted in July 2009 for allegedly bringing a 14-year-old boy to his Canton townhouse for oral sex in 2006. Key was 29 at the time of the alleged crime.

At the time, Ralston, who was not yet speaker of the Georgia House, sought trial delays in September, November and December 2009, citing not the legislative exemption but conflicts with other criminal and civil cases he was handling in other counties. The delays pushed the case into January 2010, at which time Ralston was elected speaker by the Republican-dominated House. From that point on, he filed regular requests for delays, citing the demands of his legislative responsibilities.

Key faces [related charges](#) in a separate indictment in Gilmer County. Court records show Ralston has delayed that case 14 times over the past decade citing the legislative exemption.

While his attorney was delaying his day in court, Key was rearrested in September 2010 for violating the terms of his bond when an acquaintance noticed him hanging out at a football game at a local middle school. A few weeks later, Key was granted a new bond with the understanding that he would avoid any “area where minors congregate.”

Ralston filed his final stay in Key’s Cherokee County case on September 29, 2014, delaying an Oct. 8 pre-trial appearance and proposed trial dates of Oct. 20 and Oct. 27. On Oct. 8, the Cherokee County District Attorney’s Office filed a motion — known as a *nolle prosequi* — to drop the case, citing multiple problems, including problems bringing the victim to court.

“It was obvious that the now 22-year-old (victim) had no intention of participating in the case,” the motion states. “He never filed a victim impact statement.”

The AJC interviewed the alleged victim in the case, who indicated he was prepared to testify.

“I received a few calls from the District Attorney asking me to testify on certain dates, and then would get another call saying it had been delayed,” he said. “Eventually the calls and all communication stopped from the DA.”

At the time, the experience caused “a lot of stress and anxiety and caused me to act out on feelings I may have wanted to explore until adulthood.”

In a statement released Friday, Ralston said the state’s motion speaks for itself.

“The case of State of Georgia vs. Derek Jason Key was dismissed four and a half years ago at the request of the District Attorney’s Office,” Ralston said in a statement released Friday. “The motion for Nolle Prosequi describes the prosecutor’s reasoning for the dismissal.”

Also on Friday, Ralston announced the creation of an advisory panel of current and former lawmakers, attorneys and judges to recommend possible changes to Georgia legislative leave law.

Cherokee County District Attorney Shannon Wallace said she was unfamiliar with the specifics of the Key case, but in reviewing the file she said it is possible the case would have been dismissed anyway. However, she said delays complicate the prosecution of crimes.

“Lengthy delays in any criminal case will make it more difficult to move forward, and that is true of victim cases,” she said.

In the filing, the assistant district attorney in charge of the case wrote the alleged victim, whose name is being withheld because of the nature of the charges, was “openly gay” and “told the investigators that the sex was his idea and that it was consensual.”

Georgia law does not view sex between an adult and a child as consensual.

Robert James, a former DeKalb County district attorney, said delays are especially problematic in cases where the purported victim is a child.

“Sometimes there would be large gaps in memory,” he said. “The older (the cases) get, the more difficult they get to prosecute.”

Prosecutors sometimes also have trouble prosecuting long-delayed child abuse cases, he said, because the victim ages and may be less sympathetic to juries.

“You have a child that is molested when he or she is 11 or 12 years old. ... By the time we got to trial, the boys were bigger and stronger than the person they alleged molested them,” he said. “Those things should not matter, but you are dealing in the real world and they do matter.”

James said repeated delays put victims on “an emotional roller coaster.”

Speedy trial statutes

The special problems associated with delaying cases with a child victim is one reason why 32 states and territories, the District of Columbia and the federal government have laws favoring speedy trials in those cases. Georgia does not.

Wallace, who took office in 2013, said it is not unusual for criminal trials to be delayed multiple times, but the Key case is an outlier.

“Had I known and had the procedure in my office been followed, it would not have ended this way,” she said. “It may have ended in a dismissal. .. However I would assure you the (motion) would not have been written like this.

“I’ll be honest. This stings,” she said. “A lot goes into ever dismissing a child abuse case in this circuit.”

Our Reporting

The Atlanta Journal-Constitution and Channel 2 Action News spent weeks searching court records in several North Georgia courts to understand how House Speaker David Ralston, R-Blue Ridge, delays court cases — sometimes for years — in his private law practice by claiming legislative duties require his attention. Further investigation found Ralston was on a conference committee of six lawmakers in 2006 that expanded a state law allowing lawmakers to claim that exemption even when the Legislature is not in session. Today, the AJC looks at how other states have moved to curtail serial use of the legislative exemption and move cases along, especially when the victim is a child.

Preventing abuse of a legislative privilege

Speaker of the House David Ralston is appointing a committee to suggest how Georgia law on legislative continuances might be changed. Here is a sampling of the kinds of restrictions other states have enacted on attorney-legislators who seek to delay court proceedings because of their legislative duties.

- No last-minute continuances: Some states block delays if the lawmaker doesn't file them enough in advance. In Louisiana, for example, continuances have to be filed five days before a hearing or proceeding in most cases.
- No surprise continuances: Rather than just notify the court of a legislative stay, lawmakers in some states must also notify the opposing attorney and other parties. That's a requirement in Missouri, which also says the stays must be filed in writing.
- No late attorney hires: This rule is designed to prevent defendants from adding an attorney-legislator late in the game in order to get a delay. In Illinois, continuances are for attorney-legislators retained by the party before the case was set for trial.
- No continuances for certain types of actions: In California, while most continuances in civil cases are mandatory during session and committee meetings, it's up to the judge to determine if they are granted in cases involving paternity actions, protective orders or injunctions, perishable goods, and receiverships of a failing business. Some states also have laws that limit any type of continuances in cases involving child sexual abuse.
- Only continuances during session times and committee meetings: This is the most common restriction. Tennessee has such a provision, with this caveat: It must be shown to the satisfaction of the court that the attorney is a member of the General Assembly and that it is either in session or that the attorney must attend a legislative committee meeting when the assembly is not in session.
- No serial continuances: To prevent repeatedly delays, some state laws set a time frame for a proceeding to be re-scheduled after a continuance. An Oklahoma bill would require that the proceeding be rescheduled to a date agreed upon by the parties or a date at least 10 days after a legislative session adjourns.
- No hiding: Texas has what may be a unique requirement. Attorney-lawmakers must disclose continuances to the state ethics commission and on their personal financial disclosures. Those records are open to the public.

The Atlanta Journal-Constitution

MARCH 31, 2019

Ralston client charged in brutal hammer attack while earlier case was on hold



Brock Harper, 45, faces charges of attacking 22-year-old Robert Kennedy with a hammer last year in the North Carolina woods near Chatuge Lake. At the time, Harper had aggravated assault charges pending against him in Georgia, but the case hadn't gone to court amid attorney David Ralston's repeated delays.

By Johnny Edwards | jedwards@ajc.com

Robert Kennedy was on the ground bleeding. The man standing over him showed no mercy. He raised the hammer and struck him over and over again with the claw end, landing blows on his skull and his legs, Kennedy told the AJC in an account that parallels a North Carolina police report.

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When the beating ended, the man hogtied his arms to his ankles with duct tape and zip ties, then dragged him to a ditch. Kennedy said he didn't expect to come out of the woods alive. "It was a near-death experience," the 22-year-old said.

Brock Harper, 45, faces charges in the attack of assault with a deadly weapon, inflicting serious injury and second-degree kidnapping.

But Georgia court records indicate Harper might have been in jail that day had he stood trial on earlier aggravated assault charges. House Speaker David Ralston is Harper's attorney in that case, and he [repeatedly cited legislative responsibilities](#) to put off court dates.

Court documents show Harper, who has a lengthy criminal record, hired Ralston to defend him against 2014 charges of chasing a man down in Fannin County and ramming his pickup truck with a car.

After posting bond, Harper was caught stealing lawn equipment from a Union County soccer league, records show. He didn't hire Ralston as his main attorney for that case, and Harper soon went to court, pleaded guilty, went to prison and got paroled — all with the Fannin County assault case still pending.

[Ralston delayed](#) the Fannin case seven times — including five delays after Harper got out of prison.



House Speaker David Ralston represents Brock Harper in a 2014 aggravated assault case in Fannin County. Ralston cited legislative leave to delay court proceedings seven times before Harper was charged with beating a younger man with a hammer. Photo: BOB ANDRES / BANDRES@AJC.COM

Asked if that might have contributed to what happened in North Carolina, Ralston said in a written statement that "it is up to the prosecutor — not a defense attorney — to seek revocation of a bond and then for a judge to make a decision." Fannin County's district attorney, B. Alison Sosebee, did not respond to questions about why that wasn't pursued.

Nine days after Ralston's final delay last September, Harper asked Kennedy to take a ride, and they wound up in a wooded area near Chatuge Lake, where the attack happened, according to a Clay County, N.C., police report. Harper accused him of sleeping with his girlfriend, the report says.

According to the record, Harper drove Kennedy back to the house where they lived with Harper's girlfriend, his hands duct taped together. Harper and his girlfriend argued, and Harper allegedly kicked in a front door before leaving. He's also charged with felony breaking and entering and criminal domestic trespass.

Harper is now back in jail in Union County on a probation violation for the alleged hammer attack.

The police report notes that Kennedy had red marks around his neck as if he had been choked "as well as several lacerations and marks on his head and body, some in the shape of a hammer." His mother, Rose Mason, said he still has headaches, blurred vision and ringing in his ears from the beating.

Had the 2014 case been resolved, Mason said, Harper might not have been free to attack her son.

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“It all depends on who you know and how much money you’ve got here,” she said. “(My son) didn’t deserve what he got. And it shouldn’t have happened.”

Timeline of Brock Harper’s criminal cases

Sept. 8, 2013: In Fannin County, Brock Harper allegedly tries to run a man down with a car, and when the man jumps into the bed of a pickup truck, Harper rams it, according to court records. A grand jury indicts him on two counts of aggravated assault, two counts of criminal damage to property in the second degree, reckless driving and two counts of simple assault.

June 5, 2014: In Union County, Harper is arrested and charged with stealing a lawn tractor and a mower from a soccer league. He is indicted on charges of burglary in the second degree, two counts of theft by taking, possession of tools for the commission of a crime, possession of a firearm by a convicted felon and possession of a firearm during the commission of a felony.

Nov. 24, 2015: Harper’s attorney, David Ralston, cites legislative leave in the Fannin County aggravated assault case, keeping it off a Dec. 1 jury trial calendar.

Dec. 18, 2015: Harper pleads guilty in Union County, both in the burglary case and a separate theft by receiving case involving a gas-powered weed eater. In those cases, court records show his primary attorney was William Keith.

Dec. 28, 2015 to Jan. 12, 2017: Harper serves time in state prison.

Aug. 23, 2016 to Aug. 23, 2018: Ralston cites legislative leave six times in the Fannin County aggravated assault case.

Sept. 1, 2018: Harper allegedly beats Robert Kennedy with a hammer and kidnaps him, according to a Clay County, N.C., police report.

Jan. 2, 2019: After being released from the North Carolina jail on a \$50,000 bond, Harper is booked into the Union County jail, charged with a probation violation over the hammer attack.

The Atlanta Journal-Constitution

APRIL 3, 2019

Legislature tightens law that allowed House speaker to delay his cases



House Speaker David Ralston, R-Blue Ridge, presides at the Georgia State Capitol in Atlanta Tuesday. On the final day of the 2019 Legislature, lawmakers tightened a law that had allowed attorney-lawmakers to delay legal cases while on legislative duties. EMILY HANEY / EMILY.HANEY@AJC.COM

By Chris Joyner | cjoyner@ajc.com

State lawmakers late Tuesday night passed a bill meant to limit the right of lawyers who serve in the General Assembly to delay their clients' court appearances.

House Speaker David Ralston announced plans to tighten the law after [a joint investigation](#) by The Atlanta Journal-Constitution and Channel 2 Action News revealed numerous occasions where he had made claims of legislative

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business to put off cases. Alleged victims of some of his law firm's criminal clients said the speaker's leave requests had unfairly denied them justice as some cases stretched out for years.

In one child molestation case in Cherokee County, [Ralston filed 28 delays](#) over four years, and the district attorney finally dropped the charges.

Ralston said he had done nothing wrong. But to address any concerns, last month he named an advisory panel of current and former lawmakers, attorneys, judges and a victims' advocate to examine whether the state law should be revised.

Under the bill, lawyer-legislators would continue to be automatically granted leave from court when the General Assembly is in session and for one week before and three weeks after.

At most other times, prosecutors, opposing attorneys, judges and other "interested parties" could object to leave requests. Judges would then have to rule on whether to grant leave based on a variety of factors including the age of the case and whether the leave request subverts justice.

Lawyer-legislators would have a right to leave for scheduled legislative committee meetings if handling a civil case. An attorney on a criminal case who serves in the Legislature, however, would have to apply for leave for committee meetings and a judge could grant it at his or her discretion.

The stricter procedure for attorneys on criminal cases seeking a leave to attend a committee meeting was added in the Senate, which passed [HB-502](#) unanimously. The House passed the bill with a lone dissenting vote, Rep. Matt Gurtler, R-Tiger.

Former House Republican Whip Edward Lindsey, who Ralston appointed to the advisory committee that reviewed the leave law, said he and committee members spent time studying AJC and Channel 2 reporting, spoke with victims who had been impacted by legislative leave and attorneys who had been on the other side of the delays.

"We had, from the very beginning, the consensus that the details of the way the leave policy worked needed to be changed," he said. "I'm pleased the General Assembly moved forward with our proposal."

[Critics have countered](#) that the new changes to the leave law, which heads to Gov. Brian Kemp for his signature, will do little to address potential abuses by powerful politicians because it relies on judges' willingness to stand up to them.

"We all know what kind of power and authority come with the position of speaker," said Rep. Scot Turner, R-Holly Springs, who has been one of Ralston's most [outspoken critics](#). "It's an incredibly powerful position in our body. The purse strings of the budget are held very tightly."

Ralston has denied that [his legislative power](#) translates into power in the courtroom.

"I may have a little control here, but I have no control over courtrooms in the mountains of North Georgia," he said [in a speech last month](#) in the House. "Those are under the control of a judge and/or a prosecutor."

While the bill passed by a large margin, some criticized the methods used to rush the bill through the legislative process.

Ralston's advisory group was co-chaired by former lawmaker-turned-lobbyist Lindsey and Ronnie Mabra, another former lawmaker and personal injury attorney. It conducted its meetings via teleconference. Lindsey told the AJC that in drafting the proposal, the group took into account the concerns that had been raised.

However, the alleged victims in criminal cases said they were never consulted. In a meeting of the Senate Rules committee last Thursday, some senators complained they were shut out of the process, too. Senate President Pro Tem Butch Miller, R-Gainesville, worried that bill was being rushed.

"This clearly needs some additional discussion," he said. "We need to do it right. Let's not get in a hurry."

Rules Chairman Jeff Mullis, R-Chickamauga, said he was convinced, though, that the Senate would get its say on the bill.

“We’re changing the bill twice,” he said. “(The House is) going to disagree and we are going to go to a conference committee.”

The Senate did take the opportunity to expand the bill a bit further, amending it in committee to allow legislators automatic delays for party caucus meetings, national legislative conferences and study committee meetings, all of which generally happen outside of regular session.

GOP Caucus Chairman Sen. Joe Kennedy, an attorney in private practice, questioned whether caucus meetings were more “political” than legislative.

“I think our caucus would have a tough time without our leader,” said Sen. Bill Cowser, R-Athens, another attorney. “We’ll have fewer lawyers in the Legislature,” he said, echoing a widely held belief that legislative demands discourage lawyers from seeking office.

Staff writers Mark Niese and Maya Prabhu contributed to this report.