

_____ offers the following
substitute to HB 397:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 50 of the Official Code of Georgia Annotated, relating to state
2 government, so as to comprehensively revise the provisions of law regarding open
3 meetings and open records; to provide definitions relating to open meetings; to provide
4 for the manner of closing meetings; to provide for open meetings; to provide for remedies
5 for improperly closing meetings; to provide for notice of meetings; to provide for
6 exceptions; to provide for certain privileges; to provide for sanctions; to provide for
7 related matters; to provide for legislative intent regarding open records; to provide for
8 definitions relating to open records; to provide for applicability; to provide for procedures
9 regarding disclosure and enforcement of disclosure provisions; to provide for fees and the
10 amount and manner of collection thereof; to provide for exceptions and exemptions; to
11 provide for sanctions; to provide for related matters; to conform certain cross references;
12 to repeal conflicting laws; and for other purposes.

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15
16 **SECTION 1.**

17 Title 50 of the Official Code of Georgia Annotated, relating to state government, is
18 amended by revising Chapter 14, relating to open and public meetings, as follows:
19

“CHAPTER 14

50-14-1.

(a) As used in this chapter, the term:

(1) 'Agency' means:

(A) Every state department, agency, board, bureau, office, commission, public corporation, and authority;

(B) Every county, municipal corporation, school district, or other political subdivision of this state;

(C) Every department, agency, board, bureau, office, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of the state;

(D) Every city, county, regional, or other authority established pursuant to the laws of this state; and

(E) Any nonprofit organization to which there is a direct allocation of tax funds made by the governing authority of any agency as defined in this paragraph ~~and~~ which ~~allocation~~ constitutes more than 33 1/3 percent of the funds from all sources of such organization; provided, however, that this subparagraph shall not include hospitals, nursing homes, dispensers of pharmaceutical products, or any other type organization, person, or firm furnishing medical or health services to a citizen for which they receive reimbursement from the state whether directly or indirectly; nor shall this term include a subagency or affiliate of such a nonprofit organization from or through which the allocation of tax funds is made.

(2) 'Executive session' means a meeting or portion of a meeting lawfully closed to the public to discuss a matter that is excluded or exempt from the requirements of this chapter.

~~(2)(3)(A)~~ 'Meeting' means:

47 (i) The gathering of a quorum of the members of the governing body of an
 48 agency at which any official business, policy, or public matter within the subject
 49 matter jurisdiction of the agency is formulated, presented, discussed, or voted
 50 upon;

51 (ii) The gathering of a quorum of any committee of the members of the
 52 governing body of an agency or of a quorum of any committee created by the
 53 governing body of an agency created by such governing body, whether standing or
 54 special, pursuant to schedule, call, or notice of or from such governing body or
 55 committee or an authorized member, at a designated time and place at which any
 56 public matter, official business, or policy of the agency is to be discussed or
 57 presented or at which official action is to be taken or, in the case of a committee,
 58 recommendations on at which any official business, policy, or public matter within
 59 the subject matter jurisdiction of the agency to be is formulated, presented, or
 60 discussed, or voted upon; or

61 (iii) The communications between a quorum of the members of the governing
 62 body of an agency or a quorum of the members of a committee appointed by the
 63 governing body of an agency if such communications are for the purpose of
 64 discussing or determining the vote or other resolution of official business or other
 65 matters that the communicating members anticipate will be included on the agenda
 66 of a future meeting of their governing body or committee.

67 (B) 'Meeting' shall not include:

68 (i) The assembling together gathering of a quorum of the members of a governing
 69 body or committee for the purpose of making inspections of physical facilities or
 70 property under the jurisdiction of such agency or for the purposes of meeting with
 71 the governing bodies, officers, agents, or employees of other agencies at places
 72 outside the geographical jurisdiction of an agency and at which no final other
 73 official business of the agency is to be discussed or official action is to be taken;
 74 shall not be deemed a 'meeting.'

75 (ii) The gathering of a quorum of the members of a governing body or committee
76 for the purpose of attending statewide, multijurisdictional, or regional meetings to
77 participate in seminars or courses of training on matters related to the purpose of
78 the agency or to receive or discuss information on matters related to the purpose of
79 the agency at which no official action is to be taken;

80 (iii) The gathering of a quorum of the members of a governing body or committee
81 for the purpose of meeting with members of the legislative or executive branches
82 of the state or federal government at which no official action is to be taken;

83 (iv) The gathering of a quorum of the members of a governing body of an agency
84 for the purpose of traveling to a meeting or gathering as otherwise authorized by
85 this subsection so long as no official business, policy, or public matter within the
86 subject matter jurisdiction of the agency is formulated, presented, discussed, or
87 voted upon;

88 (v) The gathering of a quorum of the members of a governing body of an agency
89 at social, ceremonial, civic, or religious events so long as no official business,
90 policy, or public matter within the subject matter jurisdiction of the agency is
91 formulated, presented, discussed, or voted upon; or

92 (vi) The gathering of more than two but less than a quorum of the members of the
93 governing body of an agency or persons appointed by those members.

94 This subparagraph's exclusion of divisions (i)-(vi) from the definition of "Meeting" shall
95 not apply if it is shown that a purpose of the gathering is to evade or avoid the quorum
96 requirements for conducting a meeting while discussing or conducting official business.

97 (b) (1) Except as otherwise provided by law, all meetings as defined in subsection (a)
98 of this Code section shall be open to the public. All votes at any meeting shall be taken
99 in public after due notice of the meeting and compliance with the posting and agenda
100 requirements of this chapter.

101 (2) Before any gathering as provided in divisions (i), (ii), or (iii) of subparagraph
102 (a)(3)(B) of this Code section, the agency shall provide notice of such gatherings as

103 otherwise required for meetings pursuant to this Code section. Votes shall not be taken
 104 and other business shall not be conducted unless the gathering complies with all of the
 105 other requirements of this chapter.

106 (3) Any resolution, rule, regulation, ordinance, or other official action of an agency
 107 adopted, taken, or made at a meeting which is not open to the public as required by this
 108 chapter shall not be binding. Any action contesting a resolution, rule, regulation,
 109 ordinance, or other formal action of an agency based on an alleged violation of this
 110 provision ~~must~~shall be commenced within 90 days of the date such contested action
 111 was taken, ~~provided that any~~ or, if the meeting was held in a manner not permitted by
 112 law, within 90 days from the date the alleged violation was discovered so long as such
 113 date is not more than six months after the date the contested action was taken. Any
 114 action under this chapter contesting a zoning decision of a local governing authority
 115 shall be commenced within the time allowed by law for appeal of such zoning decision.

116 (c) The public at all times shall be afforded access to meetings declared open to the
 117 public pursuant to subsection (b) of this Code section. ~~Visual, sound, and visual~~ and
 118 sound recording during open meetings shall be permitted.

119 (d)(1) Every agency subject to this chapter shall prescribe the time, place, and dates
 120 of regular meetings of the agency. Such information shall be available to the general
 121 public and a notice containing such information shall be posted at least one week in
 122 advance and maintained in a conspicuous place available to the public at the regular
 123 ~~meeting~~ place of the an agency or committee meeting subject to this chapter as well as
 124 on the agency's website, if any. Meetings shall be held in accordance with a regular
 125 schedule, but nothing in this subsection shall preclude an agency from canceling or
 126 postponing any regularly scheduled meeting.

127 (2) ~~Whenever any meeting required to be open to the public is to be held at a time or~~
 128 ~~place other than at the time and place prescribed for regular meetings, the agency~~
 129 ~~shall give due notice thereof. 'Due notice' shall be the posting of a written notice for~~
 130 ~~at least 24 hours at the place of regular meetings and giving of~~ For any meeting, other

131 than a regularly scheduled meeting of the agency for which notice has already been
 132 provided pursuant to this chapter, written or oral notice shall be given at least 24
 133 hours in advance of ~~the~~ any meeting to the legal organ in which notices of sheriff's
 134 sales are published in the county where regular meetings are held or at the option of
 135 the agency to a newspaper having a general circulation in said county at least equal to
 136 that of the legal organ; provided, however, that, in counties where the legal organ is
 137 published less often than four times weekly, ~~'due notice'~~ sufficient notice shall be the
 138 posting of a written notice for at least 24 hours at the place of regular meetings and,
 139 upon written request from any local broadcast or print media outlet whose place of
 140 business and physical facilities are located in the county, notice by telephone, ~~or~~
 141 facsimile, or e-mail to that requesting media outlet at least 24 hours in advance of the
 142 called meeting. Whenever notice is given to a legal organ or other newspaper, that
 143 publication shall immediately or as soon as practicable make the information
 144 available upon inquiry to any member of the public. Upon written request from any
 145 local broadcast or print media outlet whose place of business and physical facilities
 146 are located in the county, a copy of the meeting's agenda shall be provided by mail,
 147 facsimile, or email.

148 (3) When special circumstances occur and are so declared by an agency, that agency
 149 may hold a meeting with less than 24 hours' notice upon giving such notice of the
 150 meeting and subjects expected to be considered at the meeting as is reasonable under
 151 the circumstances, including notice to said county legal organ or a newspaper having
 152 a general circulation in the county at least equal to that of the legal organ, in which
 153 event the reason for holding the meeting within 24 hours and the nature of the notice
 154 shall be recorded in the minutes; such reasonable notice shall also include, upon
 155 written request from any local broadcast or print media outlet whose place of business
 156 and physical facilities are located in the county, notice by telephone, facsimile, or e-
 157 mail to that requesting media outlet. ~~Whenever notice is given to a legal organ or~~
 158 ~~other newspaper, that publication shall immediately make the information available~~

159 ~~upon inquiry to any member of the public. Any oral notice required or permitted by~~
160 ~~this subsection may be given by telephone.~~

161 (e)(1) Prior to any meeting, the agency or committee holding such meeting shall
162 make available an agenda of all matters expected to come before the agency or
163 committee at such meeting. The agenda shall be available upon request and shall be
164 posted at the meeting site, as far in advance of the meeting as reasonably possible, but
165 shall not be required to be available more than two weeks prior to the meeting and
166 shall be posted, at a minimum, at some time during the two-week period immediately
167 prior to the meeting. Failure to include on the agenda an item which becomes
168 necessary to address during the course of a meeting shall not preclude considering and
169 acting upon such item.

170 (2)(A) A summary of the subjects acted on and those members present at a meeting
171 of any agency shall be written and made available to the public for inspection within
172 two business days of the adjournment of a meeting ~~of any agency.~~

173 (B) The regular minutes of a meeting ~~of any agency~~ subject to this chapter shall be
174 promptly recorded and such records shall be open to public inspection once
175 approved as official by the agency or its committee, but in no case later than
176 immediately following ~~the its~~ next regular meeting ~~of the agency~~; provided,
177 however, that nothing contained in this chapter shall prohibit the earlier release of
178 minutes, whether approved by the agency or not. Said minutes shall, as at a
179 minimum, include the names of the members present at the meeting, a description of
180 each motion or other proposal made, and a record of all votes. ~~In the case of a roll-~~
181 ~~call vote the~~ The name of each person voting for or against a proposal shall be
182 recorded and in all other cases it shall be presumed that the action taken was
183 approved by each person in attendance unless the minutes reflect the name of the
184 persons voting against the proposal or abstaining.

185 (C) Minutes of executive sessions shall also be recorded but not open to the public.
186 Such minutes shall specify each issue discussed in executive session by the agency

187 or committee. In the case of executive sessions where matters subject to the
 188 attorney-client privilege are discussed, the fact that an attorney-client discussion
 189 occurred and its subject shall be identified, but the substance of the discussion need
 190 not be recorded in the minutes. Such minutes shall be kept and preserved for in
 191 camera inspection by an appropriate court should a dispute arise as to the propriety
 192 of any executive session.

193 (f) An agency with state-wide jurisdiction shall be authorized to conduct meetings by
 194 telecommunications conference, provided that any such meeting is conducted in
 195 compliance with this chapter.

196

197 50-14-2.

198 This chapter shall not be construed so as to repeal in any way:

199 (1) The attorney-client privilege recognized by state law to the extent that a meeting
 200 otherwise required to be open to the public under this chapter may be closed in order
 201 to consult and meet with legal counsel pertaining to pending or potential litigation,
 202 settlement, claims, administrative proceedings, or other judicial actions brought or to
 203 be brought by or against the agency or any officer or employee or in which the agency
 204 or any officer or employee may be directly involved; provided, however, the meeting
 205 may not be closed for advice or consultation on whether to close a meeting; and

206 (2) Those tax matters which are otherwise made confidential by state law.

207

208 50-14-3.

209 This chapter shall not apply to the following:

210 (1) Staff meetings held for investigative purposes under duties or responsibilities
 211 imposed by law;

212 (2) The deliberations and voting of the State Board of Pardons and Paroles; and in
 213 addition said board may close a meeting held for the purpose of receiving information
 214 or evidence for or against clemency or in revocation proceedings if it determines that

215 the receipt of such information or evidence in open meeting would present a
216 substantial risk of harm or injury to a witness;

217 (3) Meetings of the Georgia Bureau of Investigation or any other law enforcement
218 agency in the state, including grand jury meetings;

219 (4) Meetings when any agency is discussing the future acquisition or disposal of real
220 estate, except that such meetings shall be subject to the requirements of this chapter
221 for the giving of the notice of such a meeting to the public and preparing the minutes
222 of such a meeting; ~~provided, however, the disclosure of such portions of the minutes~~
223 ~~as would identify real estate to be acquired may be delayed until such time as the~~
224 ~~acquisition of the real estate has been completed, terminated, or abandoned or court~~
225 ~~proceedings with respect thereto initiated;~~ It shall not be a violation of this chapter
226 for an agency to vote in executive session to authorize negotiations to purchase or
227 dispose of property, to vote in executive session to enter into a contract to purchase or
228 dispose of property subject to approval in a subsequent public vote, or to vote in
229 executive session to enter into an option to purchase or dispose of real estate subject
230 to approval in a subsequent public vote. No vote in executive session to acquire or
231 dispose of real estate shall be binding on an agency until a subsequent vote is taken in
232 an open meeting where the identity of the property and the terms of the acquisition or
233 disposal are disclosed before the vote;

234 (5) Meetings of the governing authority of a public hospital or any committee thereof
235 when discussing the granting, restriction, or revocation of staff privileges or the
236 granting of abortions under state or federal law;

237 (6) Meetings when discussing or deliberating upon the appointment, employment,
238 compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating
239 of a public officer or employee ~~but not when receiving evidence or interviewing~~
240 applicants for the position of director, chief executive, chief administrator, department
241 head, or other official with a similar role or title. This exception shall not apply to the
242 receipt of documents, statements, or testimony or when hearing argument on charges

243 filed to determine disciplinary action or dismissal of a public officer or employee or
244 when considering or discussing matters of policy regarding the employment or hiring
245 practices of the agency. The vote on any matter covered by this paragraph shall be
246 taken in public and minutes of the meeting as provided in this chapter shall be made
247 available. Meetings by an agency to discuss or take action on the filling of a vacancy
248 in the membership of the agency itself shall at all times be open to the public as
249 provided in this chapter;

250 (7) Adoptions and proceedings related thereto;

251 (8) Meetings of the board of trustees or the investment committee of any public
252 retirement system created by or subject to Title 47 when such board or committee is
253 discussing matters pertaining to investment securities trading or investment portfolio
254 positions and composition; ~~and~~

255 (9) ~~Meetings when discussing any records that are~~ Portions of meetings during which
256 that portion of a record made exempt from public inspection or disclosure pursuant to
257 paragraph (15) of subsection (a) of Code Section 50-18-72, when discussing any
258 information a record of which would be exempt from public inspection or disclosure
259 under said paragraph, or when reviewing or discussing any security plan under
260 consideration pursuant to paragraph (10) of subsection (a) of Code Section 15-16-10
261 Article 4 of Chapter 18 of this title is to be considered by an agency and would be
262 disclosed if the meeting were not closed; and

263 (10) Gatherings involving an agency and one or more neutral third parties in
264 mediation or nonbinding arbitration of a dispute between the agency and any other
265 party. In such a gathering, the neutral party may caucus jointly or independently with
266 the parties to the mediation or arbitration to facilitate a resolution to the conflict, and
267 any such caucus shall not be subject to the requirements of this chapter. Any decision
268 or resolution agreed to by an agency at any such caucus shall not become effective
269 until ratified in a public meeting and the terms of any such decision or resolution are
270 disclosed to the public. Any final settlement agreement, memorandum of agreement,

271 memorandum of understanding, or other similar document however denominated in
272 which an agency has formally resolved a claim or dispute shall be subject to the
273 provisions of Article 4 of Chapter 18 of this title.

274

275 50-14-4.

276 (a) When any meeting of an agency is closed to the public pursuant to any provision of
277 this chapter, the specific reasons for such closure shall be entered upon the official
278 minutes, the meeting shall not be closed to the public except by a majority vote of a
279 quorum present for the meeting, the minutes shall reflect the names of the members
280 present and the names of those voting for closure, and that part of the minutes shall be
281 made available to the public as any other minutes. Where a meeting of an agency is
282 devoted in part to matters within the exceptions provided by law, any portion of the
283 meeting not subject to any such exception, privilege, or confidentiality shall be open to
284 the public, and the minutes of such portions not subject to any such exception shall be
285 taken, recorded, and open to public inspection as provided in subsection (e) of Code
286 Section 50-14-1.

287 (b)(1) When any meeting of an agency is closed to the public pursuant to subsection (a)
288 of this Code section, as a matter of agency policy, either the person presiding over such
289 meeting, or each member of the governing body of the agency attending such meeting,
290 shall execute and file with the official minutes of the meeting a notarized affidavit
291 stating under oath that the subject matter of the meeting or the closed portion thereof
292 was devoted to matters within the exceptions provided by law and identifying the
293 specific relevant exception.

294 (2) In the event that one or more persons in an executive session initiates a discussion
295 that is not authorized pursuant to Code Section 50-14-3, the presiding officer shall
296 immediately rule the discussion out of order and all present shall cease the questioned
297 conversation. If one or more persons continue or attempt to continue the discussion

298 after being ruled out of order, the presiding officer shall immediately adjourn the
299 executive session.

300 (3) Where a discussion that is not authorized pursuant to Code Section 50-14-3 is
301 initiated during an executive session, the affidavit required by paragraph (1) of this
302 subsection shall include a proviso acknowledging that, during the course of the
303 executive session, a discussion was initiated regarding an unauthorized topic. The
304 proviso shall further specify whether the unauthorized discussion was immediately
305 ruled out of order and whether the discussion immediately ceased; or, if the
306 unauthorized discussion did not cease, whether the executive session was immediately
307 adjourned pursuant to paragraph (2) of this subsection.

308 (c) The requirements of this Code Section shall not be construed to penalize members
309 of a governing body or committee for engaging in incidental conversation unrelated to
310 the business of the agency.

311
312 50-14-5.

313 (a) The superior courts of this state shall have jurisdiction to enforce compliance with
314 the provisions of this chapter, including the power to grant injunctions or other
315 equitable relief. In addition to any action that may be brought by any person, firm,
316 corporation, or other entity, the Attorney General shall have authority to bring
317 enforcement actions, either civil or criminal, in his or her discretion as may be
318 appropriate to enforce compliance with this chapter.

319 (b) In any action brought to enforce the provisions of this chapter in which the court
320 determines that an agency acted without substantial justification in not complying with
321 this chapter, the court shall, unless it finds that special circumstances exist, assess in
322 favor of the complaining party reasonable attorney's fees and other litigation costs
323 reasonably incurred. Whether the position of the complaining party was substantially
324 justified shall be determined on the basis of the record as a whole which is made in the
325 proceeding for which fees and other expenses are sought.

326 (c) Any agency or person who provides access to information in good faith reliance on
 327 the requirements of this chapter shall not be liable in any action on account of having
 328 provided access to such information.

329

330 50-14-6.

331 Any person knowingly and willfully conducting or participating in a meeting in
 332 violation of this chapter shall be guilty of a misdemeanor and upon conviction shall be
 333 punished by a fine not to exceed ~~\$500.00~~ \$1,000.00. Alternatively, a penalty may be
 334 imposed by the court in any civil action brought pursuant to this chapter against any
 335 person who knowingly and willfully violates the terms of this chapter in an amount not
 336 to exceed \$1,000.00 for the first violation. A fine or penalty not to exceed \$2,500.00
 337 per violation may be imposed for each additional violation that the violator commits
 338 within a 12 month period from the date that the first fine or penalty was imposed. It
 339 shall be a defense to any criminal action under this Code section that a person has acted
 340 in good faith in his or her actions.”

341

342

SECTION 2.

343 Said title is further amended by revising Article 4 of Chapter 18, relating to inspection of
 344 public records, as follows:

345

346

“ARTICLE 4

347

348 50-18-70.

349 (a) The General Assembly finds and declares that the strong public policy of this state
 350 is in favor of open government; that open government is essential to a free, open, and
 351 democratic society; and that public access to public records should be encouraged to
 352 foster confidence in government and in order that the public can evaluate the
 353 expenditure of public funds and the efficient and proper functioning of its institutions.

354 The General Assembly further finds and declares that there is a strong presumption that
 355 public records should be made available for public inspection without delay. This
 356 article shall be broadly construed to allow the inspection of governmental records and
 357 its exceptions interpreted narrowly to exclude only those portions of records addressed
 358 by an exception.

359 (b) As used in this article, the term:

360 (1) 'Agency' means every state or local department, agency, board, bureau, office,
 361 commission, public corporation, and authority; district; county; municipal
 362 corporation; hospital authority; other political subdivision or office of any kind of
 363 state or local government; and qualifying nonprofit organization. The term 'agency'
 364 shall also include any association, corporation, or other similar organization that has a
 365 membership or ownership body composed primarily of counties, municipal
 366 corporations, or school districts of this state, their officers, or any combination thereof
 367 and derives a substantial portion of its general operating budget from payments from
 368 such political subdivisions. The term 'agency' shall not include political or
 369 governmental bodies that are within the judicial or legislative branches.

370 ~~(2) 'public record' shall mean~~ 'Public record' means all documents, papers, letters,
 371 maps, books, tapes, photographs, computer based or generated information, or similar
 372 material prepared and maintained or received ~~in the course of the operation of a public~~
 373 ~~office or agency~~ by an agency or by a private person or entity in the performance of a
 374 service or function for or on behalf of an agency or when such documents have been
 375 transferred to a private person or entity by an agency for storage or future
 376 governmental use. ~~'Public record' shall also mean such items received or maintained~~
 377 ~~by a private person or entity on behalf of a public office or agency which are not~~
 378 ~~otherwise subject to protection from disclosure; provided, however, this Code section~~
 379 ~~shall be construed to disallow an agency's placing or causing such items to be placed~~
 380 ~~in the hands of a private person or entity for the purpose of avoiding disclosure.~~
 381 ~~Records received or maintained by a private person, firm, corporation, or other private~~

382 ~~entity in the performance of a service or function for or on behalf of an agency, a~~
383 ~~public agency, or a public office shall be subject to disclosure to the same extent that~~
384 ~~such records would be subject to disclosure if received or maintained by such agency,~~
385 ~~public agency, or public office. As used in this article, the term 'agency' or 'public~~
386 ~~agency' or 'public office' shall have the same meaning and application as provided for~~
387 ~~in the definition of the term 'agency' in paragraph (1) of subsection (a) of Code~~
388 ~~Section 50-14-1 and shall additionally include any association, corporation, or other~~
389 ~~similar organization which: (1) has a membership or ownership body composed~~
390 ~~primarily of counties, municipal corporations, or school districts of this state or their~~
391 ~~officers or any combination thereof; and (2) derives a substantial portion of its general~~
392 ~~operating budget from payments from such political subdivisions. Agencies shall not~~
393 ~~place or cause to be placed records with a private person or entity for the purpose of~~
394 ~~avoiding disclosure.~~

395 (3) 'Qualifying nonprofit organization' means an agency as such term is defined in
396 subparagraph (a)(1)(E) of Code Section 50-14-1.

397 ~~(b) All public records of an agency as defined in subsection (a) of this Code section,~~
398 ~~except those which by order of a court of this state or by law are prohibited or~~
399 ~~specifically exempted from being open to inspection by the general public, shall be~~
400 ~~open for a personal inspection by any citizen of this state at a reasonable time and~~
401 ~~place; and those in charge of such records shall not refuse this privilege to any citizen.~~

402 ~~(c) Any computerized index of a county real estate deed records shall be printed for~~
403 ~~purposes of public inspection no less than every 30 days and any correction made on~~
404 ~~such index shall be made a part of the printout and shall reflect the time and date that~~
405 ~~said index was corrected.~~

406 ~~(d) No public officer or agency shall be required to prepare reports, summaries, or~~
407 ~~compilations not in existence at the time of the request.~~

408 ~~(e) In a pending proceeding under Chapter 13 of this title, the 'Georgia Administrative~~
409 ~~Procedure Act,' or under any other administrative proceeding authorized under Georgia~~

410 law, a party may not access public records pertaining to the subject of the proceeding
411 pursuant to this article without the prior approval of the presiding administrative law
412 judge, who shall consider such open record request in the same manner as any other
413 request for information put forth by a party in such a proceeding. This subsection shall
414 not apply to any proceeding under Chapter 13 of this title, relating to the revocation,
415 suspension, annulment, withdrawal, or denial of a professional education certificate, as
416 defined in Code Section 20-2-200, or any personnel proceeding authorized under Part 7
417 and Part 11 of Article 17 and Article 25 of Chapter 2 of Title 20.

418 (f) The individual in control of such public record or records shall have a reasonable
419 amount of time to determine whether or not the record or records requested are subject
420 to access under this article and to permit inspection and copying. In no event shall this
421 time exceed three business days. Where responsive records exist but are not available
422 within three business days of the request, a written description of such records, together
423 with a timetable for their inspection and copying, shall be provided within that period;
424 provided, however, that records not subject to inspection under this article need not be
425 made available for inspection and copying or described other than as required by
426 subsection (h) of Code Section 50-18-72, and no records need be made available for
427 inspection or copying if the public officer or agency in control of such records shall
428 have obtained, within that period of three business days, an order based on an exception
429 in this article of a superior court of this state staying or refusing the requested access to
430 such records.

431 (g) At the request of the person, firm, corporation, or other entity requesting such
432 records, records maintained by computer shall be made available where practicable by
433 electronic means, including Internet access, subject to reasonable security restrictions
434 preventing access to nonrequested or nonavailable records.

435

436 50-18-71.

437 (a) ~~In all cases where an interested member of the public has a right to inspect or take~~
438 ~~extracts or make copies from any public records, instruments, or documents, any such~~
439 ~~person shall have the right of access to the records, documents, or instruments for the~~
440 ~~purpose of making photographs or reproductions of the same while in the possession,~~
441 ~~custody, and control of the lawful custodian thereof, or his authorized deputy. Such~~
442 ~~work shall be done under the supervision of the lawful custodian of the records, who~~
443 ~~shall have the right to adopt and enforce reasonable rules governing the work. The work~~
444 ~~shall be done in the room where the records, documents, or instruments are kept by law.~~
445 ~~While the work is in progress, the custodian may charge the person making the~~
446 ~~photographs or reproductions of the records, documents, or instruments at a rate of~~
447 ~~compensation to be agreed upon by the person making the photographs and the~~
448 ~~custodian for his services or the services of a deputy in supervising the work~~ All public
449 records shall be open for personal inspection and copying, except those which by order
450 of a court of this state or by law are specifically exempted from disclosure. Records
451 shall be maintained by agencies consistent with the record retention requirements of
452 Article 5 of this chapter.

453 (b)(1)(A) ~~Where fees for certified copies or other copies or records are specifically~~
454 ~~authorized or otherwise prescribed by law, such specific fee shall apply~~ Agencies
455 shall produce for inspection all records responsive to a request within a reasonable
456 amount of time not to exceed three business days after receipt of a request; provided,
457 however, that nothing in this chapter shall require agencies to produce records in
458 response to a request if such records did not exist at the time of the request. In those
459 instances where some, but not all, records can be produced within three business days,
460 an agency shall make available within that period those records that can be located
461 and produced. In any instance where an agency cannot produce records within three
462 business days of receipt of the request, the agency shall notify the requester within
463 this time period and inform the requester when the records will be available for
464 inspection or copying.

465 (B) An agency may, but shall not be obligated to, require that a request be made
466 in writing, and the agency may, but is not obligated to, require that the request be
467 made upon the agency's director, chairperson, or chief executive officer, however
468 denominated; the senior official at any satellite office of an agency; a clerk
469 specifically designated by an agency as the custodian of agency records; or a duly
470 designated open records officer of an agency; provided, however, that the agency may
471 only require that the request provide a description of the records requested and the
472 requested manner of their delivery; and provided, further, that the absence or
473 unavailability of the designated agency officer or employee shall not be permitted to
474 delay the agency's response. If the agency has elected to require that requests be
475 made in writing, the agency shall so notify the legal organ of the county in which the
476 agency's principal offices reside, and, if the agency has a website, shall also
477 prominently display such requirement on the agency's website. At the time of
478 inspection, any person may make photographic copies or other electronic
479 reproductions of the records using suitable portable devices brought to the place of
480 inspection. Notwithstanding any other provision of this chapter, an agency may, in its
481 discretion, provide copies of a record in lieu of providing access to the record when
482 portions of the record contain confidential information that must be redacted.

483 (2) Any agency that designates one or more open records officers upon whom
484 requests for inspection or copying of records may be delivered must make such
485 designation in writing and shall immediately provide notice to any person upon
486 request, orally or in writing, of those open records officers. If the agency has elected
487 to designate an open records officer, the agency shall so notify the legal organ of the
488 county in which the agency's principal offices reside, and, if the agency has a website,
489 shall also prominently display such designation on the agency's website. In the event
490 that an agency requires that requests be in writing pursuant to paragraph (1) of this
491 subsection, the three-day period for response to a request under this article to inspect,
492 copy, or produce records shall not begin to run until a request is made in writing upon

493 either a duly designated open records officer or director, chairperson, or chief
494 executive officer, however denominated, of such agency. An agency shall permit
495 receipt of written requests by e-mail or facsimile transmission in addition to any other
496 methods of transmission approved by the agency, provided such agency uses e-mail
497 or facsimile in the normal course of its business.

498 (3) Notwithstanding the provisions of this subsection, the agenda, a summary of
499 matters acted upon, or the minutes of an agency's most recent meeting, and the agenda
500 of the agency's next meeting, if it has been prepared, shall be made available upon
501 receipt of an oral request.

502 (c)(1) ~~Where no fee is otherwise provided by law, the agency may charge and collect~~
503 a uniform copying fee not to exceed 25¢ per page. An agency may impose a
504 reasonable charge for the search, retrieval, redaction, and production or copying costs
505 for the production of records pursuant to this article. Where fees for certified copies
506 or other copies or records are specifically authorized or otherwise prescribed by law,
507 such specific fee shall apply when certified copies or other records to which a specific
508 fee may apply are sought. In all other instances, the charge for the search, retrieval, or
509 redaction of records shall not exceed the prorated hourly salary of the lowest paid
510 full-time employee who, in the discretion of the custodian of the records, has the
511 necessary skill and training to perform the request; provided, however, that no charge
512 shall be made for the first quarter hour, and an agency shall utilize the most
513 economical means reasonably calculated to identify responsive, nonexcluded
514 documents.

515 (2) An agency may impose a reasonable charge for administrative costs involved in
516 making redactions from records only when such redactions comply with exceptions to
517 this article that protect the confidentiality or privacy of information regarding private
518 individuals or entities.

519 (3) In addition to a charge for the search, retrieval, or redaction of records, an agency
520 may charge a fee for the copying of records or data, not to exceed 25¢ per page or, in

521 the case of electronic records, the actual cost of media on which the records or data
522 are produced.

523 (4) Whenever any person has requested to inspect or copy a public record and does
524 not pay the cost for search, retrieval, redaction, or copying of such records when such
525 charges have been lawfully estimated and agreed to pursuant to this article, and
526 regardless of whether the requester inspects or accepts copies of the records, an
527 agency, except for a qualifying nonprofit organization, shall be authorized to collect
528 such charges in any manner authorized by law for the collection of taxes, fees, or
529 assessments.

530 ~~(d) In addition, a reasonable charge may be collected for search, retrieval, and other~~
531 ~~direct administrative costs for complying with a request under this Code section. The~~
532 ~~hourly charge shall not exceed the salary of the lowest paid full-time employee who, in~~
533 ~~the discretion of the custodian of the records, has the necessary skill and training to~~
534 ~~perform the request; provided, however, that no charge shall be made for the first~~
535 ~~quarter hour~~ In any instance in which an agency has decided to withhold all or part of a
536 requested record, the agency shall write the requester within a reasonable amount of
537 time not to exceed three business days to provide the specific legal authority exempting
538 the requested record or records from disclosure by Code section, subsection, and
539 paragraph. In any instance in which an agency will seek costs in excess of \$25.00 for
540 responding to a request, the agency shall write the requester within a reasonable amount
541 of time not to exceed three business days and inform the requester of the estimate of the
542 costs, and the agency may defer search and retrieval of the records until the requester
543 agrees to pay the estimated costs unless the requester has stated in his or her request a
544 willingness to pay an amount that exceeds the search and retrieval costs. In any
545 instance in which the estimated costs for production of the records exceeds \$500.00, an
546 agency may insist on prepayment of the costs prior to beginning search, retrieval,
547 review, or production of the records. Whenever any person who has requested to
548 inspect or copy a public record has not paid the cost for search, retrieval, redaction, or

549 copying of such records when such charges have been lawfully incurred, an agency
550 shall not be required to produce further records to such person until the costs for the
551 prior production of records have been paid.

552 ~~(e) An agency shall utilize the most economical means available for providing copies~~
553 ~~of public records~~ Records that are sought as part of or for use in any ongoing civil or
554 administrative litigation shall be subject to the rules governing production of documents
555 in such litigation and shall not be subject to this article. This subsection shall not apply
556 to any proceeding under Chapter 13 of this title with respect to the revocation,
557 suspension, annulment, withdrawal, or denial of a professional education certificate, as
558 defined in Code Section 20-2-200, or any personnel proceeding authorized under
559 Article 25 or Part 7 or 11 of Article 17 of Chapter 2 of Title 20.

560 ~~(f) Where information requested is maintained by computer, an agency may charge the~~
561 ~~public its actual cost of a computer disk or tape onto which the information is~~
562 ~~transferred and may charge for the administrative time involved as set forth in~~
563 ~~subsection (d) of this Code section~~ Agencies shall produce electronic copies of or, if the
564 requester prefers, printouts of data or selected data fields from data bases that the
565 agency maintains using the computer programs or subroutines that the agency has in its
566 possession. An agency shall not refuse to produce such data or data fields on the
567 grounds that redaction of exempted information will require inputting commands or
568 instructions into an agency's computer system so long as such commands or
569 instructions can be inputted using the computer programs that the agency routinely uses
570 to access the data. An agency shall not be required to create new programs,
571 subroutines, functions, or formats to produce such data and shall not be required to
572 produce the programs or subroutines necessary to read the data in electronic format if a
573 computer printout that complies with this subsection is provided. Any person or entity
574 may request that data or electronic records or information be produced in the format in
575 which such data or electronic records are kept by the agency, and in such instance, the
576 data or electronic records may be downloaded onto suitable electronic media by the

577 agency. Except as otherwise provided by law, no public officer or agency shall be
578 required to prepare reports, summaries, or compilations not in existence at the time of
579 the request or to answer interrogatories propounded by a requester.

580 ~~(g) Whenever any person has requested one or more copies of a public record and such~~
581 ~~person does not pay the copying charges and charges for search, retrieval, or other~~
582 ~~direct administrative costs in accordance with the provisions of this Code section:~~

583 ~~(1) A county or a department, agency, board, bureau, commission, authority, or~~
584 ~~similar body of a county is authorized to collect such charges in any manner~~
585 ~~authorized by law for the collection of taxes, fees, or assessments owed to the county;~~

586 ~~(2) A municipal corporation or a department, agency, board, bureau, commission,~~
587 ~~authority, or similar body of a municipal corporation is authorized to collect such~~
588 ~~charges in any manner authorized by law for the collection of taxes, fees, or~~
589 ~~assessments owed to the municipal corporation;~~

590 ~~(3) A consolidated government or a department, agency, board, bureau, commission,~~
591 ~~authority, or similar body of a consolidated government is authorized to collect such~~
592 ~~charges in any manner authorized by law for the collection of taxes, fees, or~~
593 ~~assessments owed to the consolidated government;~~

594 ~~(4) A county school board or a department, agency, board, bureau, commission,~~
595 ~~authority, or similar body of a county school board is authorized to collect such~~
596 ~~charges in any manner authorized by law for the collection of taxes, fees, or~~
597 ~~assessments owed to the county;~~

598 ~~(5) An independent school board or a department, agency, board, bureau,~~
599 ~~commission, authority, or similar body of an independent school board is authorized~~
600 ~~to collect such charges in any manner authorized by law for the collection of taxes,~~
601 ~~fees, or assessments owed to the municipal corporation; and~~

602 ~~(6) A joint or regional authority or instrumentality which serves one or more counties~~
603 ~~and one or more municipal corporations, two or more counties, or two or more~~
604 ~~municipal corporations is authorized to collect such charges in any manner authorized~~

605 ~~by law for the collection of taxes, fees, or assessments owed to the county if a county~~
606 ~~is involved with the authority or instrumentality or in any manner authorized by law~~
607 ~~for the collection of taxes, fees, or assessments owed to the municipal corporation if a~~
608 ~~municipal corporation is involved with the authority or instrumentality.~~

609 ~~This subsection shall apply whether or not the person requesting the copies has~~
610 ~~appeared to receive the copies~~ Requests to inspect or copy electronic messages, whether
611 in the form of e-mail, text message, or other format, should contain information about
612 the messages that is reasonably calculated to allow the recipient of the request to locate
613 the messages sought, including, if known, the name, title, or office of the specific
614 person or persons whose electronic messages are sought and, to the extent possible, the
615 specific data bases to be searched for such messages.

616 (h) In lieu of providing separate printouts or copies of records or data, an agency may
617 provide access to records through a website accessible by the public. However, if an
618 agency receives a request for a data base or fields from a data base, an agency shall not
619 refuse to provide the responsive data base or fields on the grounds that the data is
620 available in whole or in its constituent parts through a website if the requester seeks the
621 data in the electronic format in which it is kept. Additionally, if an agency contracts
622 with a private vendor to collect or maintain public records, the agency shall ensure that
623 the arrangement does not limit public access to those records.

624 (i) Any computerized index of county real estate deed records shall be printed for
625 purposes of public inspection no less than every 30 days, and any correction made on
626 such index shall be made a part of the printout and shall reflect the time and date that
627 such index was corrected.(j)(1) Notwithstanding any other provision of this article, an
628 exhibit tendered to the court as evidence in a criminal or civil trial shall not be open to
629 public inspection without approval of the judge assigned to the case.

630 (2) Except as provided in paragraph (4) of this subsection, in the event inspection is
631 not approved by the court, in lieu of inspection of such an exhibit, the custodian of

632 such an exhibit shall, upon request, provide one or more of the following
 633 representations of the exhibit:

634 (A) A photograph;

635 (B) A photocopy;

636 (C) A facsimile; or

637 (D) Another reproduction.

638 (3) The provisions of this article regarding fees for production of a record, including,
 639 but not limited to, subsections (c) and (d) of Code Section 50-18-71, shall apply to
 640 exhibits produced according to this subsection.

641 (4) Any physical evidence that is used as an exhibit in a criminal or civil trial to show
 642 or support an alleged violation of Part 2 of Article 3 of Chapter 12 of Title 16 shall
 643 not be open to public inspection except by court order. If the judge approves
 644 inspection of such physical evidence, the judge shall designate, in writing, the facility
 645 owned or operated by an agency of state or local government where such physical
 646 evidence may be inspected. If the judge permits inspection, such property or material
 647 shall not be photographed, copied, or reproduced by any means. Any person who
 648 violates the provisions of this subsection shall be guilty of a felony and, upon
 649 conviction thereof, shall be punished by imprisonment for not less than one nor more
 650 than 20 years or by a fine of not more than \$100,000.00, or both.

651
 652 50-18-71.1.

653 ~~(a) Notwithstanding any other provision of this article, an exhibit tendered to the court~~
 654 ~~as evidence in a criminal or civil trial shall not be open to public inspection without~~
 655 ~~approval of the judge assigned to the case or, if no judge has been assigned, approval of~~
 656 ~~the chief judge or, if no judge has been designated chief judge, approval of the judge~~
 657 ~~most senior in length of service on the court.~~

658 ~~(b) Except as provided in subsection (d) of this Code section, in the event inspection is~~
 659 ~~not approved by the court, in lieu of inspection of such an exhibit, the custodian of such~~

660 ~~an exhibit shall, upon request, provide one or more of the following representations of~~
661 ~~the exhibit:~~

662 ~~(1) A photograph;~~

663 ~~(2) A photocopy;~~

664 ~~(3) A facsimile; or~~

665 ~~(4) Another reproduction.~~

666 ~~(e) The provisions of subsections (b), (c), (d), and (e) of Code Section 50-18-71 shall~~
667 ~~apply to fees, costs, and charges for providing a photocopy of such an exhibit. Fees for~~
668 ~~providing a photograph, facsimile, or other reproduction of such an exhibit shall not~~
669 ~~exceed the cost of materials or supplies and a reasonable charge for time spent~~
670 ~~producing the photograph, facsimile, or other reproduction, in accordance with~~
671 ~~subsections (d) and (e) of Code Section 50-18-71.~~

672 ~~(d) Any physical evidence that is evidence of a violation of Part 2 of Article 3 of~~
673 ~~Chapter 12 of Title 16, that is used as an exhibit in a criminal or civil trial, shall not be~~
674 ~~open to public inspection except as provided in subsection (a) of this Code section. If~~
675 ~~the judge approves inspection of such physical evidence, the judge shall designate, in~~
676 ~~writing, the location where such physical evidence may be inspected, which location~~
677 ~~shall be in a facility owned or operated by an agency of state or local government. If~~
678 ~~the judge permits inspection, such property or material shall not be photographed,~~
679 ~~copied, or reproduced by any means. Any person who violates the provisions of this~~
680 ~~subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by~~
681 ~~imprisonment for not less than one nor more than 20 years and by a fine of not more~~
682 ~~than \$100,000.00, or both.~~

683
684 ~~50-18-71.2.~~

685 ~~Any agency receiving a request for public records shall be required to notify the party~~
686 ~~making the request of the estimated cost of the copying, search, retrieval, and other~~
687 ~~administrative fees authorized by Code Section 50-18-71 as a condition of compliance~~

688 ~~with the provisions of this article prior to fulfilling the request as a condition for the~~
 689 ~~assessment of any fee; provided, however, that no new fees other than those directly~~
 690 ~~attributable to providing access shall be assessed where records are made available by~~
 691 ~~electronic means.~~

692

693 50-18-72.

694 (a) Public disclosure shall not be required for records that are:

695 (1) Specifically required by federal statute or regulation to be kept confidential;

696 (2) Medical or veterinary records and similar files, the disclosure of which would be
 697 an invasion of personal privacy;698 (3) Except as otherwise provided by law, records compiled for law enforcement or
 699 prosecution purposes to the extent that production of such records would disclose the
 700 identity of a confidential source, disclose confidential investigative or prosecution
 701 material which would endanger the life or physical safety of any person or persons, or
 702 disclose the existence of a confidential surveillance or investigation;703 (4) Records of law enforcement, prosecution, or regulatory agencies in any pending
 704 investigation or prosecution of criminal or unlawful activity, other than initial police
 705 arrest reports and initial incident reports; provided, however, that an investigation or
 706 prosecution shall no longer be deemed to be pending when all direct litigation
 707 involving said investigation and prosecution has become final or otherwise
 708 terminated; and provided further, however, that this paragraph shall not apply to
 709 records in the possession of an agency that is the subject of the pending investigation
 710 or prosecution;711 ~~(4.1)(5)~~ Individual Georgia Uniform Motor Vehicle Accident Reports, except upon
 712 the submission of a written statement of need by the requesting party, ~~such statement~~
 713 to be provided to the custodian of records and to set forth the need for the report
 714 pursuant to this Code section; provided, however, that any person or entity whose
 715 name or identifying information is contained in a Georgia Uniform Motor Vehicle

716 Accident Report shall be entitled, either personally or through a lawyer or other
717 representative, to receive a copy of such report; and provided, further, that Georgia
718 Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection
719 or copying by any person absent a written statement showing the need for each such
720 report pursuant to the requirements of this Code section. For the purposes of this
721 subsection, the term 'need' means that the natural person or legal entity who is
722 requesting in person or by representative to inspect or copy the Georgia Uniform
723 Motor Vehicle Accident Report:

- 724 (A) Has a personal, professional, or business connection with a party to the
725 accident;
- 726 (B) Owns or leases an interest in property allegedly or actually damaged in the
727 accident;
- 728 (C) Was allegedly or actually injured by the accident;
- 729 (D) Was a witness to the accident;
- 730 (E) Is the actual or alleged insurer of a party to the accident or of property actually
731 or allegedly damaged by the accident;
- 732 (F) Is a prosecutor or a publicly employed law enforcement officer;
- 733 (G) Is alleged to be liable to another party as a result of the accident;
- 734 (H) Is an attorney stating that he or she needs the requested reports as part of a
735 criminal case, or an investigation of a potential claim involving contentions that a
736 roadway, railroad crossing, or intersection is unsafe;
- 737 (I) Is gathering information as a representative of a news media organization;
- 738 (J) Is conducting research in the public interest for such purposes as accident
739 prevention, prevention of injuries or damages in accidents, determination of fault in
740 an accident or accidents, or other similar purposes; provided, however, this
741 subparagraph ~~will~~ shall apply only to accident reports on accidents that occurred
742 more than 30 days prior to the request and which shall have the name, street
743 address, telephone number, and driver's license number redacted; or

744 (K) Is a governmental official, entity, or agency, or an authorized agent thereof,
 745 requesting reports for the purpose of carrying out governmental functions or
 746 legitimate governmental duties;

747 ~~(5)~~(6) Records ~~that consist~~ consisting of confidential evaluations submitted to, or
 748 examinations prepared by, a governmental agency and prepared in connection with
 749 the appointment or hiring of a public officer or employee;

750 ~~(7) and records~~ Records consisting of material obtained in investigations related to
 751 the suspension, firing, or investigation of complaints against public officers or
 752 employees until ten days after the same has been presented to the agency or an officer
 753 for action or the investigation is otherwise concluded or terminated, provided that this
 754 paragraph shall not be interpreted to make such investigatory records privileged;

755 ~~(6)(A)~~(8) Real estate appraisals, engineering or feasibility estimates, or other records
 756 made for or by the state or a local agency relative to the acquisition of real property
 757 until such time as the property has been acquired or the proposed transaction has been
 758 terminated or abandoned; ~~and~~

759 ~~(B)~~(9) ~~Engineers' cost estimates and pending,~~ Pending, rejected, or deferred sealed
 760 bids or sealed proposals and cost estimates related thereto until such time as the final
 761 award of the contract is made or the project is terminated or abandoned. ~~The~~
 762 ~~provisions of this subparagraph shall apply whether the bid or proposal is received or~~
 763 ~~prepared by the Department of Transportation pursuant to Article 4 of Chapter 2 of~~
 764 ~~Title 32, by a county pursuant to Article 3 of Chapter 4 of Title 32, by a municipality~~
 765 ~~pursuant to Article 4 of Chapter 4 of Title 32, or by a governmental entity pursuant to~~
 766 ~~Article 2 of Chapter 91 of Title 36;~~

767 ~~(7)~~(10) ~~Notwithstanding any other provision of this article, an agency shall not be~~
 768 ~~required to release those portions of records~~ Records which would identify persons
 769 applying for or under consideration for employment or appointment as director, chief
 770 executive, chief administrator, department head, or other official with a similar role or
 771 title as head of an agency as that term is defined in paragraph (1) of subsection (a) of

772 ~~Code Section 50-14-1~~, or of a unit of the University System of Georgia; provided,
 773 however, that at least 14 calendar days prior to the meeting at which final action or
 774 vote is to be taken on the position, ~~the agency shall release all documents which came~~
 775 ~~into its possession with respect to as many as~~ concerning as many as three persons
 776 under consideration whom the agency has determined to be the best qualified for the
 777 position ~~and from among whom the agency intends to fill the position~~ shall be subject
 778 to inspection and copying. Prior to the release of these documents, an agency may
 779 allow such a person to decline being considered further for the position rather than
 780 have documents pertaining to ~~the~~ such person released. In that event, the agency shall
 781 release the documents of the next most qualified person under consideration who does
 782 not decline the position. If an agency has conducted its hiring or appointment process
 783 ~~open to the public~~ without conducting interviews in executive session in a manner
 784 otherwise consistent with Chapter 14 of this title, it shall not be required to delay 14
 785 days to take final action on the position. The agency shall not be required to release
 786 such records ~~with respect to~~ of other applicants or persons under consideration, except
 787 at the request of any such person. Upon request, the hiring agency shall furnish the
 788 number of applicants and the composition of the list by such factors as race and sex.
 789 The agency shall not be allowed to avoid the provisions of this paragraph by the
 790 employment of a private person or agency to assist with the search or application
 791 process;

792 ~~(8)~~(11) Related to the provision of staff services to individual members of the
 793 General Assembly by the Legislative and Congressional Reapportionment Office, the
 794 Senate Research Office, or the House Research Office, provided that this exception
 795 shall not have any application ~~with respect to~~ records related to the provision of staff
 796 services to any committee or subcommittee or to any records which are or have been
 797 previously publicly disclosed by or pursuant to the direction of an individual member
 798 of the General Assembly;

799 ~~(9)~~(12) Records that are of historical research value which are given or sold to public
800 archival institutions, public libraries, or libraries of a unit of the Board of Regents of
801 the University System of Georgia when the owner or donor of such records wishes to
802 place restrictions on access to the records. No restriction on access, however, may
803 extend more than 75 years from the date of donation or sale. This exemption shall not
804 apply to any records prepared in the course of the operation of state or local
805 governments of the State of Georgia;

806 ~~(10)~~(13) Records that contain information from the Department of Natural Resources
807 inventory and register relating to the location and character of a historic property or of
808 historic properties as those terms are defined in Code Sections 12-3-50.1 and 12-3-
809 50.2 if the Department of Natural Resources through its Division of Historic
810 Preservation determines that disclosure will create a substantial risk of harm, theft, or
811 destruction to the property or properties or the area or place where the property or
812 properties are located;

813 ~~(10.1)~~(14) Records of farm water use by individual farms as determined by water-
814 measuring devices installed pursuant to Code Section 12-5-31 or 12-5-105; provided,
815 however, that compilations of such records for the 52 large watershed basins as
816 identified by the eight-digit United States Geologic Survey hydrologic code or an
817 aquifer that do not reveal farm water use by individual farms shall be subject to
818 disclosure under this article;

819 ~~(10.2)~~(15) Agricultural or food system records, data, or information that are
820 considered by the ~~Georgia~~ Department of Agriculture to be a part of the critical
821 infrastructure, provided that nothing in this paragraph shall prevent the release of such
822 records, data, or information to another state or federal agency if the release of such
823 records, data, or information is necessary to prevent or control disease or to protect
824 public health, safety, or welfare. As used in this paragraph, the term 'critical
825 infrastructure' shall have the same meaning as in 42 U.S.C. Section 5195c(e). Such

826 records, data, or information shall be subject to disclosure only upon the order of a
827 court of competent jurisdiction;

828 ~~(10.3)~~(16) Records, data, or information collected, recorded, or otherwise obtained
829 that is deemed confidential by the Georgia Department of Agriculture for the purposes
830 of the national animal identification system, provided that nothing in this paragraph
831 shall prevent the release of such records, data, or information to another state or
832 federal agency if the release of such records, data, or information is necessary to
833 prevent or control disease or to protect public health, safety, or welfare. As used in
834 this paragraph, the term 'national animal identification program' means a national
835 program intended to identify animals and track them as they come into contact with or
836 commingle with animals other than herdmates from their premises of origin. Such
837 records, data, or information shall be subject to disclosure only upon the order of a
838 court of competent jurisdiction;

839 ~~(11)~~(17) Records that contain ~~site-specific~~ site-specific information regarding the
840 occurrence of rare species of plants or animals or the location of sensitive natural
841 habitats on public or private property if the Department of Natural Resources
842 determines that disclosure will create a substantial risk of harm, theft, or destruction
843 to the species or habitats or the area or place where the species or habitats are located;
844 provided, however, that the owner or owners of private property upon which rare
845 species of plants or animals occur or upon which sensitive natural habitats are located
846 shall be entitled to such information pursuant to this article;

847 ~~(11.1) An individual's social security number and insurance or medical information in~~
848 ~~personnel records, which may be redacted from such records;~~

849 ~~(11.2)~~(18) Records that ~~would~~ reveal the names, home addresses, telephone numbers,
850 security codes, e-mail addresses, or any other data or information developed,
851 collected, or received by counties or municipalities in connection with neighborhood
852 watch or public safety notification programs or with the installation, servicing,
853 maintaining, operating, selling, or leasing of burglar alarm systems, fire alarm

854 systems, or other electronic security systems; provided, however, that initial police
 855 reports and initial incident reports shall remain subject to disclosure pursuant to
 856 paragraph (4) of this subsection;

857 ~~(11.3)~~(19)(A) ~~An~~ Records that reveal an individual's social security number,
 858 mother's birth name, credit card information, debit card information, bank account
 859 information, account number, ~~including~~ a utility account number, password used to
 860 access his or her account, Internet account information, financial data or
 861 information, ~~and~~ insurance or medical information in all records, unlisted telephone
 862 number if so designated in a public record, personal e-mail address or cellular
 863 telephone number, and, if technically feasible at reasonable cost, day and month of
 864 birth, which shall be redacted prior to disclosure of any record requested pursuant to
 865 this article; provided, however, that such information shall not be redacted from
 866 such records if the person or entity requesting such records requests such
 867 information in a writing signed under oath by such person or a person legally
 868 authorized to represent such entity which states that such person or entity is
 869 gathering information as a representative of a news media organization for use in
 870 connection with news gathering and reporting; and provided, further, that such
 871 access shall be limited to social security numbers and day and month of birth; and
 872 provided, further, that this news media organization exception ~~for access to social~~
 873 ~~security numbers and day and month of birth and the other protected information set~~
 874 ~~forth in this subparagraph shall not apply to teachers, employees of a public school,~~
 875 ~~or public employees as set forth in paragraph (13.1) (20) of this subsection. For~~
 876 ~~purposes of this subparagraph, the term 'public employee' means any nonelected~~
 877 ~~employee of the State of Georgia or its agencies, departments, or commissions or~~
 878 ~~any county or municipality or its agencies, departments, or commissions.~~

879 (B) This paragraph shall have no application to:

- 880 (i) The disclosure of information contained in the records or papers of any court
881 or derived therefrom including without limitation records maintained pursuant to
882 Article 9 of Title 11;
- 883 (ii) The disclosure of information to a court, prosecutor, or publicly employed law
884 enforcement officer, or authorized agent thereof, seeking records in an official
885 capacity;
- 886 (iii) The disclosure of information to a public employee of this state, its political
887 subdivisions, or the United States who is obtaining such information for
888 administrative purposes, in which case, subject to applicable laws of the United
889 States, further access to such information shall continue to be subject to the
890 provisions of this paragraph;
- 891 (iv) The disclosure of information as authorized by the order of a court of
892 competent jurisdiction upon good cause shown to have access to any or all of such
893 information upon such conditions as may be set forth in such order;
- 894 (v) The disclosure of information to the individual in respect of whom such
895 information is maintained, with the authorization thereof, or to an authorized agent
896 thereof; provided, however, that the agency maintaining such information shall
897 require proper identification of such individual or such individual's agent, or proof
898 of authorization, as determined by such agency;
- 899 (vi) The disclosure of the day and month of birth and mother's birth name of a
900 deceased individual;
- 901 (vii) The disclosure by an agency of credit or payment information in connection
902 with a request by a consumer reporting agency as that term is defined under the
903 federal Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.);
- 904 (viii) The disclosure by an agency of information in its records in connection with
905 the agency's discharging or fulfilling of its duties and responsibilities, including,
906 but not limited to, the collection of debts owed to the agency or individuals or

907 entities whom the agency assists in the collection of debts owed to the individual
908 or entity;

909 (ix) The disclosure of information necessary to comply with legal or regulatory
910 requirements or for legitimate law enforcement purposes; or

911 (x) The disclosure of the date of birth within criminal records.

912 (C) Records and information disseminated pursuant to this paragraph may be used
913 only by the authorized recipient and only for the authorized purpose. Any person
914 who obtains records or information pursuant to the provisions of this paragraph and
915 knowingly and willfully discloses, distributes, or sells such records or information
916 to an unauthorized recipient or for an unauthorized purpose shall be guilty of a
917 misdemeanor of a high and aggravated nature and upon conviction thereof shall be
918 punished as provided in Code Section 17-10-4. Any person injured thereby shall
919 have a cause of action for invasion of privacy. Any prosecution pursuant to this
920 paragraph shall be in accordance with the procedure in subsection (b) of Code
921 Section 50-18-74.

922 (D) In the event that the custodian of public records protected by this paragraph has
923 good faith reason to believe that a pending request for such records has been made
924 fraudulently, under false pretenses, or by means of false swearing, such custodian
925 shall apply to the superior court of the county in which such records are maintained
926 for a protective order limiting or prohibiting access to such records.

927 (E) This paragraph shall supplement and shall not supplant, overrule, replace, or
928 otherwise modify or supersede any provision of statute, regulation, or law of the
929 federal government or of this state as now or hereafter amended or enacted
930 requiring, restricting, or prohibiting access to the information identified in
931 subparagraph (A) of this paragraph and shall constitute only a regulation of the
932 methods of such access where not otherwise provided for, restricted, or prohibited;

933 (20) Records concerning public employees that reveal the home address, home
934 telephone number, social security number, insurance or medical information, mother's

935 birth name, credit card information, debit card information, bank account information,
 936 account number, utility account number, password used to access his or her account,
 937 financial data or information other than compensation by a government agency,
 938 unlisted telephone number if so designated in a public record, and, if technically
 939 feasible at reasonable cost, day and month of birth about public employees or which
 940 identify the immediate family members or dependents. For the purposes of this
 941 paragraph, the term 'public employee' means any officer or employee of the State of
 942 Georgia or its agencies, departments, or commissions; any county or municipality or
 943 its agencies, departments, or commissions; or other political subdivision of the state.
 944 Public employees shall also include teachers in public and charter schools and
 945 nonpublic schools. This paragraph shall not apply to public records that do not
 946 specifically identify public employees or their jobs, titles, or offices;

947 ~~(12)(21)~~ Public records containing information that would disclose or might lead to
 948 the disclosure of any component in the process used to execute or adopt an electronic
 949 signature, if such disclosure would or might cause the electronic signature to cease
 950 being under the sole control of the person using it. For purposes of this paragraph, the
 951 term 'electronic signature' has the same meaning as that term is defined in Code
 952 Section 10-12-2;

953 ~~(13)~~ ~~Records that would reveal the home address or telephone number, social security~~
 954 ~~number, or insurance or medical information of employees of the Department of~~
 955 ~~Revenue, law enforcement officers, firefighters as defined in Code Section 25-4-2,~~
 956 ~~judges, emergency medical technicians and paramedics, scientists employed by the~~
 957 ~~Division of Forensic Sciences of the Georgia Bureau of Investigation, correctional~~
 958 ~~employees, and prosecutors or identification of immediate family members or~~
 959 ~~dependents thereof;~~

960 ~~(13.1)~~ ~~Records that reveal the home address, the home telephone number, the e-mail~~
 961 ~~address, or the social security number of or insurance or medical information about~~
 962 ~~public employees or teachers and employees of a public school. For the purposes of~~

963 ~~this paragraph, the term 'public school' means any school which is conducted within~~
 964 ~~this state and which is under the authority and supervision of a duly elected county or~~
 965 ~~independent board of education. Public disclosure shall also not be required for~~
 966 ~~records that reveal the home address, the home telephone number, the e-mail address,~~
 967 ~~or the social security number of or insurance or medical information about employees~~
 968 ~~or teachers of a nonpublic school;~~

969 ~~(13.2) Records that are kept by the probate court pertaining to guardianships and~~
 970 ~~conservatorships except as provided in Code Section 29-9-18;~~

971 ~~(14)(22) Acquired Records~~ acquired by an agency for the purpose of establishing or
 972 implementing, or assisting in the establishment or implementation of, a carpooling or
 973 ridesharing program, ~~to the extent such records would reveal the name, home address,~~
 974 ~~employment address, home telephone number, employment telephone number, or~~
 975 ~~hours of employment of any individual or would otherwise identify any individual~~
 976 ~~who is participating in, or who has expressed an interest in participating in, any such~~
 977 ~~program. As used in this paragraph, the term 'carpooling or ridesharing program'~~
 978 ~~means and includes, including,~~ but is not limited to, the formation of carpools,
 979 vanpools, or buspools, the provision of transit routes, rideshare research, and the
 980 development of other demand management strategies such as variable working hours
 981 and telecommuting;

982 ~~(15)(23)(A)~~ Records, the disclosure of which would compromise security against
 983 sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for
 984 the protection of life, safety, or public property, which shall be limited to the
 985 following:

986 (i) Security plans and vulnerability assessments for any public utility, technology
 987 infrastructure, building, facility, function, or activity in effect at the time of the
 988 request for disclosure or pertaining to a plan or assessment in effect at such time;

989 (ii) Any plan for protection against terrorist or other attacks, ~~which plan that~~
 990 depends for its effectiveness in whole or in part upon a lack of general public
 991 knowledge of its details;

992 (iii) Any document relating to the existence, nature, location, or function of
 993 security devices designed to protect against terrorist or other attacks, ~~which~~
 994 ~~devices~~ that depend for their effectiveness in whole or in part upon a lack of
 995 general public knowledge; ~~and~~

996 (iv) Any plan, blueprint, or other material which if made public could
 997 compromise security against sabotage, criminal, or terroristic acts; and

998 (v) Records of any government sponsored programs concerning training relative
 999 to government security measures which would identify persons being trained or
 1000 instructors or would reveal information described in divisions (i) through (iv) of
 1001 this subparagraph.

1002 (B) In the event of litigation challenging nondisclosure pursuant to this paragraph
 1003 by an agency of a document covered by this paragraph, the court may review the
 1004 documents in question in camera and may condition, in writing, any disclosure upon
 1005 such measures as the court may find to be necessary to protect against
 1006 endangerment of life, safety, or public property.

1007 (C) As used in ~~divisions~~ division (i) ~~and (iv)~~ of subparagraph (A) of this paragraph,
 1008 the term 'activity' means deployment or surveillance strategies, actions mandated by
 1009 changes in the federal threat level, motorcades, contingency plans, proposed or
 1010 alternative motorcade routes, executive and dignitary protection, planned responses
 1011 to criminal or terrorist actions, after-action reports still in use, proposed or actual
 1012 plans and responses to bioterrorism, and proposed or actual plans and responses to
 1013 requesting and receiving the National Pharmacy Stockpile;

1014 ~~(46)(24)~~ Unless the request is made by the accused in a criminal case or by his or her
 1015 attorney, public records of an emergency 9-1-1 system, as defined in paragraph (3) of
 1016 Code Section 46-5-122, containing information which would reveal the name,

1017 address, or telephone number of a person placing a call to a public safety answering
1018 point. ~~Such, which~~ information may be redacted from such records if necessary to
1019 prevent the disclosure of the identity of a confidential source, to prevent disclosure of
1020 material which would endanger the life or physical safety of any person or persons, or
1021 to prevent the disclosure of the existence of a confidential surveillance or
1022 investigation;

1023 ~~(17)~~(25) Records of athletic or recreational programs, available through the state or a
1024 political subdivision of the state, that include information identifying a child or
1025 children 12 years of age or under by name, address, telephone number, or emergency
1026 contact, unless such identifying information has been redacted;

1027 ~~(18)~~(26) Records of the State Road and Tollway Authority which would reveal the
1028 financial accounts or travel history of any individual who is a motorist upon ~~such~~ any
1029 toll project. ~~Such financial records shall include but not be limited to social security
1030 number, home address, home telephone number, e-mail address, credit or debit card
1031 information, and bank account information but shall not include the user's name;~~

1032 ~~(19)~~(27) Records maintained by public postsecondary educational institutions in this
1033 state and associated foundations of such institutions that contain personal information
1034 concerning donors or potential donors to such institutions or foundations; provided,
1035 however, that the name of any donor and the amount of donation made by such donor
1036 shall be subject to disclosure if such donor or any entity in which such donor has a
1037 substantial interest transacts business with the public postsecondary educational
1038 institution to which the donation is made within three years of the date of such
1039 donation. As used in this paragraph, the term 'transact business' means to sell or lease
1040 any personal property, real property, or services on behalf of oneself or on behalf of
1041 any third party as an agent, broker, dealer, or representative in an amount in excess of
1042 \$10,000.00 in the aggregate in a calendar year and the term 'substantial interest' means
1043 the direct or indirect ownership of more than 25 percent of the assets or stock of an
1044 entity;

1045 ~~(20)~~(28) Records of the Metropolitan Atlanta Rapid Transit Authority or of any other
 1046 transit system that is connected to that system's TransCard, ~~or~~ SmartCard, or
 1047 successor or similar system which would reveal the financial records or travel history
 1048 of any individual who is a purchaser of a TransCard or SmartCard or similar fare
 1049 medium. Such financial records shall include, but not be limited to, social security
 1050 number, home address, home telephone number, e-mail address, credit or debit card
 1051 information, and bank account information but shall not include the user's name;

1052 ~~(21)~~(29) Building mapping information produced and maintained pursuant to Article
 1053 10 of Chapter 3 of Title 38;

1054 ~~(22)~~(30) Notwithstanding the provisions of paragraph (4) of this subsection, any
 1055 physical evidence or investigatory materials that are evidence of an alleged violation
 1056 of Part 2 of Article 3 of Chapter 12 of Title 16, ~~which~~ and are in the possession,
 1057 custody, or control of law enforcement, prosecution, or regulatory agencies; ~~or~~

1058 ~~(23)~~(31) Records that are expressly exempt from public inspection pursuant to Code
 1059 Sections 47-1-14 and 47-7-127.2;

1060 (32) Any trade secrets obtained from a person or business entity that are required by
 1061 law, regulation, bid, or request for proposal to be submitted to an agency. If the entity
 1062 submitting documents containing trade secrets submits and attaches to the documents
 1063 an affidavit affirmatively declaring that specific information in or parts of the
 1064 documents constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10,
 1065 such affidavit shall create a rebuttable presumption that the information so identified
 1066 is in fact a trade secret, and the agency shall be entitled to rely on such affidavit in
 1067 determining that such information is not subject to disclosure. In the event a requester
 1068 wishes to challenge an agency's determination that the information specified in the
 1069 affidavit is a trade secret, the requester may file an action in superior court to obtain a
 1070 declaratory judgment that the requested records are not in fact trade secrets and are
 1071 subject to disclosure. If the agency makes a good faith determination that the
 1072 specifically identified information does not in fact constitute a trade secret, it shall

1073 notify the entity submitting the affidavit of its intent to disclose the information within
 1074 10 days unless prohibited from doing so by an appropriate court order. In any civil
 1075 action raising this paragraph as a basis for a claim or defense, the requester, the
 1076 agency, and the party who submitted the documents to the agency shall be necessary
 1077 parties;

1078 ~~(b) This article shall not be applicable to:~~

1079 ~~(1) Any trade secrets obtained from a person or business entity which are of a~~
 1080 ~~privileged or confidential nature and required by law to be submitted to a government~~
 1081 ~~agency or to~~

1082 ~~(33) data,~~ Data, records, or information of a proprietary nature, produced or collected
 1083 by or for faculty or staff of state institutions of higher learning, or other governmental
 1084 agencies, in the conduct of, or as a result of, study or research on commercial,
 1085 scientific, technical, or scholarly issues, whether sponsored by the institution alone or
 1086 in conjunction with a governmental body or private concern, where such data,
 1087 records, or information has not been publicly released, published, copyrighted, or
 1088 patented;

1089 ~~(2)~~(34) Any data, records, or information developed, collected, or received by or on
 1090 behalf of faculty, staff, employees, or students of an institution of higher education or
 1091 any public or private entity supporting or participating in the activities of an
 1092 institution of higher education in the conduct of, or as a result of, study or research on
 1093 medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the
 1094 institution alone or in conjunction with a governmental body or private entity, until
 1095 such information is published, patented, otherwise publicly disseminated, or released
 1096 to an agency whereupon the request must be made to the agency. ~~This subsection~~
 1097 ~~applies~~ paragraph shall apply to, but is not limited to, information provided by
 1098 participants in research, research notes and data, discoveries, research projects,
 1099 methodologies, protocols, and creative works; ~~or~~

1100 (35) Any record that would not be subject to disclosure, or the disclosure of which
 1101 would jeopardize the receipt of federal funds, under 20 U.S.C. Section 1232g or its
 1102 implementing regulations;

1103 ~~(3)~~(36) Unless otherwise provided by law, ~~contract, bid, or proposal,~~ records
 1104 consisting of questions, scoring keys, and other materials; constituting a test that
 1105 derives value from being unknown to the test taker prior to administration; which is to
 1106 be administered by an agency, including, but not limited to, any public school, any
 1107 unit of the Board of Regents of the University System of Georgia, any public
 1108 technical school, the State Board of Education, the Office of Student Achievement,
 1109 the Professional Standards Commission, or a local school system, if reasonable
 1110 measures are taken by the owner of the test to protect security and confidentiality;
 1111 provided, however, that the State Board of Education may establish procedures
 1112 whereby a person may view, but not copy, such records if viewing will not, in the
 1113 judgment of the board, affect the result of administration of such test. These
 1114 limitations shall not be interpreted by any court of law to include or otherwise exempt
 1115 from inspection the records of any athletic association or other nonprofit entity
 1116 promoting intercollegiate athletics.;

1117 ~~(e)(1) All public records of hospital authorities shall be subject to this article except~~
 1118 ~~for those otherwise excepted by this article or any other provision of law.~~

1119 ~~(2)~~(37) All state officers and employees shall have a privilege to refuse to disclose
 1120 Records disclosing the identity or personally identifiable information of any person
 1121 participating in research on commercial, scientific, technical, medical, scholarly, or
 1122 artistic issues conducted by the Department of Community Health, the Department of
 1123 Public Health, the Department of Behavioral Health and Developmental Disabilities,
 1124 or a state institution of higher education whether sponsored by the institution alone or
 1125 in conjunction with a governmental body or private entity. ~~Personally identifiable~~
 1126 ~~information shall mean any information which if disclosed might reasonably reveal~~
 1127 ~~the identity of such person including but not limited to the person's name, address,~~

1128 ~~and social security number. The identity of such informant shall not be admissible in~~
 1129 ~~evidence in any court of the state unless the court finds that the identity of the~~
 1130 ~~informant already has been disclosed otherwise.;~~

1131 ~~(d)(38) This article shall not be applicable to any application submitted to or any Any~~
 1132 ~~permanent records maintained by a judge of the probate court pursuant to Code~~
 1133 ~~Section 16-11-129, relating to weapons carry licenses, or pursuant to any other~~
 1134 ~~requirement for maintaining records relative to the possession of firearms. ~~This~~~~
 1135 ~~subsection shall not preclude law enforcement agencies from obtaining, except to the~~
 1136 ~~extent that such records relating to licensing and possession of firearms are sought by~~
 1137 ~~law enforcement agencies as provided by law.;~~

1138 ~~(e) This article shall not be construed to repeal:~~

1139 ~~(4)(39) The Records containing communications subject to the attorney-client~~
 1140 ~~privilege recognized by state law to the extent that a record pertains to the requesting~~
 1141 ~~or giving of legal advice or the disclosure of facts concerning or pertaining to they~~
 1142 ~~involve pending or potential litigation, settlement, claims, administrative proceedings,~~
 1143 ~~or other judicial actions brought or to be brought by or against the agency or any~~
 1144 ~~officer or employee; ~~provided, however, attorney-client.~~ Attorney-client information,~~
 1145 ~~however, may be obtained in a proceeding under Code Section 50-18-73 to prove~~
 1146 ~~justification or lack thereof in refusing disclosure of documents under this Code~~
 1147 ~~section provided the judge of the court in which said proceeding is pending shall first~~
 1148 ~~determine by an in camera examination that such disclosure would be relevant on that~~
 1149 ~~issue;~~

1150 ~~(2)(40) The confidentiality of Confidential attorney work product; or~~

1151 ~~(3)(41) ~~State laws making certain~~ Records containing tax matters or tax information~~
 1152 ~~that is confidential. ~~under state or federal law; or~~~~

1153 ~~(f)(1) As used in this article, the term:~~

1154 (A) ~~'Computer program' means a set of instructions, statements, or related data that,~~
 1155 ~~in actual or modified form, is capable of causing a computer or computer system to~~
 1156 ~~perform specified functions.~~

1157 (B) ~~'Computer software' means one or more computer programs, existing in any~~
 1158 ~~form, or any associated operational procedures, manuals, or other documentation.~~

1159 ~~(2)(42) This article shall not be applicable to Records consisting of any computer~~
 1160 ~~program or computer software used or maintained in the course of operation of a~~
 1161 ~~public office or agency.; provided, however, that data generated, kept, or received by~~
 1162 ~~an agency shall be subject to inspection and copying as provided in this article unless~~
 1163 ~~otherwise provided by law.~~

1164 (43) Copyright-protected records in the possession of an agency may be subject to
 1165 inspection but not copying except as provided by applicable law.

1166 ~~(g)(b)~~ This Code section shall be interpreted narrowly so as to exclude from disclosure
 1167 only that portion of a public record to which an exclusion is directly applicable. It shall
 1168 be the duty of the agency having custody of a record to provide all other portions of a
 1169 record for public inspection or copying.

1170 ~~(h) Within the three business days applicable to response to a request for access to~~
 1171 ~~records under this article, the public officer or agency having control of such record or~~
 1172 ~~records, if access to such record or records is denied in whole or in part, shall specify in~~
 1173 ~~writing the specific legal authority exempting such record or records from disclosure,~~
 1174 ~~by Code section, subsection, and paragraph. No addition to or amendment of such~~
 1175 ~~designation shall be permitted thereafter or in any proceeding to enforce the terms of~~
 1176 ~~this article; provided, however, that such designation may be amended or supplemented~~
 1177 ~~one time within five days of discovery of an error in such designation or within five~~
 1178 ~~days of the institution of an action to enforce this article, whichever is sooner; provided,~~
 1179 ~~further, that the right to amend or supplement based upon discovery of an error may be~~
 1180 ~~exercised on only one occasion. In the event that such designation includes provisions~~

1181 ~~not relevant to the subject matter of the request, costs and reasonable attorney's fees~~
 1182 ~~may be awarded pursuant to Code Section 50-18-73.~~

1183
 1184 50-18-73.

1185 (a) The superior courts of this state shall have jurisdiction in law and in equity to
 1186 entertain actions against persons or agencies having custody of records open to the
 1187 public under this article to enforce compliance with the provisions of this article. Such
 1188 actions may be brought by any person, firm, corporation, or other entity. In addition,
 1189 the Attorney General shall have authority to bring such actions, ~~either civil or criminal,~~
 1190 in his or her discretion as may be appropriate to enforce compliance with this article
 1191 and to seek either civil or criminal penalties or both.

1192 (b) In any action brought to enforce the provisions of this chapter in which the court
 1193 determines that either party acted without substantial justification either in not
 1194 complying with this chapter or in instituting the litigation, the court shall, unless it finds
 1195 that special circumstances exist, assess in favor of the complaining party reasonable
 1196 attorney's fees and other litigation costs reasonably incurred. Whether the position of
 1197 the complaining party was substantially justified shall be determined on the basis of the
 1198 record as a whole which is made in the proceeding for which fees and other expenses
 1199 are sought.

1200 (c) Any agency or person who provides access to information in good faith reliance on
 1201 the requirements of this chapter shall not be liable in any action on account of ~~having~~
 1202 ~~provided access to such information~~ such decision.

1203
 1204 50-18-74.

1205 (a) Any person or entity knowingly and willfully violating the provisions of this article
 1206 by failing or refusing to provide access to records not subject to exemption from this
 1207 article, ~~or~~ by knowingly and willingly failing or refusing to provide access to such
 1208 records within the time limits set forth in this article, or by knowingly and willingly

1209 frustrating or attempting to frustrate the access to records by intentionally making
1210 records difficult to obtain or review shall be guilty of a misdemeanor and upon
1211 conviction shall be punished by a fine not to exceed \$1,000.00 of the first violation.
1212 Alternatively, a civil penalty or fine may be imposed by the court in any civil or
1213 criminal action brought pursuant to this article against any person who knowingly and
1214 willfully violates the terms of this article in an amount not to exceed \$100.00 \$1,000.00
1215 for the first violation. A civil penalty or fine not to exceed \$2,500.00 per violation may
1216 be imposed for each additional violation that the violator commits within a 12 month
1217 period from the date the first fine was imposed. In addition, persons or entities who
1218 destroy records for the purpose of preventing their disclosure under this article may be
1219 subject to prosecution under Code Section 45-11-1.

1220 ~~(b) A prosecution under this Code section may only be commenced by issuance of a~~
1221 ~~citation in the same manner as an arrest warrant for a peace officer pursuant to Code~~
1222 ~~Section 17-4-40, which citation shall be personally served upon the accused. The~~
1223 ~~defendant shall not be arrested prior to the time of trial, except that a defendant who~~
1224 ~~fails to appear for arraignment or trial may thereafter be arrested pursuant to a bench~~
1225 ~~warrant and required to post a bond for his or her future appearance~~ It shall be a defense
1226 to any criminal action under this Code section that a person has acted in good faith in
1227 his or her actions.

1228 (c) The General Assembly finds that the intent of this chapter as expressed in section
1229 50-18-70(a) is not furthered by enabling undue harassment of agencies or public
1230 officials. A public official who reasonably believes that a request under this chapter
1231 constitutes undue harassment may file in superior court an action to quash the request;
1232 said action shall include a sworn affidavit by the public official detailing the facts that
1233 give rise to the public official's reasonable belief that the request is unduly harassing.
1234 The court may quash the request upon a showing that the request is oppressive,
1235 unreasonably repetitious of numerous other recent requests, calculated to unjustly harm
1236 the agency, or otherwise unduly harassing. If the court deems an action filed under this

1237 subsection to be frivolous or for the purpose of obstructing non-harassing requests or
1238 requestors, the court shall grant to the requestor reasonable attorneys' fees consistent
1239 with the provisions of section 50-18-73(b).

1240 50-18-75.

1241 Communications between the Office of Legislative Counsel and the following persons
1242 shall be privileged and confidential: members of the General Assembly, the Lieutenant
1243 Governor, and persons acting on behalf of such public officers; and such
1244 communications, and records and work product relating to such communications, shall
1245 not be subject to inspection or disclosure under this article or any other law or under
1246 judicial process; provided, however, that this privilege shall not apply where it is
1247 waived by the affected public officer or officers. The privilege established under this
1248 Code section is in addition to any other constitutional, statutory, or common law
1249 privilege.

1250
1251 50-18-76.

1252 No form, document, or other written matter which is required by law or rule or
1253 regulation to be filed as a vital record under the provisions of Chapter 10 of Title 31,
1254 which contains information which is exempt from disclosure under Code Section 31-
1255 10-25, and which is temporarily kept or maintained in any file or with any other
1256 documents in the office of the judge or clerk of any court prior to filing with the
1257 Department of ~~Community~~Public Health shall be open to inspection by the general
1258 public, even though the other papers or documents in such file may be open to
1259 inspection.

1260
1261 50-18-77.

1262 The procedures and fees provided for in this article shall not apply to public records,
1263 including records that are exempt from disclosure pursuant to Code Section 50-18-72,
1264 which are requested in writing by a state or federal grand jury, taxing authority, law

1265 enforcement agency, or prosecuting attorney in conjunction with an ongoing
1266 administrative, criminal, or tax investigation. The lawful custodian shall provide copies
1267 of such records to the requesting agency unless such records are privileged or
1268 disclosure to such agencies is specifically restricted by law.”

1269

1270

SECTION 3.

1271

Code Section 15-16-10 of the Official Code of Georgia Annotated, relating to duties of
1272 sheriffs, is amended by revising paragraph (10) of subsection (a) as follows:

1272

1273

“(10) To develop and implement a comprehensive plan for the security of the county
1274 courthouse and any courthouse annex. Prior to the implementation of any security
1275 plan, the plan shall be submitted to the chief judge of the superior court of the circuit
1276 wherein the courthouse or courthouse annex is located for review. The chief judge
1277 shall have 30 days to review the original or any subsequent security plan. The chief
1278 judge may make modifications to the original or any subsequent security plan. The
1279 sheriff shall provide to the county governing authority the estimated cost of any
1280 security plan and a schedule for implementation 30 days prior to adoption of any
1281 security plan. A comprehensive plan for courthouse security shall be considered a
1282 confidential matter of public security. Review of a proposed security plan by the
1283 governing authority shall be excluded from the requirements of Code Section 50-14-1
1284 and any such review shall take place as provided in Code Section 50-14-3. Such
1285 security plan shall also be excluded from public disclosure pursuant to paragraph ~~(15)~~
1286 (23) of subsection (a) of Code Section 50-18-72. The sheriff shall be the official
1287 custodian of the comprehensive courthouse security plan and shall determine who has
1288 access to such plan and any such access and review shall occur in the sheriff's office
1289 or at a meeting of the county governing authority held as provided in paragraph (9) of
1290 Code Section 50-14-3; provided, however, that the sheriff shall make the original
1291 security plan available upon request for temporary, exclusive review by any judge
1292 whose courtroom or chambers is located within the courthouse or courthouse annex or

1292

1293 by any commissioner of the county in which the courthouse or courthouse annex is
1294 located. The sheriff shall be responsible to conduct a formal review of the security
1295 plan not less than every four years.”

1296
1297 **SECTION 4.**

1298 Code Section 38-3-152 of the Official Code of Georgia Annotated, relating to creation
1299 and operation of building mapping information system, availability to government
1300 agencies, rules and regulations, federal funding sources, exemption of information from
1301 public disclosure, recommendations for training guidelines, and limitations, is amended
1302 by revising subsection (f) as follows:

1303 “(f) Information provided to the agency under this article shall be exempt from public
1304 disclosure to the extent provided in paragraph ~~(24)~~ (29) of subsection (a) of Code
1305 Section 50-18-72.”

1306
1307 **SECTION 5.**

1308 Code Section 40-5-2 of the Official Code of Georgia Annotated, relating to keeping of
1309 records of applications for licenses and information on licensees and furnishing of
1310 information, is amended by revising subsection (b) as follows:

1311 “(b) The records maintained by the department on individual drivers are exempt from
1312 any law of this state requiring that such records be open for public inspection; provided,
1313 however, that initial arrest reports, incident reports, and the records pertaining to
1314 investigations or prosecutions of criminal or unlawful activity shall be subject to
1315 disclosure pursuant to paragraph (4) of subsection (a) of Code Section 50-18-72 and
1316 related provisions. Georgia Uniform Motor Vehicle Accident Reports shall be subject
1317 to disclosure pursuant to paragraph ~~(4.1)~~ (5) of subsection (a) of Code Section 50-18-
1318 72. The department shall not make records or personal information available on any
1319 driver except as otherwise provided in this Code section or as otherwise specifically
1320 required by 18 U.S.C. Section 2721.”

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SECTION 6.

Code Section 45-6-6 relating to office property kept by officers subject to inspection by citizens shall be amended as follows:

“All books, papers, and other office property kept by any public officer under the laws of this state shall be subject to the inspection of all the citizens of this state subject to the requirements of Article 4 of Chapter 18 of Title 50 ~~within office hours every day except Sundays and holidays.~~”

SECTION 7.

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