

Senate Bill 311 - Prefile

By: Senator McKoon of the 29th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated,  
2 relating to inspection of public records, so as to provide that all records and recordings of the  
3 proceedings of any tribunal in this state vested with powers of a judicial nature are public  
4 records and subject to public inspection; to eliminate certain exemptions from public  
5 disclosure pursuant to court order and law; to provide for related matters; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to  
10 inspection of public records, is amended in Code Section 50-18-70, relating to legislative  
11 intent and definitions, by revising subsection (b) as follows:

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

13 (1) 'Agency' shall have the same meaning as in Code Section 50-14-1 and shall  
14 additionally include:

15 (A) Any ~~any~~ association, corporation, or other similar organization that has a  
16 membership or ownership body composed primarily of counties, municipal  
17 corporations, or school districts of this state, their officers, or any combination thereof  
18 and derives more than 33 1/3 percent of its general operating budget from payments  
19 from such political subdivisions; or

20 (B) Any tribunal in this state that is vested with powers of a judicial nature whether  
21 created by the Constitution of this state or by law.

22 (2) 'Public record' means all documents, papers, letters, maps, books, tapes, photographs,  
23 computer based or generated information, data, data fields, records and recordings of the  
24 proceedings of any tribunal in this state vested with powers of a judicial nature whether  
25 created by the Constitution of this state or by law, including but not limited to those not  
26 filed with an agency, or similar material prepared and maintained or received by an  
27 agency or by a private person or entity in the performance of a service or function for or

28 on behalf of an agency or when such documents have been transferred to a private person  
29 or entity by an agency for storage or future governmental use."

30 **SECTION 2.**

31 Said article is further amended by revising subsection (a) of Code Section 50-18-71, relating  
32 to right of access, timing, fees, denial of requests, and impact of electronic records, as  
33 follows:

34 "(a) All public records shall be open for personal inspection and copying, except those  
35 which by order of a court of this state or by law are specifically exempted from disclosure;  
36 provided, however, that public records related to the proceedings of any tribunal in this  
37 state vested with powers of a judicial nature whether created by the Constitution of this  
38 state or by law are subject to public inspection pursuant to this article and shall not be  
39 exempted by order of a court of this state or by law, unless specifically exempted from  
40 disclosure in this article. Records shall be maintained by agencies to the extent and in the  
41 manner required by Article 5 of this chapter."

42 **SECTION 3.**

43 Said article is further amended by revising subsections (c) and (d) of Code Section 50-18-72,  
44 relating to when public disclosure not required, as follows:

45 ~~"(c)(1) Notwithstanding any other provision of this article, an exhibit tendered to the court~~  
46 ~~as evidence in a criminal or civil trial shall not be open to public inspection without~~  
47 ~~approval of the judge assigned to the case.~~

48 ~~(2) Except as provided in subsection (d) of this Code section, in the event inspection is~~  
49 ~~not approved by the court, in lieu of inspection of such an exhibit, the custodian of such~~  
50 ~~an exhibit shall, upon request, provide one or more of the following:~~

51 ~~(A) A photograph;~~

52 ~~(B) A photocopy;~~

53 ~~(C) A facsimile; or~~

54 ~~(D) Another reproduction.~~

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

58 ~~(d) Any physical evidence that is used as an exhibit in a criminal or civil trial to show or~~  
59 ~~support an alleged violation of Part 2 of Article 3 of Chapter 12 of Title 16 shall not be~~  
60 ~~open to public inspection except by court order. If the judge approves inspection of such~~  
61 ~~physical evidence, the judge shall designate, in writing, the facility owned or operated by~~  
62 ~~an agency of the state or local government where such physical evidence may be inspected.~~

63 ~~If the judge permits inspection, such property or material shall not be photographed,~~  
64 ~~copied, or reproduced by any means. Any person who violates the provisions of this~~  
65 ~~subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by~~  
66 ~~imprisonment for not less than one nor more than 20 years, a fine of not more than~~  
67 ~~\$100,000.00, or both~~ Notwithstanding any provision of law to the contrary, including but  
68 not limited to laws providing for the sealing of court records and Code Sections 15-1-15,  
69 15-1-16, 15-1-17, 15-1-19, 15-1-21, 15-6-60.1, 15-6-86, 15-11-64, 15-11-70, 15-11-504,  
70 15-11-704, 15-11-708, 15-12-11, 15-12-60, and 15-12-71, all public records related to the  
71 proceedings of any tribunal in this state vested with powers of a judicial nature whether  
72 created by the Constitution of this state or by law are subject to public inspection pursuant  
73 to this article, unless specifically exempted from disclosure in this article."

74 **SECTION 4.**

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