

House Bill 393

By: Representatives Drenner of the 66th and Martin of the 47th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to
2 when public disclosure of public records is not required, so as to provide that public
3 disclosure shall not be required for certain records relating to carpooling and ridesharing
4 programs; to provide for a definition; to provide an effective date; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
9 disclosure of public records is not required, is amended by striking subsection (a) of said
10 Code section and inserting in its place the following:

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

- 12 (1) Specifically required by the federal government to be kept confidential;
- 13 (2) Medical or veterinary records and similar files, the disclosure of which would be an
14 invasion of personal privacy;
- 15 (3) Except as otherwise provided by law, records compiled for law enforcement or
16 prosecution purposes to the extent that production of such records would disclose the
17 identity of a confidential source, disclose confidential investigative or prosecution
18 material which would endanger the life or physical safety of any person or persons, or
19 disclose the existence of a confidential surveillance or investigation;
- 20 (4) Records of law enforcement, prosecution, or regulatory agencies in any pending
21 investigation or prosecution of criminal or unlawful activity, other than initial police
22 arrest reports and initial incident reports; provided, however, that an investigation or
23 prosecution shall no longer be deemed to be pending when all direct litigation involving
24 said investigation and prosecution has become final or otherwise terminated;
- 25 (4.1) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the
26 submission of a written statement of need by the requesting party, such statement to be

1 provided to the custodian of records and to set forth the need for the report pursuant to
 2 this Code section; provided, however, that any person or entity whose name or
 3 identifying information is contained in a Georgia Uniform Motor Vehicle Accident
 4 Report shall be entitled, either personally or through a lawyer or other representative, to
 5 receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle
 6 Accident Reports shall not be available in bulk for inspection or copying by any person
 7 absent a written statement showing the need for each such report pursuant to the
 8 requirements of this Code section. For the purposes of this subsection, the term 'need'
 9 means that the natural person or legal entity who is requesting in person or by
 10 representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

11 (A) Has a personal, professional, or business connection with a party to the accident;

12 (B) Owns or leases an interest in property allegedly or actually damaged in the
 13 accident;

14 (C) Was allegedly or actually injured by the accident;

15 (D) Was a witness to the accident;

16 (E) Is the actual or alleged insurer of a party to the accident or of property actually or
 17 allegedly damaged by the accident;

18 (F) Is a prosecutor or a publicly employed law enforcement officer;

19 (G) Is alleged to be liable to another party as a result of the accident;

20 (H) Is an attorney stating that he or she needs the requested reports as part of a criminal
 21 case, or an investigation of a potential claim involving contentions that a roadway,
 22 railroad crossing, or intersection is unsafe;

23 (I) Is gathering information as a representative of a news media organization; or

24 (J) Is conducting research in the public interest for such purposes as accident
 25 prevention, prevention of injuries or damages in accidents, determination of fault in an
 26 accident or accidents, or other similar purposes; provided, however, this subparagraph
 27 will apply only to accident reports on accidents that occurred more than 30 days prior
 28 to the request and which shall have the name, street address, telephone number and
 29 driver's license number redacted;

30 (5) Records that consist of confidential evaluations submitted to, or examinations
 31 prepared by, a governmental agency and prepared in connection with the appointment or
 32 hiring of a public officer or employee; and records consisting of material obtained in
 33 investigations related to the suspension, firing, or investigation of complaints against
 34 public officers or employees until ten days after the same has been presented to the
 35 agency or an officer for action or the investigation is otherwise concluded or terminated,
 36 provided that this paragraph shall not be interpreted to make such investigatory records
 37 privileged;

1 (6) Real estate appraisals, engineering or feasibility estimates, or other records made for
2 or by the state or a local agency relative to the acquisition of real property until such time
3 as the property has been acquired or the proposed transaction has been terminated or
4 abandoned and engineers' cost estimates and rejected or deferred bid proposals until such
5 time as the final award is made, either received or prepared by the Department of
6 Transportation pursuant to Article 4 of Chapter 2 of Title 32, by a county pursuant to
7 Article 3 of Chapter 4 of Title 32, or by a municipality pursuant to Article 4 of Chapter
8 4 of Title 32;

9 (7) Notwithstanding any other provision of this article, an agency shall not be required
10 to release those portions of records which would identify persons applying for or under
11 consideration for employment or appointment as executive head of an agency as that term
12 is defined in paragraph (1) of subsection (a) of Code Section 50-14-1, or of a unit of the
13 University System of Georgia; provided, however, that at least 14 calendar days prior to
14 the meeting at which final action or vote is to be taken on the position, the agency shall
15 release all documents which came into its possession with respect to as many as three
16 persons under consideration whom the agency has determined to be the best qualified for
17 the position and from among whom the agency intends to fill the position. Prior to the
18 release of these documents, an agency may allow such a person to decline being
19 considered further for the position rather than have documents pertaining to the person
20 released. In that event, the agency shall release the documents of the next most qualified
21 person under consideration who does not decline the position. If an agency has conducted
22 its hiring or appointment process open to the public, it shall not be required to delay 14
23 days to take final action on the position. The agency shall not be required to release such
24 records with respect to other applicants or persons under consideration, except at the
25 request of any such person. Upon request, the hiring agency shall furnish the number of
26 applicants and the composition of the list by such factors as race and sex. ~~Provided,~~
27 ~~further, the~~ The agency shall not be allowed to avoid the provisions of this paragraph by
28 the employment of a private person or agency to assist with the search or application
29 process;

30 (8) Related to the provision of staff services to individual members of the General
31 Assembly by the Legislative and Congressional Reapportionment Office, the Senate
32 Research Office, or the House Research Office, provided that this exception shall not
33 have any application with respect to records related to the provision of staff services to
34 any committee or subcommittee or to any records which are or have been previously
35 publicly disclosed by or pursuant to the direction of an individual member of the General
36 Assembly;

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

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

15 (11) Records that contain site specific information regarding the occurrence of rare
16 species of plants or animals or the location of sensitive natural habitats on public or
17 private property if the Department of Natural Resources determines that disclosure will
18 create a substantial risk of harm, theft, or destruction to the species or habitats or the area
19 or place where the species or habitats are located; provided, however, that the owner or
20 owners of private property upon which rare species of plants or animals occur or upon
21 which sensitive natural habitats are located shall be entitled to such information pursuant
22 to this article;

23 (11.1) An individual's social security number and insurance or medical information in
24 personnel records, which may be redacted from such records;

25 (11.2) Records that would reveal the names, home addresses, telephone numbers,
26 security codes, or any other data or information developed, collected, or received by
27 counties or municipalities in connection with the installation, servicing, maintaining,
28 operating, selling, or leasing of burglar alarm systems, fire alarm systems, or other
29 electronic security systems; provided, however, that initial police reports and initial
30 incident reports shall remain subject to disclosure pursuant to paragraph (4) of this
31 subsection;

32 (12) Public records containing information that would disclose or might lead to the
33 disclosure of any component in the process used to execute or adopt an electronic
34 signature, if such disclosure would or might cause the electronic signature to cease being
35 under the sole control of the person using it. For purposes of this paragraph, the term
36 'electronic signature' has the same meaning as that term is defined in Code Section
37 10-12-3; or

1 (13) Records that would reveal the home address or telephone number, social security
2 number, or insurance or medical information of law enforcement officers, judges,
3 scientists employed by the Division of Forensic Sciences of the Georgia Bureau of
4 Investigation, correctional employees, and prosecutors or identification of immediate
5 family members or dependents thereof: or

6 (14) Acquired by an agency for the purpose of establishing or implementing, or assisting
7 in the establishment or implementation of, a carpooling or ridesharing program, to the
8 extent such records would reveal the name, home address, employment address, home
9 telephone number, employment telephone number, or hours of employment of any
10 individual or would otherwise identify any individual who is participating in, or who has
11 expressed an interest in participating in, any such program. As used in this paragraph,
12 the term 'carpooling or ridesharing program' means and includes, but is not limited to, the
13 formation of carpools, vanpools, or buspools, the provision of transit routes, rideshare
14 research, and the development of other demand management strategies such as variable
15 working hours and telecommuting."

16 **SECTION 2.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law
18 without such approval.

19 **SECTION 3.**

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