

Senate Bill 50

By: Senators Johnson of the 1<sup>st</sup> and Tanksley of the 32<sup>nd</sup>**AS PASSED SENATE****A BILL TO BE ENTITLED****AN ACT**

1 To amend Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated,  
 2 relating to clerks of the superior courts, so as to authorize the maintenance of records in  
 3 digital format; to define certain terms; to provide that a clerk of a superior court electing to  
 4 store records in digital format shall maintain back-up records or shall send copies of such  
 5 records to the Georgia Department of Archives and History; to provide procedures for such  
 6 transmittal; to provide an interim method of maintaining back-up records; to provide for a  
 7 certification of digital format as an acceptable method of record storage; to provide for  
 8 related matters; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Article 2 of Chapter 6 of Title 15 of the Official Code of Georgia Annotated, relating to  
 12 clerks of the superior courts, is amended by striking in its entirety subsection (a) of Code  
 13 Section 15-6-62, relating to additional duties of clerks of the superior courts, and inserting  
 14 in lieu thereof the following:

15 ~~"(a) The clerk of the superior court is required to record in well-bound books or on~~  
 16 ~~microfilm, within six months after the final determination of any civil action or criminal~~  
 17 ~~case, all the proceedings relating thereto. In the event that any clerk elects to microfilm~~  
 18 ~~proceedings, he shall make available a machine for reading and reproducing such~~  
 19 ~~microfilmed matters. The clerk of the superior court is required to record all the~~  
 20 ~~proceedings relating to any civil action or criminal case within six months after the final~~  
 21 ~~determination of the case. Such recording may be in well-bound books, on microfilm, or~~  
 22 ~~in digital format. If a clerk elects to record proceedings on microfilm or in digital format,~~  
 23 ~~he or she shall make available a machine for reading and reproducing such microfilmed or~~  
 24 ~~digitally formatted records. If a clerk elects to record proceedings in digital format, the~~  
 25 ~~provisions of Code Section 15-6-62.1 shall apply.~~

1 **SECTION 2.**

2 Said article is further amended by inserting immediately following Code Section 15-6-62 a  
3 new Code section to read as follows:

4 "15-6-62.1.

5 (a) As used in this Code section, the term:

6 (1) 'Back-up record' means the original or a paper or microfilm copy of a document.

7 (2) 'Department' means the Georgia Department of Archives and History.

8 (b) Except as provided in subsection (e) of this Code section, a clerk of a superior court  
9 electing to record proceedings in digital format as provided in subsection (a) of Code  
10 Section 16-6-62 shall maintain back-up records in one of two ways. The clerk shall elect  
11 either to retain back-up records himself or herself or to send copies of all such records to  
12 the department for archiving.

13 (c) If a clerk of a superior court elects to have the department maintain the court's back-up  
14 records, the clerk shall transmit such records to the department at least once every six  
15 months in a format jointly agreed to by the department and the clerk. The department shall  
16 convert such records to microfilm, if necessary, and permanently maintain the back-up  
17 records. The department shall make microfilm copies of all such records available to the  
18 clerk of the superior court for a fee not exceeding the cost of producing the copies unless  
19 the clerk notifies the department that such copies are not desired. Except as provided in  
20 subsection (d) of this Code section, a clerk of a superior court complying with the  
21 provisions of this subsection shall not be required to maintain back-up records.

22 (d) A superior court clerk who elects to have the department maintain the back-up records  
23 shall initially both retain back-up records himself or herself and follow the procedures  
24 provided in subsection (c) of this Code section. When the department notifies the clerk that  
25 the department is fully capable of creating and maintaining back-up records, the clerk may  
26 cease retaining back-up records himself or herself; provided, however, that if the  
27 department subsequently notifies the clerk that the department is no longer capable of  
28 creating and maintaining back-up records, the clerk shall again be responsible for  
29 maintaining such back-up records.

30 (e) When the department certifies that the digital storage system operated by a clerk of a  
31 superior court is an acceptable form of maintaining permanent records, the clerk shall not  
32 be required to maintain back-up records or transmit copies of records to the department;  
33 provided, however, that if the department subsequently determines that such system is not  
34 an acceptable form of maintaining permanent records, the clerk shall be subject to the  
35 provisions of subsections (b) and (c) of this Code section.

1 (f) Any system of maintaining back-up records managed by a clerk of a superior court  
2 must be certified by the department as being an acceptable system of maintaining  
3 permanent records."

4 **SECTION 3.**

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