

House Bill 1450

By: Representatives Bordeaux of the 125th, Campbell of the 39th, Stokes of the 72nd, and Fleming of the 79th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 3 of Title 38 of the Official Code of Georgia Annotated,
2 relating to emergency management, so as to add certain provisions relating to judicial
3 proceedings in the event of a natural disaster, civil disturbance, or other emergency situation
4 that will interfere with a citizen's, litigant's, state official's, or other person's ability to
5 comply with court deadlines; to provide for a short title; to provide for legislative findings;
6 to provide for definitions; to provide for a judicial official's ability to declare an emergency
7 under certain circumstances; to provide for factors to be included in a judicial emergency
8 order; to provide for the duration of a judicial emergency order; to provide for the scope of
9 a judicial emergency order; to provide for notice of a judicial emergency order; to provide
10 for procedures for appealing a judicial emergency order; to provide for related matters; to
11 repeal conflicting laws; and for other purposes.

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

13 **SECTION 1.**

14 This Act shall be known and may be cited as the "Judicial Emergency Act of 2004."

15 **SECTION 2.**

16 The General Assembly finds that it is important to ensure that the judicial system has a
17 proper response in the event of a natural disaster, civil disturbance, or other emergency
18 situation that will require the closure of courts or other circumstances that will inhibit a
19 citizen's, litigant's, state official's, or other person's ability to comply with deadlines
20 imposed by applicable statutes and rules of procedure for the duration of the emergency
21 situation.

1 (b) The duration of a judicial emergency order shall be limited to a maximum of 30 days.
 2 The judicial emergency order may be extended no more than twice by the issuing
 3 authorized judicial official for additional 30 day periods, and any extension shall contain
 4 the same information as required to be contained in the original order.

5 (c) The judicial emergency order may designate one or more facilities as temporary
 6 courthouses which shall be suitable for court business and which shall be located as near
 7 as possible to the county seat if the judicial emergency order applies to a judicial circuit.

8 (d)(1) In the event of an extreme emergency, quarantine, or other circumstances making
 9 access to the county seat impossible, the judicial emergency order may designate a
 10 temporary courthouse in any other county within the judicial circuit or, in the case of a
 11 circuit containing only one county, in any county in any adjacent judicial circuit.

12 (2) An alternative courthouse location, whether within or outside the county, shall be
 13 operative only in the event and for the duration of an emergency or disaster of manmade
 14 or natural causes or an enemy attack impending on or affecting this state or the United
 15 States, as proclaimed by the Governor or an authorized judicial official.

16 38-3-62.

17 In the event of a judicial emergency, an authorized judicial official shall have the power
 18 to enter such orders as may be appropriate in any legal proceeding, whether criminal or
 19 civil, and to suspend, toll, or otherwise grant relief from time deadlines imposed by
 20 otherwise applicable statutes, rules of procedure, or court orders for the term designated
 21 in accordance with Code Section 15-1-31, including without limitation:

- 22 (1) Any civil or criminal statute of limitations;
- 23 (2) Speedy trial proceedings and first appearances in any criminal proceeding;
- 24 (3) Time limitations or deadlines in any juvenile proceeding;
- 25 (4) Any civil process or proceeding;
- 26 (5) Any appellate time limitation;
- 27 (6) The time limitation within which to file a writ of habeas corpus; and
- 28 (7) Such other legal proceedings for which orders are deemed necessary by the
 29 authorized judicial official.

30 38-3-63.

31 When a judicial emergency is declared under this part, the authorized judicial official shall
 32 give notice of the declaration of the judicial emergency order in a manner reasonably
 33 calculated to notify courts within the authorized judicial official's jurisdiction as well as
 34 citizens, litigants, and any other interested persons or parties. The notice shall be in writing
 35 and may consist of, without limitation, publication in a newspaper of local distribution,

1 publication in a newspaper of state-wide distribution, posting of a written notice at
2 courthouses within the jurisdiction, or any combination of these methods, provided that the
3 method chosen is reasonably calculated to give notice under the particular circumstances
4 necessitating the declaration of a judicial emergency. In the event that the written notice
5 is impossible, notice shall be given in any manner, including announcements on television
6 and radio, that is reasonably calculated to put relevant persons and entities on notice of the
7 authorized judicial official's order declaring a judicial emergency.

8 38-3-64.

9 (a) When a judicial emergency is declared under this part, the authorized judicial official
10 shall immediately forward a copy of the judicial emergency order to the clerk of the
11 Supreme Court and the clerk of the Court of Appeals. If the judicial emergency order is
12 issued by the chief judge of a superior court judicial circuit, then that judge shall
13 immediately cause a copy to be filed with the clerk of superior court in each county
14 affected by the order and cause copies to be sent to the clerk of the Supreme Court and the
15 clerk of the Court of Appeals.

16 (b) Any person, corporation, or governmental entity whose rights or interests are affected
17 by a judicial emergency order may appeal that order to the Court of Appeals by filing a
18 notice of appeal with the clerk of superior court in any county to which the order applies
19 and by serving the notice of appeal on:

20 (1) The authorized judicial official who issued the order;

21 (2) The adverse parties in any criminal proceeding or civil litigation in which the
22 appellant is involved; and

23 (3) The district attorney of the county in which the notice of appeal is filed.

24 The appeal shall be heard immediately by the Court of Appeals under the procedure of
25 emergency motions. A party dissatisfied by the judgment of the Court of Appeals may
26 appeal as a matter of right to the Supreme Court. Filing fees for appeals shall be waived
27 and all costs shall be borne by the state. All such appeals shall be heard expeditiously."

28 **SECTION 4.**

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