

House Bill 1638

By: Representative Morris of the 120<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 14 of Title 50 of the Official Code of Georgia Annotated, relating to open  
2 and public meetings, and Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia  
3 Annotated, relating to inspection of public records, so as to exempt certain meetings and  
4 records of the Georgia Sports Hall of Fame Authority from the requirements relating to open  
5 meetings and inspection of public records; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 14 of Title 50 of the Official Code of Georgia Annotated, relating to open and public  
9 meetings, is amended by striking Code Section 50-14-3, relating to proceedings excluded  
10 from the requirements for open and public meetings, and inserting in lieu thereof the  
11 following:

12 "50-14-3.

13 This chapter shall not apply to the following:

- 14 (1) Staff meetings held for investigative purposes under duties or responsibilities  
15 imposed by law;
- 16 (2) The deliberations and voting of the State Board of Pardons and Paroles; and in  
17 addition said board may close a meeting held for the purpose of receiving information or  
18 evidence for or against clemency or in revocation proceedings if it determines that the  
19 receipt of such information or evidence in open meeting would present a substantial risk  
20 of harm or injury to a witness;
- 21 (3) Meetings of the Georgia Bureau of Investigation or any other law enforcement  
22 agency in the state, including grand jury meetings;
- 23 (4) Meetings when any agency is discussing the future acquisition of real estate, except  
24 that such meetings shall be subject to the requirements of this chapter for the giving of  
25 the notice of such a meeting to the public and preparing the minutes of such a meeting;  
26 provided, however, the disclosure of such portions of the minutes as would identify real

1 estate to be acquired may be delayed until such time as the acquisition of the real estate  
 2 has been completed, terminated, or abandoned or court proceedings with respect thereto  
 3 initiated;

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

7 (6) Meetings when discussing or deliberating upon the appointment, employment,  
 8 compensation, hiring, disciplinary action or dismissal, or periodic evaluation or rating of  
 9 a public officer or employee but not when receiving evidence or hearing argument on  
 10 charges filed to determine disciplinary action or dismissal of a public officer or employee.

11 The vote on any matter covered by this paragraph shall be taken in public and minutes  
 12 of the meeting as provided in this chapter shall be made available. Meetings by an agency  
 13 to discuss or take action on the filling of a vacancy in the membership of the agency itself  
 14 shall at all times be open to the public as provided in this chapter;

15 (7) Adoptions and proceedings related thereto;

16 (8) Meetings of the board of trustees or the investment committee of any public  
 17 retirement system created by Title 47 when such board or committee is discussing matters  
 18 pertaining to investment securities trading or investment portfolio positions and  
 19 composition; ~~and~~

20 (9) Meetings when discussing any records that are exempt from public inspection or  
 21 disclosure pursuant to paragraph (15) of subsection (a) of Code Section 50-18-72 or when  
 22 discussing any information a record of which would be exempt from public inspection  
 23 or disclosure under said paragraph; and

24 (10) Meetings of the Georgia Sports Hall of Fame Authority, or any committees created  
 25 by it, which involve the consideration of nominees for induction into the Georgia Sports  
 26 Hall of Fame."

## 27 SECTION 2.

28 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to  
 29 inspection of public records, is amended by striking subsection (a) of Code Section 50-18-72,  
 30 relating to when public disclosure of public records is not required, and inserting in lieu  
 31 thereof the following:

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

33 (1) Specifically required by the federal government to be kept confidential;

34 (2) Medical or veterinary records and similar files, the disclosure of which would be an  
 35 invasion of personal privacy;

1 (3) Except as otherwise provided by law, records compiled for law enforcement or  
2 prosecution purposes to the extent that production of such records would disclose the  
3 identity of a confidential source, disclose confidential investigative or prosecution  
4 material which would endanger the life or physical safety of any person or persons, or  
5 disclose the existence of a confidential surveillance or investigation;

6 (4) Records of law enforcement, prosecution, or regulatory agencies in any pending  
7 investigation or prosecution of criminal or unlawful activity, other than initial police  
8 arrest reports and initial incident reports; provided, however, that an investigation or  
9 prosecution shall no longer be deemed to be pending when all direct litigation involving  
10 said investigation and prosecution has become final or otherwise terminated;

11 (4.1) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the  
12 submission of a written statement of need by the requesting party, such statement to be  
13 provided to the custodian of records and to set forth the need for the report pursuant to  
14 this Code section; provided, however, that any person or entity whose name or  
15 identifying information is contained in a Georgia Uniform Motor Vehicle Accident  
16 Report shall be entitled, either personally or through a lawyer or other representative, to  
17 receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle  
18 Accident Reports shall not be available in bulk for inspection or copying by any person  
19 absent a written statement showing the need for each such report pursuant to the  
20 requirements of this Code section. For the purposes of this subsection, the term 'need'  
21 means that the natural person or legal entity who is requesting in person or by  
22 representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

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

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

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

27 (D) Was a witness to the accident;

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

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

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

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

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

36 (J) Is conducting research in the public interest for such purposes as accident  
37 prevention, prevention of injuries or damages in accidents, determination of fault in an

1 accident or accidents, or other similar purposes; provided, however, this subparagraph  
2 will apply only to accident reports on accidents that occurred more than 30 days prior  
3 to the request and which shall have the name, street address, telephone number, and  
4 driver's license number redacted;

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

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

17 (B) Engineers' cost estimates and pending, rejected, or deferred bids or proposals until  
18 such time as the final award of the contract is made or the project is terminated or  
19 abandoned. The provisions of this subparagraph shall apply whether the bid or proposal  
20 is received or prepared by the Department of Transportation pursuant to Article 4 of  
21 Chapter 2 of Title 32, by a county pursuant to Article 3 of Chapter 4 of Title 32, by a  
22 municipality pursuant to Article 4 of Chapter 4 of Title 32, or by a governmental entity  
23 pursuant to Article 2 of Chapter 91 of Title 36;

24 (7) Notwithstanding any other provision of this article, an agency shall not be required  
25 to release those portions of records which would identify persons applying for or under  
26 consideration for employment or appointment as executive head of an agency as that term  
27 is defined in paragraph (1) of subsection (a) of Code Section 50-14-1, or of a unit of the  
28 University System of Georgia; provided, however, that at least 14 calendar days prior to  
29 the meeting at which final action or vote is to be taken on the position, the agency shall  
30 release all documents which came into its possession with respect to as many as three  
31 persons under consideration whom the agency has determined to be the best qualified for  
32 the position and from among whom the agency intends to fill the position. Prior to the  
33 release of these documents, an agency may allow such a person to decline being  
34 considered further for the position rather than have documents pertaining to the person  
35 released. In that event, the agency shall release the documents of the next most qualified  
36 person under consideration who does not decline the position. If an agency has conducted  
37 its hiring or appointment process open to the public, it shall not be required to delay 14

1 days to take final action on the position. The agency shall not be required to release such  
2 records with respect to other applicants or persons under consideration, except at the  
3 request of any such person. Upon request, the hiring agency shall furnish the number of  
4 applicants and the composition of the list by such factors as race and sex. The agency  
5 shall not be allowed to avoid the provisions of this paragraph by the employment of a  
6 private person or agency to assist with the search or application process;

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

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

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

28 (11) Records that contain site specific information regarding the occurrence of rare  
29 species of plants or animals or the location of sensitive natural habitats on public or  
30 private property if the Department of Natural Resources determines that disclosure will  
31 create a substantial risk of harm, theft, or destruction to the species or habitats or the area  
32 or place where the species or habitats are located; provided, however, that the owner or  
33 owners of private property upon which rare species of plants or animals occur or upon  
34 which sensitive natural habitats are located shall be entitled to such information pursuant  
35 to this article;

36 (11.1) An individual's social security number and insurance or medical information in  
37 personnel records, which may be redacted from such records;

1 (11.2) Records that would reveal the names, home addresses, telephone numbers,  
2 security codes, or any other data or information developed, collected, or received by  
3 counties or municipalities in connection with the installation, servicing, maintaining,  
4 operating, selling, or leasing of burglar alarm systems, fire alarm systems, or other  
5 electronic security systems; provided, however, that initial police reports and initial  
6 incident reports shall remain subject to disclosure pursuant to paragraph (4) of this  
7 subsection;

8 (11.3)(A) An individual's social security number, mother's birth name, credit card  
9 information, debit card information, bank account information, financial data or  
10 information, and insurance or medical information in all records, and if technically  
11 feasible at reasonable cost, day and month of birth, which shall be redacted prior to  
12 disclosure of any record requested pursuant to this article; provided, however, that such  
13 information shall not be redacted from such records if the person or entity requesting  
14 such records requests such information in a writing signed under oath by such person  
15 or a person legally authorized to represent such entity which states that such person or  
16 entity is gathering information as a representative of a news media organization for use  
17 in connection with news gathering and reporting; and provided, further, that such access  
18 shall be limited to social security numbers and day and month of birth; and provided,  
19 further, that this news media organization exception for access to social security  
20 numbers and day and month of birth and the other protected information set forth in this  
21 subparagraph shall not apply to teachers and employees of a public school.

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

23 (i) The disclosure of information contained in the records or papers of any court or  
24 derived therefrom including without limitation records maintained pursuant to Article  
25 9 of Title 11;

26 (ii) The disclosure of information to a court, prosecutor, or publicly employed law  
27 enforcement officer, or authorized agent thereof, seeking records in an official  
28 capacity;

29 (iii) The disclosure of information to a public employee of this state, its political  
30 subdivisions, or the United States who is obtaining such information for  
31 administrative purposes, in which case, subject to applicable laws of the United  
32 States, further access to such information shall continue to be subject to the provisions  
33 of this paragraph;

34 (iv) The disclosure of information as authorized by the order of a court of competent  
35 jurisdiction upon good cause shown to have access to any or all of such information  
36 upon such conditions as may be set forth in such order;

1 (v) The disclosure of information to the individual in respect of whom such  
2 information is maintained, with the authorization thereof, or to an authorized agent  
3 thereof; provided, however, that the agency maintaining such information shall  
4 require proper identification of such individual or such individual's agent, or proof  
5 of authorization, as determined by such agency;

6 (vi) The disclosure of the day and month of birth and mother's birth name of a  
7 deceased individual;

8 (vii) The disclosure by an agency of credit or payment information in connection  
9 with a request by a consumer reporting agency as that term is defined under the  
10 federal Fair Credit Reporting Act (15 U.S.C. Section 1681, et seq.);

11 (viii) The disclosure by an agency of information in its records in connection with the  
12 agency's discharging or fulfilling of its duties and responsibilities, including, but not  
13 limited to, the collection of debts owed to the agency or individuals or entities whom  
14 the agency assists in the collection of debts owed to the individual or entity; or

15 (ix) The disclosure of information necessary to comply with legal or regulatory  
16 requirements or for legitimate law enforcement purposes.

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

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

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

1 (12) Public records containing information that would disclose or might lead to the  
2 disclosure of any component in the process used to execute or adopt an electronic  
3 signature, if such disclosure would or might cause the electronic signature to cease being  
4 under the sole control of the person using it. For purposes of this paragraph, the term  
5 'electronic signature' has the same meaning as that term is defined in Code Section  
6 10-12-3;

7 (13) Records that would reveal the home address or telephone number, social security  
8 number, or insurance or medical information of law enforcement officers, judges,  
9 scientists employed by the Division of Forensic Sciences of the Georgia Bureau of  
10 Investigation, correctional employees, and prosecutors or identification of immediate  
11 family members or dependents thereof;

12 (13.1) Records that reveal the home address, the home telephone number, or the social  
13 security number of or insurance or medical information about teachers and employees of  
14 a public school. For the purposes of this paragraph, the term 'public school' means any  
15 school which is conducted within this state and which is under the authority and  
16 supervision of a duly elected county or independent board of education;

17 (14) Acquired by an agency for the purpose of establishing or implementing, or assisting  
18 in the establishment or implementation of, a carpooling or ridesharing program, to the  
19 extent such records would reveal the name, home address, employment address, home  
20 telephone number, employment telephone number, or hours of employment of any  
21 individual or would otherwise identify any individual who is participating in, or who has  
22 expressed an interest in participating in, any such program. As used in this paragraph, the  
23 term 'carpooling or ridesharing program' means and includes, but is not limited to, the  
24 formation of carpools, vanpools, or buspools, the provision of transit routes, rideshare  
25 research, and the development of other demand management strategies such as variable  
26 working hours and telecommuting;

27 (15)(A) Records, the disclosure of which would compromise security against sabotage  
28 or criminal or terrorist acts and the nondisclosure of which is necessary for the  
29 protection of life, safety, or public property, which shall be limited to the following:

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

33 (ii) Any plan for protection against terrorist or other attacks, which plan depends for  
34 its effectiveness in whole or in part upon a lack of general public knowledge of its  
35 details;

36 (iii) Any document relating to the existence, nature, location, or function of security  
37 devices designed to protect against terrorist or other attacks, which devices depend

1 for their effectiveness in whole or in part upon a lack of general public knowledge;  
2 and

3 (iv) Any plan, blueprint, or other material which if made public could compromise  
4 security against sabotage, criminal, or terroristic acts.

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

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

17 (16) Unless the request is made by the accused in a criminal case or by his or her  
18 attorney, public records of an emergency '911' system, as defined in paragraph (3) of  
19 Code Section 46-5-122, containing information which would reveal the name, address,  
20 or telephone number of a person placing a call to a public safety answering point, which  
21 information may be redacted from such records if necessary to prevent the disclosure of  
22 the identity of a confidential source, to prevent disclosure of material which would  
23 endanger the life or physical safety of any person or persons, or to prevent the disclosure  
24 of the existence of a confidential surveillance or investigation; or

25 (17) The records of the Georgia Sports Hall of Fame Authority, or any committee created  
26 by it, related to voting on nominees for induction into the Georgia Sports Hall of Fame  
27 until after the authority has announced the inductees at any given time."

### 28 SECTION 3.

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