

House Bill 1450 (AS PASSED HOUSE AND SENATE)

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 an effective date; to
11 provide for related matters; to 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 the proper functioning of this state's judicial system is
17 essential to the administration of justice. Further, the General Assembly finds that our courts
18 are subject to being disrupted and the rights of the people are subject to being denied in the
19 event of certain attacks or emergencies, whether natural or man-made in origin. The General
20 Assembly finds that it is in the best interests of the proper functioning of the courts and,
21 ultimately, of the people, to provide our judicial system with a means by which to adjust
22 certain rights, deadlines, and schedules to take into account the potentially devastating effects
23 of a judicial emergency.

1 (5) The period or duration of the judicial emergency; and

2 (6) Any other information relevant to the suspension or restoration of court operations.

3 (b) An order declaring the existence of a judicial emergency shall be limited to an initial
4 duration of not more than 30 days; provided, however, that the order may be modified or
5 extended for no more than two periods not exceeding 30 days each. Any modification or
6 extension of the initial order shall require information regarding the same matters set forth
7 in subsection (a) of this Code section for the issuance of the initial order.

8 (c) In the event the circumstances underlying the judicial emergency make access to the
9 office of a clerk of court or a courthouse impossible or impractical, the order declaring the
10 judicial emergency shall designate another facility, which is reasonably accessible and
11 appropriate, for the conduct of court business.

12 38-3-62.

13 An authorized judicial official in an order declaring a judicial emergency, or in an order
14 modifying or extending a judicial emergency order, is authorized to suspend, toll, extend,
15 or otherwise grant relief from deadlines or other time schedules or filing requirements
16 imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in
17 civil or criminal cases or administrative matters, including, but not limited to:

18 (1) A statute of limitation;

19 (2) The time within which to issue a warrant;

20 (3) The time within which to try a case for which a demand for trial has been filed;

21 (4) The time within which to hold a commitment hearing;

22 (5) A deadline or other schedule regarding the detention of a juvenile;

23 (6) The time within which to return a bill of indictment or an accusation or to bring a
24 matter before a grand jury;

25 (7) The time within which to file a writ of habeas corpus;

26 (8) The time within which discovery or any aspect thereof is to be completed;

27 (9) The time within which to serve a party;

28 (10) The time within which to appeal or to seek the right to appeal any order, ruling, or
29 other determination; and

30 (11) Such other legal proceedings as determined to be necessary by the authorized
31 judicial official.

32 38-3-63.

33 Upon an authorized judicial official issuing an order declaring the existence of a judicial
34 emergency, or any modification or extension of such an order, the authorized judicial

1 official issuing the order, modification, or extension to the extent permitted by the
2 circumstances underlying the judicial emergency shall:

3 (1) Immediately notify the Chief Justice of the Georgia Supreme Court of the action;

4 (2) Notify and serve a copy of the order, modification, or extension on the judges and
5 clerks of all courts sitting within the jurisdictions affected and on the clerks of the
6 Georgia Court of Appeals and the Georgia Supreme Court, such service to be
7 accomplished through reasonable means to assure expeditious receipt; and

8 (3) Give notice of the issuance of the order, modification, or extension to the affected
9 parties, counsel for the affected parties, and the public. Notice shall be provided by
10 whatever means are reasonably calculated to reach the affected parties, counsel for the
11 affected parties, and the public and may, without limitation, include mailing, publication
12 in a newspaper of local or state-wide distribution, posting of written notices at
13 courthouses and other public gathering sites, transmittal by facsimile or e-mail, and
14 announcements on television, radio, and public address systems.

15 38-3-64.

16 (a) Any person whose rights or interests are adversely affected by an order declaring the
17 existence of a judicial emergency or any modification or extension of such an order shall
18 be entitled to appeal.

19 (b) A notice of appeal shall be filed no later than 45 days after the expiration of the judicial
20 emergency order, or any modification or extension of a judicial emergency order, from
21 which an appeal is sought. A notice of appeal shall be filed with the clerk of a superior
22 court in any jurisdiction affected by the order and shall be served upon:

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

24 (2) The parties to any criminal proceeding or civil litigation in which the appellant is
25 involved which would be affected by the appeal;

26 (3) The district attorney of the county in which the notice of appeal is filed; and

27 (4) All other parties in any criminal proceeding or civil litigation which would be
28 affected by the appeal; provided, however, that service in this regard shall be
29 accomplished by publishing notice of the filing of the appeal in the newspaper which is
30 the legal organ for the county in which the notice of the appeal is filed.

31 (c) The appeal shall be heard immediately by the Georgia Court of Appeals under the
32 procedure of emergency motions. A party dissatisfied by the judgment of the Georgia
33 Court of Appeals may appeal as a matter of right to the Georgia Supreme Court. Filing
34 fees for these appeals shall be waived. All costs of court shall be borne by the state.
35 Appeals shall be heard expeditiously."

1 **SECTION 4.**

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

4 **SECTION 5.**

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