

The House Committee on Judiciary offers the following substitute to HB 1071:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated,
2 relating to inspection of public records, so as to provide that certain requests may be required
3 to be in writing; to provide for the award of attorney's fees to a person or entity bringing a
4 successful action to enforce compliance with the requirements relating to the inspection of
5 public records; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
10 inspection of public records, is amended by striking subsection (f) of Code Section 50-18-70,
11 relating to inspection of public records, and inserting in its place the following:

12 "(f)(1) The individual in control of such public record or records shall have a reasonable
13 amount of time to determine whether or not the record or records requested are subject
14 to access under this article and to permit inspection and copying. In no event shall this
15 time exceed three business days. Where responsive records exist but are not available
16 within three business days of the request, a written description of such records, together
17 with a timetable for their inspection and copying, shall be provided within that period;
18 provided, however, that records not subject to inspection under this article need not be
19 made available for inspection and copying or described other than as required by
20 subsection (h) of Code Section 50-18-72, and no records need be made available for
21 inspection or copying if the public officer or agency in control of such records shall have
22 obtained, within that period of three business days, an order based on an exception in this
23 article of a superior court of this state staying or refusing the requested access to such
24 records.

1 (2) An agency or public officer may pursuant to a written policy require that requests for
 2 records made pursuant to this article be submitted in writing, except that written requests
 3 shall not be required when a requesting party requests:

4 (A) An agenda, summary of matters acted upon, or minutes of an agency's or public
 5 officer's most recent meeting; or

6 (B) Any other records an agency or public officer determines, by ordinance, resolution,
 7 or other official act of the agency, to be available without a written request.

8 Where requests are required to be in writing, the party requesting the records shall be
 9 informed that the request must be made in writing. The written request may be delivered
 10 to an agency by mail, facsimile, courier, e-mail, or other delivery in person. The agency
 11 or public officer shall prepare, and make available to persons requesting records, forms
 12 upon which a person may make his or her written request, but the person shall not be
 13 required to use an agency's or public officer's form. The agency or public officer shall
 14 make a reasonable effort to assist a person making a request for records, as needed."

15 SECTION 2.

16 Said article is further amended by striking subsection (b) of Code Section 50-18-73, relating
 17 to jurisdiction to enforce the inspection of public records, attorney's fees and litigation
 18 expenses, and good faith reliance as defense to action, and inserting in its place the
 19 following:

20 "(b)(1) For purposes of this subsection, the term:

21 (A) 'Custodial party' means the person, agency, or other entity having custody of
 22 records open to the public under this article.

23 (B) 'Requesting party' means the person, firm, corporation, or other entity bringing
 24 an action against a custodial party to enforce compliance with the provisions of this
 25 article.

26 (2) In any action brought to enforce the provisions of this chapter in which the court
 27 finds in favor of the requesting party, the court shall assess in favor of the requesting
 28 party reasonable attorney's fees and other litigation costs reasonably incurred.

29 (3) In any action brought to enforce the provisions of this chapter in which the court
 30 determines that either the requesting party acted without substantial justification either
 31 in not complying with this chapter or in instituting the litigation, the court shall, unless
 32 it finds that special circumstances exist, assess in favor of the complaining custodial party
 33 reasonable attorney's fees and other litigation costs reasonably incurred. Whether the
 34 position of the complaining requesting party was substantially justified shall be
 35 determined on the basis of the record as a whole which is made in the proceeding for
 36 which fees and other expenses are sought."

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SECTION 3.

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