

House Bill 1321 (AS PASSED HOUSE AND SENATE)

By: Representatives Harbin of the 118th and Ehrhart of the 36th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia
2 Annotated, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," so as
3 to provide an additional use for Emergency Telephone System Fund moneys; to amend Code
4 Section 50-18-72, relating to exceptions to the requirement for disclosure of public records,
5 so as to provide for exemption from disclosure of certain law enforcement and emergency
6 response records which contain audio or video recordings of personal suffering; to provide
7 for release to a victim's next of kin; to provide for judicial action; to provide for notification;
8 to provide for viewing of such material by the press; to provide for disclosure under certain
9 conditions; to provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, the
13 "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," is amended by revising
14 subsection (f) of Code Section 46-5-134, relating to the establishment of the Emergency
15 Telephone System Fund, as follows:

16 "(f) In addition to cost recovery as provided in subsection (e) of this Code section, money
17 from the Emergency Telephone System Fund shall be used only to pay for:

18 (1) The lease, purchase, or maintenance of emergency telephone equipment, including
19 necessary computer hardware, software, and data base provisioning; addressing; and
20 nonrecurring costs of establishing a 9-1-1 system;

21 (2) The rates associated with the service supplier's 9-1-1 service and other service
22 supplier's recurring charges;

23 (3) The actual cost of salaries, including benefits, of employees hired by the local
24 government solely for the operation and maintenance of the emergency 9-1-1 system and
25 the actual cost of training such of those employees who work as dispatchers or who work
26 as directors as that term is defined in Code Section 46-5-138.2;

- 27 (4) Office supplies of the public safety answering points used directly in providing
 28 emergency 9-1-1 system services;
- 29 (5) The cost of leasing or purchasing a building used as a public safety answering point.
 30 Moneys from the fund ~~cannot~~ shall not be used for the construction or lease of an
 31 emergency 9-1-1 system building until the local government has completed its street
 32 addressing plan;
- 33 (6) The lease, purchase, or maintenance of computer hardware and software used at a
 34 public safety answering point, including computer-assisted dispatch systems;
- 35 (7) Supplies directly related to providing emergency 9-1-1 system services, including the
 36 cost of printing emergency 9-1-1 system public education materials; ~~and~~
- 37 (8) The lease, purchase, or maintenance of logging recorders used at a public safety
 38 answering point to record telephone and radio traffic; and
- 39 (9) The lease, purchase, or maintenance of equipment and associated hardware and
 40 software that furthers the legislative intent of providing the highest level of emergency
 41 response service on a local, regional, and state-wide basis, including equipment and
 42 associated hardware and software that supports the use of public safety wireless voice and
 43 data communication systems and the operable and interoperable communication
 44 capabilities of 9-1-1 service, but only if:
- 45 (A) The local government's 9-1-1 system provides enhanced 9-1-1 service;
- 46 (B) The revenues from 9-1-1 charges or wireless enhanced 9-1-1 charges in the local
 47 government's Emergency Telephone System Fund at the end of any fiscal year are
 48 projected to exceed the cost of providing enhanced 9-1-1 services as authorized in
 49 paragraphs (1) through (8) of this subsection;
- 50 (C) The cost of providing services referred to in subparagraph (B) of this paragraph
 51 includes a reserve amount equal to at least 10 percent of the previous year's
 52 expenditures; and
- 53 (D) Funds for such purposes are distributed pursuant to an intergovernmental
 54 agreement between the local governments whose citizens are served by the emergency
 55 9-1-1 system proportionately by population determined by using the most recently
 56 completed United States decennial census figures."

57 SECTION 2.

58 Code Section 50-18-72, relating to exceptions to the requirement for disclosure of public
 59 records, is amended by adding to subsection (a) a new paragraph to read as follows:

60 "(2.1)(A) As used in this paragraph, the term 'natural disaster' means any natural
 61 disaster for which a state of emergency is proclaimed by the Governor.

62 (B) Records of an emergency 9-1-1 system containing audio recordings when:

63 (i) Such audio recordings consist of or contain the personal suffering leading up to
64 the death of a victim of a natural disaster, including expressions of physical pain,
65 distress, or terror; and

66 (ii) Public dissemination of such records would cause emotional distress to the person
67 whose suffering was so recorded or to the family of such person.

68 (C) Records described in this paragraph shall be exempt from disclosure under this
69 article by the law enforcement agency or other agency in possession; and if such
70 records are used in evidence in any judicial or administrative proceeding, the tribunal
71 may place such records under seal or otherwise prohibit their reproduction or
72 distribution.

73 (D) This paragraph shall not prohibit disclosure of such material to the deceased's next
74 of kin or to an individual who has secured a written release from the next of kin. It
75 shall be the responsibility of the next of kin to show proof of the familial relationship.
76 For purposes of such access, the deceased's next of kin shall be:

77 (i) The spouse of the deceased if living;

78 (ii) If there is no living spouse of the deceased, an adult child of the deceased; or

79 (iii) If there is no living spouse or adult child, a parent of the deceased.

80 (E) Subject to the provisions of subparagraph (F) of this paragraph, in the case of
81 closed criminal investigations a superior court may order the disclosure of such
82 recordings upon findings in writing that disclosure is in the public interest and
83 outweighs any privacy interest that may be asserted by the deceased person's next of
84 kin. In making such determination, the court shall consider whether such disclosure is
85 necessary for public evaluation of governmental performance and the seriousness of the
86 intrusion into the family's right to privacy. In any such action, the court shall review
87 the recordings in question in camera with the custodian of crime scene materials present
88 and may condition any disclosure on such condition as the court may deem necessary
89 to accommodate the interests of the parties.

90 (F) Prior to releasing any recordings described in subparagraph (B) of this paragraph,
91 the custodian of such material shall give the deceased person's next of kin at least two
92 weeks' notice. No court shall order a disclosure pursuant to subparagraph (E) of this
93 paragraph which would disregard or shorten the duration of such notice requirement.

94 (G) The provisions of this paragraph shall apply to all undisclosed material which is
95 in the custody of a state or local agency on the effective date of this subsection and to
96 any such material which comes into the custody of a state or local agency after such
97 date.

98 (H) This paragraph shall not apply to disclosure of crime scene material to counsel
99 representing a convicted defendant in a habeas corpus action pursuant to Chapter 14 of

100 Title 9, on an extraordinary motion for new trial under Code Section 5-5-40 or 5-5-41,
101 or in a federal habeas corpus action under Section 2254 or 2255 of Title 28 of the
102 United States Code for the purpose of preparing to file or litigating such proceedings.
103 Counsel may disclose such materials to his or her client and any expert or investigator
104 assisting counsel but shall not otherwise disseminate such materials, except to the
105 extent they may be necessary exhibits in court proceedings. A request pursuant to this
106 subparagraph shall clearly state that such request is being made for the purpose of
107 preparing to file and litigate proceedings enumerated in this subparagraph."

108

SECTION 3.

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