

Senate Bill 321

By: Senators Hill of the 6th, Kirk of the 13th, Williams of the 27th, Millar of the 40th, Jones of the 25th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 10 and 50 of the Official Code of Georgia Annotated, relating to commerce
2 and trade and state government, respectively, so as to provide protections against public
3 disclosure of certain information; to expand trade secrets to include certain monetary,
4 operational, and consumption data; to change certain provisions relating to restrictions on
5 public disclosure of certain customer account information; to provide for related matters; to
6 provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is
10 amended by revising paragraph (4) of Code Section 10-1-761, relating to definitions relative
11 to the "Georgia Trade Secrets Act of 1990," as follows:

12 "(4) 'Trade secret' means information, without regard to form, including, but not limited
13 to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a
14 device, a method, a technique, a drawing, a process, financial data, financial plans,
15 product plans, monetary, operational, or consumption data related to a person's use of
16 public utilities, or a list of actual or potential customers or suppliers which is not
17 commonly known by or available to the public and which information:

18 (A) Derives economic value, actual or potential, from not being generally known to,
19 and not being readily ascertainable by proper means by, other persons who can obtain
20 economic value from its disclosure or use; and

21 (B) Is the subject of efforts that are reasonable under the circumstances to maintain its
22 secrecy."

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SECTION 2.

24 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
 25 by revising paragraph (20) of subsection (a) of Code Section 50-18-72, relating to when
 26 public disclosure not required, as follows:

27 "(20)(A) Records that reveal an individual's social security number, mother's birth
 28 name, credit card information, debit card information, bank account information,
 29 account number, utility account number, password used to access his or her account,
 30 financial data or information, insurance or medical information in all records, unlisted
 31 telephone number if so designated in a public record, personal e-mail address or cellular
 32 telephone number, day and month of birth, and information regarding public utility,
 33 television, Internet, or telephone accounts held by private customers, ~~provided that~~
 34 ~~nonitemized bills showing amounts owed and amounts paid shall be available.~~ Items
 35 exempted by this subparagraph shall be redacted prior to disclosure of any record
 36 requested pursuant to this article; provided, however, that such information shall not be
 37 redacted from such records if the person or entity requesting such records requests such
 38 information in a writing signed under oath by such person or a person legally
 39 authorized to represent such entity which states that such person or entity is gathering
 40 information as a representative of a news media organization for use in connection with
 41 news gathering and reporting; and provided, further, that such access shall be limited
 42 to social security numbers and day and month of birth; and provided, further, that the
 43 news media organization exception in this subparagraph shall not apply to paragraph
 44 (21) of this subsection.

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

46 (i) The disclosure of information contained in the records or papers of any court or
 47 derived therefrom including without limitation records maintained pursuant to Article
 48 9 of Title 11;

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

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

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

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

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

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

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

74 (ix) The disclosure of information necessary to comply with legal or regulatory
 75 requirements of the federal government or this state or for legitimate law enforcement
 76 purposes; or

77 (x) The disclosure of the date of birth within criminal records.

78 (C) Records and information disseminated pursuant to this paragraph may be used only
 79 by the authorized recipient and only for the authorized purpose. Any person who
 80 obtains records or information pursuant to the provisions of this paragraph and
 81 knowingly and willfully discloses, distributes, or sells such records or information to
 82 an unauthorized recipient or for an unauthorized purpose shall be guilty of a
 83 misdemeanor of a high and aggravated nature and upon conviction thereof shall be
 84 punished as provided in Code Section 17-10-4. Any person injured thereby shall have
 85 a cause of action for invasion of privacy.

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

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

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SECTION 3.

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

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SECTION 4.

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