

ADOPTED

Senator Tillery of the 19th offered the following amendment #1:

To amend HB 1409 (LC 48 1834S) by inserting after “laws” on line 5:

to amend Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, so as to make portions of certain records of the General Assembly subject to public disclosure; to provide jurisdiction for enforcement; to provide for attorney’s fees and litigation expenses; to provide for good faith reliance as defense to action; to provide penalties for violations; to provide procedure for commencement of prosecution; to provide for application; to provide for construction;

Then to insert before line 389 & to renumber thereafter:

SECTION 3.

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended by adding a new Code section to read as follows:

"28-1-18.

- (a) If any claim of an unlawful employment practice made against a member of the General Assembly, including, but not limited to, a claim of sexual harassment, discriminatory harassment, discrimination, or retaliation, is resolved in whole or in part by a settlement agreement, a memorandum of agreement or understanding, or other similar document, however denominated, such agreement shall be subject to public disclosure with the identity of the claimant and any other party thereto redacted, except for the identity of the member. This subsection shall be applicable to any claims made on or after January 1, 2019. The provisions of Code Section 28-4-3.1 shall not be construed to prohibit the disclosure of any such documents.
- (b) Any requests for public disclosure of such documents pursuant subsection (a) shall be made to the Office of the Speaker of the House of Representatives if such request relates to a member of the House and shall be made to the Office of the Lieutenant Governor and the Office of the President Pro Tempore if such request relates to a member of the Senate. All documents responsive to a request shall be produced within three business days of receipt of a request.
- (c) (1) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against the Speaker of the House of Representatives for documents related to members of the House and against the President of the Senate or the President Pro Tempore of the Senate for documents related to members of the Senate to enforce compliance with the provisions of subsections (a) and (b) of this Code section. Such actions may be brought by any person, firm, corporation, or other

entity. In addition, the Attorney General shall have authority to bring such actions in his or her discretion as may be appropriate to enforce compliance with subsections (a) and (b) of this Code section and to seek either civil or criminal penalties or both.

(2) In any action brought to enforce the provisions of subsections (a) and (b) of this Code section in which the court determines that either party acted without substantial justification either in not complying with subsections (a) and (b) of this Code section or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(3) Any officer named in paragraph (1) of subsection (c) knowingly and willfully violating the provisions of subsections (a) and (b) of this Code section by failing or refusing to provide access to records subject to such subsections, by knowingly and willingly failing or refusing to provide access to such records within three business days, or by knowingly and willingly frustrating or attempting to frustrate the access to records by intentionally making records difficult to obtain shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00 for the first violation. Alternatively, a civil penalty may be imposed by the court in any civil action brought pursuant to this article against any such officer who negligently violates the terms of this article in an amount not to exceed \$1,000.00 for the first violation. A civil penalty or criminal fine not to exceed \$2,500.00 per violation may be imposed for each additional violation that the violator commits within a 12 month period from the date the first penalty or fine was imposed. It shall be a defense to any criminal action under this Code section that an officer has acted in good faith in his or her actions. In addition, persons, officers, or entities that destroy records for the purpose of preventing their disclosure under this article may be subject to prosecution under Code Section 45-11-1.

(4) A prosecution under this subsection may only be commenced by issuance of a citation in the same manner as an arrest warrant for a peace officer pursuant to Code Section 17-4-40; such citation shall be personally served upon the accused. The defendant shall not be arrested prior to the time of trial, except that a defendant who fails to appear for arraignment or trial may thereafter be arrested pursuant to a bench warrant and required to post a bond for his or her future appearance.

(d) The General Assembly and its members, officers, staff, committees, commissions, and offices are not subject to the provisions of Code Sections 50-18-70 through 50-18-78 or Chapter 14 of Title 50 and nothing in this Code section shall be construed or applied to the contrary."