

SENATE SUBSTITUTE TO HB 1409**ADOPTED SENATE****A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated,
2 relating to provisions relative to parent and child relationship generally, so as to revise
3 mandated reporting of child abuse; to provide for definitions; to provide for reporting
4 requirements; to provide for the use of a secure web based reporting platform; to provide for
5 related matters; to provide an effective date; to repeal conflicting laws to amend Title 28 of
6 the Official Code of Georgia Annotated, relating to the General Assembly, so as to make
7 portions of certain records of the General Assembly subject to public disclosure; to provide
8 jurisdiction for enforcement; to provide for attorney's fees and litigation expenses; to provide
9 for good faith reliance as defense to action; to provide penalties for violations; to provide
10 procedure for commencement of prosecution; to provide for application; to provide for
11 construction;; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to
15 provisions relative to parent and child relationship generally, is amended by revising Code
16 Section 19-7-5, relating to reporting of child abuse, when mandated or authorized, content

17 of report, to whom made, immunity from liability, report based upon privileged
18 communication, penalty for failure to report, and spiritual treatment for illnesses, as follows:
19 "19-7-5.

20 (a) The purpose of this Code section is to provide for the protection of children. It is
21 intended that mandatory reporting will cause the protective services of the state to be
22 brought to bear on the situation in an effort to prevent abuses, to protect and enhance the
23 welfare of children, and to preserve family life wherever possible. This Code section shall
24 be liberally construed so as to carry out the purposes thereof.

25 (b) As used in this Code section, the term:

26 (1) 'Abandonment' means any conduct on the part of a parent, guardian, or legal
27 custodian showing an intent to forgo parental duties or relinquish parental claims. Intent
28 to forgo parental duties or relinquish parental claims may be evidenced by:

29 (A) Failure, for a period of at least six months, to communicate meaningfully with a
30 child;

31 (B) Failure, for a period of at least six months, to maintain regular visitation with a
32 child;

33 (C) Leaving a child with another person without provision for his or her support for a
34 period of at least six months;

35 (D) Failure, for a period of at least six months, to participate in any court ordered plan
36 or program designed to reunite a child with his or her parent, guardian, or legal
37 custodian;

38 (E) Leaving a child without affording means of identifying such child or his or her
39 parent, guardian, or legal custodian and:

40 (i) The identity of such child's parent, guardian, or legal custodian cannot be
41 ascertained despite diligent searching; and

42 (ii) A parent, guardian, or legal custodian has not come forward to claim such child
43 within three months following the finding of such child;

- 44 (F) Being absent from the home of his or her child for a period of time that creates a
45 substantial risk of serious harm to a child left in the home;
- 46 (G) Failure to respond, for a period of at least six months, to notice of child protective
47 proceedings; or
- 48 (H) Any other conduct indicating an intent to forgo parental duties or relinquish
49 parental claims.
- 50 (2) 'Abortion' shall have the same meaning as set forth in Code Section 15-11-681.
- 51 (3) 'Abused' means subjected to child abuse.
- 52 (4) 'Child' means any person under 18 years of age.
- 53 (5) 'Child abuse' means:
- 54 (A) Physical injury or death inflicted upon a child by a parent, guardian, legal
55 custodian, or other person responsible for the care of such child by other than accidental
56 means; provided, however, that physical forms of discipline may be used as long as
57 there is no physical injury to the child;
- 58 (B) Neglect of a child by a parent, guardian, legal custodian, or other person
59 responsible for the care of such child;
- 60 (C) Emotional abuse of a child;
- 61 (D) Sexual abuse or sexual exploitation of a child;
- 62 (E) Prenatal abuse of a child by a parent;
- 63 (F) An act or failure to act that presents an imminent risk of serious harm to the child's
64 physical, mental, or emotional health; or
- 65 (G) Trafficking a child for labor servitude.
- 66 (6) 'Child service organization personnel' means persons employed by or volunteering
67 at a business or an organization, whether public, private, for profit, not for profit, or
68 voluntary, that provides care, treatment, education, training, supervision, coaching,
69 counseling, recreational programs, or shelter to children.

- 70 (7) 'Clergy' means ministers, priests, rabbis, imams, or similar functionaries, by whatever
71 name called, of a bona fide religious organization.
- 72 (8) 'Emotional abuse' means acts or omissions by a parent, guardian, legal custodian, or
73 other person responsible for the care of a child that cause any mental injury to such child's
74 intellectual or psychological capacity as evidenced by an observable and significant
75 impairment in such child's ability to function within a child's normal range of
76 performance and behavior or that create a substantial risk of impairment.
- 77 (9) 'Labor servitude' means work or service of economic or financial value which is
78 performed or provided by another individual and is induced or obtained by coercion or
79 deception.
- 80 (10) 'Legal custodian' means:
- 81 (A) A person to whom legal custody of a child has been given by order of a court; or
82 (B) A public or private agency or other private organization licensed or otherwise
83 authorized by law to receive and provide care for a child to which legal custody of such
84 child has been given by order of a court.
- 85 (11) 'Neglect' means:
- 86 (A) The failure to provide proper parental care or control, subsistence, education as
87 required by law, or other care or control necessary for a child's physical, mental, or
88 emotional health or morals;
- 89 (B) The failure to provide a child with adequate supervision necessary for such child's
90 well-being; or
- 91 (C) The abandonment of a child by his or her parent, guardian, or legal custodian.
- 92 (12) 'Person responsible for the care of a child' means:
- 93 (A) An adult member of a child's household;
- 94 (B) A person exercising supervision over a child for any part of the 24 hour day; or
- 95 (C) Any adult who, based on his or her relationship to the parent, guardian, or legal
96 custodian or a member of a child's household, has access to such child.

- 97 (13) 'Pregnancy resource center' means an organization or facility that:
- 98 (A) Provides pregnancy counseling or information as its primary purpose, either for a
- 99 fee or as a free service;
- 100 (B) Does not provide or refer for abortions;
- 101 (C) Does not provide or refer for FDA approved contraceptive drugs or devices; and
- 102 (D) Is not licensed or certified by the state or federal government to provide medical
- 103 or health care services and is not otherwise bound to follow the federal Health
- 104 Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or
- 105 federal laws relating to patient confidentiality.
- 106 (14) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful
- 107 use of any controlled substance, as such term is defined in Code Section 16-13-21, which
- 108 results in:
- 109 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance
- 110 or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the
- 111 result of medical treatment; or
- 112 (B) Medically diagnosed and harmful effects in a newborn's physical appearance or
- 113 functioning.
- 114 (15) 'Reproductive health care facility' means any office, clinic, or any other physical
- 115 location that provides abortions, abortion counseling, abortion referrals, or gynecological
- 116 care and services.
- 117 (16) 'Secure web based platform' means a type of software that allows for the secure
- 118 creation and transmission of reports required by this Code section.
- 119 ~~(16)~~(17) 'School' means any public or private pre-kindergarten, elementary school,
- 120 secondary school, technical school, vocational school, college, university, or institution
- 121 of postsecondary education.

122 ~~(17)~~(18) 'Sexual abuse' means a person's employing, using, persuading, inducing,
123 enticing, or coercing any minor who is not such person's spouse to engage in any act
124 which involves:

125 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
126 oral-anal, whether between persons of the same or opposite sex;

127 (B) Bestiality;

128 (C) Masturbation;

129 (D) Lewd exhibition of the genitals or pubic area of any person;

130 (E) Flagellation or torture by or upon a person who is nude;

131 (F) Condition of being fettered, bound, or otherwise physically restrained on the part
132 of a person who is nude;

133 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
134 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
135 or unclothed breasts;

136 (H) Defecation or urination for the purpose of sexual stimulation;

137 (I) Penetration of the vagina or rectum by any object except when done as part of a
138 recognized medical procedure; or

139 (J) Any act described by subsection (c) of Code Section 16-5-46.

140 Sexual abuse shall include consensual sex acts when the sex acts are between minors if
141 any individual is less than 14 years of age; provided, however, that it shall not include
142 consensual sex acts when the sex acts are between a minor and an adult who is not more
143 than four years older than the minor. This provision shall not be deemed or construed to
144 repeal any law concerning the age or capacity to consent.

145 ~~(18)~~(19) 'Sexual exploitation' means conduct by any person who allows, permits,
146 encourages, or requires a child to engage in:

147 (A) Sexual servitude, as defined in Code Section 16-5-46; or

148 (B) Sexually explicit conduct for the purpose of producing any visual or print medium
149 depicting such conduct, as defined in Code Section 16-12-100.

150 (c)(1) The following persons having reasonable cause to believe that suspected child
151 abuse has occurred shall report or cause reports of such abuse to be made as provided in
152 this Code section:

153 (A) Physicians licensed to practice medicine, physician assistants, interns, or residents;

154 (B) Hospital or medical personnel;

155 (C) Dentists;

156 (D) Licensed psychologists and persons participating in internships to obtain licensing
157 pursuant to Chapter 39 of Title 43;

158 (E) Podiatrists;

159 (F) Registered professional nurses or licensed practical nurses licensed pursuant to
160 Chapter 26 of Title 43 or nurse's aides;

161 (G) Professional counselors, social workers, or marriage and family therapists licensed
162 pursuant to Chapter 10A of Title 43;

163 (H) School teachers;

164 (I) School administrators;

165 (J) School counselors, visiting teachers, school social workers, or school psychologists
166 certified pursuant to Chapter 2 of Title 20;

167 (K) Child welfare agency personnel, as such agency is defined in Code
168 Section 49-5-12;

169 (L) Child-counseling personnel;

170 (M) Child service organization personnel;

171 (N) Law enforcement personnel; or

172 (O) Firefighters, as defined in Code Section 25-4-2, including career and volunteer
173 firefighters certified or recognized by the Georgia Firefighter Standards and Training

174 Council or its successor, who have reasonable cause to believe that suspected child
175 abuse or neglect has occurred or is occurring while acting in their official capacity;

176 (P) Animal service workers, including animal control officers as defined in Code
177 Section 4-11-2, humane society employees, animal cruelty investigators, and animal
178 shelter personnel whose professional duties may bring them into contact with children
179 or household conditions indicative of child abuse or neglect; or

180 ~~(P)~~(Q) Reproductive health care facility or pregnancy resource center personnel and
181 volunteers.

182 (2) If a person is required to report child abuse pursuant to this subsection because such
183 person attends to a child pursuant to such person's duties as an employee of or volunteer
184 at a hospital, school, social agency, or similar facility, such person shall notify the person
185 in charge of such hospital, school, agency, or facility, or the designated delegate thereof,
186 and the person so notified shall report or cause a report to be made in accordance with
187 this Code section. An employee or volunteer who makes a report to the person
188 designated pursuant to this paragraph shall be deemed to have fully complied with this
189 subsection. Under no circumstances shall any person in charge of such hospital, school,
190 agency, or facility, or the designated delegate thereof, to whom such notification has been
191 made exercise any control, restraint, or modification or make any other change to the
192 information provided by the reporter, although each of the aforementioned persons may
193 be consulted prior to the making of a report and may provide any additional, relevant, and
194 necessary information when making the report.

195 (3) When a person identified in paragraph (1) of this subsection has reasonable cause to
196 believe that child abuse has occurred involving a person who attends to a child pursuant
197 to such person's duties as an employee of or volunteer at a hospital, school, social agency,
198 or similar facility, the person who received such information shall notify the person in
199 charge of such hospital, school, agency, or facility, or the designated delegate thereof, and
200 the person so notified shall report or cause a report to be made in accordance with this

201 Code section. An employee or volunteer who makes a report to the person designated
202 pursuant to this paragraph shall be deemed to have fully complied with this subsection.
203 Under no circumstances shall any person in charge of such hospital, school, agency, or
204 facility, or the designated delegate thereof, to whom such notification has been made
205 exercise any control, restraint, or modification or make any other change to the
206 information provided by the reporter, although each of the aforementioned persons may
207 be consulted prior to the making of a report and may provide any additional, relevant, and
208 necessary information when making the report.

209 (d) Any other person, other than one specified in subsection (c) of this Code section, who
210 has reasonable cause to believe that suspected child abuse has occurred may report or cause
211 reports to be made as provided in this Code section.

212 (e)(1) As used in the subsection, the term:

213 (A) 'Active duty' means full-time duty status.

214 (B) 'Armed forces of the United States' or 'military' means the United States Army,
215 United States Navy, United States Marine Corps, United States Coast Guard, United
216 States Air Force, United States Space Force, United States National Guard, Georgia
217 Army National Guard, or Georgia Air National Guard, or a reserve component thereof.

218 (C) 'Family advocacy program' means, for the particular branch, the program
219 established by the military for the prevention, education, prompt reporting,
220 investigation, intervention, or treatment of spouse or child abuse.

221 (D) 'Military law enforcement' means, for the particular branch, the police corps,
222 division, branch, agency, or authority of the military responsible for law enforcement
223 or force protection.

224 (2) ~~With respect to reporting Reports required by subsection (c) of this Code section, an~~
225 ~~oral report by telephone or other oral communication or a written report by electronic~~
226 ~~submission or facsimile shall:~~

227 (A) Shall be made immediately, but in no case later than 24 hours from the time there
228 is reasonable cause to believe that suspected child abuse has occurred;

229 (B) If the report is made by telephone or other oral communication, it shall be made
230 to the Division of Family and Children Services of the Department of Human Services,
231 a child welfare agency providing protective services, as designated by the Division of
232 Family and Children Services of the Department of Human Services or, in the absence
233 of such agency, to an appropriate police authority, military law enforcement, or district
234 attorney. All telephonic or other oral reports shall be followed by a later written report
235 submitted to the Division of Family and Children Services of the Department of Human
236 Services as specified in subparagraph (C) of this paragraph;

237 (C) All written reports ~~When a report is being made by electronic submission or~~
238 ~~facsimile to the Division of Family and Children Services of the Department of Human~~
239 ~~Services, it shall be done shall be made in the manner specified by the division. Oral~~
240 ~~reports shall be followed by a later report in writing, if requested, to a child welfare~~
241 ~~agency providing protective services, as designated by the Division of Family and~~
242 ~~Children Services of the Department of Human Services, or, in the absence of such~~
243 ~~agency, to an appropriate police authority or district attorney. this subparagraph as~~
244 follows:

245 (i) The Division of Family and Children Services of the Department of Human
246 Services shall make its website and a model form for reports available for any person
247 to complete and securely submit a report to the division;

248 (ii) The Division of Family and Children Services of the Department of Human
249 Services shall allow persons specified in subsection (c) of this Code section to submit
250 reports directly to the division through the division's website or to the division
251 through a secure web based platform;

252 (iii) Such report shall be provided to military law enforcement, if applicable, through
253 a method or methods identified by military law enforcement; and

254 (iv) If a report of child abuse is made to or received by the child welfare agency or
255 if the report is independently discovered by the agency, and the agency has reasonable
256 cause to believe such report is true or the report contains any allegation or evidence
257 of child abuse, then the agency shall immediately notify the appropriate police
258 authority or district attorney and notify military law enforcement, if applicable; and
259 (D) Reports required by this Code section ~~Such reports~~ shall contain the names and
260 addresses of the child and the child's parents or caretakers, if known, the child's age, the
261 nature and extent of the child's injuries, including any evidence of previous injuries;
262 The reporting mechanism and model form created by the Division of Family and
263 Children Services of the Department of Human Services shall also permit the person
264 completing the report to provide and any other information that the reporting person
265 believes might be helpful in establishing the cause of the injuries and the identity of the
266 perpetrator. A secure web based platform may utilize prompts or other methods to
267 assist the person completing the report to provide information deemed relevant or
268 important. Photographs of the child's injuries to be used as documentation in support
269 of allegations by hospital employees or volunteers, physicians, law enforcement
270 personnel, school officials, or employees or volunteers of legally mandated public or
271 private child protective agencies may be taken without the permission of the child's
272 parent or guardian. Such photographs shall be made available as soon as possible to the
273 chief welfare agency providing protective services, the appropriate police authority, and
274 military law enforcement.

275 (3) A report made in accordance with this subsection shall be received by the receiving
276 agency and thoroughly evaluated to determine child safety and whether an allegation of
277 child abuse exists. A report will be screened in or screened out based only on the criteria
278 set forth in law. The Division of Family and Children Services of the Department of
279 Human Services shall not refuse to receive, log, or process a report submitted via the
280 division website or a secure web based platform that satisfies subsection (k) of this Code

281 section. Reports shall thereafter be screened in or screened out based solely on whether
282 the child maltreatment allegations satisfy the definition of child abuse or neglect criteria
283 and applicable law and policy without regard to the manner or method of submission.

284 ~~(3)~~(4) For each child who is the subject of child abuse allegations, the child welfare
285 agency as provided for in paragraph (1) of this subsection shall make efforts as soon as
286 practicable to determine whether a parent or guardian of such child is on active duty in
287 the armed forces of the United States. If such agency determines that a parent or
288 guardian of such child is on active duty in the armed forces of the United States, such
289 agency shall notify the applicable military installation's family advocacy program of the
290 allegation of child abuse that relates to the parent or guardian of such child.

291 (5) By January 1, 2027, the department shall review and update the applicable chapters
292 of its Child Welfare Policy Manual that address and set forth criteria and standards
293 relevant to the intake, disposition, and investigation of reports of abuse or neglect. Any
294 revisions to the Child Welfare Policy Manual based on this paragraph shall be consistent
295 with the provisions of this Code section.

296 (f) Any person or persons, partnership, firm, corporation, association, hospital, or other
297 entity participating in the making of a report or causing a report to be made, and individuals
298 who otherwise provide information or assistance, including, but not limited to, medical
299 evaluations or consultations, in connection with a report made to a child welfare agency
300 providing protective services, an appropriate police authority, or military law enforcement
301 pursuant to this Code section or any other law or participating in any judicial proceeding
302 or any other proceeding resulting therefrom shall in so doing be immune from any civil or
303 criminal liability that might otherwise be incurred or imposed, provided that such
304 participation pursuant to this Code section or any other law is made in good faith. Any
305 person making a report, whether required by this Code section or not, shall be immune
306 from liability as provided in this subsection.

307 (g) Suspected child abuse which is required to be reported by any person pursuant to this
308 Code section shall be reported notwithstanding that the reasonable cause to believe such
309 abuse has occurred or is occurring is based in whole or in part upon any communication
310 to that person which is otherwise made privileged or confidential by law; provided,
311 however, that a member of the clergy shall not be required to report child abuse reported
312 solely within the context of confession or other similar communication required to be kept
313 confidential under church doctrine or practice. When a clergy member receives
314 information about child abuse from any other source, the clergy member shall comply with
315 the reporting requirements of this Code section, even though the clergy member may have
316 also received a report of child abuse from the confession of the perpetrator.

317 (h) Any person or official required by subsection (c) of this Code section to report a
318 suspected case of child abuse who knowingly and willfully fails to do so shall be guilty of
319 a misdemeanor.

320 (i) A report of child abuse or information relating thereto and contained in such report,
321 when provided to a law enforcement agency or district attorney pursuant to subsection (e)
322 of this Code section or pursuant to Code Section 49-5-41, shall not be subject to public
323 inspection under Article 4 of Chapter 18 of Title 50 even though such report or information
324 is contained in or part of closed records compiled for law enforcement or prosecution
325 purposes unless:

326 (1) There is a criminal or civil court proceeding which has been initiated based in whole
327 or in part upon the facts regarding abuse which are alleged in the child abuse reports and
328 the person or entity seeking to inspect such records provides clear and convincing
329 evidence of such proceeding; or

330 (2) The superior court in the county in which is located the office of the law enforcement
331 agency or district attorney which compiled the records containing such reports, after
332 application for inspection and a hearing on the issue, shall permit inspection of such
333 records by or release of information from such records to individuals or entities who are

334 engaged in legitimate research for educational, scientific, or public purposes and who
335 comply with the provisions of this paragraph. When those records are located in more
336 than one county, the application may be made to the superior court of any one of such
337 counties. A copy of any application authorized by this paragraph shall be served on the
338 office of the law enforcement agency or district attorney which compiled the records
339 containing such reports. In cases where the location of the records is unknown to the
340 applicant, the application may be made to the Superior Court of Fulton County. The
341 superior court to which an application is made shall not grant the application unless:

342 (A) The application includes a description of the proposed research project, including
343 a specific statement of the information required, the purpose for which the project
344 requires that information, and a methodology to assure the information is not arbitrarily
345 sought;

346 (B) The applicant carries the burden of showing the legitimacy of the research project;
347 and

348 (C) Names and addresses of individuals, other than officials, employees, or agents of
349 agencies receiving or investigating a report of abuse which is the subject of a report,
350 shall be deleted from any information released pursuant to this subsection unless the
351 court determines that having the names and addresses open for review is essential to the
352 research and the child, through his or her representative, gives permission to release the
353 information.

354 (j) The treatment of a child in good faith solely by spiritual means through prayer in
355 accordance with the tenets and practices of a recognized church or religious denomination
356 by a duly accredited practitioner thereof shall not in and of itself be considered child abuse.

357 (k)(1) Agencies that employ mandated reporters may authorize its employees to create
358 or transmit reports required by this Code section through a secure web based platform
359 designated by the agency. An agency may only designate one secure web based platform

360 for its employees to use to create or transmit the reports, and the agency may designate
361 a secure web based platform if:

362 (A) The secure web based platform functions in compliance with applicable federal
363 law; and

364 (B) The agency is satisfied that the secure web based platform complies with the
365 Health Insurance Portability and Accountability Act, Federal Bureau of Investigation's
366 Criminal Justice Information Services Security Policy, or Family Educational Rights
367 and Privacy Act, as applicable;

368 (C) The secure web based platform provider demonstrates to the agency that it has
369 been deemed compliant with the relevant security standard by a federal, state, or local
370 government agency or by a third party that has been approved by a federal, state, or
371 local government agency for security and compliance attestation; or

372 (D) The secure web based platform meets all technical standards and specifications
373 established by the Georgia Technology Authority.

374 (2) A reporting agency that utilizes a secure web based platform shall notify the Division
375 of Family and Children Services of the Department of Human Services not less than ten
376 days before implementing the secure web based platform. The notice shall identify the
377 name of the secure web based platform provider and any domain names utilized by the
378 secure web based platform to submit reports.

379 (l) Mandatory reporting training shall be required for users of any secure web based
380 platform used to submit reports under this Code section. Training requirements may be
381 satisfied by a course provided either by the Division of Family and Children Services of
382 the Department of Human Services or by an organization with demonstrated subject matter
383 expertise in mandated reporting, including accredited continuing education providers, law
384 enforcement training entities, school training entities, or child advocacy organizations. The
385 Division of Family and Children Services of the Department of Human Services may
386 publish learning objectives, but shall not require platform specific training, exclusive

387 delivery methods, or requirements that have the effect of excluding otherwise compliant
388 platforms.

389 (m) Nothing in this Code section shall require the department to take an action for which
390 it has not received notice from an appropriate federal agency that such action would not
391 comply with federal law."

392 **SECTION 2.**

393 Section 1 shall become effective on July 1, 2027.

394 **SECTION 3.**

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

397 "28-1-18.

398 (a) If any claim of an unlawful employment practice made against a member of the General
399 Assembly, including, but not limited to, a claim of sexual harassment, discriminatory
400 harassment, discrimination, or retaliation, is resolved in whole or in part by a settlement
401 agreement, a memorandum of agreement or understanding, or other similar document,
402 however denominated, such agreement shall be subject to public disclosure with the
403 identity of the claimant and any other party thereto redacted, except for the identity of
404 the member. This subsection shall be applicable to any claims made on or after January
405 1, 2019. The provisions of Code Section 28-4-3.1 shall not be construed to prohibit the
406 disclosure of any such documents.

407 (b) Any requests for public disclosure of such documents pursuant subsection (a) shall be
408 made to the Office of the Speaker of the House of Representatives if such request
409 relates to a member of the House and shall be made to the Office of the Lieutenant
410 Governor and the Office of the President Pro Tempore if such request relates to a

411 member of the Senate. All documents responsive to a request shall be produced within
412 three business days of receipt of a request.

413 (c) (1) The superior courts of this state shall have jurisdiction in law and in equity to
414 entertain actions against the Speaker of the House of Representatives for documents
415 related to members of the House and against the President of the Senate or the President
416 Pro Tempore of the Senate for documents related to members of the Senate to enforce
417 compliance with the provisions of subsections (a) and (b) of this Code section. Such
418 actions may be brought by any person, firm, corporation, or other entity. In addition,
419 the Attorney General shall have authority to bring such actions in his or her discretion
420 as may be appropriate to enforce compliance with subsections (a) and (b) of this Code
421 section and to seek either civil or criminal penalties or both.

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

430 (3) Any officer named in paragraph (1) of subsection (c) knowingly and willfully
431 violating the provisions of subsections (a) and (b) of this Code section by failing or
432 refusing to provide access to records subject to such subsections, by knowingly and
433 willingly failing or refusing to provide access to such records within three business
434 days, or by knowingly and willingly frustrating or attempting to frustrate the access to
435 records by intentionally making records difficult to obtain shall be guilty of a
436 misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00
437 for the first violation. Alternatively, a civil penalty may be imposed by the court in any

438 civil action brought pursuant to this article against any such officer who negligently
439 violates the terms of this article in an amount not to exceed \$1,000.00 for the first
440 violation. A civil penalty or criminal fine not to exceed \$2,500.00 per violation may
441 be imposed for each additional violation that the violator commits within a 12 month
442 period from the date the first penalty or fine was imposed. It shall be a defense to any
443 criminal action under this Code section that an officer has acted in good faith in his or
444 her actions. In addition, persons, officers, or entities that destroy records for the
445 purpose of preventing their disclosure under this article may be subject to prosecution
446 under Code Section 45-11-1.

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

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

457 (e) This Act shall become effective upon signature of the Governor except as for Section 1.

458

SECTION 4.

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