

50-18-36. Upon expiration of contract, publisher authorized to sell reports; price.

Upon the expiration of his contract, the publisher may sell all unsold copies of the reports to any person, firm, corporation, or entity, public or private. The price of any such copies shall remain the same as fixed by the contract under which such copies were published. (Ga. L. 1920, p. 237, § 12; Code 1933, § 90-221; Code 1933, § 90-217, enacted by Ga. L. 1972, p. 460, § 1; Ga. L. 1982, p. 892, §§ 3, 6.)

ARTICLE 3

GOVERNMENT DOCUMENTS

50-18-50 through 50-18-55.

Reserved. Repealed by Ga. L. 2001, p. 800, § 1, effective July 1, 2001.

Editor's notes. — This article, consisting of Code Sections 50-18-50 through 50-18-55, relating to the Georgia Government Documents Act, was based on Ga. L. 1968, p. 1186, §§ 1, 2, and 4 through 7, Ga. L. 1971, p. 216, §§ 1, 2, and 4 through 7, Ga. L. 1972, p. 1015, § 405, and Ga. L. 1992, p. 6, § 50.

ARTICLE 4

INSPECTION OF PUBLIC RECORDS

Cross references. — Inspection of files and records relating to juvenile court proceedings, § 15-11-58. Furnishing information to out-of-state coroners, § 45-16-10. Limited disclosure of autopsy photographs, § 45-16-27.

Law reviews. — For article surveying recent developments in administrative law, see 39 Mercer L. Rev. 33 (1987). For article,

“State Administrative Agency Contested Case Hearings,” see 24 Ga. St. B.J. 193 (1988). For article, “Georgia’s Open Records and Open Meetings Laws: A Continued March Toward Government in the Sunshine,” see 40 Mercer L. Rev. 1 (1988). Education Law, see 53 Mercer L. Rev. 281 (2001). Local Government Law, see 53 Mercer L. Rev. 389 (2001).

JUDICIAL DECISIONS

Denial of defendant’s motion to inspect files. — Where defendant filed a post-trial motion to inspect the state’s files on the cases of two codefendants, who, by the time this motion was made, had been acquitted, and the state responded that, assuming its files were “public records” within the meaning of the law, these cases were still under investigation for possible federal prosecutions, the trial court did not err when it denied the defendant’s motion. *Castell v.*

State, 250 Ga. 776, 301 S.E.2d 234 (1983), *aff’d*, 252 Ga. 418, 314 S.E.2d 210 (1984).

Applicability of article. — O.C.G.A. Art. 4, Ch. 18, T. 50 does not provide for open and affirmative disclosure of county official’s communications with the official’s attorney or for disclosure by county sheriff of sheriff’s policies with respect to training deputies. *Dodson v. Floyd*, 529 F. Supp. 1056 (N.D. Ga. 1981).

OPINIONS OF THE ATTORNEY GENERAL

Information concerning degrees and awards by University of Georgia. — Unless and until the University of Georgia designates information concerning degrees and awards to be directory information, as defined by 20 U.S.C. § 1232g(b)(1), gives public notice and allows reasonable time for response, or until student consents to release of such information, 20 U.S.C. § 1232g, the Family Educational and Privacy Rights Act, requires the information to remain confidential. Thus, the Open Records Act of O.C.G.A. Art. 4, Ch. 18, T. 50 does not require disclosure of such information. 1981 Op. Att’y Gen. No. 81-48.

Salary information of county employee accessible to public. — Where salary information of county employee is contained solely within employee’s personnel file, it is not accessible to public; however, where such information is included as part of an-

other public record, it is accessible to public. 1981 Op. Att’y Gen. No. U81-40.

Availability of content of personnel record to employee concerned. — While writings of sort traditionally found in personnel files are not ordinarily available to faculty member or employees concerned by virtue of O.C.G.A. Art. 4, Ch. 18, T. 50 in and of itself, they could be obtained by faculty member or employee through routine “discovery” procedures (e.g., subpoenas or notices to produce), and in many instances, at least in absence of some valid claim of privilege or breach of some right of privacy or confidentiality of someone other than faculty member or employee requesting access, the more prudent course of action would be to make same available even where not “required” by letter of that article. 1981 Op. Att’y Gen. No. 81-71.

50-18-70. Inspection of public records; printing of computerized indexes of county real estate deed records; time for determination of whether requested records are subject to access; electronic access to records.

(a) As used in this article, the term “public record” shall mean all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, or similar material prepared and maintained or received in the course of the operation of a public office or agency. “Public record” shall also mean such items received or maintained by a private person or entity on behalf of a public office or agency which are not otherwise subject to protection from disclosure; provided, however, this Code section shall be construed to disallow an agency’s placing or causing such items to be placed in the hands of a private person or entity for the purpose of avoiding disclosure. Records received or maintained by a private person, firm, corporation, or other private entity in the performance of a service or function for or on behalf of an agency, a public agency, or a public office shall be subject to disclosure to the same extent that such records would be subject to disclosure if received or maintained by such agency, public agency, or public office. As used in this article, the term “agency” or “public agency” or “public office” shall have the same meaning and application as provided for in the definition of the term “agency” in paragraph (1) of subsection (a) of Code Section 50-14-1 and shall additionally include any association, corporation, or other similar organization which: (1) has a membership or ownership body composed primarily of counties, municipal corporations, or school districts of this

state or their officers or any combination thereof; and (2) derives a substantial portion of its general operating budget from payments from such political subdivisions.

(b) All public records of an agency as defined in subsection (a) of this Code section, except those which by order of a court of this state or by law are prohibited or specifically exempted from being open to inspection by the general public, shall be open for a personal inspection by any citizen of this state at a reasonable time and place; and those in charge of such records shall not refuse this privilege to any citizen.

(c) Any computerized index of a county real estate deed records shall be printed for purposes of public inspection no less than every 30 days and any correction made on such index shall be made a part of the printout and shall reflect the time and date that said index was corrected.

(d) No public officer or agency shall be required to prepare reports, summaries, or compilations not in existence at the time of the request.

(e) In a pending proceeding under Chapter 13 of this title, the "Georgia Administrative Procedure Act," or under any other administrative proceeding authorized under Georgia law, a party may not access public records pertaining to the subject of the proceeding pursuant to this article without the prior approval of the presiding administrative law judge, who shall consider such open record request in the same manner as any other request for information put forth by a party in such a proceeding. This subsection shall not apply to any proceeding under Chapter 13 of this title, relating to the revocation, suspension, annulment, withdrawal, or denial of a professional education certificate, as defined in Code Section 20-2-200, or any personnel proceeding authorized under Part 7 and Part 11 of Article 17 and Article 25 of Chapter 2 of Title 20.

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

(g) At the request of the person, firm, corporation, or other entity requesting such records, records maintained by computer shall be made

available where practicable by electronic means, including Internet access, subject to reasonable security restrictions preventing access to nonrequested or nonavailable records. (Ga. L. 1959, p. 88, § 1; Code 1981, § 50-18-70; Ga. L. 1982, p. 1789, § 1; Ga. L. 1988, p. 243, § 1; Ga. L. 1992, p. 1061, § 5; Ga. L. 1992, p. 1545, § 1; Ga. L. 1992, p. 2829, § 2; Ga. L. 1993, p. 1394, § 2; Ga. L. 1993, p. 1436, §§ 1, 2; Ga. L. 1994, p. 618, § 1; Ga. L. 1998, p. 128, § 50; Ga. L. 1999, p. 552, §§ 1, 2.)

Cross references. — Right of shareholders to inspect books and records of corporations, § 14-2-1602. Confidentiality of records relating to adoption proceedings, § 19-8-18. Opening of primary and election records of Secretary of State for inspection by public, § 21-2-51. Opening of primary and election records of election superintendents for inspection by public, § 21-2-72. Disclosure and publication of vital records, § 31-10-25. Inspection of motor vehicle records, § 40-3-24. Confidentiality of reports, files, etc., relating to probation, § 42-8-40. Confidentiality of records of State Board of Pardons and Paroles, § 42-9-53. Limited disclosure of autopsy photographs, § 45-16-27. Confidentiality of income tax information, §§ 48-7-60, 48-7-61.

Code Commission notes. — Ga. L. 1992, p. 1061, § 5, added new subsections (d) and (e). Ga. L. 1992, p. 1545, § 1, added new subsection (c) and redesignated former subsection (c) as subsection (d). Ga. L. 1992, p. 2829, § 2, added a new subsection (d). Pursuant to Code Section 28-9-5, in 1992, former subsection (c) was redesignated as subsection (f), and the new subsection added by Ga. L. 1992, p. 2829, § 2, was redesignated as subsection (g).

Law reviews. — For article discussing the right of access to public records of local government, see 13 Ga. L. Rev. 97 (1978). For article, "Informational Privacy Under the Open Records Act," see 32 Mercer L. Rev. 393 (1980). For article surveying developments in Georgia local government law from mid-1980 through mid-1981, see 33 Mercer L. Rev. 187 (1981). For annual survey of administrative law, see 38 Mercer L. Rev. 17 (1986). For annual survey of state and local taxation, see 38 Mercer L. Rev. 337 (1986). For annual survey on local government law, see 42 Mercer L. Rev. 359 (1990). For annual survey of local government law, see 44 Mercer L. Rev. 309 (1992). For survey article on administrative law for the period from June 1, 1997 through May 31, 1999, see 51 Mercer L. Rev. 103 (1999). For annual survey article discussing developments in education law, see 52 Mercer L. Rev. 221 (2000).

For note on 1992 amendment of this Code section, see 9 Ga. St. U.L. Rev. 344 (1992). For note on the 1994 amendment of this Code section, see 11 Ga. St. U.L. Rev. 265 (1994). For notes on 1999 amendments to sections in this article, see 16 Ga. St. U.L. Rev. 262, 268 (1999).

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

PUBLIC RECORDS

BALANCING OF INTERESTS

EXCEPTIONS

General Consideration

Legislative intent. — Intent of General Assembly was to afford to public at large access to public records, with the exceptions of certain information which is exempt from

disclosure. *Griffin-Spalding County Hosp. Auth. v. Radio Station WKEU*, 240 Ga. 444, 241 S.E.2d 196 (1978).

The General Assembly did not intend that all public records of law enforcement officers and officials be open for inspection by a

right to receive information in particular medium or format, 86 ALR4th 786.

Propriety of publishing identity of sexual assault victim, 40 ALR5th 787.

What are "records" of agency which must be made available under Freedom of Information Act (5 USCA § 552(a)(3)), 153 ALR Fed. 571.

Actions brought under Freedom of Information Act, 5 U.S.C.A. §§ 522 et seq. — Supreme Court cases, 167 ALR Fed. 545.

What constitutes "agency" for purposes of Freedom of Information Act (5 U.S.C.A. § 552), 165 ALR Fed. 591.

50-18-71. Right of access to make photographs or reproductions.

(a) In all cases where an interested member of the public has a right to inspect or take extracts or make copies from any public records, instruments, or documents, any such person shall have the right of access to the records, documents, or instruments for the purpose of making photographs or reproductions of the same while in the possession, custody, and control of the lawful custodian thereof, or his authorized deputy. Such work shall be done under the supervision of the lawful custodian of the records, who shall have the right to adopt and enforce reasonable rules governing the work. The work shall be done in the room where the records, documents, or instruments are kept by law. While the work is in progress, the custodian may charge the person making the photographs or reproductions of the records, documents, or instruments at a rate of compensation to be agreed upon by the person making the photographs and the custodian for his services or the services of a deputy in supervising the work.

(b) Where fees for certified copies or other copies or records are specifically authorized or otherwise prescribed by law, such specific fee shall apply.

(c) Where no fee is otherwise provided by law, the agency may charge and collect a uniform copying fee not to exceed 25¢ per page.

(d) In addition, a reasonable charge may be collected for search, retrieval, and other direct administrative costs for complying with a request under this Code section. The hourly charge shall not exceed the salary of the lowest paid full-time employee who, in the discretion of the custodian of the records, has the necessary skill and training to perform the request; provided, however, that no charge shall be made for the first quarter hour.

(e) An agency shall utilize the most economical means available for providing copies of public records.

(f) Where information requested is maintained by computer, an agency may charge the public its actual cost of a computer disk or tape onto which the information is transferred and may charge for the administrative time involved as set forth in subsection (d) of this Code section.

(g) Whenever any person has requested one or more copies of a public record and such person does not pay the copying charges and charges for

search, retrieval, or other direct administrative costs in accordance with the provisions of this Code section:

(1) A county or a department, agency, board, bureau, commission, authority, or similar body of a county is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to the county;

(2) A municipal corporation or a department, agency, board, bureau, commission, authority, or similar body of a municipal corporation is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to the municipal corporation;

(3) A consolidated government or a department, agency, board, bureau, commission, authority, or similar body of a consolidated government is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to the consolidated government;

(4) A county school board or a department, agency, board, bureau, commission, authority, or similar body of a county school board is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to the county;

(5) An independent school board or a department, agency, board, bureau, commission, authority, or similar body of an independent school board is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to the municipal corporation; and

(6) A joint or regional authority or instrumentality which serves one or more counties and one or more municipal corporations, two or more counties, or two or more municipal corporations is authorized to collect such charges in any manner authorized by law for the collection of taxes, fees, or assessments owed to the county if a county is involved with the authority or instrumentality or in any manner authorized by law for the collection of taxes, fees, or assessments owed to the municipal corporation if a municipal corporation is involved with the authority or instrumentality.

This subsection shall apply whether or not the person requesting the copies has appeared to receive the copies. (Ga. L. 1959, p. 88, § 2; Ga. L. 1982, p. 1789, § 1; Ga. L. 1988, p. 243, § 2; Ga. L. 1992, p. 1061, § 6; Ga. L. 1996, p. 313, § 1.)

Law reviews. — For note on 1992 amendment of this Code section, see 9 Ga. St. U.L. Rev. 344 (1992).

institutions may prepare and furnish copies to requesting parties free or for a fee, if they want to. 1981 Op. Att'y Gen. No. 81-71.

No disclosure of information from records by telephone. — Records may be

made available for inspection by members of the public who might come in and make a request, but no such information is to be given by telephone. 1965-66 Op. Att'y Gen. No. 66-88.

RESEARCH REFERENCES

Am. Jur. 2d. — 66 Am. Jur. 2d, Records and Recording Laws, §§ 19, 20.

C.J.S. — 76 C.J.S., Records, §§ 35, 38.

50-18-71.1. Approval of judge required for inspection of trial exhibits; reproduction of exhibits.

(a) Notwithstanding any other provision of this article, an exhibit tendered to the court as evidence in a criminal or civil trial shall not be open to public inspection without approval of the judge assigned to the case or, if no judge has been assigned, approval of the chief judge or, if no judge has been designated chief judge, approval of the judge most senior in length of service on the court.

(b) In the event inspection is not approved by the court, in lieu of inspection of such an exhibit, the custodian of such an exhibit shall, upon request, provide one or more of the following representations of the exhibit:

- (1) A photograph;
- (2) A photocopy;
- (3) A facsimile; or
- (4) Another reproduction.

(c) The provisions of subsections (b), (c), (d), and (e) of Code Section 50-18-71 shall apply to fees, costs, and charges for providing a photocopy of such an exhibit. Fees for providing a photograph, facsimile, or other reproduction of such an exhibit shall not exceed the cost of materials or supplies and a reasonable charge for time spent producing the photograph, facsimile, or other reproduction, in accordance with subsections (d) and (e) of Code Section 50-18-71. (Code 1981, § 50-18-71.1, enacted by Ga. L. 1992, p. 1061, § 7.)

Law reviews. — For note on 1992 enactment of this Code section, see 9 Ga. St. U.L. Rev. 344 (1992).

50-18-71.2. Estimate of copying fees as condition for assessment.

Any agency receiving a request for public records shall be required to notify the party making the request of the estimated cost of the copying, search, retrieval, and other administrative fees authorized by Code Section

50-18-71 as a condition of compliance with the provisions of this article prior to fulfilling the request as a condition for the assessment of any fee; provided, however, that no new fees other than those directly attributable to providing access shall be assessed where records are made available by electronic means. (Code 1981, § 50-18-71.2, enacted by Ga. L. 1996, p. 313, § 2; Ga. L. 1999, p. 552, § 3.)

50-18-72. When public disclosure not required; disclosure of exempting legal authority.

(a) Public disclosure shall not be required for records that are:

(1) Specifically required by the federal government to be kept confidential;

(2) Medical or veterinary records and similar files, the disclosure of which would be an invasion of personal privacy;

(3) Except as otherwise provided by law, records compiled for law enforcement or prosecution purposes to the extent that production of such records would disclose the identity of a confidential source, disclose confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons, or disclose the existence of a confidential surveillance or investigation;

(4) Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving said investigation and prosecution has become final or otherwise terminated;

(4.1) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the submission of a written statement of need by the requesting party, such statement to be provided to the custodian of records and to set forth the need for the report pursuant to this Code section; provided, however, that any person or entity whose name or identifying information is contained in a Georgia Uniform Motor Vehicle Accident Report shall be entitled, either personally or through a lawyer or other representative, to receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection or copying by any person absent a written statement showing the need for each such report pursuant to the requirements of this Code section. For the purposes of this subsection, the term "need" means that the natural person or legal entity who is requesting in person or by representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

(A) Has a personal, professional, or business connection with a party to the accident;

50-18-72. When public disclosure not required; disclosure of exempting legal authority.

(a) Public disclosure shall not be required for records that are:

(1) Specifically required by the federal government to be kept confidential;

(2) Medical or veterinary records and similar files, the disclosure of which would be an invasion of personal privacy;

(3) Except as otherwise provided by law, records compiled for law enforcement or prosecution purposes to the extent that production of such records would disclose the identity of a confidential source, disclose confidential investigative or prosecution material which would endanger the life or physical safety of any person or persons, or disclose the existence of a confidential surveillance or investigation;

(4) Records of law enforcement, prosecution, or regulatory agencies in any pending investigation or prosecution of criminal or unlawful activity, other than initial police arrest reports and initial incident reports; provided, however, that an investigation or prosecution shall no longer be deemed to be pending when all direct litigation involving said investigation and prosecution has become final or otherwise terminated;

(4.1) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the submission of a written statement of need by the requesting party, such statement to be provided to the custodian of records and to set forth the need for the report pursuant to this Code section; provided, however, that any person or entity whose name or identifying information is contained in a Georgia Uniform Motor Vehicle Accident Report shall be entitled, either personally or through a lawyer or other representative, to receive a copy of such report; and provided, further, that Georgia Uniform Motor Vehicle Accident Reports shall not be available in bulk for inspection or copying by any person absent a written statement showing the need for each such report pursuant to the requirements of this Code section. For the purposes of this subsection, the term "need" means that the natural person or legal entity who is requesting in person or by representative to inspect or copy the Georgia Uniform Motor Vehicle Accident Report:

(A) Has a personal, professional, or business connection with a party to the accident;

(B) Owns or leases an interest in property allegedly or actually damaged in the accident;

(C) Was allegedly or actually injured by the accident;

(D) Was a witness to the accident;

- (E) Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident;
- (F) Is a prosecutor or a publicly employed law enforcement officer;
- (G) Is alleged to be liable to another party as a result of the accident;
- (H) Is an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;
- (I) Is gathering information as a representative of a news media organization;
- (J) Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, this subparagraph will apply only to accident reports on accidents that occurred more than 30 days prior to the request and which shall have the name, street address, telephone number, and driver's license number redacted; or
- (K) Is a governmental official, entity, or agency, or an authorized agent thereof, requesting reports for the purpose of carrying out governmental functions or legitimate governmental duties;
- (5) Records that consist of confidential evaluations submitted to, or examinations prepared by, a governmental agency and prepared in connection with the appointment or hiring of a public officer or employee; and records consisting of material obtained in investigations related to the suspension, firing, or investigation of complaints against public officers or employees until ten days after the same has been presented to the agency or an officer for action or the investigation is otherwise concluded or terminated, provided that this paragraph shall not be interpreted to make such investigatory records privileged;
- (6)(A) Real estate appraisals, engineering or feasibility estimates, or other records made for or by the state or a local agency relative to the acquisition of real property until such time as the property has been acquired or the proposed transaction has been terminated or abandoned; and
- (B) Engineers' cost estimates and pending, rejected, or deferred bids or proposals until such time as the final award of the contract is made or the project is terminated or abandoned. The provisions of this subparagraph shall apply whether the bid or proposal is received or prepared by the Department of Transportation pursuant to Article 4 of Chapter 2 of Title 32, by a county pursuant to Article 3 of Chapter 4 of Title 32, by a municipality pursuant to Article 4 of Chapter 4 of Title 32,

or by a governmental entity pursuant to Article 2 of Chapter 91 of Title 36;

(7) Notwithstanding any other provision of this article, an agency shall not be required to release those portions of records which would identify persons applying for or under consideration for employment or appointment as executive head of an agency as that term is defined in paragraph (1) of subsection (a) of Code Section 50-14-1, or of a unit of the University System of Georgia; provided, however, that at least 14 calendar days prior to the meeting at which final action or vote is to be taken on the position, the agency shall release all documents which came into its possession with respect to as many as three persons under consideration whom the agency has determined to be the best qualified for the position and from among whom the agency intends to fill the position. Prior to the release of these documents, an agency may allow such a person to decline being considered further for the position rather than have documents pertaining to the person released. In that event, the agency shall release the documents of the next most qualified person under consideration who does not decline the position. If an agency has conducted its hiring or appointment process open to the public, it shall not be required to delay 14 days to take final action on the position. The agency shall not be required to release such records with respect to other applicants or persons under consideration, except at the request of any such person. Upon request, the hiring agency shall furnish the number of applicants and the composition of the list by such factors as race and sex. The agency shall not be allowed to avoid the provisions of this paragraph by the employment of a private person or agency to assist with the search or application process;

(8) Related to the provision of staff services to individual members of the General Assembly by the Legislative and Congressional Reapportionment Office, the Senate Research Office, or the House Research Office, provided that this exception shall not have any application with respect to records related to the provision of staff services to any committee or subcommittee or to any records which are or have been previously publicly disclosed by or pursuant to the direction of an individual member of the General Assembly;

(9) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Board of Regents of the University System of Georgia when the owner or donor of such records wishes to place restrictions on access to the records. No restriction on access, however, may extend more than 75 years from the date of donation or sale. This exemption shall not apply to any records prepared in the course of the operation of state or local governments of the State of Georgia;

(10) Records that contain information from the Department of Natural Resources inventory and register relating to the location and

character of a historic property or of historic properties as those terms are defined in Code Sections 12-3-50.1 and 12-3-50.2 if the Department of Natural Resources through its Division of Historic Preservation determines that disclosure will create a substantial risk of harm, theft, or destruction to the property or properties or the area or place where the property or properties are located;

(10.1) Records of farm water use by individual farms as determined by water-measuring devices installed pursuant to Code Section 12-5-31 or 12-5-105; provided, however, that compilations of such records for the 52 large watershed basins as identified by the eight-digit United States Geologic Survey hydrologic code or an aquifer that do not reveal farm water use by individual farms shall be subject to disclosure under this article;

(11) Records that contain site specific information regarding the occurrence of rare species of plants or animals or the location of sensitive natural habitats on public or private property if the Department of Natural Resources determines that disclosure will create a substantial risk of harm, theft, or destruction to the species or habitats or the area or place where the species or habitats are located; provided, however, that the owner or owners of private property upon which rare species of plants or animals occur or upon which sensitive natural habitats are located shall be entitled to such information pursuant to this article;

(11.1) An individual's social security number and insurance or medical information in personnel records, which may be redacted from such records;

(11.2) Records that would reveal the names, home addresses, telephone numbers, security codes, or any other data or information developed, collected, or received by counties or municipalities in connection with the installation, servicing, maintaining, operating, selling, or leasing of burglar alarm systems, fire alarm systems, or other electronic security systems; provided, however, that initial police reports and initial incident reports shall remain subject to disclosure pursuant to paragraph (4) of this subsection;

(11.3)(A) An individual's social security number, mother's birth name, credit card information, debit card information, bank account information, financial data or information, and insurance or medical information in all records, and if technically feasible at reasonable cost, day and month of birth, which shall be redacted prior to disclosure of any record requested pursuant to this article; provided, however, that such information shall not be redacted from such records if the person or entity requesting such records requests such information in a writing signed under oath by such person or a person legally authorized to represent such entity which states that such person or entity is

gathering information as a representative of a news media organization for use in connection with news gathering and reporting; and provided, further, that such access shall be limited to social security numbers and day and month of birth; and provided, further, that this news media organization exception for access to social security numbers and day and month of birth and the other protected information set forth in this subparagraph shall not apply to teachers and employees of a public school.

(B) This paragraph shall have no application to:

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

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

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

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

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

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

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

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

(ix) The disclosure of information necessary to comply with legal or regulatory requirements or for legitimate law enforcement purposes.

(C) Records and information disseminated pursuant to this paragraph may be used only by the authorized recipient and only for the authorized purpose. Any person who obtains records or information pursuant to the provisions of this paragraph and knowingly and willfully discloses, distributes, or sells such records or information to an unauthorized recipient or for an unauthorized purpose shall be guilty of a misdemeanor of a high and aggravated nature and upon conviction thereof shall be punished as provided in Code Section 17-10-4. Any person injured thereby shall have a cause of action for invasion of privacy. Any prosecution pursuant to this paragraph shall be in accordance with the procedure in subsection (b) of Code Section 50-18-74.

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

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

(12) Public records containing information that would disclose or might lead to the disclosure of any component in the process used to execute or adopt an electronic signature, if such disclosure would or might cause the electronic signature to cease being under the sole control of the person using it. For purposes of this paragraph, the term "electronic signature" has the same meaning as that term is defined in Code Section 10-12-3;

(13) Records that would reveal the home address or telephone number, social security number, or insurance or medical information of employees of the Department of Revenue, law enforcement officers, judges, scientists employed by the Division of Forensic Sciences of the Georgia Bureau of Investigation, correctional employees, and prosecutors or identification of immediate family members or dependents thereof;

(13.1) Records that reveal the home address, the home telephone number, or the social security number of or insurance or medical

information about public employees or teachers and employees of a public school. For the purposes of this paragraph, the term "public school" means any school which is conducted within this state and which is under the authority and supervision of a duly elected county or independent board of education;

(13.2) Records that are kept by the probate court pertaining to guardianships and conservatorships except as provided in Code Section 29-9-18;

(14) Acquired by an agency for the purpose of establishing or implementing, or assisting in the establishment or implementation of, a carpooling or ridesharing program, to the extent such records would reveal the name, home address, employment address, home telephone number, employment telephone number, or hours of employment of any individual or would otherwise identify any individual who is participating in, or who has expressed an interest in participating in, any such program. As used in this paragraph, the term "carpooling or ridesharing program" means and includes, but is not limited to, the formation of carpools, vanpools, or buspools, the provision of transit routes, rideshare research, and the development of other demand management strategies such as variable working hours and telecommuting;

(15)(A) Records, the disclosure of which would compromise security against sabotage or criminal or terrorist acts and the nondisclosure of which is necessary for the protection of life, safety, or public property, which shall be limited to the following:

(i) Security plans and vulnerability assessments for any public utility, technology infrastructure, building, facility, function, or activity in effect at the time of the request for disclosure or pertaining to a plan or assessment in effect at such time;

(ii) Any plan for protection against terrorist or other attacks, which plan depends for its effectiveness in whole or in part upon a lack of general public knowledge of its details;

(iii) Any document relating to the existence, nature, location, or function of security devices designed to protect against terrorist or other attacks, which devices depend for their effectiveness in whole or in part upon a lack of general public knowledge; and

(iv) Any plan, blueprint, or other material which if made public could compromise security against sabotage, criminal, or terroristic acts.

(B) In the event of litigation challenging nondisclosure pursuant to this paragraph by an agency of a document covered by this paragraph, the court may review the documents in question in camera and may condition, in writing, any disclosure upon such measures as the court

may find to be necessary to protect against endangerment of life, safety, or public property.

(C) As used in divisions (i) and (iv) of subparagraph (A) of this paragraph, the term "activity" means deployment or surveillance strategies, actions mandated by changes in the federal threat level, motorcades, contingency plans, proposed or alternative motorcade routes, executive and dignitary protection, planned responses to criminal or terrorist actions, after-action reports still in use, proposed or actual plans and responses to bioterrorism, and proposed or actual plans and responses to requesting and receiving the National Pharmacy Stockpile;

(16) Unless the request is made by the accused in a criminal case or by his or her attorney, public records of an emergency 9-1-1 system, as defined in paragraph (3) of Code Section 46-5-122, containing information which would reveal the name, address, or telephone number of a person placing a call to a public safety answering point, which information may be redacted from such records if necessary to prevent the disclosure of the identity of a confidential source, to prevent disclosure of material which would endanger the life or physical safety of any person or persons, or to prevent the disclosure of the existence of a confidential surveillance or investigation;

(17) Records of athletic or recreational programs, available through the state or a political subdivision of the state, that include information identifying a child or children 12 years of age or under by name, address, telephone number, or emergency contact, unless such identifying information has been redacted;

(18) Records of the State Road and Tollway Authority which would reveal the financial accounts or travel history of any individual who is a motorist upon such toll project. Such financial records shall include, but not be limited to social security number, home address, home telephone number, e-mail address, credit or debit card information, and bank account information but shall not include the user's name; or

(19) Records maintained by public postsecondary educational institutions in this state and associated foundations of such institutions that contain personal information concerning donors or potential donors to such institutions or foundations; provided, however, that the name of any donor and the amount of donation made by such donor shall be subject to disclosure if such donor or any entity in which such donor has a substantial interest transacts business with the public postsecondary educational institution to which the donation is made within three years of the date of such donation. As used in this paragraph, the term "transact business" means to sell or lease any personal property, real property, or services on behalf of oneself or on behalf of any third party

as an agent, broker, dealer, or representative in an amount in excess of \$10,000.00 in the aggregate in a calendar year and the term "substantial interest" means the direct or indirect ownership of more than 25 percent of the assets or stock of an entity.

(b) This article shall not be applicable to:

(1) Any trade secrets obtained from a person or business entity which are of a privileged or confidential nature and required by law to be submitted to a government agency or to data, records, or information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher learning, or other governmental agencies, in the conduct of or as a result of, study or research on commercial, scientific, technical, or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, where such data, records, or information has not been publicly released, published, copyrighted, or patented;

(2) Any data, records, or information developed, collected, or received by or on behalf of faculty, staff, employees, or students of an institution of higher education or any public or private entity supporting or participating in the activities of an institution of higher education in the conduct of, or as a result of, study or research on medical, scientific, technical, scholarly, or artistic issues, whether sponsored by the institution alone or in conjunction with a governmental body or private entity until such information is published, patented, otherwise publicly disseminated, or released to an agency whereupon the request must be made to the agency. This subsection applies to, but is not limited to, information provided by participants in research, research notes and data, discoveries, research projects, methodologies, protocols, and creative works; or

(3) Unless otherwise provided by law, contract, bid, or proposal, records consisting of questions, scoring keys, and other materials, constituting a test that derives value from being unknown to the test taker prior to administration, which is to be administered by the State Board of Education, the Office of Student Achievement, or a local school system, if reasonable measures are taken by the owner of the test to protect security and confidentiality; provided, however, that the State Board of Education may establish procedures whereby a person may view, but not copy, such records if viewing will not, in the judgment of the board, affect the result of administration of such test.

These limitations shall not be interpreted by any court of law to include or otherwise exempt from inspection the records of any athletic association or other nonprofit entity promoting intercollegiate athletics.

(c)(1) All public records of hospital authorities shall be subject to this article except for those otherwise excepted by this article or any other provision of law.

(2) All state officers and employees shall have a privilege to refuse to disclose the identity or personally identifiable information of any person participating in research on commercial, scientific, technical, medical, scholarly, or artistic issues conducted by the Department of Human Resources or a state institution of higher education whether sponsored by the institution alone or in conjunction with a governmental body or private entity. Personally identifiable information shall mean any information which if disclosed might reasonably reveal the identity of such person including but not limited to the person's name, address, and social security number. The identity of such informant shall not be admissible in evidence in any court of the state unless the court finds that the identity of the informant already has been disclosed otherwise.

(d) This article shall not be applicable to any application submitted to or any permanent records maintained by a judge of the probate court pursuant to Code Section 16-11-129, relating to licenses to carry pistols or revolvers, or pursuant to any other requirement for maintaining records relative to the possession of firearms. This subsection shall not preclude law enforcement agencies from obtaining records relating to licensing and possession of firearms as provided by law.

(e) This article shall not be construed to repeal:

(1) The attorney-client privilege recognized by state law to the extent that a record pertains to the requesting or giving of legal advice or the disclosure of facts concerning or pertaining to pending or potential litigation, settlement, claims, administrative proceedings, or other judicial actions brought or to be brought by or against the agency or any officer or employee; provided, however, attorney-client information may be obtained in a proceeding under Code Section 50-18-73 to prove justification or lack thereof in refusing disclosure of documents under this Code section provided the judge of the court in which said proceeding is pending shall first determine by an in camera examination that such disclosure would be relevant on that issue;

(2) The confidentiality of attorney work product; or

(3) State laws making certain tax matters confidential.

(f)(1) As used in this article, the term:

(A) "Computer program" means a set of instructions, statements, or related data that, in actual or modified form, is capable of causing a computer or computer system to perform specified functions.

(B) "Computer software" means one or more computer programs, existing in any form, or any associated operational procedures, manuals, or other documentation.

(2) This article shall not be applicable to any computer program or computer software used or maintained in the course of operation of a public office or agency.

(g) This Code section shall be interpreted narrowly so as to exclude from disclosure only that portion of a public record to which an exclusion is directly applicable. It shall be the duty of the agency having custody of a record to provide all other portions of a record for public inspection or copying.

(h) Within the three business days applicable to response to a request for access to records under this article, the public officer or agency having control of such record or records, if access to such record or records is denied in whole or in part, shall specify in writing the specific legal authority exempting such record or records from disclosure, by Code section, subsection, and paragraph. No addition to or amendment of such designation shall be permitted thereafter or in any proceeding to enforce the terms of this article; provided, however, that such designation may be amended or supplemented one time within five days of discovery of an error in such designation or within five days of the institution of an action to enforce this article, whichever is sooner; provided, further, that the right to amend or supplement based upon discovery of an error may be exercised on only one occasion. In the event that such designation includes provisions not relevant to the subject matter of the request, costs and reasonable attorney's fees may be awarded pursuant to Code Section 50-18-73. (Ga. L. 1967, p. 455, § 1; Ga. L. 1970, p. 163, § 1; Code 1981, § 50-18-72, enacted by Ga. L. 1982, p. 1789, § 1; Ga. L. 1986, p. 1090, § 2; Ga. L. 1987, p. 377, § 1; Ga. L. 1988, p. 13, § 50; Ga. L. 1988, p. 243, § 3; Ga. L. 1989, p. 553, § 2; Ga. L. 1989, p. 827, § 1; Ga. L. 1990, p. 341, § 1; Ga. L. 1992, p. 1061, § 8; Ga. L. 1993, p. 968, § 1; Ga. L. 1993, p. 1336, § 1; Ga. L. 1993, p. 1669, § 1; Ga. L. 1995, p. 704, § 1; Ga. L. 1996, p. 6, § 50; Ga. L. 1997, p. 1052, § 2; Ga. L. 1998, p. 1652, § 1; Ga. L. 1999, p. 552, §§ 4, 4.1; Ga. L. 1999, p. 809, §§ 4, 5; Ga. L. 1999, p. 1222, §§ 1, 2; Ga. L. 2000, p. 136, § 50; Ga. L. 2000, p. 1556, §§ 1, 2; Ga. L. 2001, p. 4, § 50; Ga. L. 2001, p. 327, § 1; Ga. L. 2001, p. 331, § 1; Ga. L. 2001, p. 491, § 1; Ga. L. 2001, p. 820, § 13; Ga. L. 2002, p. 415, § 50; Ga. L. 2003, p. 602, § 1; Ga. L. 2003, p. 880, § 2; Ga. L. 2004, p. 107, § 22; Ga. L. 2004, p. 161, § 15; Ga. L. 2004, p. 341, § 1A; Ga. L. 2004, p. 410, § 9; Ga. L. 2004, p. 770, § 1; Ga. L. 2005, p. 334, § 30-2/HB 501; Ga. L. 2005, p. 558, § 1/HB 437; Ga. L. 2005, p. 595, § 1/SB 121; Ga. L. 2005, p. 660, § 11/HB 470; Ga. L. 2005, p. 1133, § 1/HB 340.)

The 2003 amendments. — The first 2003 amendment, effective June 3, 2003, in subsection (a), deleted “or” at the end of paragraph (a)(13.1), substituted “; or” for a period at the end of paragraph (a)(14), and added paragraph (a)(15). The second 2003 amendment, effective June 3, 2003, made identical changes.

The 2004 amendments. — The first 2004 amendment, effective May 4, 2004, substi-

tuted “Office of Student Achievement” for “Office of Education Accountability” in paragraph (b)(3). The second 2004 amendment, effective July 1, 2005, added paragraph (a)(13.2). The third 2004 amendment, effective May 7, 2004, added paragraph (a)(10.1). The fourth 2004 amendment, effective May 13, 2004, inserted “employees of the Department of Revenue,” in the middle of paragraph (a)(13). The fifth

Prerequisites to disclosure of information in medical files. — No information contained in confidential medical files should be released to a requesting party, unless some prior assurance is given that the requesting party is either the subject of the file in question or that the requesting party has in fact been authorized by that person to receive the information which the requesting party seeks. 1973 Op. Att'y Gen. No. 73-77.

Subsequent Injury Trust Fund Board meetings. — The portion of Subsequent Injury Trust Fund Board meetings in which the medical and rehabilitation records of an individual are discussed are not subject to the Open Meetings Law, O.C.G.A. § 50-18-70 et seq. 1991 Op. Att'y Gen. No. 91-8.

Public project records exempt from disclosure. — When a public agency is assembling more than one parcel of real property

for a public project, records relative to that "transaction" and "property" as a whole are exempt from disclosure under O.C.G.A. § 50-18-72(a)(6) until all the property to be acquired is acquired or is abandoned or terminated from the project. 1995 Op. Att'y Gen. No. 95-10.

Community development block grant program information. — Information provided to the Department of Community Affairs in connection with the community development block grant program is not exempt from disclosure under O.C.G.A. § 50-18-72 unless such information constitutes a trade secret. 1989 Op. Att'y Gen. 89-35.

Burden of explaining why public records not subject to disclosure. — If there is a request for identifiable public records, the burden is cast upon the custodian of those records to explain why the records should not be disclosed. 1990 Op. Att'y Gen. No. 90-5.

RESEARCH REFERENCES

ALR. — Validity, construction, and application of statutory provisions relating to public access to police records, 82 ALR3d 19.

When are government records "similar files" exempt from disclosure under Freedom of Information Act provision (5 USCS § 552(b)(6)) exempting certain personnel, medical, and "similar" files, 106 ALR Fed. 94.

What is agency subject to Privacy Act Provisions (5 USCA § 552a), 150 ALR Fed. 521.

What are "records" of agency which must be made available under Freedom of Information Act (5 USCA § 552(a)(3)), 153 ALR Fed. 571.

What are interagency or intra-agency memorandums or letters exempt from dis-

closure under the Freedom of Information Act (5 U.S.C.A. § 552(b)), 168 ALR Fed. 143.

What matters are exempt from disclosure under Freedom of Information Act (5 U.S.C.A. § 552(b)) as "specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy," 169 ALR Fed. 495.

What constitutes "confidential source" within Freedom of Information Act exemption permitting nondisclosure of confidential source and, in some instances, of information furnished by confidential source (5 U.S.C.A. § 552(b)), 171 ALR Fed. 193.

50-18-73. Jurisdiction to enforce article; attorney's fees and litigation expenses; good faith reliance as defense to action.

(a) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against persons or agencies having custody of records open to the public under this article to enforce compliance with the provisions of this article. 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, either civil or criminal, in his or her discretion as may be appropriate to enforce compliance with this article.

(b) In any action brought to enforce the provisions of this chapter in which the court determines that either party acted without substantial justification either in not complying with this chapter 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.

(c) Any agency or person who provides access to information in good faith reliance on the requirements of this chapter shall not be liable in any action on account of having provided access to such information. (Code 1981, § 50-18-73, enacted by Ga. L. 1982, p. 1789, § 1; Ga. L. 1988, p. 243, § 4; Ga. L. 1992, p. 1061, § 9; Ga. L. 1998, p. 595, § 2.)

Code Commission notes. — Pursuant to Code Section 28-9-5, in 1992, "it" was substituted for "if" in subsection (b).

Law reviews. — For review of 1998 legisla-

tion relating to state government, see 15 Ga. St. U. L. Rev. 242 (1998).

For note on 1992 amendment of this Code section, see 9 Ga. St. U.L. Rev. 344 (1992).

JUDICIAL DECISIONS

Actions to enjoin disclosure of information authorized. — The Open Records Act (§ 50-18-70 et seq.) provides the jurisdictional basis for a cause of action by individuals to enjoin the disclosure of legally protected information. *Bowers v. Shelton*, 265 Ga. 247, 453 S.E.2d 741 (1995).

The award of attorney's fees is discretionary under O.C.G.A. § 50-18-73 and the decision of the superior court will be interfered with only where this discretion has been abused. *Richmond County Hosp. Auth. v. Southeastern Newspapers Corp.*, 252 Ga. 19, 311 S.E.2d 806 (1984); *GMS Air Conditioning, Inc. v. Department of Human Re-*

sources, 201 Ga. App. 136, 410 S.E.2d 341 (1991).

Compensatory and punitive damages unauthorized. — O.C.G.A. § 50-18-73 authorizes an award of attorney's fees and expenses of litigation in actions brought to enforce the statute only if the court determines that the action constituting a violation of the statute was completely without merit as to law or fact. Compensatory and/or punitive damages are not authorized. *McBride v. Wetherington*, 199 Ga. App. 7, 403 S.E.2d 873 (1991).

Cited in *Pensyl v. Peach County*, 252 Ga. 450, 314 S.E.2d 434 (1984).

50-18-74. Penalty for violations; procedure for commencement of prosecution.

(a) Any person knowingly and willfully violating the provisions of this article by failing or refusing to provide access to records not subject to exemption from this article or by failing or refusing to provide access to such records within the time limits set forth in this article shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$100.00.

(b) A prosecution under this Code section 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, which 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. (Code 1981, § 50-18-74, enacted by Ga. L. 1999, p. 552, § 5.)

Editor's notes. — The former Code section, relating to unlawful refusal to provide access to public records or to allow copying of such records, was based on Ga. L. 1982, p. 1789, § 1, and was repealed by Ga. L. 1992, p. 1061, § 10.

50-18-75. Confidentiality of communications between Office of Legislative Counsel and certain persons.

Communications between the Office of Legislative Counsel and the following persons shall be privileged and confidential: members of the General Assembly, the Lieutenant Governor, and persons acting on behalf of such public officers; and such communications, and records and work product relating to such communications, shall not be subject to inspection or disclosure under this article or any other law or under judicial process; provided, however, that this privilege shall not apply where it is waived by the affected public officer or officers. The privilege established under this Code section is in addition to any other constitutional, statutory, or common law privilege. (Code 1981, § 50-18-75, enacted by Ga. L. 1988, p. 243, § 5.)

RESEARCH REFERENCES

Am. Jur. 2d. — 66 Am. Jur. 2d, Records and Recording Laws, § 32 et seq. **C.J.S.** — 76 C.J.S., Records, § 36.

50-18-76. Written matter exempt from disclosure under Code Section 31-10-25.

No form, document, or other written matter which is required by law or rule or regulation to be filed as a vital record under the provisions of Chapter 10 of Title 31, which contains information which is exempt from disclosure under Code Section 31-10-25, and which is temporarily kept or maintained in any file or with any other documents in the office of the judge or clerk of any court prior to filing with the Department of Human Resources shall be open to inspection by the general public, even though the other papers or documents in such file may be open to inspection. (Code 1981, § 50-18-76, enacted by Ga. L. 1991, p. 1943, § 1.)

Cross references. — Juvenile Court records, Uniform Rules for the Juvenile Courts of Georgia, Rule 3.1.

50-18-77. Inapplicable to public records.

The procedures and fees provided for in this article shall not apply to public records, including records that are exempt from disclosure pursuant to Code Section 50-18-72, which are requested in writing by a state or federal grand jury, taxing authority, law enforcement agency, or prosecuting attorney in conjunction with an ongoing administrative, criminal, or tax investigation. The lawful custodian shall provide copies of such records to the requesting agency unless such records are privileged or disclosure to such agencies is specifically restricted by law. (Code 1981, § 50-18-77, enacted by Ga. L. 1999, p. 809, § 6.)

Law reviews. — For note on 1999 enactment of this section, see 16 Ga. St. U.L. Rev. 268 (1999).

ARTICLE 5

STATE RECORDS MANAGEMENT

50-18-90. Short title.

This article shall be known and may be cited as the “Georgia Records Act.” (Ga. L. 1972, p. 1267, § 1.)

50-18-91. Definitions.

As used in this article, the term:

(1) “Agency” means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government created or established by law.

(2) “Court record” means all documents, papers, letters, maps, books (except books formally organized in libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or, in the necessary performance of any judicial function, created or received by an official of the Supreme Court, Court of Appeals, and any superior, state, juvenile, probate, or magistrate court. “Court record” includes records of the offices of the judge, clerk, prosecuting attorney, public defender, court reporter, or any employee of the court.

(3) “Division” means the Division of Archives and History of the Office of the Secretary of State.

(4) “Georgia State Archives” means an establishment maintained by the division for the preservation of those records and other papers that have been determined by the division to have sufficient historical and