

Senate Bill 316

By: Senators Henson of the 41st, Ramsey, Sr. of the 43rd, James of the 35th, Butler of the 55th, Davenport of the 44th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 45 of the Official Code of Georgia Annotated, relating to public officers and
2 employees, so as to provide for a whistleblower hotline commission; to provide for
3 definitions; to provide methods for the anonymous reporting of complaints and information
4 of fraud, waste, and abuse of public funds by public officers or employees; to provide for the
5 investigation of complaints and information of fraud, waste, and abuse of public funds by
6 public officers or employees; to provide for a toll-free number and other communication
7 methods as a whistleblower hotline; to provide for an annual report of all complaints received
8 through a whistleblower hotline and the results of investigations into such complaints; to
9 amend Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when
10 public disclosure is not required, so as to provide for nondisclosure of records for a
11 whistleblower hotline commission; to provide for related matters; to repeal conflicting laws;
12 and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
16 is amended by adding a new chapter to read as follows:

17 "CHAPTER 1A

18 45-1A-1.

19 As used in this chapter, the term:

20 (1) 'Commission' means the Whistleblower Hotline Commission.

21 (2) 'Hotline' means a toll-free telephone number capable of receiving inbound calls
22 through which persons may communicate complaints or information as to the
23 commission of fraud, waste, and abuse of public funds by public officers or employees;
24 in addition to any other methods of mail or communication technologies employed at the

25 discretion of the commission through which persons may communicate complaints or
26 information as to the commission of fraud, waste, and abuse of public funds by public
27 officers or employees.

28 (3) 'Public officer or employee' means any person who is a public officer of the
29 executive, judicial, or legislative branch of the state or is employed by the executive,
30 judicial, or legislative branch of the state or by any other department, board, bureau,
31 commission, authority, or other agency of the state. This term also includes all
32 employees, officials, and administrators of any agency covered by the rules of the State
33 Personnel Board and any local or regional governmental entity that receives any funds
34 from the State of Georgia or any state agency.

35 45-1A-2.

36 There is created the Whistleblower Hotline Commission. Such commission shall be
37 responsible for maintaining a hotline and investigating complaints or information of fraud,
38 waste, and abuse of public funds by public officers or employees.

39 45-1A-3.

40 (a) The Whistleblower Hotline Commission shall consist of five members to be appointed
41 as follows:

42 (1) Three members appointed by the Chief Justice of the Supreme Court; and

43 (2) Two members appointed by the Chief Judge of the Court of Appeals.

44 (b) Each member shall be appointed for a term of two years, and no member may serve
45 more than two consecutive terms. All vacancies shall be filled for the unexpired term by
46 an appointee of the original appointing official.

47 (c) The commission shall elect a chairperson, vice chairperson, and a secretary from
48 among its members for terms of two years, and any member shall be eligible for successive
49 election to such office by the commission.

50 (d) The commission shall hold regular meetings at such times and such places as it may
51 deem necessary or convenient to enable the commission to exercise fully and effectively
52 its powers, perform its duties, and accomplish the objectives and purposes of this chapter.
53 Special meetings may be called by the chairperson or a majority of the members of the
54 commission.

55 (e) A quorum for transacting business shall be determined by the members of the
56 commission.

57 45-1A-4.

58 (a) The Whistleblower Hotline Commission shall have the following powers and duties:

- 59 (1) To maintain a hotline;
60 (2) To investigate complaints or information of fraud, waste, and abuse of public funds
61 by public officers or employees received through the hotline;
62 (3) To make assessments of such complaints or information and determine whether such
63 complaints or information contain information worthy of forwarding to the attention of
64 the Attorney General, the Georgia Bureau of Investigation, or the Department of Audits
65 and Accounts;
66 (4) To develop internal rules, procedures, and standards for the assessment of complaints
67 and information received through the hotline and for carrying out its duties as required
68 by law; and
69 (5) To release an annual report of each complaint or information received through the
70 hotline and the action taken by the commission on each such complaint or information;
71 provided, however, that no personally identifiable information regarding the origin of the
72 complaint or information or the person or persons subject to the complaint or information
73 shall be released by the commission.
- 74 (b) It shall be acceptable for complaints and information received through the hotline to
75 be anonymous or with individual attribution at the election of the complaint or information
76 provider.
- 77 (c) No action against a public employee as defined under subsection (a) of Code Section
78 45-1-4 who provides a complaint or information with individual attribution through the
79 hotline shall be taken or threatened by a public employer as defined under subsection (a)
80 of Code Section 45-1-4. Any action taken in violation of this subsection shall give such
81 public employee a right to have such action set aside in a proceeding instituted in the
82 superior courts.
- 83 (d) If a complaint or information is received through the hotline with individual attribution
84 and the Attorney General, the Georgia Bureau of Investigation, or the Department of
85 Audits and Accounts determines that disclosure of such person's identity is necessary and
86 unavoidable during the course of an investigation, the Attorney General, the Georgia
87 Bureau of Investigation, or the Department of Audits and Accounts, respectively, shall
88 notify such person at least seven days prior to such disclosure.
- 89 (e) Except as provided for in paragraph (5) of subsection (a) and in subsection (d) of this
90 Code section, the records and work product of the commission relating to complaints or
91 information received through the hotline shall not be subject to inspection or disclosure as
92 provided for under Code Section 50-18-72."

93 **SECTION 2.**

94 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
95 disclosure is not required, is amended in subsection (a) by striking "or" at the end of
96 paragraph (47), by replacing the period with "; or" at the end of paragraph (48), and by
97 adding a new paragraph to read as follows:

98 "(49) Except as provided for under Chapter 1A of Title 45, records of the Whistleblower
99 Hotline Commission which would reveal complaints or information of fraud, waste, and
100 abuse of public funds by public officers or employees, the origins of such complaints or
101 information, or the person or persons subject to such complaints or information."

102 **SECTION 3.**

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