

Judicial Emergency Act

This Act enables an authorized judicial official to declare a judicial emergency under certain circumstances. Authorized judicial official means the chief justice of the state supreme court; the chief judge of the state court of appeals; a chief judge of a state superior court judicial circuit; or the replacement for or successor to any of these officials should such officials become incapacitated or otherwise unable to act. “Judicial emergency” means a state of emergency declared by the governor; a public health emergency as defined under state law; a local emergency as defined under state law; or such other serious emergency when, as determined by an authorized judicial official, the emergency substantially endangers or infringes upon the normal functioning of the judicial system, the ability of people to avail themselves of the judicial system, or the ability of litigants or others to have access to the courts or to meet schedules or time deadlines imposed by court order or rule, statute, or administrative rule or regulation.

Submitted as:

Georgia

HB 1450

Status: Enacted into law in 2004.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as the “Judicial Emergency Act.”

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3 Section 2. [*Legislative Findings.*] The [Legislature] finds that it is in the best interests of
4 the proper functioning of the courts and, ultimately, of the people, to provide our judicial system
5 with a means by which to adjust certain rights, deadlines, and schedules to take into account the
6 potentially devastating effects of a judicial emergency.

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8 Section 3. [*Definitions.*] As used in this Act:

9 (A) “Authorized judicial official” means any of the following officials when acting with
10 regard to his or her respective jurisdiction:

11 (1) The [Chief Justice of the state Supreme Court];

12 (2) The [Chief Judge of the state Court of Appeals];

13 (3) A [chief judge of a state superior court judicial circuit] or

14 (4) The replacement for or successor to any of the officials set forth in
15 subparagraphs (1) through (3) of this paragraph, as determined by the applicable rules of
16 incapacitation and succession, should such official become incapacitated or otherwise unable to
17 act.

18 (B) “Judicial emergency” means:

19 (1) A state of emergency declared by the [Governor] under [insert citation];

20 (2) A public health emergency under [insert citation];

21 (3) A local emergency under [insert citation]; or

22 (4) Such other serious emergency when, as determined by an authorized judicial
23 official, the emergency substantially endangers or infringes upon the normal functioning of the
24 judicial system, the ability of people to avail themselves of the judicial system, or the ability of

litigants or others to have access to the courts or to meet schedules or time deadlines imposed by court order or rule, statute, or administrative rule or regulation.

Section 4. [*Authority and Criteria for Declaring a Judicial Emergency.*]

(A) An authorized judicial official is authorized to declare the existence of a judicial emergency which shall be done by order either upon his or her own motion or upon motion by any interested person. The order shall state:

- (1) The identity and position of the issuing authorized judicial official;
- (2) The time, date, and place at which the order is executed;
- (3) The jurisdiction or jurisdictions affected by the order;
- (4) The nature of the emergency necessitating the order;
- (5) The period or duration of the judicial emergency; and
- (6) Any other information relevant to the suspension or restoration of court

operations.

(B) An order declaring the existence of a judicial emergency shall be limited to an initial duration of not more than [30 days]; provided, however, that the order may be modified or extended for no more than [two periods] not exceeding [30 days] each. Any modification or extension of the initial order shall require information regarding the same matters set forth in subsection (A) of this section for the issuance of the initial order.

(C) In the event the circumstances underlying the judicial emergency make access to the office of a clerk of court or a courthouse impossible or impractical, the order declaring the judicial emergency shall designate another facility, which is reasonably accessible and appropriate, for the conduct of court business.

Section 5. [*Suspending or Extending Deadlines Related to Courts.*]

(A) An authorized judicial official in an order declaring a judicial emergency, or in an order modifying or extending a judicial emergency order, is authorized to suspend, toll, extend, or otherwise grant relief from deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters, including, but not limited to:

- (1) A statute of limitation;
- (2) The time within which to issue a warrant;
- (3) The time within which to try a case for which a demand for trial has been filed;
- (4) The time within which to hold a commitment hearing;
- (5) A deadline or other schedule regarding the detention of a juvenile;
- (6) The time within which to return a bill of indictment or an accusation or to bring a matter before a grand jury;
- (7) The time within which to file a writ of habeas corpus;
- (8) The time within which discovery or any aspect thereof is to be completed;
- (9) The time within which to serve a party;
- (10) The time within which to appeal or to seek the right to appeal any order, ruling, or other determination; and
- (11) Such other legal proceedings as determined to be necessary by the authorized judicial official.

Section 6. [*Notice of Judicial Emergency.*] Upon an authorized judicial official issuing an order declaring the existence of a judicial emergency, or any modification or extension of such

73 an order, the authorized judicial official issuing the order, modification, or extension to the
74 extent permitted by the circumstances underlying the judicial emergency shall:

75 (1) Immediately notify the [Chief Justice of the state Supreme Court] of the
76 action;

77 (2) Notify and serve a copy of the order, modification, or extension on the judges
78 and clerks of all courts sitting within the jurisdictions affected and on the clerks of the [state
79 Court of Appeals] and the [state Supreme Court], such service to be accomplished through
80 reasonable means to assure expeditious receipt; and

81 (3) Give notice of the issuance of the order, modification, or extension to the
82 affected parties, counsel for the affected parties, and the public. Notice shall be provided by
83 whatever means are reasonably calculated to reach the affected parties, counsel for the affected
84 parties, and the public and may, without limitation, include mailing, publication in a newspaper
85 of local or state-wide distribution, posting of written notices at courthouses and other public
86 gathering sites, transmittal by facsimile or e-mail, and announcements on television, radio, and
87 public address systems.

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89 Section 7. [*Judicial Emergency: Appeals.*]

90 (A) Any person whose rights or interests are adversely affected by an order declaring the
91 existence of a judicial emergency or any modification or extension of such an order shall be
92 entitled to appeal.

93 (B) A notice of appeal shall be filed no later than [45 days] after the expiration of the
94 judicial emergency order, or any modification or extension of a judicial emergency order, from
95 which an appeal is sought. A notice of appeal shall be filed with the [clerk of a superior court] in
96 any jurisdiction affected by the order and shall be served upon:

97 (1) The authorized judicial official who issued the order;

98 (2) The parties to any criminal proceeding or civil litigation in which the appellant
99 is involved which would be affected by the appeal;

100 (3) The district attorney of the county in which the notice of appeal is filed; and

101 (4) All other parties in any criminal proceeding or civil litigation which would be
102 affected by the appeal; provided, however, that service in this regard shall be accomplished by
103 publishing notice of the filing of the appeal in the newspaper which is the legal organ for the
104 county in which the notice of the appeal is filed.

105 (C) The appeal shall be heard immediately by the [state Court of Appeals] under the
106 procedure of emergency motions. A party dissatisfied by the judgment of the [state Court of
107 Appeals] may appeal as a matter of right to the [state Supreme Court]. Filing fees for these
108 appeals shall be waived. All costs of court shall be borne by the state. Appeals shall be heard
109 expeditiously.

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111 Section 8. [*Severability.*] [Insert severability clause.]

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113 Section 9. [*Repealer.*] [Insert repealer clause.]

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115 Section 10. [*Effective Date.*] [Insert effective date.]