

The Senate Judiciary Committee offered the following substitute to HB 1020:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 11 of Title 9, Chapter 16 of Title 17, and Article 4 of Chapter
2 18 of Title 50 of the Official Code of Georgia Annotated, relating to depositions and
3 discovery in civil actions, discovery in criminal cases, and inspection of public records,
4 respectively, so as to eliminate duplication of evidence of a violation of Part 2 of Article 3
5 of Chapter 12 of Title 16; to provide for controlled access to such evidence in public
6 inspections of evidence; to change provisions relating to judicial approval being required for
7 inspection of trial exhibits and reproduction of exhibits; to prohibit public disclosure of
8 certain evidence under limited circumstances; to provide for penalties; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Article 5 of Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to
12 depositions and discovery in civil actions, is amended by adding a new Code section to read
13 as follows:
14

15 "9-11-34.1.

16 Notwithstanding the provisions of Code Section 9-11-34, in any civil action based upon
17 evidence seized in a criminal proceeding involving any violation of Part 2 of Article 3 of
18 Chapter 12 of Title 16, a party shall not be permitted to copy any books, papers,
19 documents, photographs, tangible objects, audio and visual tapes, films and recordings, or
20 copies or portions thereof."

SECTION 2.

21 Chapter 16 of Title 17 of the Official Code of Georgia Annotated, relating to discovery in
22 criminal cases, is amended by revising paragraph (3) of subsection (a) of Code Section
23 17-16-4, relating to disclosure required by prosecuting attorney and defendant and
24 inspections allowed, as follows:
25

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

4 (c) The provisions of subsections (b), (c), (d), and (e) of Code Section 50-18-71 shall apply
 5 to fees, costs, and charges for providing a photocopy of such an exhibit. Fees for providing
 6 a photograph, facsimile, or other reproduction of such an exhibit shall not exceed the cost
 7 of materials or supplies and a reasonable charge for time spent producing the photograph,
 8 facsimile, or other reproduction, in accordance with subsections (d) and (e) of Code Section
 9 50-18-71.

10 (d) Any physical evidence that is evidence of a violation of Part 2 of Article 3 of Chapter
 11 12 of Title 16, that is used as an exhibit in a criminal or civil trial, shall not be open to
 12 public inspection except as provided in subsection (a) of this Code section. If the judge
 13 approves inspection of such physical evidence, the judge shall designate, in writing, the
 14 location where such physical evidence may be inspected, which location shall be in a
 15 facility owned or operated by an agency of state or local government. If the judge permits
 16 inspection, such property or material shall not be photographed, copied, or reproduced by
 17 any means. Any person who violates the provisions of this subsection shall be guilty of a
 18 felony and, upon conviction thereof, shall be punished by imprisonment for not less than
 19 one nor more than 20 years and by a fine of not more than \$100,000.00, or both."

20 SECTION 4.

21 Said article is further amended by revising subsection (a) of Code Section 50-18-72, relating
 22 to when public disclosure is not required, by striking "or" at the end of paragraph (19), by
 23 striking the period and inserting in its place "; or" at the end of paragraph (20), and by adding
 24 a new paragraph to read as follows:

25 "(21) Notwithstanding the provisions of paragraph (4) of this subsection, any physical
 26 evidence or investigatory materials that are evidence of an alleged violation of Part 2 of
 27 Article 3 of Chapter 12 of Title 16, which are in the possession, custody, or control of law
 28 enforcement, prosecution, or regulatory agencies."

29 SECTION 5.

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