

Senate Bill 227

By: Senator Wiles of the 37th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,
2 relating to searches with warrants, so as to provide for the issuance of search warrants
3 authorizing the installation, use, and removal of tracking devices subject to certain
4 conditions; to provide for a definition; to provide for related matters; to provide an effective
5 date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
9 searches with warrants, is amended by adding a new Code section to read as follows:

10 "17-5-22.1.

11 (a) As used in this Code section, the term 'tracking device' means an electronic or
12 mechanical device which, when placed or installed upon a person or object, permits other
13 persons to remotely determine or track the position and movement of such person or object,
14 but the term shall not include:

15 (1) Devices, such as a cellular telephone or other personal electronic device, which
16 include as an incidental feature the capability of determining the location of such devices
17 by utilizing a global positioning satellite system; or

18 (2) Devices which are installed or utilized with the knowledge and consent of the owner
19 or user of the device or, in the case of a minor, with the knowledge and consent of his or
20 her parent or guardian.

21 (b) Upon the written application of any certified peace officer of this state or its political
22 subdivisions charged with the duty of enforcing the criminal laws and otherwise as
23 authorized in Code Section 17-5-20 under oath or affirmation, a judge of any court in this
24 state authorized to issue search warrants pursuant to Code Section 17-5-21 may issue a
25 search warrant authorizing the installation, use, and removal of a tracking device subject
26 to the following conditions:

27 (1) The application shall be made before a judge of the superior court with the authority
28 to issue warrants within the geographic jurisdiction where such tracking device is to be
29 installed;

30 (2) The application shall set forth facts sufficient to establish probable cause to believe
31 that a particular crime has been committed, is being committed, or will be committed and
32 that the person or object to be tracked is involved, was involved, or will be involved in
33 the commission or facilitation of such crime;

34 (3) The application shall set forth facts sufficient to establish probable cause to believe
35 that the use of a tracking device will result in the prevention of a criminal offense under
36 investigation, the seizure of evidence relevant to the investigation or prosecution of a
37 criminal offense, or the whereabouts of a fugitive from justice or a suspect, victim, or
38 witness relating to a criminal offense;

39 (4) The application shall particularly describe the person or object upon which a tracking
40 device is to be installed;

41 (5) A tracking device authorized by this Code section shall be installed within ten days
42 after the issuance of the warrant and shall be installed within the geographic jurisdiction
43 of the issuing judge. If the tracking device is not installed within that time, the warrant
44 shall be returned to the issuing judge as unserved. The date and time of installation shall
45 be recorded and included in the return made to the issuing judge;

46 (6)(A) A search warrant issued pursuant to this Code section shall authorize the use of
47 a tracking device for a reasonable period of time, not to exceed 45 days, except as
48 provided in subparagraph (B) of this paragraph, measured from the date such tracking
49 device is installed upon the person or object to be tracked.

50 (B) Upon written application for extension and upon a finding of good cause, the
51 issuing judge may authorize one or more extensions for a reasonable period of time, not
52 to exceed 45 days each;

53 (7) When the period of time authorized for the use of a tracking device or the last
54 extension thereof has expired, monitoring of such tracking device shall be discontinued
55 immediately;

56 (8) Within ten days after the period of time authorized for the use of a tracking device
57 or the last extension thereof has expired, the officer executing the warrant shall make a
58 return thereof to the issuing judge. The return shall specify the date and time such
59 tracking device was installed and the address or location of installation of such tracking
60 device, the date and time that monitoring was discontinued, and a general summary of the
61 movements of the object or person tracked during the duration of the surveillance;

62 (9) Within ten days after the period of time authorized for the use of a tracking device
63 or the last extension thereof has expired, the officer executing a search warrant issued

64 pursuant to this Code section shall serve a copy of such warrant on the person who was
65 tracked or whose property was tracked. Service shall be accomplished by delivering a
66 copy to such person or by leaving a copy at such person's residence or usual place of
67 abode with an individual of suitable age and discretion who resides at that location or by
68 mailing a copy to such person's last known address. Upon the request of the state or the
69 officer executing the warrant, the issuing judge may delay notice for a reasonable time;
70 provided, however, that where such notice is delayed, such notice shall be served no later
71 than ten days after issuance of an arrest warrant, indictment, or accusation based wholly
72 or in part upon information derived from the use of a tracking device;

73 (10) A tracking device installed and used under the authority of a warrant issued
74 pursuant to this Code section may be used within the jurisdiction of the issuing court as
75 well as outside such jurisdiction if such tracking device was installed within that
76 jurisdiction; and

77 (11) The warrant and any extension thereof, the application upon which the warrant and
78 extensions, if any, were issued, the affidavit supporting the warrant and extensions, if
79 any, the return, and any request for and order granting a delay in the serving of notice
80 shall be filed with the clerk of the court of the issuing judge, or with the court if so
81 ordered, at the time the return is made or when the warrant has been returned not
82 executed; provided, however, that the issuing judge may order that such documents be
83 sealed while an investigation remains ongoing until such time that an arrest warrant,
84 indictment, or accusation based wholly or in part upon information derived from the use
85 of the tracking device is issued."

86 **SECTION 2.**

87 This Act shall become effective upon its approval by the Governor or upon its becoming law
88 without such approval.

89 **SECTION 3.**

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