

The House Committee on Judiciary Non-civil offers the following substitute to HB 16:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to crimes involving wiretapping, eavesdropping, unauthorized
3 surveillance, and related activities, so as to prohibit the electronic tracking of the location or
4 movement of another person without such other person's consent; to provide for exceptions;
5 to provide for punishment; to provide for related matters; to provide for an effective date and
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
10 relating to crimes involving wiretapping, eavesdropping, unauthorized surveillance, and
11 related activities, is amended by inserting a new Code section as follows:

12 "16-11-62.1.

13 (a) As used in Code section, the term 'electronic tracking device' means any device that
14 reveals its location or movement by the transmission of electronic signals.

15 (b) Except as otherwise provided in this Code section, no person shall use an electronic
16 tracking device to determine the location or movement of another person without such
17 other person's consent.

18 (c) This Code section shall not apply when the owner, lienholder, lessor, or lessee of a
19 vehicle has consented to the use of the electronic tracking device with respect to that
20 vehicle.

21 (d) This Code section shall not apply to:

22 (1) Official actions of an official law enforcement agency acting in a law enforcement
23 capacity;

24 (2) Actions of United States military law enforcement personnel in the performance of
25 their official duties;

26 (3) Actions of a parent, legal guardian, or person in loco parentis with respect to
 27 determining the location or movement of a child or other person with whom such parent,
 28 legal guardian, or person in loco parentis has such legal relationship;

29 (4) Actions of a family member or caregiver with respect to determining the location or
 30 movement of a patient or family member with a diagnosis by a licensed physician of
 31 Alzheimer's disease, vascular dementia, Pick's disease, Creutzfeldt-Jakob disease,
 32 Parkinson's disease, or Lewy Body dementia;

33 (5) The provision of a commercial service such as mobile telephone service or vehicle
 34 safety or security service which allows the provider of the service to determine the
 35 location or movement of a device provided to a customer of the commercial service for
 36 the purpose of providing the commercial service;

37 (6) Actions of a facility licensed pursuant to Title 31 with respect to determining the
 38 location or movement of a patient, when such device is deemed medically necessary by
 39 the patient's physician; or

40 (7) Actions of a private detective who is licensed pursuant to Chapter 38 of Title 43
 41 while in the performance of duties that are authorized for such detective.

42 (e) Except as provided in paragraph (4) or (6) of subsection (d) of this Code section, no
 43 person shall be required to be implanted with an electronic tracking device pursuant to this
 44 Code section.

45 (f) Any person violating this Code section shall upon conviction be guilty of a
 46 misdemeanor; provided, however, it shall not be a violation of this Code section to use an
 47 electronic tracking device to determine the location or movement of another person without
 48 such other person's consent if such person is an occupant of a vehicle where use of such
 49 electronic tracking device is permissible according to the provisions of subsection (c) or
 50 subsection (d) of this Code section or both subsections (c) and (d) of this Code section."

51 **SECTION 2.**

52 This Act shall become effective upon its approval by the Governor or upon its becoming law
 53 without such approval and shall apply with respect to conduct on and after that date.

54 **SECTION 3.**

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