

Senate Bill 46

By: Senators Fort of the 39th, Jones of the 10th, Davenport of the 44th, Henson of the 41st,
Tate of the 38th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to law enforcement officers and agencies, so as to provide for
3 definitions; to require that certain peace officers be equipped with an audio and video
4 recording device attached to their persons for recording audio and video of all activities
5 performed while on duty; to provide for a public disclosure exception; to provide for
6 penalties; to provide for grant funding; to amend Article 4 of Chapter 18 of Title 50 of the
7 Official Code of Georgia Annotated, relating to the inspection of public records, so as to
8 provide for the release under certain circumstances of certain audio and video recordings
9 from audio and video recording devices attached to the persons of peace officers; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
14 provisions relative to law enforcement officers and agencies, is amended by adding a new
15 Code section to read as follows:

16 "35-1-20.

17 (a) As used in this Code section, the term:

18 (1) 'Encounter for a law enforcement purpose' means:

19 (A) Any stop, detention, or investigation by a peace officer of any other person, or any
20 interaction by a peace officer with any other person, such that such other person
21 reasonably believes that such peace officer is acting as an agent, operative, or officer
22 of this state, or a subdivision or municipality thereof, in such a stop, detention,
23 investigation, or interaction; or

24 (B) Any stop, detention, or investigation by a peace officer of any other person, or
25 interaction by a peace officer with any other person, that results in an arrest or any use
26 of force.

27 (2) 'Peace officer' shall have the same meaning as provided for in paragraph (8) of Code
 28 Section 35-8-2.

29 (b)(1) On and after January 1, 2017, each state, county, and local law enforcement
 30 agency shall equip all peace officers who conduct traffic stops or respond to emergency
 31 dispatch calls as their primary duty with an audio and video recording device attached to
 32 their persons which shall record audio and video of all activities while such peace officers
 33 are on duty. Such recording device shall depict such activities from the point of view of
 34 such peace officer's body front or line of sight. Law enforcement agencies which do not
 35 comply with the requirements of this subsection are subject to the withholding of any
 36 state funding or state administered federal funding.

37 (2) Notwithstanding paragraph (4) of subsection (a) of Code Section 50-18-72, the audio
 38 and video recordings provided for in paragraph (1) of this subsection which depict an
 39 encounter for a law enforcement purpose, including but not limited to all relevant
 40 depictions occurring prior to and after such encounter for a law enforcement purpose,
 41 shall be publicly disclosed. Except for portions depicting an encounter for a law
 42 enforcement purpose as provided for under this paragraph, the audio and video recordings
 43 provided for in paragraph (1) of this subsection shall not be publicly disclosed.

44 (3) Except for the purpose of investigating or prosecuting the activity of a peace officer
 45 relating to actions taken within a law enforcement capacity, a law enforcement agency
 46 shall not in any manner make use of the audio and video recordings provided for in
 47 paragraph (1) of this subsection.

48 (c) Audio and video recordings provided for in subsection (b) of this Code section shall
 49 be maintained for 90 days; provided, however, that any audio and video recording
 50 depicting a traffic stop or encounter for a law enforcement purpose involving the use of
 51 force, a detention, or an arrest or depicting an encounter for a law enforcement purpose for
 52 which a formal or informal complaint has been registered shall be maintained for three
 53 years.

54 (d) The commissioner shall create rules and regulations for the awarding of financial
 55 grants to law enforcement agencies for any state funding or state administered federal
 56 funding designated for the purposes of this Code section. Such rules and regulations shall
 57 give preference to small or underfunded law enforcement agencies."

58 **SECTION 2.**

59 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to the
 60 inspection of public records, is amended by revising paragraph (4) of subsection (a) of Code
 61 Section 50-18-72, relating to when public disclosure is not required, as follows:

62 "(4) Records of law enforcement, prosecution, or regulatory agencies in any pending
63 investigation or prosecution of criminal or unlawful activity, other than initial police
64 arrest reports and initial incident reports; provided, however, that an investigation or
65 prosecution shall no longer be deemed to be pending when all direct litigation involving
66 such investigation and prosecution has become final or otherwise terminated; and
67 provided, further, that this paragraph shall not apply to records in the possession of an
68 agency that is the subject of the pending investigation or prosecution; and provided,
69 further, that the release of booking photographs shall only be permissible in accordance
70 with Code Section 35-1-18; and provided, further, that the release of audio and video
71 recordings from devices attached to the persons of peace officers as provided in
72 subsection (b) of Code Section 35-1-20 shall only be permissible in accordance with
73 Code Section 35-1-20;"

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SECTION 3.

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