

Senate Bill 71

By: Senators James of the 35th, Ramsey, Sr. of the 43rd, Rhett of the 33rd and Tate of the 38th

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 wiretapping, eavesdropping, surveillance, and related offenses, so as  
3 to clarify that it shall be lawful under certain circumstances for peace officers to use law  
4 enforcement agency issued devices to observe, photograph, or record the activities of another  
5 which occur in any private place and out of public view; to amend Chapter 1 of Title 35 of  
6 the Official Code of Georgia Annotated, relating to general provisions relative to law  
7 enforcement officers and agencies, so as to require that certain peace officers be equipped  
8 with an audio and video recording device attached to their persons for recording audio and  
9 video of all activities performed while on duty; to provide for definitions; to provide for  
10 public disclosure exceptions; to provide for penalties; to amend Article 4 of Chapter 18 of  
11 Title 50 of the Official Code of Georgia Annotated, relating to the inspection of public  
12 records, so as to provide for the release of certain audio and video recordings from devices  
13 attached to the persons of peace officers; to provide for related matters; to repeal conflicting  
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

17 Part 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
18 relating to wiretapping, eavesdropping, surveillance, and related offenses, is amended in  
19 paragraph (2) of Code Section 16-11-62, relating to eavesdropping, surveillance, or  
20 intercepting communication which invades the privacy of another, by deleting "or" at the end  
21 of subparagraph (B), by adding "or" at the end of subparagraph (C), and by adding a new  
22 subparagraph to read as follows:

23 "(D) For a peace officer to use a device as provided for in Code Section 35-1-20 in the  
24 performance of his or her official duties pursuant to conducting a traffic stop or  
25 responding to an emergency call or situation. For purposes of this subparagraph, the  
26 term 'peace officer' shall have the same meaning as provided for in paragraph (8) of  
27 Code Section 35-8-2;"

28

**SECTION 2.**

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

32 "35-1-20.

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

34 (1) 'Encounter for a law enforcement purpose' means any stop, detention, or investigation  
35 by a peace officer.

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

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

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

53 (c) Audio and video recordings provided for in subsection (b) of this Code section shall  
54 be retained in the same manner as 9-1-1 emergency call recordings are retained pursuant  
55 to retention schedules promulgated under Article 5 of Chapter 18 of Title 50, the 'Georgia  
56 Records Act.'

57

**SECTION 3.**

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

61 "(4) Records of law enforcement, prosecution, or regulatory agencies in any pending  
62 investigation or prosecution of criminal or unlawful activity, other than initial police  
63 arrest reports and initial incident reports; provided, however, that an investigation or

64 prosecution shall no longer be deemed to be pending when all direct litigation involving  
65 such investigation and prosecution has become final or otherwise terminated; and  
66 provided, further, that this paragraph shall not apply to records in the possession of an  
67 agency that is the subject of the pending investigation or prosecution; and provided,  
68 further, that the release of booking photographs shall only be permissible in accordance  
69 with Code Section 35-1-18; and provided, further, that the release of audio and video  
70 recordings from devices attached to the persons of peace officers shall be in accordance  
71 with Code Section 35-1-20;"

72 **SECTION 4.**

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