

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.