

Senate Bill 154

By: Senators Stone of the 23rd, Watson of the 1st, Harper of the 7th and Jones II of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 3 of Chapter 11 of Title 16 and Code Section 17-5-21 of the
2 Official Code of Georgia Annotated, relating to wiretapping, eavesdropping, surveillance,
3 and related offenses and grounds for issuance of search warrant and scope of search pursuant
4 to a search warrant, respectively, so as to provide for law enforcement officials to record
5 matters occurring in private places or during the execution of a search warrant; to revise a
6 definition; to provide for related matters; 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 wiretapping, eavesdropping, surveillance, and related offenses, is amended by
11 revising paragraph (3) of Code Section 16-11-60, relating to definitions, as follows:

12 "(3) 'Private place' means a place where ~~one is entitled reasonably to expect to be safe~~
13 ~~from casual or hostile intrusion or surveillance~~ there is a reasonable expectation of
14 privacy."

15 **SECTION 2.**

16 Said part is further amended by revising paragraph (2) of Code Section 16-11-62, relating
17 to eavesdropping, surveillance, or intercepting communication which invades privacy of
18 another, as follows:

19 "(2) Any person, through the use of any device, without the consent of all persons
20 observed, to observe, photograph, or record the activities of another which occur in any
21 private place and out of public view; provided, however, that it shall not be unlawful:

22 (A) To use any device to observe, photograph, or record the activities of persons
23 incarcerated in any jail, correctional institution, or ~~any~~ other facility in which persons
24 who are charged with or who have been convicted of the commission of a crime are
25 incarcerated, provided that such equipment shall not be used while the prisoner is
26 discussing his or her case with his or her attorney;

27 (B) For an owner or occupier of real property to use for security purposes, crime
 28 prevention, or crime detection any device to observe, photograph, or record the
 29 activities of persons who are on the property or an approach thereto in areas where there
 30 is no reasonable expectation of privacy; ~~or~~

31 (C) To use for security purposes, crime prevention, or crime detection any device to
 32 observe, photograph, or record the activities of persons who are within the curtilage of
 33 the residence of the person using such device. A photograph, videotape, or record made
 34 in accordance with this subparagraph, or a copy thereof, may be disclosed by such
 35 resident to the district attorney or a law enforcement officer and shall be admissible in
 36 a judicial proceeding, without the consent of any person observed, photographed, or
 37 recorded; or

38 (D) For a law enforcement officer or his or her agent to use a device in the lawful
 39 performance of his or her official duties to observe, photograph, videotape, or record
 40 the activities of persons that occur in the presence of such officer or his or her agent."

41 **SECTION 3.**

42 Code Section 17-5-21 of the Official Code of Georgia Annotated, relating to grounds for
 43 issuance of search warrant and scope of search pursuant to a search warrant, is amended by
 44 revising subsection (b) as follows:

45 "(b) When the peace officer is in the process of effecting a lawful search, nothing in this
 46 Code section shall ~~be construed to preclude him~~ such officer from discovering or seizing
 47 any stolen or embezzled property, any item, substance, object, thing, or matter, the
 48 possession of which is unlawful, or any item, substance, object, thing, or matter, other than
 49 the private papers of any person, which is tangible evidence of the commission of a crime
 50 against the laws of this state, the United States, or another state. Other personnel, sworn
 51 or unsworn, acting under the direction of a peace officer executing a search warrant may
 52 assist in the execution of such warrant. While in the process of effecting a lawful arrest or
 53 lawful search, nothing in this Code section nor in Code Section 16-11-62 shall be construed
 54 to preclude the use of any device, as such term is defined in Code Section 16-11-60, by the
 55 peace officer executing the search warrant or other personnel assisting in the execution of
 56 such warrant."

57 **SECTION 4.**

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