

Senate Bill 90

By: Senators Fort of the 39th, Jackson of the 2nd, Rhett of the 33rd, Jones of the 10th, Seay of the 34th 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 "35-1-21.

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, 2018, 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 as provided for in Code Section 50-18-96.

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

54 **SECTION 2.**

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

58 "(4) Records of law enforcement, prosecution, or regulatory agencies in any pending  
 59 investigation or prosecution of criminal or unlawful activity, other than initial police  
 60 arrest reports and initial incident reports; provided, however, that an investigation or  
 61 prosecution shall no longer be deemed to be pending when all direct litigation involving  
 62 such investigation and prosecution has become final or otherwise terminated; and

63 provided, further, that this paragraph shall not apply to records in the possession of an  
64 agency that is the subject of the pending investigation or prosecution; and provided,  
65 further, that the release of booking photographs shall only be permissible in accordance  
66 with Code Section 35-1-18; and provided, further, that the release of audio and video  
67 recordings from devices attached to the persons of peace officers as provided in  
68 subsection (b) of Code Section 35-1-21 shall only be permissible in accordance with  
69 Code Section 35-1-21;"

70 **SECTION 3.**

71 All laws and parts of laws in conflict with this Act are repealed.