

The House Committee on Judiciary Non-Civil offers the following substitute to HB 9:

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 prohibit the use of a device to film underneath a person's clothing under certain
4 circumstances; to provide for definitions; to provide for exceptions; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
9 relating to wiretapping, eavesdropping, surveillance, and related offenses, is amended by
10 adding a new Code section to read as follows:

11 "16-11-61.1.

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

13 (1) 'Device' means an instrument or apparatus used for observing, photographing,
14 videotaping, recording, or transmitting visual images, including but not limited to a
15 camera, photographic equipment, video equipment, mobile phone, or other similar
16 equipment.

17 (2) 'Intimate parts' shall have the same meaning as set forth in Code Section 16-6-22.1.

18 (3) 'Person' means an individual who is 16 years of age or older.

19 (b)(1) Notwithstanding Code Section 16-11-90, it shall be unlawful for any individual
20 to, knowingly and without the consent of the person observed, use or install a device for
21 the purpose of surreptitiously observing, photographing, videotaping, filming, or video
22 recording such person underneath such person's clothing, for the purpose of viewing the
23 intimate parts of the body of or the undergarments worn by such person, under
24 circumstances in which such person has a reasonable expectation of privacy.

25 (2) It shall be unlawful to disseminate any image or recording with knowledge that it was
26 taken or obtained in violation of paragraph (1) of this subsection.

27 (c) Subsection (b) of this Code section shall not apply to:

28 (1) The lawful activities of law enforcement and prosecution agencies; or

29 (2) A business's or entity's surveillance device used in the ordinary course of its business,

30 provided that signage conspicuously warns of such surveillance and the use of such

31 device is primarily designed to detect unlawful activity.

32 (d) Any violation of this Code section shall constitute a separate offense and shall not

33 merge with any other crimes set forth in this title."

34

SECTION 2.

35 All laws and parts of laws in conflict with this Act are repealed.