

House Bill 112

By: Representatives Scott of the 76th, Davis of the 87th, and Schofield of the 63rd

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 35 of the Official Code of Georgia Annotated, relating to law enforcement
2 officers and agencies, so as to provide for ethical policing; to provide for definitions; to
3 provide for the creation, operation, and powers of certain citizen review boards; to provide
4 for membership and terms; to provide for the creation of a uniform form by the Attorney
5 General for use in recording complaints alleging police misconduct and disciplinary actions;
6 to provide for public inspection; to provide for the filing and investigation of complaints; to
7 provide for procedures and requirements for the offering of employment to certain law
8 enforcement officers; to provide that law enforcement officers shall have a duty to report
9 violations of ethical policing; to provide for measures to protect against retaliation for filing
10 complaints alleging police misconduct; to provide for hearings and public notice thereof; to
11 provide for the revocation of peace officer certificate for certain acts; to require personal
12 liability insurance for law enforcement officers; to provide for an annual report summarizing
13 complaints filed and disciplinary actions imposed; to provide for an early warning system;
14 to provide for accountability for law enforcement officers who are supervisors; to provide
15 for procedures for the reinstatement of suspended law enforcement officers; to provide for
16 instruction on ethical policing; to amend Article 2 of Chapter 21 of Title 50 of the Official
17 Code of Georgia Annotated, relating to state tort claims, so as to remove certain immunities
18 from the actions of certain law enforcement officers; to provide for a definition; to provide

H. B. 112

- 1 -

19 that a law enforcement officer alleged to have committed police misconduct or a violation
20 of law while acting within the scope of his or her official duties or employment shall be
21 subject to lawsuit or liability; to provide for a short title; to provide for related matters; to
22 repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **PART I**
25 **SECTION 1-1.**

26 This Act shall be known and may be cited as the "Ethical Policing Act."

27 **PART II**
28 **SECTION 2-1.**

29 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
30 agencies, is amended by adding a new chapter to read as follows:

31 "CHAPTER 11

32 35-11-1.

33 As used in this chapter, the term:

34 (1) 'Bodily injury' means any injury caused to an individual's person by a law
35 enforcement officer as a result of police misconduct, including, but not limited to, death.

36 (2) 'Citizen review board' means any board of citizens formed pursuant to this chapter
37 whose purpose is to provide for oversight of police misconduct and ethical policing.

38 (3) 'Disciplinary action' means all discipline imposed as a result of conduct in violation
39 of this chapter or the policies of a law enforcement agency.

40 (4) 'Disposition' means any status applied to a complaint alleging police misconduct after
41 the complaint has been investigated, including, but not limited to, investigations left
42 incomplete or which are ongoing.

43 (5) 'Duty to intervene' means the requirement to intervene and to file a complaint
44 reporting any police misconduct that occurs, whether such conduct is heard about or
45 witnessed.

46 (6) 'Duty to safeguard life' means the requirement to refrain from police misconduct in
47 the discharge of responsibilities, the requirement to discharge one's professional duties
48 in the best interest of public safety, and the requirement to adhere to law enforcement
49 agency policies and standards.

50 (7) 'Early warning system' means a system for electronically tracking complaints and
51 disciplinary action, disaggregated by individual law enforcement officers.

52 (8) 'Ethical policing' means the discharge of responsibilities, stemming from employment
53 as a law enforcement officer, which is devoid of police misconduct and which is carried
54 out in conformance with this chapter, including, but not limited to, the duty to safeguard
55 life and the duty to intervene.

56 (9) 'Family unit' means individuals related by blood, adoption, marriage, or domestic
57 partnership.

58 (10) 'Inspection' means the examination of information and records qualifying for public
59 inspection, including, but not limited to, physical copies and electronic copies, pursuant
60 to the requirements of this chapter and Article 4 of Chapter 18 of Title 50.

61 (11) 'Law enforcement agency' means any agency, organ, or department of this state, or
62 a subdivision or municipality thereof, whose primary functions include the enforcement
63 of criminal or traffic laws, the preservation of public order, the protection of life and
64 property, or the prevention, detection, or investigation of crime, including, but not limited

65 to, any department or unit organized by a college or university for the purposes of
66 Chapter 8 of Title 20.

67 (12) 'Law enforcement officer' means any person appointed or employed in conformity
68 with Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.'

69 (13) 'Personal information' means and includes:

70 (A) Current or former names;

71 (B) Social security numbers;

72 (C) Driver's license numbers;

73 (D) Checking or savings account numbers;

74 (E) Credit, debit, and other financial transaction card numbers;

75 (F) Personal identification numbers;

76 (G) Electronic identification numbers;

77 (H) Digital or electronic signatures;

78 (I) Medical identification numbers, including veteran and military medical
79 identification numbers;

80 (J) Birth dates;

81 (K) Mother's maiden name;

82 (L) Tax identification numbers; and

83 (M) State identification card numbers issued by state departments.

84 (14) 'Police misconduct' means conduct that violates ethical policing or the policies or
85 standards of a law enforcement officer's employing law enforcement agency, including,
86 but not limited to:

87 (A) Excessive use of force;

88 (B) Bodily injury;

89 (C) Sexual violence;

90 (D) Exceeding authority;

91 (E) Racial profiling;

92 (F) Failure to act on the duty to safeguard life; and

93 (G) Failure to act on the duty to intervene.

94 (15) 'Qualified board member' means a resident of this state who is not younger than 16
95 years of age; provided, however, that such term shall not include:

96 (A) An elected or appointed official;

97 (B) A member of any law enforcement agency;

98 (C) An employee or representative of any agency responsible for training or certifying
99 law enforcement officers; or

100 (D) Any member of a family unit that includes a member of the law enforcement
101 agency being overseen by the subject citizen review board.

102 35-11-2.

103 (a)(1) A citizen review board for a county or municipal corporation shall only be formed
104 by:

105 (A) The governing authority of such county or municipal corporation; or

106 (B) Pursuant to the requirements of subsection (b) of this Code section, residents of
107 such county or municipal corporation.

108 (2) A citizen review board may be formed to have authority pertaining to one or more
109 law enforcement agencies of such county or municipal corporation. In the act forming
110 the citizen review board pursuant to subparagraph (A) of paragraph (1) of this subsection
111 or in the petition forming the citizen review board pursuant to subparagraph (B) of
112 paragraph (1) of this subsection, the law enforcement agencies over which the citizen
113 review board shall have authority shall be specifically identified.

114 (b)(1) Residents of a county or municipal corporation for which the governing authority
115 has not formed a citizen review board for a law enforcement agency of such county or
116 municipal corporation at the time of filing may form a citizen review board by a petition
117 that is filed with the clerk of the governing authority and that contains the signatures of

118 at least 50 electors of such county or municipal corporation who were registered to vote
119 in the most recent general election. The clerk shall cause a notice of the filing of such
120 petition to be published in the official organ of the county or municipal corporation, as
121 the case may be, once a week for three weeks. The governing authority shall determine
122 the validity of such petition within 60 days after the last publishment of notice and, if
123 such petition is found to be valid, shall form the citizen review board.

124 (2) The petition provided for under paragraph (1) of this subsection may include a
125 proposed list of initial qualified board members that, if adopted, would be in conformance
126 with the requirements of this chapter. Absent good cause shown to deny such
127 appointments, the governing authority shall appoint the proposed members as the initial
128 members of such citizen review board.

129 (3) The residents filing a petition under paragraph (1) of this subsection may appeal any
130 denial of the petition or any denial of the proposed membership by the governing
131 authority to the superior court.

132 (c) The membership of a citizen review board shall consist of qualified board members and
133 shall:

134 (1) Reflect the general demographics of the jurisdiction it serves according to the most
135 recent United States decennial census; and

136 (2) Comprise no less than five and no more than nine residents of the jurisdiction served
137 by such citizen review board.

138 (d) A qualified board member shall serve for a term of 12 consecutive months and may be
139 reappointed for successive terms; provided, however, that no qualified board member shall
140 serve for more than 24 consecutive months.

141 (e)(1) The membership of a citizen review board formed pursuant to paragraph (1) of
142 subsection (a) of this Code section shall be provided for by the governing authority in
143 accordance with this Code section.

144 (2) After the expiration of the initial appointments, the membership of a citizen review
145 board formed pursuant to paragraph (2) of subsection (a) of this Code section shall be
146 provided for by the governing authority in accordance with this Code section; provided,
147 however, that the governing authority shall identify a successor 90 days prior to the
148 expiration of a qualified board member's term.

149 (f) Nothing in this Code section shall be construed to prohibit a person from serving on
150 more than one citizen review board.

151 (g) This Code section shall apply to any citizen review board created on or after July 1,
152 2023.

153 35-11-3.

154 (a) A citizen review board shall convene no less than once every three months for the
155 purpose of discharging its responsibilities; provided, however, that a citizen review board
156 shall have the authority to meet as often as it deems necessary to discharge its
157 responsibilities.

158 (b) A citizen review board shall have the authority to examine police misconduct within
159 any law enforcement agency such citizen review board was formed to oversee. Without
160 limiting the foregoing, the citizen review board shall have the authority to:

161 (1) Examine, at will, complaint records and records of disciplinary action to identify best
162 practices related to a law enforcement agency's response to, and its resolution of, police
163 misconduct;

164 (2) Examine, at will, complaint records and records of disciplinary action to assess a law
165 enforcement agency's overall policing culture for conformance with ethical policing;

166 (3) Examine, at will, complaint records and records of disciplinary action upon receipt
167 of notice alleging police misconduct from any member of the public;

168 (4) Examine, at will, complaint records and records of disciplinary action in response to
169 publicly disclosed acts of alleged police misconduct;

- 170 (5) Examine, at will, any written recommendation or final order issued as part of the
171 disposition of an administrative action;
- 172 (6) Examine, at will, any written recommendation or final order issued by a hearing
173 board or similar body with the responsibility of adjudicating police complaints or police
174 disciplinary actions;
- 175 (7) Examine, at will, any recommendation resulting from an investigation or
176 interrogation of a law enforcement officer;
- 177 (8) Examine, at will, complaint records and records of disciplinary action held by any
178 state or local law enforcement agency providing services within the boundaries of the
179 jurisdiction served by the citizen review board;
- 180 (9) File a complaint, using the process set forth in this chapter, asserting police
181 misconduct on behalf of any individual so requesting or upon the citizen review board's
182 impression that a violation of ethical policing has occurred;
- 183 (10) Engage in unfettered public education as to its responsibilities and the breadth of
184 its authority;
- 185 (11) Publish, for public consumption, its findings and recommendations;
- 186 (12) Request that the law enforcement agency with the authority to act on violations of
187 this chapter examine complaint records and records of disciplinary action for the purposes
188 of determining whether a violation of this chapter has occurred. The examination
189 authorized under this paragraph shall extend to the complaints and disciplinary records
190 of law enforcement officers, including, but not limited to, individuals exercising the
191 duties and responsibilities common to the role of a sheriff, chief of police, deputy chief
192 of police, assistant chief of police, commissioner of police, deputy commissioner of
193 police, and assistant commissioner of police;
- 194 (13) Initiate an independent investigation into police misconduct complaints without
195 regard to the disposition of such complaints;

196 (14) Receive funds to cover the expenses of any investigation if sufficient funds for
197 investigatory purposes have not been appropriated for use by the citizen review board;

198 (15) Initiate an independent investigation into any law enforcement officer who has been
199 reinstated and who provides or will provide services within the boundaries of the
200 jurisdiction served by the citizen review board; and

201 (16) Initiate an investigation into any person, other than a member of the judiciary, who
202 reinstates a law enforcement officer; provided, however, that such investigation shall be
203 limited to determining whether the act of reinstating such law enforcement officer
204 violates ethical policing as defined in this chapter.

205 (c) No member of a citizen review board shall receive compensation for his or her services
206 on the citizen review board.

207 (d) Members of a citizen review board may participate in meetings of such citizen review
208 board via telephone or video conference.

209 (e) Any person who denies or otherwise thwarts the authority granted to a citizen review
210 board shall be guilty of a misdemeanor.

211 35-11-4.

212 (a)(1) The Attorney General shall design a uniform form that shall be used by law
213 enforcement agencies to record complaints alleging police misconduct and disciplinary
214 actions.

215 (2) Complaints alleging police misconduct filed by any law enforcement officer against
216 another law enforcement officer shall be recorded on the form provided for in
217 paragraph (1) of this subsection.

218 (3) Disciplinary actions against any law enforcement officer shall be recorded on the
219 form provided for in paragraph (1) of this subsection, regardless of whether the
220 disciplinary action resulted from the filing of a complaint or a law enforcement agency's
221 independent decision to impose disciplinary action.

222 (b)(1) All information submitted on the form provided for under paragraph (1) of
223 subsection (a) of this Code section shall be available for inspection, including, but not
224 limited to, inspection by citizen review boards and law enforcement agencies, without
225 regard to the status of any underlying or related investigation, except that a complainant
226 shall have the opportunity to indicate whether his or her personal information is to be
227 withheld from inspection; provided, however, that, if the underlying or related
228 investigation is incomplete at the time the record is requested, such record shall be
229 stamped 'investigation pending'; and provided, further, that the citizen review board shall
230 have a right of inspection within 48 hours of a request for records involving death or
231 substantial bodily injury.

232 (2) All information submitted on the form provided for under paragraph (1) of
233 subsection (a) of this Code section and the form used shall be permanently retained by
234 the law enforcement agency to which the complaint was made or by which the
235 disciplinary action was imposed.

236 (c)(1) A complainant shall be afforded the opportunity to file a complaint in person,
237 electronically, or by telephone interview and shall have the right to receive assistance,
238 including, but not limited to, assistance for visual, reading, and language barriers.

239 (2) A complainant shall be provided a copy of his or her complaint within 24 hours after
240 filing such complaint.

241 (d) For the filing of complaints, the form provided for in paragraph (1) of subsection (a)
242 of this Code section, in addition to any other information, shall provide for:

243 (1) Specific identification of when the complaint was received;

244 (2) Identification of the law enforcement officer taking or receiving the complaint for the
245 law enforcement agency;

246 (3) Identifying information of the law enforcement officer who is the subject of the
247 complaint, including, but not limited to, his or her name, rank, and badge number;

248 (4) The complainant's personal information;

- 249 (5) The race or ethnicity of the complainant;
250 (6) A choice for the complainant to classify the complaint as excessive use of force,
251 bodily injury, sexual violence, exceeding authority, racial profiling, or failure to act on
252 the duty to intervene or the duty to safeguard life; provided, however, that space shall be
253 made available for the complainant to offer any other classification for the complaint;
254 (7) A detailed narrative of the events forming the basis of the complaint;
255 (8) A selection whereby a complainant may elect whether to have his or her personal
256 information withheld from inspection;
257 (9) An administrative tracking of all law enforcement officers who have received or
258 considered the complaint and their actions upon the complaint; and
259 (10) Any disposition and disciplinary actions that result from the complaint.
260 (e) A law enforcement agency shall investigate all complaints of alleged police misconduct
261 even if only partial information is received. No complaint alleging police misconduct shall
262 be withheld or not acted upon because incomplete information is provided or the form is
263 incomplete.
264 (f)(1) For the recording of disciplinary actions not precipitated by a complaint, the form
265 provided for in paragraph (1) of subsection (a) of this Code section shall, in addition to
266 any other information, include:
267 (A) A description of the conduct underlying the disciplinary action; provided, however,
268 that, if the disciplinary action is expressed in the form of a code, including, but not
269 limited to, any numeric, lettering, or symbol system, a written definition for each such
270 code shall be provided within the description; and
271 (B) The signature of the person recording the disciplinary action.
272 (2) All disciplinary actions shall be recorded within 72 hours of being imposed.
273 (g) Any intentional violation of this Code section shall be a violation of ethical policing.

274 35-11-5.

275 (a) All law enforcement officers shall engage in ethical policing in the discharge of their
276 duties.

277 (b)(1) No law enforcement agency shall offer employment to any law enforcement
278 officer without first requesting, receiving, and inspecting any information pertaining to
279 such law enforcement officer and the history of his or her complaint records and records
280 of disciplinary actions, including, but not limited to, information that has been recorded
281 on the form provided for in Code Section 35-11-4, from any law enforcement agency that
282 previously employed the law enforcement officer. The requirements of this paragraph
283 shall apply to offers of employment or transfers within a law enforcement agency or
284 affiliated divisions already employing such law enforcement officer.

285 (2) In circumstances where there is no information pertaining to such law enforcement
286 officer from his or her previous employment with a law enforcement agency, a law
287 enforcement officer at the previous employing law enforcement agency shall certify in
288 writing the absence of such information.

289 (c) A law enforcement officer's complaint records and records of disciplinary action shall
290 be part of the determination by the hiring law enforcement agency as to whether such law
291 enforcement officer has the ability to carry out ethical policing.

292 (d) No person with a complaint or disciplinary history indicative of conduct in violation
293 of ethical policing shall serve as a law enforcement officer in this state.

294 (e) Any violation of this Code section shall be a violation of ethical policing.

295 35-11-6.

296 (a) A law enforcement officer shall file a complaint in conformance with the duty to
297 intervene and whenever he or she observes another law enforcement officer engage in
298 conduct that violates the duty to safeguard life or hears about such conduct after it occurs.

299 (b) Law enforcement officers who file a complaint pursuant to subsection (a) of this Code
300 section or who otherwise act in furtherance of subsection (a) of this Code section shall not
301 be disciplined or retaliated against, either directly or indirectly, for filing such complaint.
302 It shall be presumed that any disciplinary or retaliatory action taken against a law
303 enforcement officer close in time after he or she files a complaint is in violation of this
304 subsection.

305 (c) Any law enforcement officer who violates this Code section shall be deemed to have
306 violated ethical policing.

307 35-11-7.

308 (a) Members of the public or members of citizen review boards who file complaints
309 alleging police misconduct shall not be subjected to retaliation or harassment, direct or
310 indirect, for having filed such complaint.

311 (b) Any law enforcement officer who violates this Code section shall be deemed to have
312 violated ethical policing.

313 (c) Any violation of this Code section shall be a misdemeanor.

314 35-11-8.

315 (a) Where a hearing has been scheduled in response to, or in resolution of, a complaint of
316 police misconduct, written notice of such hearing shall be provided to the public. Such
317 notice shall be posted at least five days in advance of the hearing on the website of the law
318 enforcement agency and shall state the date, time, and address of the hearing, as well as the
319 name of the subject or subjects of the hearing; provided, however, that written notice shall
320 be sent to the complainant and proof of delivery shall be required.

321 (b) All hearings scheduled in response to, or in resolution of, a complaint of police
322 misconduct shall be open to the public pursuant to Chapter 14 of Title 50; provided,

323 however, that hearings may be closed to protect minors who are serving as witnesses and
324 the identities of undercover law enforcement officers or informants.

325 (c) Any violation of this Code section shall be a misdemeanor.

326 35-11-9.

327 (a) Where a complaint that alleges police misconduct involving bodily injury, racial
328 profiling, sexual violence, or failure to act on the duty to intervene or duty to safeguard life
329 is sustained by the investigating law enforcement agency or investigating law enforcement
330 officer, the law enforcement officer who is the subject of the complaint shall have his or
331 her certificate under Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and
332 Training Act,' revoked pursuant to Code Section 35-8-7.1.

333 (b) Any law enforcement officer who has more than four disciplinary actions imposed
334 against him or her or who has been found to have violated ethical policing pursuant to this
335 Code section shall have his or her certificate under Chapter 8 of Title 35, the 'Georgia
336 Peace Officer Standards and Training Act,' revoked pursuant to Code Section 35-8-7.1.

337 35-11-10.

338 All law enforcement officers shall carry professional liability insurance as a condition of
339 employment with any law enforcement agency. The minimum value of such insurance
340 shall not be less than \$500,000.00.

341 35-11-11.

342 (a) Every law enforcement agency shall release an annual report summarizing the total
343 number of complaints filed and disciplinary actions imposed against its law enforcement
344 officers. Such report shall be available for inspection and shall be published on the law
345 enforcement agency's website.

346 (b) The annual report provided for under subsection (a) of this Code section shall contain
347 all of the following information, disaggregated, where applicable, by precinct:

348 (1) The name of every law enforcement officer against whom a complaint alleging police
349 misconduct has been sustained; the race or ethnicity of the person filing the complaint;
350 if the complainant is different from the victim, the race and ethnicity of the victim; a
351 description of the offending conduct; and the discipline imposed;

352 (2) When any named law enforcement officer has multiple sustained complaints on
353 record, the total number of sustained complaints against such law enforcement officer;

354 (3) The total number of complaints filed against the law enforcement agency's law
355 enforcement officers, disaggregated by disposition of the complaint at the time the annual
356 report is released; and

357 (4) The total number of disciplinary actions imposed on the law enforcement agency's
358 law enforcement officers as a result of internal action not precipitated by a complaint of
359 police misconduct, disaggregated by the type of discipline imposed.

360 (c) The annual report provided for under subsection (a) of this Code section shall be
361 permanently retained by such law enforcement agency.

362 (d) Any violation of this Code section shall be a misdemeanor.

363 35-11-12.

364 Every law enforcement agency shall adopt and use an early warning system to track
365 complaints filed against, and disciplinary actions imposed on, individual law enforcement
366 officers. Such early warning system shall set forth the responsibility of law enforcement
367 officers in supervisory positions to timely and properly respond to patterns suggestive of
368 conduct incompatible with ethical policing. Such early warning system shall set forth the
369 steps that must be taken and identify the disciplinary consequences, up to and including
370 termination, when conduct incompatible with ethical policing is identified. Such early
371 warning system shall also set forth the consequences for failing to timely and properly

372 respond to patterns suggestive of conduct incompatible with ethical policing. Where such
373 early warning system indicates a pattern of conduct incompatible with ethical policing for
374 an individual law enforcement officer and such incompatibility is confirmed after
375 examination of the underlying records, the law enforcement officer shall be deemed to be
376 in violation of ethical policing.

377 35-11-13.

378 (a) Any decision by a person authorizing the reinstatement of a law enforcement officer
379 previously suspended or terminated shall be recorded on the form provided for under Code
380 Section 35-11-4. If the reinstatement supersedes or otherwise changes the disposition on
381 a previously filed complaint, the following information shall, at a minimum, be added to
382 such form:

383 (1) The name and rank of the subject law enforcement officer, prior to the action
384 precipitating reinstatement;

385 (2) The subject law enforcement officer's rank upon reinstatement; and

386 (3) The name and rank of the person reinstating the law enforcement officer.

387 (b) When a law enforcement officer is reinstated, public notice of the decision to reinstate
388 shall be made no less than 72 hours prior to the law enforcement officer resuming
389 employment.

390 (c) Where there exists a citizen review board for the jurisdiction of a law enforcement
391 agency reinstating a law enforcement officer, such citizen review board shall be informed,
392 in writing, of the decision to reinstate prior to the law enforcement officer resuming
393 employment.

394 (d) Any violation of this Code section shall be a misdemeanor.

395 35-11-14.

396 (a)(1) Where a law enforcement officer has reinstated more than three law enforcement
397 officers pursuant to Code Section 35-11-13, such law enforcement officer's actions shall
398 be immediately investigated for violation of ethical policing. Such investigation may be
399 initiated by a complaint filed by a member of the public, by a citizen review board, or by
400 the law enforcement agency.

401 (2) Failure to investigate a law enforcement officer described in paragraph (1) of this
402 subsection according to the provisions of subsection (b) of this Code section shall be a
403 violation of ethical policing.

404 (3) For the purposes of the investigation provided for in paragraph (1) of this subsection,
405 violations of ethical policing shall include, but shall not be limited to:

406 (A) Failure to thoroughly gather information and establish facts regarding the
407 reinstated law enforcement officer's alleged police misconduct; and

408 (B) Failure to determine and implement corrective actions regarding such reinstated
409 law enforcement officer's alleged police misconduct.

410 (b)(1) An investigation undertaken pursuant to this Code section shall be completed and
411 a written determination of findings shall be issued within 60 days after such investigation
412 is initiated.

413 (2) Such findings shall be made available for inspection.

414 (3) Where there exists a citizen review board for the jurisdiction of such law enforcement
415 agency, the investigating law enforcement agency shall provide a copy of such findings
416 to the citizen review board.

417 35-11-15.

418 The basic training course provided for under Code Section 35-8-9 and all other training and
419 certification requirements under Chapter 8 of Title 35, the 'Georgia Peace Officer Standards
420 and Training Act,' shall include instruction on ethical policing."

421

PART III

422

SECTION 3-1.

423 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to state
424 tort claims, is amended by revising paragraph (7) of Code Section 50-21-24, relating to
425 exceptions to state liability, as follows:

426 "~~(7) Assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of~~
427 ~~process, libel~~ Libel, slander, or interference with contractual rights;"

428

SECTION 3-2.

429 Said article is further amended by revising subsection (a) of Code Section 50-21-25, relating
430 to immunity of state officers or employees for acts within scope of official duties or
431 employment, officer or employee not named in action against state, and settlement or
432 judgment, as follows:

433 "(a) This article constitutes the exclusive remedy for any tort committed by a state officer
434 or employee. A state officer or employee who commits a tort while acting within the scope
435 of his or her official duties or employment is not subject to lawsuit or liability therefor;
436 provided, however, that a law enforcement officer who is alleged to have committed
437 misconduct or a violation of law while acting within the scope of his or her official duties
438 or employment shall be subject to lawsuit or liability. ~~However, nothing~~ Nothing in this
439 article shall be construed to give a state officer or employee immunity from suit and
440 liability if it is proved that the officer's or employee's conduct was not within the scope of
441 his or her official duties or employment."

442

SECTION 3-3.

443 Said article is further amended by adding a new Code section to read as follows:

444 "50-21-25.1.

445 (a) As used in this Code section, the term 'law enforcement officer' means any agent or
446 officer of this state, a political subdivision or municipality of this state, an authority of this
447 state, or a college or university in this state who, as a full-time or part-time employee, is
448 vested either expressly by law or by virtue of public employment or service with the
449 authority to enforce criminal or traffic laws through the power of arrest and whose duties
450 include the preservation of public order, the protection of life and property, or the
451 prevention, detection, or investigation of crime.

452 (b) A law enforcement officer who, under color of law, subjects or causes any other person
453 to be subjected to the deprivation of any individual rights secured by the Constitution of
454 this state or the Constitution of the United States, including, but not limited to, by failing
455 to act on the duty to intervene or the duty to safeguard life, shall be liable to the injured
456 party for legal or equitable relief or any other appropriate relief.

457 (c) No statutory immunities or immunities at law, including, but not limited to, qualified
458 immunity, shall be a defense to liability pursuant to this Code section.

459 (d) To the extent necessary for any actions to proceed under this Code section, the defense
460 of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party
461 claim brought in the courts of this state by an aggrieved person seeking legal or equitable
462 relief or any other appropriate relief, including, but not limited to, reasonable attorney fees,
463 pursuant to this Code section."

464

PART IV

465

SECTION 4-1.

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