

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 public disclosures; to provide for the creation of a uniform form by the Attorney General
5 for use in recording complaints alleging police misconduct and disciplinary actions; to
6 provide for procedures and requirements for the offering of employment to certain law
7 enforcement officers; to provide that law enforcement officers shall have a duty to report
8 violations of ethical policing; to provide for measures to protect against retaliation for filing
9 complaints alleging police misconduct; to provide for the revocation of peace officer
10 certification for certain acts; to require personal liability insurance for law enforcement
11 officers; to provide for an annual report summarizing complaints filed and disciplinary
12 actions imposed; to provide for accountability for law enforcement officers who are
13 supervisors; to provide instruction on ethical policing; to provide for procedures for the
14 reinstatement of suspended law enforcement officers; to amend Article 2 of Chapter 21 of
15 Title 50 of the Official Code of Georgia Annotated, relating to state tort claims, so as to
16 remove certain immunities from the actions of certain law enforcement officers; to provide
17 that a law enforcement officer alleged to have committed misconduct or a violation of law
18 while acting within the scope of his or her official duties or employment shall be subject to

lawsuit or liability; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

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

PART II
SECTION 2-1.

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

"CHAPTER 11

35-11-1.

As used in this chapter, the term:

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

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

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

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

41 (5) 'Duty to intervene' means the requirement to intervene and to report any misconduct
42 that occurs, whether it is heard about or witnessed.

43 (6) 'Duty to safeguard life' means the requirement to refrain from police misconduct in
44 the discharge of responsibilities, the requirement to discharge one's professional duties
45 in the best interest of public safety, and the requirement to adhere to agency policing
46 policies and standards.

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

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

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

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

57 (11) 'Law enforcement agency' means any agency, organ, or department of this state, or
58 a subdivision or municipality thereof, whose primary functions include the enforcement
59 of criminal or traffic laws; the preservation of public order; the protection of life and
60 property; or the prevention, detection, or investigation of crime, including, but not limited
61 to, any department or unit organized by a college or university for purposes of Chapter 8
62 of Title 20.

63 (12) 'Law enforcement officer' means any person appointed or employed in conformity
64 with Chapter 8 of Title 35.

(13) 'Personal information' means:

- (A) Current or former names;
- (B) Social security numbers;
- (C) Driver's license numbers;
- (D) Checking account numbers;
- (E) Savings account numbers;
- (F) Credit and other financial transaction card numbers;
- (G) Debit card numbers;
- (H) Personal identification numbers;
- (I) Electronic identification numbers;
- (J) Digital or electronic signatures;
- (K) Medical identification numbers;
- (L) Birth dates;
- (M) Mother's maiden name;
- (N) Selected personal identification numbers;
- (O) Tax identification numbers;
- (P) State identification card numbers issued by state departments; and
- (Q) Veteran and military medical identification numbers.

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

- (A) Excessive use of force;
- (B) Bodily injury;
- (C) Sexual violence;
- (D) Exceeding authority;
- (E) Racial profiling; and
- (F) Failure to act on the duty to intervene.

91 (15) 'Qualified board member' means a resident of this state who is no younger than 16
92 years of age; provided, however, that such term shall not mean:

93 (A) An elected or appointed official;

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

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

97 (D) Any member of a family unit that includes a member of the law enforcement
98 agency being overseen by the subject citizen review panel.

99 35-11-2.

100 (a)(1) A citizen review board may be formed by:

101 (A) The governing authority of a county or municipal corporation; or

102 (B) Pursuant to the requirements of subsection (b) of this Code section, residents of a
103 county or municipal corporation.

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

110 (b)(1) Residents of a county or municipal corporation in which the governing authority
111 has not formed a citizen review board for a law enforcement agency of such county or
112 municipal corporation at the time of filing may form a citizen review board by a petition
113 that is filed with the clerk of the governing authority and the signatures of at least 50
114 electors of such county or municipal corporation registered to vote in the last general
115 election. The clerk shall cause a notice of the filing of such petition to be published in
116 the official organ of the county or municipal corporation, as the case may be, once a week

for three weeks. The governing authority shall determine the validity of such petition within 60 days after the last publishment of notice and, if such petition is found to be valid, shall form the citizen review board.

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

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

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

(1) Reflect the general demographics of the jurisdiction it serves as reflected in the most recent United States decennial census; and

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

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

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

(2) After the expiration of the initial appointments, the membership of a citizen review board formed pursuant to paragraph (2) of subsection (a) of this Code section shall be as provided for by the governing authority in accordance with this chapter; provided,

143 however, that the governing authority shall identify the appointments 90 days prior to the
144 expiration of a term.

145 (f) Nothing in this Code section shall be construed as prohibiting a person from serving
146 on more than one citizen review board.

147 (g) This Code section shall apply to a citizen review board that was not in existence prior
148 to July 1, 2021.

149 35-11-3.

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

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

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

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

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

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

166 (5) Examine, at will, any written recommendation or final order issued as part of the
167 disposition of an administrative action;

(6) Examine, at will, any written recommendation or final order issued by a hearing board or similar body with the responsibility of adjudicating police complaints or police disciplinary actions;

(7) Examine, at will, any recommendation resulting from an investigation or interrogation of a law enforcement officer;

(8) Examine, at will, complaint records and records of disciplinary action held by any state or local law enforcement agency providing services within the boundaries of the jurisdiction served by the citizen review board;

(9) File a complaint, using the process set forth in this chapter, asserting police misconduct on behalf of any individual so requesting or upon the citizen review board's impression that a violation of ethical policing has occurred;

(10) Engage in unfettered public education as to its responsibilities and the breadth of its authority;

(11) Publish, for public consumption, its findings and recommendations;

(12) Request that the law enforcement agency with the authority to act on violations of this chapter examine complaints of misconduct and records of disciplinary action for the purposes of determining whether a violation of this chapter has occurred. The examination authorized under this paragraph shall extend to the complaints and disciplinary records of law enforcement officers, including, but not limited to, individuals exercising the duties and responsibilities common to the role of a sheriff, chief of police, deputy chief of police, or assistant chief of police and commissioner of police, deputy commissioner of police, or assistant commissioner of police;

(13) Initiate an independent investigation into misconduct complaints without regard to the disposition of those complaints;

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

194 (15) Initiate an independent investigation into any law enforcement officer who has been
195 reinstated and who does, or will, provide services within the borders of the jurisdiction
196 served by the citizen review board; and

197 (16) Initiate an investigation into any person, other than a member of the judiciary, who
198 reinstates a law enforcement official; provided, however, the investigation shall be
199 limited to determining whether the act of reinstating violates ethical policing as defined
200 in this chapter.

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

203 (d) Members of a citizen review board may participate in meetings of such citizen review
204 board via telephone or video conference. Any person who denies or otherwise thwarts the
205 authority granted to a citizen review board shall be guilty of a misdemeanor.

206 35-11-4.

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

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

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

217 (b)(1) All information submitted on the form provided for under paragraph (1) of
218 subsection (a) of this Code section shall be available for public inspection, including, but
219 not limited to, inspection by citizen review boards and law enforcement agencies, without

220 regard to the status of any underlying or related investigation, except that a complainant
221 shall have the opportunity to indicate whether his or her personal contact information is
222 to be withheld from inspection; provided, however, that when the underlying or related
223 investigation is incomplete at the time the record is requested, such record shall be
224 stamped 'investigation pending'; and provided, further, that the citizen review board shall
225 have a right of inspection within 48 hours of a request for records involving death or
226 substantial bodily harm.

227 (2) All information submitted on the form provided for under paragraph (1) of
228 subsection (a), and the form used, shall be permanently retained by the law enforcement
229 agency to which the complaint was given or by which the disciplinary action was
230 imposed.

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

234 (2) A complainant shall be provided a copy of the complaint that he or she has filed
235 within 24 hours after filing.

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

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

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

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

243 (4) The complainant's contact information;

244 (5) The race or ethnicity of the complainant;

245 (6) A choice for the complainant to classify the complaint as excessive use of force,
246 bodily injury, sexual violence, exceeding authority, racial profiling, or failure to act on

the duty to intervene; provided, however, that space shall be made available for the complainant to offer any other classification for the complaint;

(7) A detailed narrative of the events forming the basis of the complaint;

(8) A selection whereby a complainant can elect whether to have his or her personal information in the complaint withheld from public inspection;

(9) An administrative tracking of all law enforcement officers who have received or considered the complaint and their actions upon the complaint; and

(10) Any disposition and disciplinary actions that resulted from the complaint.

(e) A law enforcement agency shall investigate all complaints of alleged police misconduct even if only partial information is received. No complaint alleging police misconduct shall be withheld or not acted upon for reasons of incomplete information or an incomplete form.

(f)(1) For the recording of disciplinary actions not precipitated by a complaint, the form provided for in paragraph (1) of subsection (a) of this Code section shall, in addition to any other information, include:

(A) A description of the conduct underlying the disciplinary action; provided, however, that if the disciplinary action is expressed in the form of a code, including, but not limited to, any numeric, lettering, or symbol system, a written definition for each such code shall be provided within the description; and

(B) The signature of the person recording the disciplinary action.

(2) All disciplinary actions shall be recorded within 72 hours of being imposed.

(g) Any intentional violation of this Code section shall be a violation of ethical policing.

35-11-5.

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

(b)(1) No law enforcement agency shall offer employment to any law enforcement officer without first requesting, receiving, and inspecting any information pertaining to

such law enforcement officer and the history of his or her complaint records and records of disciplinary actions, including, but not limited to, information that has been recorded on the form provided for in Code Section 35-11-4, from any law enforcement agency that previously employed the law enforcement officer. The requirements of this paragraph shall apply to offers of employment or transfers within a law enforcement agency or affiliated divisions already employing such law enforcement officer.

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

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

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

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

35-11-6.

(a) A law enforcement officer shall file a complaint in conformance with the duty to intervene and whenever he or she observes another law enforcement officer engage in conduct that violates the duty to safeguard life.

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

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

300 35-11-7.

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

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

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

307 35-11-8.

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

314 (b) All hearings scheduled in response to, or in resolution of, a complaint of police
315 misconduct shall be open to the public pursuant to Chapter 14 of Title 50; provided,
316 however, that hearings may be closed to protect minors who are serving as witnesses, the
317 identity of undercover law enforcement officers, and informants.

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

319 35-11-9.

320 (a) Where a complaint that alleges misconduct involving bodily injury, racial profiling,
321 sexual violence, or failure to act on the duty to intervene is sustained by the investigating

law enforcement agency or investigating official, the law enforcement officer who is the subject of the complaint shall have his or her certification under Chapter 8 of Title 35 revoked as pursuant to Code Section 35-8-7.1.

(b) Any law enforcement officer having more than four disciplinary actions imposed against him or her or having been found to have violated ethical policing pursuant to this Code section shall have his or her certification under Chapter 8 of Title 35 revoked pursuant to Code Section 35-8-7.1.

35-11-10.

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

35-11-11.

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

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

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

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

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

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

(c) The annual report provided for under subsection (a) of this Code section shall be permanently retained.

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

35-11-12.

Every law enforcement agency shall adopt and use an early warning system to track complaints filed against, and disciplinary actions imposed on, individual law enforcement officers. Such early warning system shall set forth the responsibility of law enforcement officers in supervisory positions to timely and properly respond to patterns suggestive of conduct incompatible with ethical policing. Such early warning system shall set forth the steps that must be taken and identify the disciplinary consequences, up to and including dismissal, when conduct incompatible with ethical policing is identified. Such policies shall also set forth the consequences for failing to timely and properly respond to patterns suggestive of conduct incompatible with ethical policing. Where such an early warning system indicates a pattern of conduct incompatible with ethical policing for an individual law enforcement officer and the incompatibility is confirmed after examination of the underlying records, the law enforcement officer shall be deemed to be in violation of ethical policing.

369 35-11-13.

370 (a) Any decision by the person authorizing the reinstatement of a law enforcement officer
371 previously suspended or dismissed shall be recorded on the form provided for under Code
372 Section 35-11-4. If the reinstatement supercedes or otherwise changes the disposition on
373 a previously filed complaint, the following information shall, at a minimum, be added to
374 the standardized complaint form:

375 (1) Name and rank of the subject law enforcement officer, prior to the action
376 precipitating reinstatement;

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

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

379 (b) Where a law enforcement officer is reinstated, public notice as to the decision to
380 reinstate shall be made no less than 72 hours prior to the law enforcement officer resuming
381 employment.

382 (c) Where there exists a citizen review board for the jurisdiction of the law enforcement
383 agency, such citizen review board shall be informed, in writing, of the decision to reinstate.

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

385 35-11-14.

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

391 (2) Failure to investigate a law enforcement officer described in paragraph (1) of this
392 subsection shall be a violation of ethical policing.

393 (b) Where an investigation is undertaken pursuant to this Code section, a written
394 determination of findings shall be issued as follows:

(1) The investigation shall be completed and the findings issued within 60 days;

(2) The findings shall be made available for inspection; and

(3) Where there is a citizen review board, the investigating agency shall provide a copy of the findings to the board.

35-11-15.

The basic course provided for under Code Section 35-8-9 and all other training and certification requirements under Chapter 8 of Title 35 shall include instruction on ethical policing."

PART III

SECTION 3-1.

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

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

SECTION 3-2.

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

"(a) This article constitutes the exclusive remedy for any tort committed by a state officer or employee. A state officer or employee who commits a tort while acting within the scope of his or her official duties or employment is not subject to lawsuit or liability therefor;

provided, however, that a law enforcement officer who is alleged to have committed misconduct or a violation of law while acting within the scope of his or her official duties or employment shall be subject to lawsuit or liability. ~~However, nothing~~ Nothing in this article shall be construed to give a state officer or employee immunity from suit and liability if it is proved that the officer's or employee's conduct was not within the scope of his or her official duties or employment."

SECTION 3-3.

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

"50-21-25.1.

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

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

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

(d) To the extent necessary for any actions to proceed under this Code section, the defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party claim brought in the courts of this state by an aggrieved person seeking legal or equitable

444 relief or any other appropriate relief, including, but not limited to, reasonable attorney fees,
445 pursuant to this Code section."

446 **PART IV**
447 **SECTION 4-1.**

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