

Senate Bill 539

By: Senators Hatchett of the 50th, Mullis of the 53rd, Kennedy of the 18th, Albers of the 56th, Watson of the 1st and others

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 provide that the use of any device to photograph or record patients in a health care facility
4 shall be unlawful; to provide for exceptions; to provide for related matters; to repeal
5 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 revising Code Section 16-11-62, relating to eavesdropping, surveillance, or intercepting
11 communication which invades privacy of another, and divulging private message, as follows:
12 "16-11-62.

13 It shall be unlawful for:

14 (1) Any person in a clandestine manner intentionally to overhear, transmit, or record or
15 attempt to overhear, transmit, or record the private conversation of another which shall
16 originate in any private place;

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

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

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

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

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

40 (E) For any health care facility, as defined in Code Section 24-12-10, or its employees
41 or contractors in the normal course of their job duties, to use any device to record
42 persons on its premises during the provision of health care services, to fulfill

43 administrative or operational responsibilities, or to ensure the safety of patients and
44 visitors;

45 (3) Any person to go on or about the premises of another or any private place, except as
46 otherwise provided by law, for the purpose of invading the privacy of others by
47 eavesdropping upon their conversations or secretly observing their activities;

48 (4) Any person intentionally and secretly to intercept by the use of any device,
49 instrument, or apparatus the contents of a message sent by telephone, telegraph, letter, or
50 by any other means of private communication;

51 (5) Any person to divulge to any unauthorized person or authority the content or
52 substance of any private message intercepted lawfully in the manner provided for in Code
53 Section 16-11-65;

54 (6) Any person to sell, give, or distribute, without legal authority, to any person or entity
55 any photograph, videotape, or record, or copies thereof, of the activities of another which
56 occur in any private place and out of public view without the consent of all persons
57 observed;

58 (7) Any person, through the use of any device, without the consent of all patients
59 observed, to knowingly photograph or record the activities of patients which occur in a
60 health care facility, as defined in Code Section 24-12-10; provided, however, that this
61 shall not apply to acts committed as provided in subparagraphs (2)(A) through (2)(E) of
62 this Code section; or

63 ~~(7)~~(8) Any person to commit any other acts of a nature similar to those set out in
64 paragraphs (1) through ~~(6)~~(7) of this Code section which invade the privacy of another."

65 **SECTION 2.**

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