

The House Committee on Public Safety and Homeland Security offers the following substitute to SB 183:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding sheriffs, so as to revise qualification requirements
3 for the office of sheriff; to require certification as a peace officer at the time of qualifying as
4 a candidate for sheriff; to require such candidate to be in good standing with the Georgia
5 Peace Officer Standards and Training Council; to provide for a confirming affidavit; to
6 provide for a definition; to amend Title 40 of the Official Code of Georgia Annotated,
7 relating to motor vehicles and traffic, so as to revise penalties for failure to pay a civil
8 monetary penalty for a violation of overtaking a school bus or speeding in a school zone
9 captured by recorded images; to provide for notice; to provide for liability; to provide for
10 consequences upon failure to pay such penalty; to provide for automatic repeal; to provide
11 for use of funds collected by a governing body; to provide for construction; to amend Title
12 15 of the Official Code of Georgia Annotated, relating to courts, so as to authorize district
13 attorneys, solicitors-general, and prosecuting attorneys to enforce civil monetary penalties
14 relative to the enforcement of laws regarding speeding in a school zone using recorded
15 images; to provide for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 183 (SUB)

- 1 -

SECTION 1.

Article 1 of Chapter 16 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions regarding sheriffs, is amended in Code Section 15-16-1, relating to qualification requirements for sheriff and exemptions, by revising subparagraph (c)(1)(J) as follows:

"(J) At the time of qualifying as a candidate for the office of sheriff, Is a registered peace officer as provided in Code Section 35-8-10 or is a certified peace officer as defined in Chapter 8 of Title 35 and is in good standing with the Georgia Peace Officer Standards and Training Council. Upon request of the person seeking to qualify as a candidate for the office of sheriff, the executive director of the Georgia Peace Officer Standards and Training Council shall create and provide for an affidavit attesting to such person's compliance with this subparagraph. Such affidavit shall be signed by the executive director of the Georgia Peace Officer Standards and Training Council, or his or her designee, and the person seeking to qualify as a candidate for the office of sheriff and shall be presented to elections officials prior to the end of the established period of qualification in order to qualify as a candidate. As used in this subparagraph, the term 'in good standing with the Georgia Peace Officer Standards and Training Council' means having never had his or her peace officer certification revoked by the Georgia Peace Officer Standards and Training Council; within the preceding five years, has not had his or her certification suspended by the Georgia Peace Officer Standards and Training Council; and, upon the opening date of the established period of qualification, shall not be under any sanction imposed by the Georgia Peace Officer Standards and Training Council. Any person who is not a registered or certified peace officer at the time such person assumes the office of sheriff shall be required to complete satisfactorily the requirements for certification as a peace officer as provided in Chapter 8 of Title 35 within six months after such person takes office; provided, however, that an extension of the time to complete such requirements may be granted by the Georgia

~~Peace Officer Standards and Training Council upon the presentation of evidence by a sheriff that he or she was unable to complete the basic training course and certification requirements due to illness, injury, military service, or other reasons deemed sufficient by such council. The Georgia Peace Officer Standards and Training Council shall make every effort to ensure that space is available for newly elected sheriffs who are not certified or registered peace officers to attend the course as soon as possible after such persons take office. Such council shall notify the appropriate judge of the probate court whenever a newly elected sheriff who is not certified fails to become certified as a peace officer pursuant to the requirements of this subparagraph."~~

SECTION 2.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended in Code Section 40-6-163, relating to duty of driver of vehicle meeting or overtaking school bus, reporting of violations, and civil monetary penalty for violations captured by school bus camera, by revising the introductory language of subparagraph (d)(3)(B), by revising paragraphs (7) through (10) of subsection (d), and by adding new paragraphs to read as follows:

"(B) The law enforcement agency authorized to enforce the provisions of this Code section shall send by first class mail addressed to the owner of the motor vehicle not later than ten days after obtaining the name and address of the owner of the motor vehicle from the Department of Revenue or the official motor vehicle registration entity of another state:"

"(7) If a violation has not been contested and the assessed penalty has not been paid, the agent or governing body shall send to the person who is the ~~registered~~ owner of the motor vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The

notice shall inform the ~~registered~~ owner that the agent or governing body shall send a referral to the Department of Revenue if the assessed penalty and any late fee is not paid within 30 days after the final notice was mailed and ~~that such referral shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer of such motor vehicle within this state~~ of the consequences for failure to pay such penalty and any late fee.

(8) The agent or governing body shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required under paragraph (7) of this subsection was mailed if a violation of an ordinance or resolution adopted under this ~~article~~ Code section has not been contested and the assessed penalty has not been paid, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The referral to the Department of Revenue shall include the following:

(A) Any information known or available to the agent or governing body concerning the license plate number, year of registration, and the name of the owner of the motor vehicle;

(B) The date on which the violation occurred;

(C) The citation number issued for the violation; and

~~(D) The date when the notice required under this Code section was mailed; and~~

~~(E) The seal, logo, emblem, or electronic seal of the governing body.~~

~~(9)~~(8.1)(A) If the Department of Revenue receives a referral under paragraph (8) of this subsection, such referral shall be entered into the motor vehicle data base within five days of receipt and the Department of Revenue shall refuse to renew the registration of such motor vehicle ~~and shall prohibit the title transfer of such vehicle within this state~~ unless and until the civil monetary penalty plus any late fee is paid to the governing body. The Department of Revenue shall mail a notice to the ~~registered~~ owner of such motor vehicle that informs such owner:

(A)(i) That the registration of the vehicle involved in the violation will not be permitted to be renewed;

~~(B) That the title of the vehicle involved in the violation will not be permitted to be transferred in this state;~~

~~(C)(ii)~~ That the aforementioned ~~penalties are~~ penalty is being imposed due to the failure to pay the civil monetary penalty plus any late fee for an ordinance violation adopted under the authority of this Code section; and

~~(D)(iii)~~ Of the procedure that the person may follow to remove the ~~penalties~~ penalty.

~~(10)(B)~~ The Department of Revenue shall remove the ~~penalties~~ penalty on a vehicle if any person presents the Department of Revenue with adequate proof that the penalty and any late fee, if applicable, has been paid.

(C) The provisions of this paragraph shall stand repealed on June 30, 2023.

(9)(A) On and after July 1, 2023, within ten business days of receipt of a referral under paragraph (8) of this subsection, the Department of Revenue shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact that a civil monetary penalty plus any late fee is owed for a violation of subsection (a) of this Code section and providing an explanation of the penalties provided for by law.

(B) The Department of Revenue shall send such notice to the address of the owner of the motor vehicle shown in the records of the department.

(C) The mailing of such notice by the Department of Revenue shall be deemed notice of such owner's duty to pay the civil monetary penalty plus any late fee and the possible penalties and consequences for failing to do so and shall be deemed to satisfy all notice requirements of law.

(10) On and after July 1, 2023, it shall be the duty of the owner of such motor vehicle to pay any civil monetary penalties and applicable late fees within 30 days of the date of such notice. If an agent or governing body does not receive payment of any civil monetary penalties and applicable late fees owed within such time, the agent or governing

body shall inform the Department of Revenue of such and the registration of such motor vehicle shall be suspended immediately by operation of law by the Department of Revenue. Such suspension shall terminate upon submission by the agent or governing body to the department of proof of payment of the civil monetary penalties and fees owed, which proof shall be submitted within 24 hours of such payment in an electronic method provided for by the department, and payment by the owner of a \$60.00 restoration fee. If any restoration fee provided for in this paragraph is paid to the county tax commissioner, the county shall retain \$10.00 thereof as a collection fee."

SECTION 3.

Said title is further amended by revising Code Section 40-14-9, relating to certain evidence inadmissible and use of device on hill, as follows:

"40-14-9.

Evidence obtained by county or municipal law enforcement officers in using speed detection devices, other than automated traffic enforcement safety devices, within 300 feet of a reduction of a speed limit inside an incorporated municipality or within 600 feet of a reduction of a speed limit outside an incorporated municipality or consolidated city-county government shall be inadmissible in the prosecution of a violation of any municipal ordinance, county ordinance, or state law regulating speed; nor shall such evidence be admissible in the prosecution of a violation as aforesaid when such violation has occurred within 30 days following a reduction of the speed limit in the area where the violation took place, except that this 30 day limitation shall not apply to a speeding violation within a highway work zone, as defined in Code Section 40-6-188, or in an area with variable speed limits, as defined in Code Section 40-6-182. No speed detection device shall be employed by county, municipal, or campus law enforcement officers on any portion of any highway which has a grade in excess of 7 percent."

SECTION 4.

Said title is further amended by revising Code Section 40-14-18, relating to enforcement of speed limit in school zones with recorded images, civil monetary penalty, and vehicle registration and transfer of title restrictions for failure to pay penalty, as follows:

"40-14-18.

(a)(1) The speed limit within any school zone ~~as provided for in Code Section 40-14-8 and marked pursuant to Code Section 40-14-6~~ may be enforced by using photographically recorded images for violations which occurred ~~only on a school day during the time in which instructional classes are taking place and one hour before such classes are scheduled to begin and for one hour after such classes have concluded when such violations are in excess of ten miles per hour over the speed limit~~ one hour before, during, and one hour after the normal hours of school operation or programs for care and supervision of students before school, after school, or during vacation periods as provided for under Code Section 20-2-65.

(2) Prior to the placement of a device within a school zone, ~~each school within whose school zone such~~ the governing body of the county or municipality whose law enforcement agency shall be authorized to enforce the speed limit where an automated traffic enforcement safety device is to be placed shall first apply for and secure a permit from the Department of Transportation for the use of such automated traffic enforcement safety device. Such permit shall be awarded based upon need. The Department of Transportation shall promulgate rules and regulations for the implementation of this paragraph.

(b) For the purpose of enforcement pursuant to this Code section:

(1) The owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body of the law enforcement agency provided for in paragraph (2) of this subsection if such vehicle is found, as evidenced by photographically recorded images, to have been operated in disregard or disobedience of the speed limit within any school

zone and such disregard or disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be \$75.00 for a first violation and \$125.00 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed \$25.00; provided, however, that for a period of 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil warning for disregard or disobedience of the speed limit within the school zone;

(2) A law enforcement agency authorized to enforce the speed limit of a school zone, or an agent working on behalf of a law enforcement agency or governing body, shall send by first class mail addressed to the owner of the motor vehicle within 30 days after obtaining the name and address of the owner of the motor vehicle from the Department of Revenue or the official motor vehicle registration entity of another state but no later than 60 days after the date of the alleged violation:

(A) A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the maximum speed at which such motor vehicle was traveling in photographically recorded images, the maximum speed applicable within such school zone, the civil warning or the amount of the civil monetary penalty imposed, and the date by which a civil monetary penalty shall be paid;

(B) An image taken from the photographically recorded images showing the vehicle involved in the infraction;

(C) A website address where photographically recorded images showing the vehicle involved in the infraction and a duplicate of the information provided for in this paragraph may be viewed;

(D) A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce the speed limit of the school zone

and stating that, based upon inspection of photographically recorded images, the owner's motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law;

(E) A statement of the inference provided by paragraph (4) of this subsection and of the means specified therein by which such inference may be rebutted;

(F) Information advising the owner of the motor vehicle of the manner in which liability as alleged in the citation may be contested ~~through an administrative hearing~~; and

(G) A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of this Code section shall waive any right to contest liability;

(3) Proof that a motor vehicle was operated in disregard or disobedience of the speed limit of the marked school zone shall be evidenced by photographically recorded images. A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency and stating that, based upon inspection of photographically recorded images, a motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein; and

(4) Liability under this Code section shall be determined based upon a preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued pursuant to this Code section was operated in violation of the speed limit of the school zone, together with proof that the defendant was, at the time of such violation, the ~~registered~~ owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(A) ~~Testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation;~~

~~(B) Presents to the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation; or~~

(B) Testifies in open court or submits to the court a sworn notarized statement including the name, address, date of birth, and, if known, the driver's license number of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle at the time of the alleged violation.

(c) A violation for which a civil warning or a civil monetary penalty is imposed pursuant to this Code section shall not be considered a moving traffic violation for the purpose of points assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil warning or civil monetary penalty pursuant to this Code section shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

(d) If a person issued and mailed a citation pursuant to subsection (b) of this Code section fails to pay the civil monetary penalty for the violation or has not filed a police report or notarized statement pursuant to paragraph (4) of subsection (b) of this Code section in no less than 30 nor more than 60 days after such mailing as determined and noticed by the law enforcement agency, the agent or law enforcement agency shall send to such person by first class mail a second notice of any unpaid civil monetary penalty, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The second notice shall include all information required in paragraph (2) of subsection (b) of this Code section and shall include a new date of return which shall be no less than 30 days after such mailing as determined and noticed by the law enforcement agency. If such person notified by second

notice again fails to pay the civil monetary penalty or file a police report or notarized statement pursuant to paragraph (4) of subsection (b) of this Code section by the new date of return, such person shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided for under this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed.

(e) Notices mailed by first class mail pursuant to this Code section shall be adequate notification of the fees and penalties imposed by this Code section. No other notice shall be required for the purposes of this Code section.

(f) Any court having jurisdiction over violations of subsection (a) of this Code section shall have jurisdiction over cases arising under this subsection and shall be authorized to impose the civil monetary penalty provided by this subsection. Except as otherwise provided in this subsection, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations of subsection (a) of this Code section shall apply to enforcement under this Code section except as provided in subsection (b) of this Code section; provided, however, that any appeal from superior or state court shall be by application in the same manner as that provided by Code Section 5-6-35.

(g) If a violation has not been contested and the assessed penalty has not been paid, the agent or governing body shall send to the person who is the registered owner of the motor vehicle a final notice of any unpaid civil monetary penalty authorized by this Code section, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The notice shall inform the registered owner that the agent or governing body shall send a referral to the Department of Revenue if the assessed penalty is not paid within 30 days after the final notice was mailed and such that such referral shall result in the nonrenewal of the registration of such motor vehicle and shall prohibit the title transfer of such motor

~~vehicle within this state~~ of the consequences for failure to pay such penalty and any late fee.

(h) The agent or governing body shall send a referral to the Department of Revenue not sooner than 30 days after the final notice required under subsection (g) was mailed if a violation of an ordinance or resolution adopted under this ~~article~~ Code section has not been contested and the assessed penalty has not been paid, except in cases where there is an adjudication that no violation occurred or there is otherwise a lawful determination that no civil monetary penalty shall be imposed. The referral to the Department of Revenue shall include the following:

(1) Any information known or available to the agent or governing body concerning the license plate number, year of registration, and the name of the owner of the motor vehicle;

(2) The date on which the violation occurred;

(3) The citation number issued for the violation; and

~~(3)(4)~~ (4) The date when the notice required under this Code section was mailed; and

~~(4) The seal, logo, emblem, or electronic seal of the governing body.~~

~~(i)(h.1)(1)~~ (1) If the Department of Revenue receives a referral under subsection (h) of this Code section, such referral shall be entered into the motor vehicle database within five days of receipt and the Department of Revenue shall refuse to renew the registration of the motor vehicle ~~and shall prohibit the title transfer of such vehicle within this state~~ unless and until the civil monetary penalty plus any late fee is paid to the governing body.

The Department of Revenue shall mail a notice to the ~~registered~~ owner:

~~(1)(A)~~ (A) That the registration of the vehicle involved in the violation will not be permitted to be renewed;

~~(2) That the title of the vehicle involved in the violation will not be permitted to be transferred in this state;~~

~~(3)(B)~~ That the aforementioned ~~penalties are~~ penalty is being imposed due to the failure to pay the civil monetary penalty and any late fee for an ordinance violation adopted under the authority of this Code section; and

~~(4)(C)~~ Of the procedure that the person may follow to remove the ~~penalties~~ penalty.

~~(j)(2)~~ The Department of Revenue shall remove the ~~penalties~~ penalty on a vehicle if any person presents the Department of Revenue with adequate proof that the penalty and any late fee, if applicable, has been paid.

(3) The provisions of this subsection shall stand repealed on June 30, 2023.

(i)(1) On and after July 1, 2023, within ten business days of receipt of a referral under subsection (h) of this Code section, the Department of Revenue shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact that a civil monetary penalty plus any late fee is owed for a violation of this Code section and providing an explanation of the penalties provided for by law.

(2) The Department of Revenue shall send such notice to the address of the owner of the motor vehicle shown in the records of the department.

(3) The mailing of such notice by the Department of Revenue shall be deemed notice of such owner's duty to pay the civil monetary penalty plus any late fee and the possible penalties and consequences for failing to do so and shall be deemed to satisfy all notice requirements of law.

(j) On and after July 1, 2023, it shall be the duty of the owner of such motor vehicle to pay any civil monetary penalties and applicable late fees within 30 days of the date of such notice. If an agent or governing body does not receive payment of any civil monetary penalties and applicable late fees owed within such time, the agent or governing body shall inform the Department of Revenue of such and the registration of such motor vehicle shall be suspended immediately by operation of law by the Department of Revenue. Such suspension shall terminate upon submission by the agent or governing body to the department of proof of payment of the civil monetary penalties and fees owed, which proof

shall be submitted within 24 hours of such payment in an electronic method provided for by the department, and payment by the owner of a \$60.00 restoration fee. If any restoration fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$10.00 thereof as a collection fee.

(k) Recorded images made for purposes of this Code section shall not be a public record for purposes of Article 4 of Chapter 18 of Title 50.

(l) A civil warning or civil monetary penalty under this Code section on the owner of a motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued a citation and notice to appear by a certified peace officer for the same violation.

(m) The ~~money~~ moneys collected and remitted to the governing body pursuant to paragraph (1) of subsection (b) of this Code section shall only be used by such governing body to fund ~~local law enforcement or~~ training and equipment directly related to public safety initiatives; provided, however, that \$5.00 of each civil monetary penalty paid shall be remitted by the governing body to the Peace Officers' Annuity and Benefit Fund toward such governing body's responsibilities thereto. This subsection shall not preclude the appropriation of a greater amount than collected and remitted under this subsection.

(n) Nothing in this Code section shall limit the county magistrate courts or the probate courts and municipal courts of the incorporated towns and cities of this state, acting by and through the judges, presiding officers, district attorneys, or solicitors-general of the state court of the county, to conduct trials, dismiss citations, or decrease civil monetary penalties as set forth in this Code section."

SECTION 5.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended in Code Section 15-9-155, relating to prosecuting attorney's duties and authority in probate courts in counties in which there are no state courts, by revising subparagraph (a)(1)(A) as follows:

362 "(A) In the prosecution of any violation of the laws or ordinances of such county which
363 is within the jurisdiction of such probate court and punishable by confinement or a fine
364 or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;"

365 **SECTION 6.**

366 Said title is further amended in Code Section 15-18-6, relating to duties of district attorney,
367 by revising paragraph (5) as follows:

368 "(5) To prosecute civil actions to enforce any civil penalty set forth in Code
369 Section 40-6-163 or 40-14-18 and to prosecute or defend any other civil action in the
370 prosecution or defense of which the state is interested, unless otherwise specially
371 provided for;"

372 **SECTION 7.**

373 Said title is further amended in Code Section 15-18-66, relating to duties and authority of
374 solicitors-general of state courts, by revising paragraph (4) of subsection (b) as follows:

375 "(4) To prosecute civil actions to enforce any civil penalty set forth in Code
376 Section 40-6-163 or 40-14-18 and when authorized by law to prosecute or defend any
377 civil action in the state court in the prosecution or defense of which the state is interested,
378 unless otherwise specially provided for;"

379 **SECTION 8.**

380 Said title is further amended in Code Section 15-18-96, relating to authority of prosecuting
381 attorney of municipal courts, by revising subparagraph (a)(1)(A) as follows:

382 "(A) In the prosecution of any violation of the laws or ordinances of such municipality
383 which is within the jurisdiction of such municipal court and punishable by confinement
384 or a fine or both or by a civil penalty authorized by Code Section 40-6-163 or 40-14-18;
385 and"

386

SECTION 9.

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