

The House Committee on Rules offers the following substitute to SB 183:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
2 authorize district attorneys, solicitors-general, and prosecuting attorneys to enforce civil
3 monetary penalties relative to the enforcement of laws regarding speeding in a school zone
4 using recorded images; to revise qualification requirements for the office of sheriff; to
5 require certification as a peace officer at the time of qualifying as a candidate for sheriff; to
6 require such candidate to be in good standing with the Georgia Peace Officer Standards and
7 Training Council; to provide for a confirming affidavit; to provide for a definition; to provide
8 an additional salary to sheriffs serving multiple courts; to provide for cross-references; to
9 amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
10 traffic, so as to revise penalties for failure to pay a civil monetary penalty for a violation of
11 overtaking a school bus or speeding in a school zone captured by recorded images; to provide
12 for application for operation of automated traffic enforcement safety devices for issuance of
13 a civil monetary penalty for speeding in school zones; to provide for related matters; to
14 repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

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:

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

SECTION 2.

Said title is further 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,

42 shall not be under any sanction imposed by the Georgia Peace Officer Standards and
 43 Training Council. Any person who is not a registered or certified peace officer at the
 44 time such person assumes the office of sheriff shall be required to complete
 45 satisfactorily the requirements for certification as a peace officer as provided in Chapter
 46 8 of Title 35 within six months after such person takes office; provided, however, that
 47 an extension of the time to complete such requirements may be granted by the Georgia
 48 Peace Officer Standards and Training Council upon the presentation of evidence by a
 49 sheriff that he or she was unable to complete the basic training course and certification
 50 requirements due to illness, injury, military service, or other reasons deemed sufficient
 51 by such council. The Georgia Peace Officer Standards and Training Council shall
 52 make every effort to ensure that space is available for newly elected sheriffs who are
 53 not certified or registered peace officers to attend the course as soon as possible after
 54 such persons take office. Such council shall notify the appropriate judge of the probate
 55 court whenever a newly elected sheriff who is not certified fails to become certified as
 56 a peace officer pursuant to the requirements of this subparagraph."

57 SECTION 3.

58 Said title is further amended by revising Code Section 15-16-20.1, relating to additional
 59 salary, as follows:

60 "15-16-20.1.

61 In addition to the minimum salary provided in Code Section 15-16-20, the sheriff of any
 62 county who performs the duties of a sheriff for a state court, probate court, magistrate
 63 court, juvenile court, or county recorder's court under any applicable general or local law
 64 of this state shall receive for his or her services in such court or courts a salary of not less
 65 than \$385.90 per month, to be paid from the funds of the county. A sheriff who serves in
 66 more than one such court shall receive only one two such salary salaries."

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SECTION 4.

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

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

SECTION 5.

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

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

SECTION 6.

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

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

SECTION 7.

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

91 overtaking school bus, reporting of violations, and civil monetary penalty for violations
92 captured by school bus camera, by revising the introductory language of
93 subparagraph (d)(3)(B), by revising paragraphs (7) through (15) of subsection (d), and by
94 adding new paragraphs to read as follows:

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

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

110 ~~(8) The agent or governing body shall send a referral to the Department of Revenue not~~
111 ~~sooner than 30 days after the final notice required under paragraph (7) of this subsection~~
112 ~~was mailed if a violation of an ordinance or resolution adopted under this article has not~~
113 ~~been contested and the assessed penalty has not been paid. The referral to the~~
114 ~~Department of Revenue shall include the following:~~

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

- 118 ~~(B) The date on which the violation occurred;~~
- 119 ~~(C) The date when the notice required under this Code section was mailed; and~~
- 120 ~~(D) The seal, logo, emblem, or electronic seal of the governing body.~~
- 121 ~~(9) If the Department of Revenue receives a referral under paragraph (8) of this~~
122 ~~subsection, such referral shall be entered into the motor vehicle data base within five days~~
123 ~~of receipt and the Department of Revenue shall refuse to renew the registration of such~~
124 ~~motor vehicle and shall prohibit the title transfer of such vehicle within this state unless~~
125 ~~and until the civil monetary penalty plus any late fee is paid to the governing body. The~~
126 ~~Department of Revenue shall mail a notice to the registered owner of such motor vehicle~~
127 ~~that informs such owner:~~
- 128 ~~(A) That the registration of the vehicle involved in the violation will not be permitted~~
129 ~~to be renewed;~~
- 130 ~~(B) That the title of the vehicle involved in the violation will not be permitted to be~~
131 ~~transferred in this state;~~
- 132 ~~(C) That the aforementioned penalties are being imposed due to the failure to pay the~~
133 ~~civil monetary penalty plus any late fee for an ordinance violation adopted under the~~
134 ~~authority of this Code section; and~~
- 135 ~~(D) Of the procedure that the person may follow to remove the penalties.~~
- 136 ~~(10) The Department of Revenue shall remove the penalties on a vehicle if any person~~
137 ~~presents the Department of Revenue with adequate proof that the penalty and any late fee,~~
138 ~~if applicable, has been paid.~~
- 139 ~~(11)~~(7) Recorded images made for purposes of this subsection shall not be a public
140 record for purposes of Article 4 of Chapter 18 of Title 50.
- 141 ~~(12)~~(8) A governing authority shall not impose a civil penalty under this subsection on
142 the owner of a motor vehicle if the operator of the vehicle was arrested or issued a
143 citation and notice to appear by a certified peace officer for the same violation.

144 ~~(13)~~(9) A local school system may enter into an intergovernmental agreement with a
145 local governing authority to offset expenses regarding the implementation and ongoing
146 operation of video recording devices serving the purpose of capturing recorded images
147 of motor vehicles unlawfully passing a school bus.

148 ~~(14)~~(10) Any school bus driver operating a vehicle equipped with an activated video
149 recording device shall be exempt from the recording provisions of subsection (c) of this
150 Code section.

151 ~~(15)~~(11) The money collected and remitted to the governing body pursuant to
152 subparagraph (B) of paragraph (3) of this subsection shall only be used by such governing
153 body to fund local law enforcement or public safety initiatives. This paragraph shall not
154 preclude the appropriation of a greater amount than collected and remitted under this
155 subsection."

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SECTION 8.

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

159 "40-14-9.

160 Evidence obtained by county or municipal law enforcement officers in using speed
161 detection devices, other than automated traffic enforcement safety devices, within 300 feet
162 of a reduction of a speed limit inside an incorporated municipality or within 600 feet of a
163 reduction of a speed limit outside an incorporated municipality or consolidated city-county
164 government shall be inadmissible in the prosecution of a violation of any municipal
165 ordinance, county ordinance, or state law regulating speed; nor shall such evidence be
166 admissible in the prosecution of a violation as aforesaid when such violation has occurred
167 within 30 days following a reduction of the speed limit in the area where the violation took
168 place, except that this 30 day limitation shall not apply to a speeding violation within a
169 highway work zone, as defined in Code Section 40-6-188, or in an area with variable speed

170 limits, as defined in Code Section 40-6-182. No speed detection device shall be employed
171 by county, municipal, or campus law enforcement officers on any portion of any highway
172 which has a grade in excess of 7 percent."

173 **SECTION 9.**

174 Said title is further amended in Code Section 40-14-18, relating to enforcement of speed limit
175 in school zones with recorded images, civil monetary penalty, and vehicle registration and
176 transfer of title restrictions for failure to pay penalty, by revising paragraph (2) of
177 subsection (a), paragraph (2) of subsection (b), and subsections (g) through (m) as follows:

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

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

191 (A) A citation for the alleged violation, which shall include the date and time of the
192 violation, the location of the infraction, the maximum speed at which such motor
193 vehicle was traveling in photographically recorded images, the maximum speed
194 applicable within such school zone, the civil warning or the amount of the civil

195 monetary penalty imposed, and the date by which a civil monetary penalty shall be
196 paid;

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

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

202 (D) A copy of a certificate sworn to or affirmed by a certified peace officer employed
203 by a law enforcement agency authorized to enforce the speed limit of the school zone
204 and stating that, based upon inspection of photographically recorded images, the
205 owner's motor vehicle was operated in disregard or disobedience of the speed limit in
206 the marked school zone and that such disregard or disobedience was not otherwise
207 authorized by law;

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

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

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

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

222 ~~referral to the Department of Revenue if the assessed penalty is not paid within 30 days~~
223 ~~after the final notice was mailed and such that such referral shall result in the nonrenewal~~
224 ~~of the registration of such motor vehicle and shall prohibit the title transfer of such motor~~
225 ~~vehicle within this state.~~

226 ~~(h) The agent or governing body shall send a referral to the Department of Revenue not~~
227 ~~sooner than 30 days after the final notice required under subsection (g) was mailed if a~~
228 ~~violation of an ordinance or resolution adopted under this article has not been contested and~~
229 ~~the assessed penalty has not been paid. The referral to the Department of Revenue shall~~
230 ~~include the following:~~

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

234 ~~(2) The date on which the violation occurred;~~

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

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

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

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

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

247 ~~(3) That the aforementioned penalties are being imposed due to the failure to pay the~~
 248 ~~civil monetary penalty and any late fee for an ordinance violation adopted under the~~
 249 ~~authority of this Code section, and~~
 250 ~~(4) Of the procedure that the person may follow to remove the penalties:~~
 251 ~~(j) The Department of Revenue shall remove the penalties on a vehicle if any person~~
 252 ~~presents the Department of Revenue with adequate proof that the penalty and any late fee,~~
 253 ~~if applicable, has been paid.~~
 254 ~~(k)(g)~~ Recorded images made for purposes of this Code section shall not be a public record
 255 for purposes of Article 4 of Chapter 18 of Title 50.
 256 ~~(h)(h)~~ A civil warning or civil monetary penalty under this Code section on the owner of
 257 a motor vehicle shall not be imposed if the operator of the vehicle was arrested or issued
 258 a citation and notice to appear by a certified peace officer for the same violation.
 259 ~~(m)(i)~~ The money collected and remitted to the governing body pursuant to paragraph (1)
 260 of subsection (b) of this Code section shall only be used by such governing body to fund
 261 local law enforcement or public safety initiatives. This subsection shall not preclude the
 262 appropriation of a greater amount than collected and remitted under this subsection."

263 **SECTION 10.**

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