

House Bill 460 (COMMITTEE SUBSTITUTE)

By: Representatives Panitch of the 51st, Smith of the 18th, Evans of the 57th, Holcomb of the 101st, Neal of the 79th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 24-5-501 of the Official Code of Georgia Annotated, relating to
2 certain communications privileged, so as to exclude from evidence certain communications
3 made between attorney and client when the client is in a penal institution; to provide for
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Code Section 24-5-501 of the Official Code of Georgia Annotated, relating to certain
8 communications privileged, is amended by revising paragraph (2) of subsection (a) as
9 follows:

10 "(2) Communications between attorney and client, including any telephonic or electronic
11 communications made with such client when he or she is held in a penal institution as
12 defined in Code Section 16-10-56, subject to the following:

13 (A) Each penal institution shall provide access to a nonrecording telephonic or
14 electronic device for a client held in custody to communicate with his or her attorney;

15 (B) The contents of any wire, oral, or electronic communication intercepted pursuant
16 to this chapter, or any evidence derived therefrom, shall not be received in evidence or

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17 otherwise disclosed in any trial, hearing, or other proceeding in state court unless each
18 party, not less than ten days before the trial, hearing, or proceeding, has been furnished
19 with a copy of the court order, and accompanying application, under which the
20 interception was authorized or approved;

21 (C) Any aggrieved person in any trial, hearing, or proceeding in or before any court,
22 department, officer, agency, regulatory body, or the state, or a political subdivision
23 thereof may move to suppress the contents of any wire, oral, or electronic
24 communication intercepted pursuant to Article 3 of Chapter 11 of Title 16, or any
25 evidence derived therefrom, on the grounds that:

26 (i) The communication was unlawfully intercepted;

27 (ii) The order of authorization or approval under which it was intercepted is
28 insufficient on its face; or

29 (iii) The interception was not made in conformity with the order of authorization or
30 approval; and

31 (D) Such motion shall be made before the trial, hearing, or proceeding commences
32 unless there was no opportunity to make such motion or the person was not aware of
33 the grounds of the motion. If the motion is granted, the contents of the intercepted wire,
34 oral, or electronic communication, or any evidence derived therefrom, shall be treated
35 as having been obtained in violation of this Code section. The judge, upon the filing
36 of such motion by the aggrieved person, may in his or her discretion make available to
37 such person's counsel for inspection such portions of the intercepted communication or
38 evidence derived therefrom as the judge determines to be in the interests of justice;"

39 **SECTION 2.**

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