

House Bill 326

By: Representatives Jordan of the 77th, Mitchell of the 88th, Scott of the 76th, Brooks of the 55th, and Beasley-Teague of the 65th

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 clarify that it shall be lawful under certain circumstances for peace officers to use law
4 enforcement agency issued devices to observe, photograph, or record the activities of another
5 which occur in any private place and out of public view; to amend Chapter 1 of Title 35 of
6 the Official Code of Georgia Annotated, relating to general provisions relative to law
7 enforcement officers and agencies, so as to require that certain peace officers be equipped
8 with an audio and video recording device attached to their persons for recording audio and
9 video of all activities performed while on duty; to provide for definitions; to provide for
10 public disclosure exceptions; to provide for penalties; to amend Article 4 of Chapter 18 of
11 Title 50 of the Official Code of Georgia Annotated, relating to the inspection of public
12 records, so as to provide for the release of certain audio and video recordings from devices
13 attached to the persons of peace officers; to provide for a short title; to provide for related
14 matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 This Act shall be known and may be cited as the "Police and Citizens Safety and
18 Accountability Act."

19 **SECTION 2.**

20 Part 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
21 relating to wiretapping, eavesdropping, surveillance, and related offenses, is amended in
22 paragraph (2) of Code Section 16-11-62, relating to eavesdropping, surveillance, or
23 intercepting communication which invades the privacy of another, by deleting "or" at the end
24 of subparagraph (B), by adding "or" at the end of subparagraph (C), and by adding a new
25 subparagraph to read as follows:

26 "(D) For a law enforcement officer to use a device as provided for in Code Section
 27 35-1-20 in the performance of his or her official duties pursuant to conducting a traffic
 28 stop or responding to an emergency call or situation;"

29 **SECTION 3.**

30 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
 31 provisions relative to law enforcement officers and agencies, is amended by adding a new
 32 Code section to read as follows:

33 "35-1-20.

34 (a) As used in this Code section, the term:

35 (1) 'Encounter for a law enforcement purpose' means any stop, detention, or investigation
 36 by a peace officer.

37 (2) 'Peace officer' shall have the same meaning as provided for in paragraph (8) of Code
 38 Section 35-8-2.

39 (b)(1) On and after January 1, 2017, each state, county, and local law enforcement
 40 agency shall equip all peace officers who conduct traffic stops or respond to emergency
 41 dispatch calls as their primary duty with an audio and video recording device attached to
 42 their persons which shall record audio and video of all activities while such peace officers
 43 are on duty. Such recording device shall depict such activities from the point of view of
 44 such peace officer's body front or line of sight. Law enforcement agencies which do not
 45 comply with the requirements of this subsection are subject to the withholding of any
 46 state funding or state administered federal funding.

47 (2) Notwithstanding paragraph (4) of subsection (a) of Code Section 50-18-72, the audio
 48 and video recordings provided for in paragraph (1) of this subsection which depict an
 49 encounter for a law enforcement purpose, including but not limited to all relevant
 50 depictions occurring prior to and after such encounter for a law enforcement purpose,
 51 shall be publicly disclosed. Except for portions depicting an encounter for a law
 52 enforcement purpose as provided for under this paragraph, the audio and video recordings
 53 provided for in paragraph (1) of this subsection shall not be publicly disclosed.

54 (3) If it is not the policy of a law enforcement agency that the audio and video recording
 55 devices as provided for in paragraph (1) of this subsection shall be always activated and
 56 recording, such audio and video recording devices shall be activated and deactivated in
 57 accordance with requirements established by the commissioner.

58 (c) Audio and video recordings provided for in subsection (b) of this Code section shall
 59 be retained in the same manner as 9-1-1 emergency call recordings are retained pursuant
 60 to retention schedules promulgated under Article 5 of Chapter 18 of Title 50, the 'Georgia
 61 Records Act.'

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SECTION 4.

63 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to the
64 inspection of public records, is amended in Code Section 50-18-72, relating to when public
65 disclosure is not required, by revising paragraph (4) of subsection (a) as follows:

66 "(4) Records of law enforcement, prosecution, or regulatory agencies in any pending
67 investigation or prosecution of criminal or unlawful activity, other than initial police
68 arrest reports and initial incident reports; provided, however, that an investigation or
69 prosecution shall no longer be deemed to be pending when all direct litigation involving
70 such investigation and prosecution has become final or otherwise terminated; and
71 provided, further, that this paragraph shall not apply to records in the possession of an
72 agency that is the subject of the pending investigation or prosecution; and provided,
73 further, that the release of booking photographs shall only be permissible in accordance
74 with Code Section 35-1-18; and provided, further, that the release of audio and video
75 recordings from devices attached to the persons of peace officers shall be in accordance
76 with Code Section 35-1-20;"

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SECTION 5.

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