

The Senate Committee on Judiciary offered the following substitute to HB 9:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to invasions of privacy, so as to prohibit the use of a device to film  
3 underneath or through an individual's clothing under certain circumstances; to provide for  
4 definitions; to provide for penalties; to provide for exceptions; to provide for related matters;  
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

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8 Part 3 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
9 relating to invasions of privacy, is amended by adding a new Code section to read as follows:

10 "16-11-91.

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

12 (1) 'Device' means an instrument or apparatus used for observing, photographing,  
13 videotaping, recording, or transmitting visual images, including but not limited to a  
14 camera, photographic equipment, video equipment, mobile phone, or other similar  
15 equipment.

16 (2) 'Intimate parts' shall have the same meaning as set forth in Code Section 16-6-22.1.

17 (b)(1) Notwithstanding Code Section 16-11-90, it shall be unlawful for any person to,  
18 knowingly and without the consent of the individual observed, use or install a device for  
19 the purpose of surreptitiously observing, photographing, videotaping, filming, or video  
20 recording such individual underneath or through such individual's clothing, for the  
21 purpose of viewing the intimate parts of the body of or the undergarments worn by such  
22 individual, under circumstances in which such individual has a reasonable expectation  
23 of privacy, regardless of whether it occurs in a public place.

24 (2) It shall be unlawful to disseminate any image or recording with knowledge that it was  
25 taken or obtained in violation of paragraph (1) of this subsection.

26 (c) Any person convicted of violating this Code section shall be guilty of and punished as  
27 for a misdemeanor and, upon a second or subsequent conviction thereof, shall be punished  
28 by imprisonment of not less than one year nor more than five years, a fine of not more than  
29 \$10,000.00, or both, or in the discretion of the court, as for a misdemeanor.

30 (d) Subsection (b) of this Code section shall not apply to:

31 (1) The lawful activities of law enforcement and prosecution agencies; or

32 (2) A business's or entity's surveillance device used in the ordinary course of its business,  
33 provided that signage conspicuously warns of such surveillance and the use of such  
34 device is primarily designed to detect unlawful activity.

35 (e) Any violation of this Code section shall constitute a separate offense and shall not  
36 merge with any other crimes set forth in this title."

37 **SECTION 2.**

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