

The Senate Committee on Government Oversight offered the following substitute to SB 535:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to
2 public property, so as to designate camping in a public place without authorization as a
3 misdemeanor; to provide for evidence that establishes a person's intention to camp; to
4 provide for requirements for sufficiency of consent by an officer or agency; to provide for
5 steps a law enforcement officer must take before or upon citation for unauthorized camping;
6 to provide for steps a law enforcement officer must take if a person is to be arrested or
7 detained solely for an offense under this article; to provide for the submission of a plan
8 requesting approval for individuals to camp in a public place by a political subdivision to the
9 Department of Community Affairs; to provide that state agencies and political subdivisions
10 may pass compatible regulations; to provide that the Attorney General may bring an action
11 for injunction for violation of this article by a state agency or political subdivision; to provide
12 that a local entity shall not receive state grant funds for the state fiscal year following the
13 violation; to provide for applicability; to provide for related matters; to provide for an
14 effective date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16

SECTION 1.

17 Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to public property,
18 is amended by adding a new article to read as follows:

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"ARTICLE 820 50-16-190.21 (a) As used in this article, the term:22 (1) 'Camp' means to reside temporarily in a place, with shelter.23 (2) 'Department' means the Department of Community Affairs.24 (3) 'Local entity' means:25 (A) The governing body of a municipality, county, or consolidated government;26 (B) An officer or employee of or a division, department, or other body that is part of
27 a municipality or county, including a sheriff, municipal police department, municipal
28 attorney, or county attorney; and29 (C) A district attorney or county solicitor.30 (4) 'Policy' includes a formal, written rule, ordinance, order, or policy and an informal,
31 unwritten policy.32 (5) 'Public camping ban' means a law, rule, ordinance, order, or other regulation that
33 prohibits camping in a public place.34 (6) 'Shelter' includes a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets, or any
35 form of temporary, semipermanent, or permanent shelter, other than clothing or any
36 handheld device, designed to protect a person from weather conditions that threaten
37 personal health and safety.

38 50-16-191.

39 (a) A person commits an offense if the person intentionally or knowingly camps in a
40 public place without the effective consent of the officer or agency having the legal duty or
41 authority to manage the public place.

42 (b) The actor's intent or knowledge may be established through evidence of activities
43 associated with sustaining a living accommodation that are conducted in a public place,
44 including:

45 (1) Cooking;

46 (2) Making a fire;

47 (3) Storing personal belongings for an extended period;

48 (4) Digging; or

49 (5) Sleeping.

50 (c) Consent given by an officer or agency of a political subdivision is not effective for
51 purposes of subsection (a) of this Code section, unless given to authorize the person to
52 camp for:

53 (1) Recreational purposes, whether at a campground, recreation area, state park, or a
54 similar public recreation area; or

55 (2) Purposes of sheltering homeless individuals, if the property on which the camping
56 occurs is subject to a plan approved under Code Section 50-16-193, and the camping
57 occurs in a manner that complies with the plan.

58 (d) An offense under this Code section is a misdemeanor.

59 (e) This Code section shall not preempt an ordinance, order, rule, or other regulation
60 adopted by a state agency or political subdivision relating to prohibiting camping in a
61 public place or affect the authority of a state agency or political subdivision to adopt or
62 enforce an ordinance, order, rule, or other regulation relating to prohibiting camping in a
63 public place if the ordinance, order, rule, or other regulation:

- 64 (1) Is compatible with and equal to or more stringent than the offense prescribed by this
65 Code section; or
- 66 (2) Relates to an issue not specifically addressed by this Code section.
- 67 (f) Except as provided by subsection (g) of this Code section, before or at the time a law
68 enforcement officer issues a citation to a person for an offense under this Code section, the
69 law enforcement officer must make a reasonable effort to:
- 70 (1) Advise the person of an alternative place at which the person may lawfully camp; and
71 (2) Contact, if reasonable and appropriate, an appropriate official of the political
72 subdivision in which the public place is located, or an appropriate nonprofit organization
73 operating within that political subdivision, and request the official or organization to
74 provide the person with:
- 75 (A) Information regarding the prevention of human trafficking; or
76 (B) Any other services that would reduce the likelihood of the person suspected of
77 committing the offense continuing to camp in the public place.
- 78 (g) Subsection (f) of this Code section shall not apply if the law enforcement officer
79 determines there is an imminent threat to the health or safety of any person to the extent
80 that compliance with that subsection is impracticable.
- 81 (h) If the person is arrested or detained solely for an offense under this Code section, a law
82 enforcement officer enforcing this Code section shall ensure that all of the person's
83 personal property not designated as contraband under other law is preserved by:
- 84 (1) Permitting the person to remove all the property from the public place at the time of
85 the person's departure; or
- 86 (2) Taking custody of the property and allowing the person to retrieve the property after
87 the person is released from custody.

88 50-16-192.

89 (a) A political subdivision shall not designate a property to be used by homeless
90 individuals to camp unless the department approves a plan described by Code Section
91 50-16-193.

92 (b) Not later than the thirtieth day after the date the department receives a plan submitted
93 by a political subdivision under this article, the department shall make a final determination
94 regarding approval of the plan.

95 (c) The department shall not approve a plan described by Code Section 50-16-193 if the
96 department determines that a property proposed under the plan is a public park.

97 50-16-193.

98 (a) As used in this Code section, the term 'proposed new campers' means homeless
99 individuals the applicant intends to allow to camp at the property.

100 (b) A plan submitted for approval under this article shall describe each of the following
101 with respect to a proposed property:

102 (1) The availability of local health care for proposed new campers, including access to
103 Medicaid services and mental health services;

104 (2) The availability of indigent services for proposed new campers;

105 (3) The availability of reasonably affordable public transportation for proposed new
106 campers;

107 (4) Local law enforcement resources in the area; and

108 (5) The steps the applicant has taken to coordinate with local mental health care
109 providers to provide for any proposed new campers.

110 (c) An applicant shall respond to reasonable requests for additional information made by
111 the department regarding the proposed property or plan.

112 50-16-194.

113 (a) A local entity shall not adopt or enforce a policy under which the entity prohibits or
114 discourages the enforcement of any public camping ban.

115 (b) In compliance with subsection (a) of this Code section, a local entity shall not prohibit
116 or discourage a law enforcement officer or prosecuting attorney who is employed by or
117 otherwise under the direction or control of the entity from enforcing a public camping ban.

118 (c) This Code section shall not prohibit a policy that encourages diversion or a provision
119 of services in lieu of citation or arrest.

120 50-16-195.

121 (a) The Attorney General may bring an action in a district court in Fulton County or in a
122 county in which the principal office of the entity is located to enjoin a violation of Code
123 Section 50-16-194.

124 (b) The Attorney General may recover reasonable expenses incurred in obtaining relief
125 under this Code section, including court costs, reasonable attorney's fees, investigative
126 costs, witness fees, and deposition costs.

127 50-16-196.

128 (a) A local entity shall not receive state grant funds, and state grant funds for the local
129 entity shall be denied, for the state fiscal year following the year in which a final judicial
130 determination in an action brought under Code Section 50-16-193 is made that the entity
131 has intentionally violated Code Section 50-16-194.

132 (b) The comptroller general shall adopt rules to implement this Code section uniformly
133 among the state agencies from which state grant funds are distributed to a municipality or
134 county.

135 (c) A local entity that has not violated Code Section 50-16-194 shall not be denied state
136 grant funds, regardless of whether the entity is a part of another entity that is in violation
137 of that Code section.

138 50-16-197.

139 (a) A political subdivision that designated a property to be used by homeless individuals
140 to camp before the effective date of this article may apply on or after that date for approval
141 of a plan under Code Section 50-16-193.

142 (b) Subsection (c) of Code Section 50-16-192 applies to a public park regardless of the
143 date that the public park was first designated by a political subdivision to be used by
144 homeless individuals to camp."

145 **SECTION 2.**

146 This Act shall become effective on January 1, 2023.

147 **SECTION 3.**

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