

The Senate Committee on Judiciary offered the following substitute to SB 45:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"16-11-91.

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

(1) 'Device' means an instrument or apparatus used for observing, photographing, videotaping, recording, or transmitting visual images. Without limiting the generality of the foregoing, such term shall specifically include a camera, photographic equipment, video equipment, mobile phone, or other similar equipment.

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

(3) 'Person' means an individual who is 16 years of age or older.

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

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

(c) Any individual convicted of violating this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment of not less than one nor more than five years, a fine of not more than \$100,000.00, or both, or in the discretion of the court, as for a misdemeanor.

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

(1) The activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses; or

(2) A retailer that surveils a customer changing room, provided that signage conspicuously warns customers of the retailer's surveillance.

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

SECTION 2.

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