Senate Bill 539

By: Senators Hatchett of the 50th, Mullis of the 53rd, Kennedy of the 18th, Albers of the 56th, Watson of the 1st and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to wiretapping, eavesdropping, surveillance, and related offenses, so as to provide that the use of any device to photograph or record patients in a facility operated by a county board of health shall be unlawful; 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 1 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to wiretapping, eavesdropping, surveillance, and related offenses, is amended by revising Code Section 16-11-62, relating to eavesdropping, surveillance, or intercepting communication which invades privacy of another, and divulging private message, as follows:

"16-11-62.

It shall be unlawful for:

(1) Any person in a clandestine manner intentionally to overhear, transmit, or record or attempt to overhear, transmit, or record the private conversation of another which shall originate in any private place;

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(2) Any person, through the use of any device, without the consent of all persons observed, to observe, photograph, or record the activities of another which occur in any private place and out of public view; provided, however, that it shall not be unlawful:

(A) To use any device to observe, photograph, or record the activities of persons incarcerated in any jail, correctional institution, or other facility in which persons who are charged with or who have been convicted of the commission of a crime are incarcerated, provided that such equipment shall not be used while the prisoner is discussing his or her case with his or her attorney;

(B) For an owner or occupier of real property to use for security purposes, crime prevention, or crime detection any device to observe, photograph, or record the activities of persons who are on the property or an approach thereto in areas where there is no reasonable expectation of privacy;

(C) To use for security purposes, crime prevention, or crime detection any device to observe, photograph, or record the activities of persons who are within the curtilage of the residence of the person using such device. A photograph, videotape, or record made in accordance with this subparagraph, or a copy thereof, may be disclosed by such resident to the district attorney or a law enforcement officer and shall be admissible in a judicial proceeding, without the consent of any person observed, photographed, or recorded; or

(D) For a law enforcement officer or his or her agent to use a device in the lawful performance of his or her official duties to observe, photograph, videotape, or record the activities of persons that occur in the presence of such officer or his or her agent;

(3) Any person to go on or about the premises of another or any private place, except as otherwise provided by law, for the purpose of invading the privacy of others by eavesdropping upon their conversations or secretly observing their activities;
(4) Any person intentionally and secretly to intercept by the use of any device, instrument, or apparatus the contents of a message sent by telephone, telegraph, letter, or by any other means of private communication;

(5) Any person to divulge to any unauthorized person or authority the content or substance of any private message intercepted lawfully in the manner provided for in Code Section 16-11-65;

(6) Any person to sell, give, or distribute, without legal authority, to any person or entity any photograph, videotape, or record, or copies thereof, of the activities of another which occur in any private place and out of public view without the consent of all persons observed;

(7) Any person, through the use of any device, without the consent of all patients observed, to knowingly photograph or record the activities of patients which occur in a facility that is operated by a county board of health created pursuant to Code Section 31-3-1, except that such acts shall not be unlawful as provided in subparagraphs (2)(A) through (2)(D) of this Code section; or

(7)(8) Any person to commit any other acts of a nature similar to those set out in paragraphs (1) through (6)(7) of this Code section which invade the privacy of another."

SECTION 2.

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