

Senate Bill 126

By: Senators Butler of the 55th, Davenport of the 44th, Parent of the 42nd, Jackson of the 41st, Orrock of the 36th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state tort claims, so as to remove certain immunities from the actions of certain
3 law enforcement officers; to provide that officers alleged to have committed misconduct or
4 a violation of law while acting within the scope of official duties shall be subject to lawsuit
5 or liability; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to
9 state tort claims, is amended by revising paragraph (7) of Code Section 50-21-24, relating
10 to exceptions to state liability, as follows:

11 ~~"(7) Assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of~~
12 ~~process, libel, slander, or interference with contractual rights~~ Reserved;"

13 **SECTION 2.**

14 Said article is further amended by revising subsection (a) of Code Section 50-21-25, relating
15 to immunity of state officers or employees for acts within scope of official duties or

16 employment, officer or employee not named in action against state, and settlement or
17 judgment, as follows:

18 "(a) This article constitutes the exclusive remedy for any tort committed by a state officer
19 or employee. A state officer or employee who commits a tort while acting within the scope
20 of his or her official duties or employment is not subject to lawsuit or liability therefor;
21 provided, however, that a law enforcement officer who is alleged to have committed
22 misconduct or a violation of law while acting within the scope of his or her official duties
23 or employment shall be subject to lawsuit or liability. However, nothing in this article shall
24 be construed to give a state officer or employee immunity from suit and liability if it is
25 proved that the officer's or employee's conduct was not within the scope of his or her
26 official duties or employment."

27 **SECTION 3.**

28 Said article is further amended by adding a new Code section to read as follows:

29 "50-21-25.1.

30 (a) As used in this Code section, the term 'law enforcement officer' means any agent or
31 officer of this state, a political subdivision or municipality of this state, an authority of this
32 state, or a college or university who, as a full-time or part-time employee, is vested either
33 expressly by law or by virtue of public employment or service with authority to enforce the
34 criminal or traffic laws through the power of arrest and whose duties include the
35 preservation of public order, the protection of life and property, or the prevention,
36 detection, or investigation of crime.

37 (b) A law enforcement officer who, under color of law, subjects or causes to be subjected,
38 including, but not limited to, by failing to intervene, any other person to the deprivation of
39 any individual rights secured by the Constitution of this state or the Constitution of the
40 United States shall be liable to the injured party for legal or equitable relief or any other
41 appropriate relief.

42 (c) No statutory immunities or immunities at law, including, but not limited to, qualified
43 immunity, shall be a defense to liability pursuant to this Code section.

44 (d) To the extent necessary for any actions to proceed under this Code section, the defense
45 of sovereign immunity is waived as to any claim, counterclaim, cross-claim, or third-party
46 claim brought in the courts of this state by an aggrieved person seeking legal or equitable
47 relief or any other appropriate relief, including, but not limited to, reasonable attorney fees,
48 pursuant to this Code section."

49 **SECTION 4.**

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