



MEMORANDUM

From: Christopher Bruce, Political Director; Nicole Robinson, Policy Analyst
To: Chairman Brian Strickland and Members of the Senate Committee on Judiciary
Date: March 1, 2021
Re: Senate Bill 171 (2021) [LC 41 2918]

Sponsors: Randy Robertson (R-29th) et al.

Bill Status (as of 02/16/2021): Senate Judiciary

ACLU Issue Area(s) Addressed: Policing, Criminal Legal System, First Amendment

Code Section(s) Addressed:

- O.C.G.A. 16-5-23: relating to simple battery
- O.C.G.A. 16-11-33: relating to unlawful assembly
- O.C.G.A. 16-11-43: relating to obstructing highways, streets, sidewalks, or other public passages
- O.C.G.A. 16-14-3: relating to racketeering activity
- O.C.G.A. 45-1-8: relating to general provisions regarding public officers and employees
- O.C.G.A. 50-3-1: relating to public monuments
- O.C.G.A. 50-21-24: relating to exceptions to state liability

Summary:

Senate Bill 171 (2021) does 8 main things:

1. Dramatically expands the scope of laws criminalizing unlawful assembly. [lines 37-59, 75-76]
2. Ratchets up penalties for criminal acts conducted during an unlawful assembly. [lines 30-32 (simple battery), lines 77-81 (violence), lines 99-105 (highway obstruction), lines 201-208 (defacing public monuments)]
3. Potentially exposes activists/social justice organizations to criminal liability under Georgia's RICO statute. [lines 114-117]
4. Establishes an affirmative defense for people who kill or injure protesters obstructing roadways. [lines 106-110]
5. Incentivizes counties and municipalities to crack down on protests by making them liable for resulting injuries or property damage. [lines 82-85, 137-145]
6. Requires counties and municipalities to implement a permit system for any assembly on public property. [lines 127-132]
7. Denies state employment and benefits to anyone convicted of unlawful assembly. [lines 86-88, 187-189]
8. Attempts to penalize counties and municipalities for reducing police budgets. [lines 123-125]

ACLU of Georgia Position: The ACLU of Georgia ***OPPOSES this legislation*** because the bill gravely infringes on the First Amendment right to Freedom of Assembly and Petition.

Reason(s) to oppose: Senate Bill 171 tramples on the First Amendment, incentivizes counties and municipalities to crack down on protests or prevent them from occurring in the first place, punishes counties and municipalities from meaningfully reining in the police, and encourages the dehumanization of and maiming and/or murder of protesters.

- **Senate Bill 171 tramples on the First Amendment.**
 - SB 171 chills constitutionally protected speech by empowering law enforcement to make arrests based on a vague and overbroad definition of unlawful assembly.
 - Protestors caught up in overzealous police actions face harsh penalties that could result in felony convictions, steep fines, years in prison, and ineligibility for state employment or employment benefits.
 - SB 171 incentivizes counties and municipalities to proactively suppress constitutionally protected speech for fear of being sued in state court if they do not crack down hard enough.

- **SB 171 undermines community control over law enforcement.**
 - SB 171 would withhold state funding from counties and municipalities that direct local funding away from police and towards other priorities, shackling local government and preventing them from developing budgets that are actually responsive to the needs of their communities.
 - SB 171 also makes counties and municipalities civilly liable for “obstructing” or “interfering” with law enforcement responding to protests, incentivizing local officials to sit back and let law enforcement respond to protests however they wish.

- **SB 171 dehumanizes protesters.**
 - People have the right to protest in this country and protecting those who injure protestors gives the greenlight to those upset by protests to take matters into their own hands. SB 171 violates basic civil liberties and supports those who will get away with murdering or injuring protestors.