

The House Committee on Judiciary offers the following substitute to HB 634:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes, so as to
2 change the definition of aggravated assault; to create the new offense of aggravated sexual
3 assault and provide penalties; to amend Code Section 24-2-3 of the Official Code of Georgia
4 Annotated, relating to admissibility of the complainant's past sexual behavior in rape
5 prosecutions, so as to include aggravated sexual assault as an offense excluding a
6 complainant's past sexual behavior except as provided in said Code section; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 16 of the Official Code of Georgia Annotated, relating crimes, is amended in Code
11 Section 16-5-21, relating to aggravated assault, by striking paragraph (1) of subsection (a)
12 and inserting in lieu thereof the following:

13 "(1) With intent to murder, ~~to rape,~~ or to rob;"

14 **SECTION 2.**

15 Said title is further amended by inserting after Code Section 16-6-3, relating to statutory rape,
16 a new Code Section 16-6-3.1 to read as follows:

17 "16-6-3.1.

18 (a) A person commits the offense of aggravated sexual assault when:

19 (1) He or she assaults another with the intent to commit rape, aggravated sodomy, or
20 aggravated sexual battery; or

21 (2) He has carnal knowledge of a female when a reasonable person would know that the
22 female does not consent. Carnal knowledge under this Code section occurs when there
23 is any penetration of the female sex organ by the male sex organ.

24 (b) A person convicted of the offense of aggravated sexual assault shall be punished by
25 imprisonment for not less than one nor more than 20 years."

SECTION 3.

Code Section 24-2-3 of the Official Code of Georgia Annotated, relating to admissibility of the complainant's past sexual behavior in rape prosecutions, is amended by striking subsections (a) and (b) in their entirety and inserting in lieu thereof the following:

"(a) In any prosecution for rape or aggravated sexual assault, evidence relating to the past sexual behavior of the complaining witness shall not be admissible, either as direct evidence or on cross-examination of the complaining witness or other witnesses, except as provided in this Code section. For the purposes of this Code section, evidence of past sexual behavior includes, but is not limited to, evidence of the complaining witness's marital history, mode of dress, general reputation for promiscuity, nonchastity, or sexual mores contrary to the community standards.

(b) In any prosecution for rape or aggravated sexual assault, evidence relating to the past sexual behavior of the complaining witness may be introduced if the court, following the procedure described in subsection (c) of this Code section, finds that the past sexual behavior directly involved the participation of the accused and finds that the evidence expected to be introduced supports an inference that the accused could have reasonably believed that the complaining witness consented to the conduct complained of in the prosecution."

SECTION 4.

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