

Senate Bill 311

By: Senators Squires of the 5th, Butler of the 55th, Unterman of the 45th, Henson of the 41st, Balfour of the 9th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia
2 Annotated, relating to criminal trespass and damage to property generally, so as to create the
3 crime of possession of tools for committing the crimes of criminal trespass and criminal
4 damage to property in the second degree; to change the penalty provisions relating to the
5 offenses of criminal trespass and criminal damage to property in the second degree; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated,
10 relating to criminal trespass and damage to property generally, is amended by adding a new
11 Code Section 16-7-20.1 to follow Code Section 16-7-20 to read as follows:

12 "16-7-20.1.

13 (a) A person commits the offense of possession of tools for the commission of the crime
14 of criminal trespass or criminal damage to property in the second degree when a person has
15 in that person's possession any aerosol spray paint can, aerosol spray paint can tip, broad
16 tip marker, or other device commonly used in the commission of the crime of criminal
17 trespass or criminal damage to property in the second degree with the intent to make use
18 thereof in the commission of the crime of criminal trespass or criminal damage to property
19 in the second degree.

20 (b) A person convicted of the offense of possession of tools for the commission of the
21 crime of criminal trespass or criminal damage to property in the second degree shall be
22 punished as for a misdemeanor.

23 (c) A court sentencing a person convicted of possession of tools for the commission of the
24 crime of criminal trespass or criminal damage to property in the second degree may require
25 as a condition of probation, suspension of sentence, or community service that the person
26 convicted participate in a community justice program involving the admission of guilt,

1 working to undo the effects of the offense, and taking steps to convince the community that
2 the crime will not happen again."

3 **SECTION 2.**

4 Said part is further amended by adding a new subsection (f) to Code Section 16-7-21, relating
5 to criminal trespass, to read as follows:

6 "(f) A court sentencing a person convicted of criminal trespass involving damage to
7 property shall impose restitution as required by Code Section 17-14-17 and may require
8 as a condition of probation, suspension of sentence, or community service that the person
9 convicted participate in a community justice program involving the admission of guilt,
10 working to undo the effects of the offense, and taking steps to convince the community that
11 the crime will not happen again."

12 **SECTION 3.**

13 Said part is further amended by striking Code Section 16-7-23, relating to criminal damage
14 to property in the second degree, in its entirety and inserting in lieu thereof the following:

15 "16-7-23.

16 (a) A person commits the offense of criminal damage to property in the second degree
17 when he or she:

18 (1) Intentionally damages any property of another person without his or her consent and
19 the damage thereto exceeds \$500.00;

20 (2) Recklessly or intentionally, by means of fire or explosive, damages property of
21 another person; or

22 (3) With intent to damage, starts a fire on the land of another without his or her consent.

23 (b) A person convicted of the offense of criminal damage to property in the second degree
24 shall be punished by imprisonment for not less than one nor more than five years.

25 (c) A court sentencing a person convicted of criminal damage to property in the second
26 degree shall impose restitution as required by Code Section 17-14-17 and may require as
27 a condition of probation, suspension of sentence, or community service that the person
28 convicted participate in a community justice program involving the admission of guilt,
29 working to undo the effects of the offense, and taking steps to convince the community that
30 the crime will not happen again."

31 **SECTION 4.**

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