

House Bill 1487

By: Representatives Thomas Morgan of the 33rd, Post 2, Stephenson of the 60th, Post 1, Bruce of the 45th, Thomas of the 43rd, Post 1, Sinkfield of the 50th, and Oliver of the 56th, Post 2

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to
2 punishment for serious violent offenders, so as to eliminate the mandatory minimum
3 punishment for certain persons convicted of certain serious violent offenses; to provide for
4 a definition; to provide for related matters; to provide for an effective date and applicability;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment
9 for serious violent offenders, is amended by striking said Code section and inserting in lieu
10 thereof the following:

11 "17-10-6.1.

12 (a) As used in this Code section, the term 'serious violent felony' means:

13 (1) Murder or felony murder, as defined in Code Section 16-5-1;

14 (2) Armed robbery, as defined in Code Section 16-8-41;

15 (3) Kidnapping, as defined in Code Section 16-5-40;

16 (4) Rape, as defined in Code Section 16-6-1;

17 (5) Aggravated child molestation, as defined in Code Section 16-6-4;

18 (6) Aggravated sodomy, as defined in Code Section 16-6-2; or

19 (7) Aggravated sexual battery, as defined in Code Section 16-6-22.2.

20 (b)(1) Notwithstanding any other provisions of law to the contrary, any person who is:

21 (A) convicted Convicted of a serious violent felony as defined in paragraphs ~~(2)~~
22 ~~through (7)~~ (3) and (4) of subsection (a) of this Code section; or

23 (B) Eighteen years of age or older at the time of arrest for a serious violent felony:

24 (i) As defined in paragraphs (5) through (7) of subsection (a) of this Code section,
25 and who is subsequently convicted therefor; or

1 (ii) As defined in paragraph (2) of subsection (a) of this Code section, wherein the
2 armed robbery was committed with a firearm or resulted in bodily injury to any
3 person, and who is subsequently convicted therefor

4 shall be sentenced to a mandatory minimum term of imprisonment of ten years and no
5 portion of the mandatory minimum sentence imposed shall be suspended, stayed,
6 probated, deferred, or withheld by the sentencing court and shall not be reduced by any
7 form of pardon, parole, or commutation of sentence by the State Board of Pardons and
8 Paroles.

9 (2)(A) Any person who is younger than 18 years of age at the time of arrest for a
10 serious violent felony as defined in paragraphs (5) through (7) of subsection (a) of this
11 Code section and who is subsequently convicted therefor shall not be sentenced to a
12 mandatory minimum term of imprisonment.

13 (B) Any person who is younger than 18 years of age at the time of arrest for a serious
14 violent felony as defined in paragraph (2) of subsection (a) of this Code section,
15 wherein the armed robbery was not committed with a firearm and during the
16 commission of the armed robbery bodily injury did not occur to any person, and who
17 is subsequently convicted therefor shall not be sentenced to a mandatory minimum term
18 of imprisonment.

19 (3) For purposes of this subsection, the term 'firearm' means any rifle, shotgun, pistol,
20 or similar device which propels a projectile or projectiles through the energy of an
21 explosive.

22 (4) No person convicted of a serious violent felony as defined in subsection (a) of this
23 Code section shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of
24 Title 42, relating to probation for first offenders, or any other provision of Georgia law
25 relating to the sentencing of first offenders. The State of Georgia shall have the right to
26 appeal any sentence which is imposed by the superior court which does not conform to
27 the provisions of this subsection in the same manner as is provided for other appeals by
28 the state in accordance with Chapter 7 of Title 5, relating to appeals or certiorari by the
29 state.

30 (c)(1) Except as otherwise provided in subsection (c) of Code Section 42-9-39, for a first
31 conviction of a serious violent felony in which the defendant has been sentenced to life
32 imprisonment, that person shall not be eligible for any form of parole or early release
33 administered by the State Board of Pardons and Paroles until that person has served a
34 minimum of 14 years in prison. The minimum term of imprisonment shall not be reduced
35 by any earned time, early release, work release, leave, or other sentence-reducing
36 measures under programs administered by the Department of Corrections.

1 (2) For a first conviction of a serious violent felony in which the defendant has been
2 sentenced to death but the sentence of death has been commuted to life imprisonment,
3 that person shall not be eligible for any form of parole or early release administered by
4 the State Board of Pardons and Paroles until that person has served a minimum of 25
5 years in prison. The minimum term of imprisonment shall not be reduced by any earned
6 time, early release, work release, leave, or other sentence-reducing measures under
7 programs administered by the Department of Corrections.

8 (3) Any sentence imposed for the first conviction of any serious violent felony other than
9 a sentence of life imprisonment or life without parole or death shall be served in its
10 entirety as imposed by the sentencing court and shall not be reduced by any form of
11 parole or early release administered by the State Board of Pardons and Paroles or by any
12 earned time, early release, work release, leave, or other sentence-reducing measures
13 under programs administered by the Department of Corrections, the effect of which
14 would be to reduce the period of incarceration ordered by the sentencing court.

15 (d) For purposes of this Code section, a first conviction of any serious violent felony
16 means that the person has never been convicted of a serious violent felony under the laws
17 of this state or of an offense under the laws of any other state or of the United States, which
18 offense if committed in this state would be a serious violent felony. Conviction of two or
19 more crimes charged on separate counts of one indictment or accusation, or in two or more
20 indictments or accusations consolidated for trial, shall be deemed to be only one
21 conviction."

22 SECTION 2.

23 This Act shall become effective upon its approval by the Governor or upon its becoming law
24 without such approval and shall apply to any person who is sentenced after the effective date
25 of this Act for a serious violent felony as defined in Code Section 17-10-6.1.

26 SECTION 3.

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