

The Senate Public Safety and Homeland Security Committee offered the following substitute to SB 91:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated,  
2 relating to serious traffic offenses, so as to change provisions relating to punishment for the  
3 offense of fleeing or attempting to elude a pursuing police vehicle or police officer; to  
4 provide for related matters; to provide for an effective date and for applicability; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

7 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to  
8 serious traffic offenses, is amended by revising Code Section 40-6-395, relating to fleeing  
9 or attempting to elude a pursuing police vehicle or police officer, as follows:  
10

11 "40-6-395.

12 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or  
13 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or  
14 police officer when given a visual or an audible signal to bring the vehicle to a stop. The  
15 signal given by the police officer may be by hand, voice, emergency light, or siren. The  
16 officer giving such signal shall be in uniform prominently displaying his or her badge of  
17 office, and his or her vehicle shall be appropriately marked showing it to be an official  
18 police vehicle.

19 (b)(1)(A) Except as otherwise provided in this Code section, any Any person violating  
20 the provisions of subsection (a) of this Code section shall be guilty of a high and  
21 aggravated misdemeanor and:

22 ~~(A) Upon~~ upon conviction shall be fined not less than \$500.00 nor more than  
23 \$5,000.00, which fine shall not be subject to suspension, stay, or probation, and  
24 imprisoned for not less than ten days nor more than 12 months. Any period of such  
25 imprisonment in excess of ten days may, in the sole discretion of the judge, be  
26 suspended, stayed, or probated;

1 (B) ~~Upon the~~ Any person committing a violation of the provisions of subsection (a) of  
2 this Code section, upon a second or subsequent conviction within a ten-year period of  
3 time, as measured from the dates of previous arrests for which convictions were  
4 obtained to the date of the current arrest for which a conviction is obtained, shall be  
5 ~~fin~~ed not less than \$1,000.00 nor more than \$5,000.00, ~~which fine shall not be subject~~  
6 ~~to suspension, stay, or probation and imprisoned for not less than 30 days nor more than~~  
7 ~~12 months. Any period of such imprisonment in excess of 30 days may, in the sole~~  
8 ~~discretion of the judge, be suspended, stayed, or probated; and for purposes of this~~  
9 ~~paragraph, previous pleas of nolo contendere accepted within such ten-year period shall~~  
10 ~~constitute convictions; and~~ guilty of a felony punishable by a fine of \$5,000.00 or  
11 imprisonment for not less than one year nor more than five years or both. Following  
12 adjudication of guilt or imposition of sentence for a violation of this subparagraph, the  
13 sentence shall not be suspended, probated, deferred, or withheld, and the charge shall  
14 not be reduced to a lesser offense, merged with any other offense, or served  
15 concurrently with any other offense.

16 ~~(C) Upon the third or subsequent conviction within a ten-year period of time, as~~  
17 ~~measured from the dates of previous arrests for which convictions were obtained to the~~  
18 ~~date of the current arrest for which a conviction is obtained, shall be fined not less than~~  
19 ~~\$2,500.00 nor more than \$5,000.00, which fine shall not be subject to suspension, stay,~~  
20 ~~or probation and imprisoned for not less than 90 days nor more than 12 months. Any~~  
21 ~~period of such imprisonment in excess of 90 days may, in the sole discretion of the~~  
22 ~~judge, be suspended, stayed, or probated; and for purposes of this paragraph, previous~~  
23 ~~pleas of nolo contendere accepted within such ten-year period shall constitute~~  
24 ~~convictions.~~

25 (2) For the purpose of imposing a sentence under this subsection, a plea of nolo  
26 contendere shall constitute a conviction.

27 (3) If the payment of the fine required under paragraph (1) of this subsection will impose  
28 an economic hardship on the defendant, the judge, at his or her sole discretion, may order  
29 the defendant to pay such fine in installments and such order may be enforced through  
30 a contempt proceeding or a revocation of any probation otherwise authorized by this  
31 subsection.

32 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of  
33 any municipality shall be authorized to impose the punishments provided for in ~~this~~  
34 ~~subsection~~ subparagraph (b)(1)(A) of this Code section upon a conviction of violating ~~this~~  
35 ~~subsection~~ (a) of this Code section or upon conviction of violating any ordinance  
36 adopting the provisions of this subsection.

1 (5)(A) Any person ~~violating~~ who commits a first offense violation of the provisions of  
2 subsection (a) of this Code section or who is otherwise not eligible for sentencing under  
3 subparagraph (b)(1)(B) of this Code section and who, while fleeing or attempting to  
4 elude a pursuing police vehicle or police officer in an attempt to escape arrest for any  
5 offense other than a violation of this chapter, operates his or her vehicle in excess of 30  
6 miles an hour above the posted speed limit, strikes or collides with another vehicle or  
7 a pedestrian, flees in traffic conditions which place the general public at risk of  
8 receiving serious injuries, or leaves the state shall be guilty of a felony punishable by  
9 a fine of \$5,000.00 or imprisonment for not less than one year nor more than five years  
10 or both.

11 (B) Following adjudication of guilt or imposition of sentence for a violation of  
12 subparagraph (A) of this paragraph, the sentence shall not be suspended, probated,  
13 deferred, or withheld, and the charge shall not be reduced to a lesser offense, merged  
14 with any other offense, or served concurrently with any other offense.

15 (c) It shall be unlawful for a person:

16 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau  
17 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other  
18 authorized law enforcement officer by using a motor vehicle or motorcycle designed,  
19 equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to any  
20 federal, state, or local law enforcement agency; or

21 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,  
22 or otherwise control traffic."

## 23 SECTION 2.

24 This Act shall become effective on July 1, 2007, and shall apply with respect to offenses  
25 committed on or after that effective date. Offenses committed prior to that effective date shall  
26 continue to be governed by, and shall be punishable as provided by, prior law.

## 27 SECTION 3.

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