

House Bill 979 (COMMITTEE SUBSTITUTE)

By: Representatives Lane of the 167<sup>th</sup> and Dollar of the 45<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to assault and battery, so as to provide for penalties for committing aggravated  
3 assault on a law enforcement explorer; to provide for related matters; to provide for an  
4 effective date and applicability; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to  
8 assault and battery, is amended in Code Section 16-5-21, relating to aggravated assault, as  
9 follows:

10 "16-5-21.

11 (a) A person commits the offense of aggravated assault when he or she assaults:

12 (1) With intent to murder, to rape, or to rob;

13 (2) With a deadly weapon or with any object, device, or instrument which, when used  
14 offensively against a person, is likely to or actually does result in serious bodily injury;  
15 or

16 (3) A person or persons without legal justification by discharging a firearm from within  
17 a motor vehicle toward a person or persons.

18 (b) Except as provided in subsections (c) through (l) of this Code section, a person  
19 convicted of the offense of aggravated assault shall be punished by imprisonment for not  
20 less than one nor more than 20 years.

21 (c) A person who knowingly commits the offense of aggravated assault upon a peace  
22 officer while the peace officer is engaged in, or on account of the performance of, his or  
23 her official duties shall, upon conviction thereof, be punished by imprisonment for not less  
24 than five nor more than 20 years.

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25 (d) Any person who commits the offense of aggravated assault against a person who is 65  
26 years of age or older shall, upon conviction thereof, be punished by imprisonment for not  
27 less than three nor more than 20 years.

28 (e)(1) As used in this subsection, the term 'correctional officer' shall include  
29 superintendents, wardens, deputy wardens, guards, and correctional officers of state,  
30 county, and municipal penal institutions who are certified by the Georgia Peace Officer  
31 Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the  
32 Department of Juvenile Justice who are known to be employees of the department or who  
33 have given reasonable identification of their employment. The term 'correctional officer'  
34 shall also include county jail officers who are certified or registered by the Georgia Peace  
35 Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

36 (2) A person who knowingly commits the offense of aggravated assault upon a  
37 correctional officer while the correctional officer is engaged in, or on account of the  
38 performance of, his or her official duties shall, upon conviction thereof, be punished by  
39 imprisonment for not less than five nor more than 20 years.

40 (f)(1) As used in this subsection, the term 'law enforcement explorer' means any person  
41 who is a current member of a law enforcement agency's explorer program and who is  
42 performing functions other than those required to be performed by a certified peace  
43 officer on behalf of a law enforcement agency while under the direct physical supervision  
44 of a sworn officer of that agency and wearing a uniform that bears at least one patch that  
45 clearly identifies the law enforcement agency that he or she represents.

46 (2) A person who knowingly commits the offense of aggravated assault upon a law  
47 enforcement explorer while the law enforcement explorer is engaged in, or on account  
48 of the performance of, his or her duties shall, upon conviction thereof, be punished by  
49 imprisonment for not less than five nor more than 20 years.

50 ~~(f)~~(g) Any person who commits the offense of aggravated assault in a public transit vehicle  
51 or station shall, upon conviction thereof, be punished by imprisonment for not less than  
52 three nor more than 20 years. For purposes of this Code section, 'public transit vehicle' has  
53 the same meaning as in subsection (c) of Code Section 16-5-20.

54 ~~(g)~~(h) Any person who commits the offense of aggravated assault upon a person in the  
55 course of violating Code Section 16-8-2 where the property that was the subject of the theft  
56 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,  
57 including without limitation any such trailer, semitrailer, container, or other associated  
58 equipment, or the cargo being transported therein or thereon, shall upon conviction be  
59 punished by imprisonment for not less than five years nor more than 20 years, a fine not  
60 less than \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For  
61 purposes of this subsection, the term 'vehicle' includes without limitation any railcar.

62 ~~(h)~~(i) A person convicted of an offense described in paragraph (3) of subsection (a) of this  
63 Code section shall be punished by imprisonment for not less than five nor more than 20  
64 years.

65 ~~(i)~~(j) Any person who commits the offense of aggravated assault involving the use of a  
66 firearm upon a student or teacher or other school personnel within a school safety zone as  
67 defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon  
68 conviction thereof, be punished by imprisonment for not less than five nor more than 20  
69 years.

70 ~~(j)~~(k) If the offense of aggravated assault is committed between past or present spouses,  
71 persons who are parents of the same child, parents and children, stepparents and  
72 stepchildren, foster parents and foster children, or other persons excluding siblings living  
73 or formerly living in the same household, the defendant shall be punished by imprisonment  
74 for not less than three nor more than 20 years.

75 ~~(k)~~(l) Any person who commits the offense of aggravated assault with intent to rape  
76 against a child under the age of 14 years shall be punished by imprisonment for not less  
77 than 25 nor more than 50 years. Any person convicted under this subsection shall, in  
78 addition, be subject to the sentencing and punishment provisions of Code Section  
79 17-10-6.2."

80 **SECTION 2.**

81 This Act shall become effective on July 1, 2010, and shall apply to offenses committed on  
82 or after such date.

83 **SECTION 3.**

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