

The Senate Judiciary Committee offered the following substitute to SB 423:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to burglary, so as to provide for the new offense of smash and grab burglary; to  
3 provide for the elements of the offense; to provide for penalties; to amend Article 1 of  
4 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to general  
5 provisions for offenses against public health and morals, so as to provide for smash and grab  
6 burglaries in the context of contributing to the delinquency of a minor; to amend Code  
7 Section 16-14-3 of the Official Code of Georgia Annotated, relating to definitions for the  
8 "Racketeer Influenced and Corrupt Organizations Act," so as to provide for smash and grab  
9 burglaries as racketeering activity; to amend Chapter 11 of Title 15 of the Official Code of  
10 Georgia Annotated, relating to juvenile proceedings, so as correct cross-references and add  
11 smash and grab burglary to the list of acts constituting a designated felony; to provide for  
12 related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 Article 1 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to  
16 burglary, is amended by adding a new Code section to read as follows:

17 "16-7-2.

18 (a) As used in this Code section, the term 'retail establishment' means an establishment that  
19 sells goods or merchandise from a fixed location for direct consumption by a purchaser and  
20 includes establishments that prepare and sell meals or other edible products either for carry  
21 out or service within the establishment.

22 (b) A person commits the offense of smash and grab burglary when he or she intentionally  
23 and without authority enters a retail establishment with the intent to commit a theft and  
24 causes damage in excess of \$500.00 to such establishment without the owner's consent.

25 (c) A person convicted of smash and grab burglary shall be guilty of a felony and, upon  
26 conviction, shall be punished by imprisonment for not less than two nor more than 20

27 years, by a fine of not more than \$100,000.00, or both; provided, however, that upon a  
 28 second or subsequent conviction, he or she shall be punished by imprisonment for not less  
 29 than five nor more than 20 years, by a fine of not more than \$100,000.00, or both."

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## SECTION 2.

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Article 1 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to  
 32 general provisions for offenses against public health and morals, is amended by revising  
 33 subsections (b) and (e) of Code Section 16-12-1, relating to contributing to the delinquency,  
 34 unruliness, or deprivation of a minor, as follows:

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"(b) A person commits the offense of contributing to the delinquency, unruliness, or  
 36 deprivation of a minor when such person:

37

(1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 38 committing a delinquent act as such is defined in Code Section 15-11-2, relating to  
 39 juvenile proceedings;

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(2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in  
 41 committing an act which would cause such minor to be found to be an unruly child as  
 42 such is defined in Code Section 15-11-2, relating to juvenile proceedings;

43

(3) Willfully commits an act or acts or willfully fails to act when such act or omission  
 44 would cause a minor to be found to be a deprived child as such is defined in Code Section  
 45 15-11-2, relating to juvenile proceedings;

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(4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 47 encourages, abets, or directs any minor to commit any felony which encompasses force  
 48 or violence as an element of the offense or delinquent act which would constitute a felony  
 49 which encompasses force or violence as an element of the offense if committed by an  
 50 adult; ~~or~~

51

(5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)  
 52 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section  
 53 16-11-121 to commit any felony which encompasses force or violence as an element of  
 54 the offense or delinquent act which would constitute a felony which encompasses force  
 55 or violence as an element of the offense if committed by an adult; or

56

(6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,  
 57 encourages, abets, or directs any minor to commit any smash and grab burglary which  
 58 would constitute a felony if committed by an adult."

59

"(e) A person convicted pursuant to paragraph (4), ~~or (5), or (6)~~ of subsection (b) or  
 60 paragraph (1) of subsection (d.1) of this Code section shall be guilty of a felony and  
 61 punished as follows:

- 62 (1) Upon conviction of the first offense, the defendant shall be imprisoned for not less  
 63 than one nor more than ~~five~~ ten years; and
- 64 (2) Upon conviction of the second or subsequent offense, the defendant shall be  
 65 imprisoned for not less than three years nor more than 20 years."

66 **SECTION 3.**

67 Code Section 16-14-3, relating to definitions for the "Racketeer Influenced and Corrupt  
 68 Organizations Act," is amended by revising division (9)(A)(vii) as follows:

69 "(vii) Code Section 16-7-1, relating to burglary, or Code Section 16-7-2, relating to  
 70 smash and grab burglary;"

71 **SECTION 4.**

72 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
 73 proceedings, is amended by revising Code Section 15-11-30.3, relating to commission of  
 74 designated felony act of burglary by a child 15 years of age or older, by adding a new  
 75 subsection to read as follows:

76 "(e) The provisions of this Code section shall not apply to a smash and grab burglary."

77 **SECTION 5.**

78 Said chapter is further amended by revising Code Section 15-11-63, relating to designated  
 79 felony acts, by striking "or" at the end of division (a)(2)(B)(ix), by striking the semicolon and  
 80 inserting in its place "; or" at the end of division (a)(2)(B)(x), and by adding a new division  
 81 to read as follows:

82 "(xi) Any violation of Code Section 16-7-2;"

83 **SECTION 6.**

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