

House Bill 911 (AM)

By: Representatives Ballinger of the 23rd, Golick of the 40th, Oliver of the 82nd, Pak of the 108th, Quick of the 117th, and others

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 add provisions regarding strangulation as an
3 aggravated assault; to amend Chapter 11 of Title 15 of the Official Code of Georgia
4 Annotated, relating to juvenile proceedings, so as to fix cross-references; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "16-5-21.

12 (a) As used in this Code section, the term 'strangulation' means impeding the normal
13 breathing or circulation of blood of another person by applying pressure to the throat or
14 neck of such person or by obstructing the nose and mouth of such person.

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

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

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

19 or

20 (3) With any object, device, or instrument which, when used offensively against a
21 person, is likely to or actually does result in strangulation; or

22 (4) A person or persons without legal justification by discharging a firearm from within
23 a motor vehicle toward a person or persons.

24 ~~(b)~~(c) Except as provided in subsections ~~(e)~~ (d) through ~~(k)~~ (m) of this Code section, a
25 person convicted of the offense of aggravated assault shall be punished by imprisonment
26 for not less than one nor more than 20 years.

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

31 ~~(d)~~(e) Any person who commits the offense of aggravated assault against a person who is
 32 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for
 33 not less than three nor more than 20 years.

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

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

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

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

58 ~~(h)~~(i) A person convicted of an offense described in paragraph ~~(3)~~ (4) of subsection ~~(a)~~ (b)
 59 of this Code section shall be punished by imprisonment for not less than five nor more than
 60 20 years.

61 ~~(i)~~(j) Any person who commits the offense of aggravated assault involving the use of a
 62 firearm upon a student or teacher or other school personnel within a school safety zone as
 63 defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon

64 conviction thereof, be punished by imprisonment for not less than five nor more than 20
65 years.

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

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

76 ~~(l)~~(m) A person who knowingly commits the offense of aggravated assault upon an officer
77 of the court while such officer is engaged in, or on account of the performance of, his or
78 her official duties shall, upon conviction thereof, be punished by imprisonment for not less
79 than five nor more than 20 years. As used in this subsection, the term 'officer of the court'
80 means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court
81 interpreter, or probation officer."

82

SECTION 2.

83 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
84 proceedings, is amended by revising subparagraph (A) of paragraph (12) of Code Section
85 15-11-2, relating to definitions used in juvenile proceedings, as follows:

86 "(A) Aggravated assault in violation of paragraph (1), ~~or (3), or (4)~~ of subsection ~~(a)~~
87 ~~(b)~~ or subsection ~~(c)~~; (d), (e), ~~(f)~~, ~~or (f)~~ (f), (j), or (m) of Code Section 16-5-21 or assault
88 with a deadly weapon or with any object, device, or instrument which, when used
89 offensively against a person, actually does result in serious bodily injury;"

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SECTION 3.

91 Said chapter is further amended by revising subparagraph (A) of paragraph (13) of Code
92 Section 15-11-2, relating to definitions used in juvenile proceedings, as follows:

93 "(A) Aggravated assault in violation of subsection ~~(f)~~; (g), ~~or (j)~~ (h), or (k) of Code
94 Section 16-5-21 or assault with a deadly weapon or with any object, device, or
95 instrument which, when used offensively against a person, would be likely to result in
96 serious bodily injury but which did not result in serious bodily injury;"

97

SECTION 4.

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