

Senate Bill 47

By: Senators Fort of the 39th, Henson of the 41st, Rhett of the 33rd, Jones of the 10th, Tate of the 38th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 and Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia
2 Annotated, relating to crimes and offenses and the procedure for sentencing and imposition
3 of punishment, respectively, so as to repeal certain provisions regarding sentencing of
4 defendants guilty of crimes involving bias or prejudice, notices for enhanced sentencing, and
5 enhanced sentencing; to provide for sentencing of defendants who commit certain crimes
6 which target a victim due to the victim's race, religion, gender, gender identity, sexual
7 orientation, or national origin; to amend Code Section 15-11-2 of the Official Code of
8 Georgia Annotated, relating to definitions for juvenile proceedings, so as to provide for a
9 cross-reference; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**PART I**
13 style="text-align:center">**SECTION 1-1.**

14 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
15 amended in Code Section 16-5-20, relating to simple assault, by revising subsection (b) and
16 by adding a new subsection to read as follows:

17 "~~(b)~~ Except as provided in subsections (c) through ~~(h)~~ (i) of this Code section, a person
18 ~~who commits~~ convicted of the offense of simple assault shall be ~~guilty of~~ punished as for
19 a misdemeanor."

20 "(i) Any person who commits the offense of simple assault against an individual
21 intentionally selected because of such individual's race, religion, gender, gender identity,
22 sexual orientation, or national origin shall, upon conviction thereof, be punished as for a
23 misdemeanor of a high and aggravated nature."

24 **SECTION 1-2.**

25 Said title is further amended in Code Section 16-5-21, relating to aggravated assault, by
26 revising subsection (c) and by adding a new subsection to read as follows:

27 "(c) Except as provided in subsections (d) through ~~(m)~~ (n) of this Code section, a person
28 convicted of the offense of aggravated assault shall be punished by imprisonment for not
29 less than one nor more than 20 years."

30 "(n) Any person who commits the offense of aggravated assault against an individual
31 intentionally selected because of such individual's race, religion, gender, gender identity,
32 sexual orientation, or national origin shall, upon conviction thereof, be punished by
33 imprisonment for not less than three nor more than 20 years."

34 **SECTION 1-3.**

35 Said title is further amended in Code Section 16-5-23, relating to simple battery, by revising
36 subsection (b) and by adding a new subsection to read as follows:

37 "(b) Except as otherwise provided in subsections (c) through ~~(i)~~ (j) of this Code section,
38 a person convicted of the offense of simple battery shall be punished as for a
39 misdemeanor."

40 "(j) Any person who commits the offense of simple battery against an individual
41 intentionally selected because of such individual's race, religion, gender, gender identity,
42 sexual orientation, or national origin shall, upon conviction thereof, be punished as for a
43 misdemeanor of a high and aggravated nature."

44 **SECTION 1-4.**

45 Said title is further amended in Code Section 16-5-23.1, relating to battery, by revising
46 subsection (c) and by adding a new subsection to read as follows:

47 "(c) Except as otherwise provided in subsections (d) through ~~(t)~~ (m) of this Code section,
48 a person ~~who commits~~ convicted of the offense of battery is guilty of shall be punished as
49 for a misdemeanor."

50 "(m) Any person who commits the offense of battery against an individual intentionally
51 selected because of such individual's race, religion, gender, gender identity, sexual
52 orientation, or national origin shall, upon conviction thereof, be punished as for a
53 misdemeanor of a high and aggravated nature."

54 **SECTION 1-5.**

55 Said title is further amended in Code Section 16-5-24, relating to aggravated battery, by
56 revising subsection (b) and by adding a new subsection to read as follows:

57 "(b) Except as otherwise provided in subsections (c) through ~~(h)~~ (i) of this Code section,
 58 a person convicted of the offense of aggravated battery shall be punished by imprisonment
 59 for not less than one nor more than 20 years."

60 "(i) Any person who commits the offense of aggravated battery against an individual
 61 intentionally selected because of such individual's race, religion, gender, gender identity,
 62 sexual orientation, or national origin shall, upon conviction thereof, be punished by
 63 imprisonment for not less than five nor more than 20 years."

64 **SECTION 1-6.**

65 Said title is further amended by revising subsection (b) of Code Section 16-7-22, relating to
 66 criminal damage to property in the first degree, as follows:

67 "(b) A person convicted of the offense of criminal damage to property in the first degree
 68 shall be punished by imprisonment for not less than one nor more than ten years; provided,
 69 however, that if the property was selected because of the property owner's race, religion,
 70 gender, gender identity, sexual orientation, or national origin, upon conviction thereof, he
 71 or she shall be punished by imprisonment for not less than three nor more than ten years."

72 **SECTION 1-7.**

73 Said title is further amended by revising subsection (b) of Code Section 16-7-23, relating to
 74 criminal damage to property in the second degree, as follows:

75 "(b) A person convicted of the offense of criminal damage to property in the second degree
 76 shall be punished by imprisonment for not less than one nor more than five years; provided,
 77 however, that if the property was selected because of the property owner's race, religion,
 78 gender, gender identity, sexual orientation, or national origin, upon conviction thereof, he
 79 or she shall be punished by imprisonment for not less than two nor more than five years."

80 **SECTION 1-8.**

81 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
 82 procedure for sentencing and imposition of punishment, is amended by repealing in its
 83 entirety Code Section 17-10-17, relating to sentencing of defendants guilty of crimes
 84 involving bias or prejudice, circumstances, and parole, and designating said Code section as
 85 reserved.

86 **SECTION 1-9.**

87 Said article is further amended by repealing in its entirety Code Section 17-10-18, relating
 88 to notification to seek enhanced penalty, and designating said Code section as reserved.

89 **SECTION 1-10.**

90 Said article is further amended by repealing in its entirety Code Section 17-10-19, relating
91 to determination of defendant's guilt, object of the offense, and enhancement of sentence, and
92 designating said Code section as reserved.

93 **PART II**94 **SECTION 2-1.**

95 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions for
96 the Juvenile Code, is amended by revising subparagraph (A) of paragraph (13) as follows:

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

101 **PART III**102 **SECTION 3-1.**

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