

House Bill 702

By: Representatives Dunahoo of the 30th, Golick of the 40th, Ballinger of the 23rd, Efstration of the 104th, Caldwell of the 131st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Sections 16-3-21 and 17-10-6.1 of the Official Code of Georgia Annotated,
2 relating to the use of force in defense of self or others and punishment for serious violent
3 offenders, respectively, so as to allow a battered persons defense for aggravated assault or
4 aggravated battery; to change provisions requiring mandatory minimum punishment for
5 battered persons who are convicted of a serious violent felony; to provide for related matters;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 16-3-21 of the Official Code of Georgia Annotated, relating to the use of force
10 in defense of self or others, is amended by revising subsection (d) as follows:

11 "(d) In a prosecution for murder, ~~or~~ manslaughter, aggravated assault, or aggravated
12 battery, if a defendant raises as a defense a justification provided by subsection (a) of this
13 Code section, the defendant, in order to establish the defendant's reasonable belief that the
14 use of force or deadly force was immediately necessary, may be permitted to offer:

15 (1) Relevant evidence that the defendant had been the victim of acts of family violence
16 or child abuse committed by the deceased or alleged victim, as such acts are described
17 in Code Sections 19-13-1 and 19-15-1, respectively; and

18 (2) Relevant expert testimony regarding the condition of the mind of the defendant at the
19 time of the offense, including those relevant facts and circumstances relating to the family
20 violence or child abuse that are the bases of the expert's opinion."

21 **SECTION 2.**

22 Code Section 17-10-6.1 of the Official Code of Georgia Annotated, relating to punishment
23 for serious violent offenders, is amended by revising subsection (e) as follows:

24 "(e)(1) In the court's discretion, the judge may depart from the mandatory minimum
25 sentence specified in this Code section for a person who is convicted of a serious violent

26 felony when the prosecuting attorney and the defendant have agreed to a sentence that is
27 below such mandatory minimum.

28 (2)(A) In the court's discretion, the judge may depart from the mandatory minimum
29 sentence specified for a person who is convicted of a serious violent felony to require
30 the defendant to serve seven or more years in prison if the judge concludes that:

31 (i) The defendant had been the victim of acts of family violence or child abuse
32 committed by the deceased, as such acts are described in Code Sections 19-13-1 and
33 19-15-1, respectively; and

34 (ii) The interests of justice will not be served by the imposition of the prescribed
35 mandatory minimum sentence.

36 (B) If a judge reduces the mandatory minimum sentence pursuant to this paragraph, the
37 judge shall specify on the record the circumstances for the reduction and the interests
38 served by such departure."

39 **SECTION 3.**

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