

Senate Bill 154

By: Senators Kirk of the 13th, Harper of the 7th, Shafer of the 48th, Cowsert of the 46th, Sims of the 12th 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 provide for the offenses of aggravated assault and
3 aggravated battery upon a public safety officer while the public safety officer is engaged in,
4 or on account of the performance of, his or her official duties; to provide for definitions; to
5 revise the offenses of aggravated assault and aggravated battery upon various law
6 enforcement officials to aggravated assault and aggravated battery upon a public safety
7 officer while such public safety officer is engaged in, or on account of the performance of,
8 his or her official duties, respectively; to provide for additional criminal fines for various
9 offenses committed upon a public safety officer; to dedicate moneys collected from certain
10 additional criminal fines to the Georgia State Indemnification Fund for payment of
11 indemnification for death or disability of certain law enforcement officers, firemen, prison
12 guards, and emergency medical technicians; to amend Code Section 45-9-85 of the Official
13 Code of Georgia Annotated, relating to payment of indemnification for death or disability,
14 procedure for making payments, and appeal, so as to increase the amount of payment of
15 indemnification for death or disability; to amend Chapter 2 of Title 51 of the Official Code
16 of Georgia Annotated, relating to imputable negligence, so as to provide that tort liability
17 shall be unlimited for parents and guardians having custody and control over a minor child
18 or children under the age of 18 for willful or malicious acts against a public safety officer
19 under certain circumstances; to provide for related matters; to repeal conflicting laws; and
20 for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
24 assault and battery, is amended in by adding a new Code to read as follows:

25 "16-5-19.

26 As used in this article, the term:

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

35 (2) 'Emergency health worker' means hospital emergency department personnel and
 36 emergency medical services personnel.

37 (3) 'Firefighter' shall have the same meaning as provided for in Code Section 25-4-2.

38 (4) 'Highway emergency response operator' means an individual employed by the
 39 Department of Transportation who performs freeway service patrols.

40 (5) 'Officer of the court' means a judge, attorney, clerk of court, deputy clerk of court,
 41 court reporter, court interpreter, community supervision officer, county or Department
 42 of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to
 43 Article 6 of Chapter 8 of Title 42.

44 (6) 'Public safety officer' means peace officer, correctional officer, emergency health
 45 worker, firefighter, highway emergency response operator, or officer of the court.

46 (7) 'Strangulation' means impeding the normal breathing or circulation of blood of
 47 another person by applying pressure to the throat or neck of such person or by obstructing
 48 the nose and mouth of such person."

49 **SECTION 2.**

50 Said article is further amended by revising Code Section 16-5-21, relating to aggravated
 51 assault, as follows:

52 "16-5-21.

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

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

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

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

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

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

64 ~~(c)~~(b) Except as provided in subsections ~~(d)~~ (c) through ~~(n)~~ (j) of this Code section, a
65 person convicted of the offense of aggravated assault shall be punished by imprisonment
66 for not less than one nor more than 20 years.

67 ~~(d)~~(c)(1) A person who knowingly commits the offense of aggravated assault upon a
68 ~~peace public safety~~ officer while ~~the peace~~ such public safety officer is engaged in, or on
69 account of the performance of, his or her official duties shall, upon conviction thereof,
70 be punished by imprisonment for not less than five nor more than 20 years and by a fine
71 as provided for in paragraph (2) of this subsection.

72 (2) A person convicted pursuant to paragraph (1) of this subsection shall be punished,
73 in addition to the term of imprisonment, by a fine of \$5,000.00. Such fine, after
74 payments are collected pursuant to Chapters 11, 14, 16, and 17 of Title 47, shall be used
75 as follows:

76 (A) Fifty percent shall be provided to the Georgia State Indemnification Fund for
77 purposes of payment of indemnification for death or disability as provided for in Part
78 1 of Article 5 of Chapter 9 of Title 45; and

79 (B) Fifty percent shall be provided to the Criminal Justice Coordinating Council of the
80 State of Georgia for purposes of developing highly visible projects and public relations
81 campaigns that encourage law-abiding behavior among the citizenry.

82 ~~(e)~~(d) Any person who commits the offense of aggravated assault against a person who is
83 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for
84 not less than three nor more than 20 years.

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

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

97 ~~(g)~~(e) Any person who commits the offense of aggravated assault in a public transit
98 vehicle or station shall, upon conviction thereof, be punished by imprisonment for not less

99 than three nor more than 20 years. For purposes of this Code section, 'public transit
100 vehicle' has the same meaning as in subsection (c) of Code Section 16-5-20.

101 ~~(h)~~(f) Any person who commits the offense of aggravated assault upon a person in the
102 course of violating Code Section 16-8-2 where the property that was the subject of the theft
103 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,
104 including without limitation any such trailer, semitrailer, container, or other associated
105 equipment, or the cargo being transported therein or thereon, shall upon conviction be
106 punished by imprisonment for not less than five nor more than 20 years, a fine not less than
107 \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For purposes
108 of this subsection, the term 'vehicle' includes without limitation any railcar.

109 ~~(i)~~(g) A person convicted of an offense described in paragraph (4) of subsection (b) of this
110 Code section shall be punished by imprisonment for not less than five nor more than 20
111 years.

112 ~~(j)~~(h) Any person who commits the offense of aggravated assault involving the use of a
113 firearm upon a student or teacher or other school personnel within a school safety zone as
114 defined in Code Section 16-11-127.1 shall, upon conviction thereof, be punished by
115 imprisonment for not less than five nor more than 20 years.

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

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

125 ~~(m)~~ A person who knowingly commits the offense of aggravated assault upon an officer
126 of the court while such officer is engaged in, or on account of the performance of, his or
127 her official duties shall, upon conviction thereof, be punished by imprisonment for not less
128 than five nor more than 20 years. As used in this subsection, the term 'officer of the court'
129 means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court
130 interpreter, community supervision officer, county or Department of Juvenile Justice
131 juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8
132 of Title 42.

133 ~~(n)~~ A person who knowingly commits the offense of aggravated assault upon an
134 emergency health worker while the worker is engaged in, or on account of the performance
135 of, his or her official duties shall, upon conviction thereof, be punished by imprisonment

136 ~~for not less than five nor more than 20 years. As used in this subsection, the term~~
 137 ~~'emergency health worker' means hospital emergency department personnel and emergency~~
 138 ~~medical services personnel."~~

139 **SECTION 3.**

140 Said article is further amended by revising Code Section 16-5-24, relating to aggravated
 141 battery, as follows:

142 "16-5-24.

143 (a) A person commits the offense of aggravated battery when he or she maliciously causes
 144 bodily harm to another by depriving him or her of a member of his or her body, by
 145 rendering a member of his or her body useless, or by seriously disfiguring his or her body
 146 or a member thereof.

147 (b) Except as provided in subsections (c) through (f) ~~(g)~~ of this Code section, a person
 148 convicted of the offense of aggravated battery shall be punished by imprisonment for not
 149 less than one nor more than 20 years.

150 ~~(c)~~(1) A person who knowingly commits the offense of aggravated battery upon a ~~peace~~
 151 ~~public safety officer while the such public safety officer is engaged in, or on account of~~
 152 ~~the performance of, his or her official duties shall, upon conviction thereof, be punished~~
 153 ~~by imprisonment for not less than ten nor more than 20 years and by a fine as provided~~
 154 ~~for in paragraph (2) of this subsection.~~

155 (2) A person convicted pursuant to paragraph (1) of this subsection shall be punished,
 156 in addition to the term of imprisonment, by a fine of \$5,000.00. Such fine, after
 157 payments are collected pursuant to Chapters 11, 14, 16, and 17 of Title 47, shall be used
 158 as follows:

159 (A) Fifty percent shall be provided to the Georgia State Indemnification Fund for
 160 purposes of payment of indemnification for death or disability as provided for in Part
 161 1 of Article 5 of Chapter 9 of Title 45; and

162 (B) Fifty percent shall be provided to the Criminal Justice Coordinating Council of the
 163 State of Georgia for purposes of developing highly visible projects and public relations
 164 campaigns that encourage law-abiding behavior among the citizenry.

165 (d) Any person who commits the offense of aggravated battery against a person who is 65
 166 years of age or older shall, upon conviction thereof, be punished by imprisonment for not
 167 less than five nor more than 20 years.

168 ~~(e)(1) As used in this subsection, the term 'correctional officer' shall include~~
 169 ~~superintendents, wardens, deputy wardens, guards, and correctional officers of state,~~
 170 ~~county, and municipal penal institutions who are certified by the Georgia Peace Officer~~
 171 ~~Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the~~

172 Department of Juvenile Justice who are known to be employees of the department or who
 173 have given reasonable identification of their employment. The term 'correctional officer'
 174 shall also include county jail officers who are certified or registered by the Georgia Peace
 175 Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

176 ~~(2) A person who knowingly commits the offense of aggravated battery upon a~~
 177 ~~correctional officer while the correctional officer is engaged in, or on account of the~~
 178 ~~performance of, his or her official duties shall, upon conviction thereof, be punished by~~
 179 ~~imprisonment for not less than ten nor more than 20 years.~~

180 ~~(f)(e)~~ Any person who commits the offense of aggravated battery in a public transit vehicle
 181 or station shall, upon conviction thereof, be punished by imprisonment for not less than
 182 five nor more than 20 years. For purposes of this Code section, 'public transit vehicle' has
 183 the same meaning as in subsection (c) of Code Section 16-5-20.

184 ~~(g)(f)~~ Any person who commits the offense of aggravated battery upon a student or teacher
 185 or other school personnel within a school safety zone as defined in Code Section
 186 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than
 187 five nor more than 20 years.

188 ~~(h)(g)~~ If the offense of aggravated battery is committed between past or present spouses,
 189 persons who are parents of the same child, parents and children, stepparents and
 190 stepchildren, foster parents and foster children, or other persons excluding siblings living
 191 or formerly living in the same household, the defendant shall be punished by imprisonment
 192 for not less than three nor more than 20 years.

193 ~~(i) A person who knowingly commits the offense of aggravated battery upon an~~
 194 ~~emergency health worker while the worker is engaged in, or on account of the performance~~
 195 ~~of, his or her official duties shall, upon conviction thereof, be punished by imprisonment~~
 196 ~~for not less than five nor more than 20 years. As used in this subsection, the term~~
 197 ~~'emergency health worker' means hospital emergency department personnel and emergency~~
 198 ~~medical services personnel."~~

199 SECTION 4.

200 Code Section 45-9-85 of the Official Code of Georgia Annotated, relating to payment of
 201 indemnification for death or disability, procedure for making payments, and appeal, is
 202 amended by revising paragraph (3) of subsection (a) as follows:

203 "(3) In the case of death or organic brain damage suffered in the line of duty by a law
 204 enforcement officer, firefighter, emergency medical technician, emergency management
 205 specialist, state highway employee, or prison guard, payment shall be made to the
 206 surviving unremarried spouse or the dependents of the spouse or deceased person as
 207 shown in his or her most recent tax return or to the legal guardian of the organically brain

208 damaged person. The surviving unremarried spouse, dependents, or the legal guardian
 209 may elect to receive payment in a lump sum payment of ~~\$100,000.00~~ \$150,000.00 paid
 210 in equal monthly installments for five years or a lump sum of such amount reduced to its
 211 present value upon the basis of interest calculated at the rate of 6 percent per annum.

212 **SECTION 5.**

213 Chapter 2 of Title 51 of the Official Code of Georgia Annotated, relating to imputable
 214 negligence, is amended by revising Code Section 51-2-3, relating to liability for malicious
 215 acts of minor child, as follows:

216 "51-2-3.

217 (a) As used in this Code section, the term 'public safety officer' shall have the same
 218 meaning as provided for in Code Section 16-5-19.

219 ~~(a)~~(b) Every parent or guardian having the custody and control over a minor child or
 220 children under the age of 18 shall be liable in an amount not to exceed \$10,000.00 plus
 221 court costs for the willful or malicious acts of the minor child or children resulting in
 222 reasonable medical expenses to another, damage to the property of another, or both
 223 reasonable medical expenses and damage to property; provided, however, that such amount
 224 shall not be limited for willful or malicious acts against a public safety officer while such
 225 public safety officer was engaged in, or on account of the performance of, his or her
 226 official duties.

227 ~~(b)~~(c) This Code section shall be cumulative and shall not be restrictive of any remedies
 228 now available to any person, firm, or corporation for injuries or damages arising out of the
 229 acts, torts, or negligence of a minor child under the 'family-purpose car doctrine,' any
 230 statute, or common law in force and effect in this state.

231 ~~(c)~~(d) The intent of the General Assembly in passing this Code section is to provide for
 232 the public welfare and aid in the control of juvenile delinquency, not to provide restorative
 233 compensation to victims of injurious or tortious conduct by children."

234 **SECTION 6.**

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