

House Bill 492

By: Representative Waites of the 60th

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 sentencing and imposition of punishment,
3 respectively, so as to provide for enhanced penalties in cases where a victim of the offenses
4 of aggravated assault, aggravated battery, criminal damage to property in the second degree,
5 terroristic acts and threats, and serious violent offenses is intentionally selected because of
6 such victim's actual or perceived race, color, religion, national origin, gender, sexual
7 orientation, gender identity, or disability; to repeal certain provisions relating to sentencing
8 of defendants guilty of crimes involving bias or prejudice, circumstances, and parole; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
13 amended by revising subsection (d) of Code Section 16-5-21, relating to aggravated assault,
14 as follows:

15 "(d) A person who knowingly commits the offense of aggravated assault upon a peace
16 officer while the peace officer is engaged in, or on account of the performance of, his or
17 her official duties or who intentionally selects an individual upon whom to commit the
18 offense of aggravated assault because of such individual's actual or perceived race, color,
19 religion, national origin, gender, sexual orientation, gender identity, or disability shall,
20 upon conviction thereof, be punished by imprisonment for not less than five nor more than
21 20 years."

22 **SECTION 2.**

23 Said title is further amended by revising subsection (c) of Code Section 16-5-24, relating to
24 aggravated battery, as follows:

25 "(c) A person who knowingly commits the offense of aggravated battery upon a peace
 26 officer while the officer is engaged in, or on account of the performance of, his or her
 27 official duties or who is a person who intentionally selects an individual upon whom to
 28 commit the offense of aggravated battery because of such individual's actual or perceived
 29 race, color, religion, national origin, gender, sexual orientation, gender identity, or
 30 disability shall, upon conviction thereof, be punished by imprisonment for not less than ten
 31 nor more than 20 years."

32 SECTION 3.

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

35 "(b) A person convicted of the offense of criminal damage to property in the second degree
 36 shall be punished by imprisonment for not less than one nor more than five years; provided,
 37 however, that a person who intentionally selected another person upon whom to commit
 38 the offense of criminal damage to property in the second degree because of such other
 39 person's actual or perceived race, color, religion, national origin, gender, sexual orientation,
 40 gender identity, or disability shall be punished by imprisonment for five years."

41 SECTION 4.

42 Said title is further amended by revising subsection (e) of Code Section 16-11-37, relating
 43 to terroristic threats and acts and penalties, as follows:

44 "(e) A person who commits or attempts to commit a violation of subsection (b) or (c) of
 45 this Code section shall, upon conviction thereof, be punished by a fine of not less than
 46 \$50,000.00, imprisonment for not less than five nor more than 20 years, or both, when such
 47 act is done against any person because of such other person's actual or perceived race,
 48 color, religion, national origin, gender, sexual orientation, gender identity, or disability or
 49 is done with the intent to retaliate against any person for or intimidate or threaten any
 50 person from:

51 (1) Attending a judicial or administrative proceeding as a witness, attorney, judge, clerk
 52 of court, deputy clerk of court, court reporter, community supervision officer, county or
 53 Department of Juvenile Justice juvenile probation officer, probation officer serving
 54 pursuant to Article 6 of Chapter 8 of Title 42, or party or producing any record,
 55 document, or other object in a judicial or official proceeding; or

56 (2) Providing to a law enforcement officer, community supervision officer, county or
 57 Department of Juvenile Justice juvenile probation officer, probation officer serving
 58 pursuant to Article 6 of Chapter 8 of Title 42, prosecuting attorney, or judge any
 59 information relating to the commission or possible commission of an offense under the

60 laws of this state or of the United States or a violation of conditions of bail, pretrial
61 release, probation, or parole."

62 **SECTION 5.**

63 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
64 procedure for sentencing and imposition of punishment, is amended by revising subsection
65 (e) of Code Section 17-10-6.1, relating to punishment for serious violent offenders and
66 authorization for reduction in mandatory minimum sentencing, as follows:

67 "(e) Except where a person intentionally selected a victim upon whom to commit a serious
68 violent felony because of such victim's actual or perceived race, color, religion, national
69 origin, gender, sexual orientation, gender identity, or disability, in ~~in~~ the court's discretion,
70 the judge may depart from the mandatory minimum sentence specified in this Code section
71 for a person who is convicted of a serious violent felony when the prosecuting attorney and
72 the defendant have agreed to a sentence that is below such mandatory minimum."

73 **SECTION 6.**

74 Said article is further amended by repealing in its entirety Code Section 17-10-17, relating
75 to sentencing of defendants guilty of crimes involving bias or prejudice, circumstances, and
76 parole, and designating said Code section as reserved.

77 **SECTION 7.**

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

80 **SECTION 8.**

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

84 **SECTION 9.**

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