

Senate Bill 160

By: Senators Harper of the 7th, Shafer of the 48th, Mullis of the 53rd, Kirk of the 13th, Cowsert of the 46th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the  
2 Juvenile Code, so as to revise the jurisdiction, definition, and penalties for certain crimes and  
3 offenses; to add to the superior court's exclusive original jurisdiction the trial of any child 13  
4 to 17 years of age who is alleged to have committed the offense of aggravated assault upon  
5 a public safety officer involving the use of a firearm and aggravated battery upon a public  
6 safety officer; to allow a superior court the discretion to transfer such cases back to juvenile  
7 court; to clarify the definitions of a class A or class B designated felony act in light of the  
8 jurisdictional changes; to amend Title 16 of the Official Code of Georgia Annotated, relating  
9 to crimes and offenses, so as to provide for definitions; to provide for the offenses of  
10 aggravated assault and aggravated battery upon a public safety officer while the public safety  
11 officer is engaged in, or on account of the performance of, his or her official duties; to revise  
12 the offenses of aggravated assault and aggravated battery upon various law enforcement  
13 officials into aggravated assault and aggravated battery upon a public safety officer while the  
14 public safety officer is engaged in, or on account of the performance of, his or her official  
15 duties, respectively; to provide for sentencing to minimum terms of imprisonment for  
16 persons who knowingly commit the offense of aggravated assault upon a public safety officer  
17 through the use of weapons, objects, or devices; to provide for the offense of, and criminal  
18 penalties for, knowingly and willfully resisting, obstructing, or opposing certain law  
19 enforcement officers by placing upon such law enforcement officers certain human or animal  
20 excreta; to provide for enhanced penalties for the offense of resisting, obstructing, or  
21 opposing certain law enforcement officers by offering or doing violence to the person of such  
22 law enforcement officers; to increase the penalties for the offense of obstructing highways,  
23 streets, sidewalks, or other public passages; to provide for a short title; to provide for related  
24 matters; to repeal conflicting laws; and for other purposes.

25 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

26 **SECTION 1.**

27 This Act shall be known and may be cited as the "Back the Badge Act of 2017."

28 **SECTION 2.**

29 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile  
30 Code, is amended in Code Section 15-11-2, relating to definitions, by revising subparagraphs  
31 (A) and (B) of paragraph (12) as follows:

32 "(A)(i) Aggravated assault in violation of paragraph ~~(1)~~, (3), or ~~(4)~~ of subsection ~~(b)~~  
33 (a) or of Code Section 16-5-21;

34 (ii) Aggravated assault in violation of paragraph (1) or (4) of subsection (a) of Code  
35 Section 16-5-21 other than upon a public safety officer as such acts are defined and  
36 prohibited under subsection (c) of Code Section 16-5-21, not involving a firearm;

37 (iii) Aggravated assault upon an individual or situation described in subsection (d);  
38 ~~(e)~~, ~~(f)~~, ~~(j)~~; or ~~(m)~~ (h) of Code Section 16-5-21 or assault with a deadly weapon or  
39 with any object, device, or instrument which, when used offensively against a person,  
40 actually does result in serious bodily injury, provided that such deadly weapon is not  
41 a firearm; and provided, further, that such injured person is not a public safety officer  
42 as defined under Code Section 16-5-19 and prohibited under subsection (c) of Code  
43 Section 16-5-21;

44 (B) Aggravated battery not upon a public safety officer as such acts are defined and  
45 prohibited under subsection (c) of Code Section 16-5-24;"

46 **SECTION 3.**

47 Said chapter is further amended in Code Section 15-11-560, relating to concurrent and  
48 original jurisdiction of superior court, by revising subsection (b) and paragraph (1) of  
49 subsection (e), and by adding a new subsection to read as follows:

50 "(b) The superior court shall have exclusive original jurisdiction over the trial of any child  
51 13 to 17 years of age who is alleged to have committed any of the following offenses:

- 52 (1) Murder;
- 53 (2) Murder in the second degree;
- 54 (3) Voluntary manslaughter;
- 55 (4) Rape;
- 56 (5) Aggravated sodomy;
- 57 (6) Aggravated child molestation;
- 58 (7) Aggravated sexual battery; or
- 59 (8) Armed robbery if committed with a firearm;

60 (9) Aggravated assault if committed with a firearm upon a public safety officer as such  
 61 acts are defined and prohibited under subsection (c) of Code Section 16-5-21; or  
 62 (10) Aggravated battery upon a public safety officer as such acts are defined and  
 63 prohibited under subsection (c) of Code Section 16-5-24."  
 64 "(e)(1) After indictment, the superior court may after investigation transfer to the juvenile  
 65 court any case involving a child 13 to 17 years of age alleged to have committed  
 66 ~~voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated~~  
 67 ~~sexual battery~~ any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection  
 68 (b) of this Code section. In considering the transfer of such case, the court shall consider  
 69 the criteria set forth in Code Section 15-11-562. Any such transfer shall be appealable  
 70 by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the  
 71 superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior  
 72 court shall terminate."  
 73 "(h) As used in this Code section, the term 'firearm' means a handgun, rifle, shotgun, or  
 74 other weapon which will or can be converted to expel a projectile by the action of an  
 75 explosive or electrical charge."

76 **SECTION 4.**

77 Said chapter is further amended in Code Section 15-11-561, relating to waiver of juvenile  
 78 court jurisdiction and transfer to superior court, by revising subsection (a) as follows:

79 "(a) After a petition alleging delinquency has been filed but before the adjudication  
 80 hearing, on its own motion or on a motion by a prosecuting attorney, the court may  
 81 convene a hearing to determine whether to transfer the offense to the appropriate superior  
 82 court for criminal trial if the court determines that:

- 83 (1) There is probable cause to believe that a child committed the alleged offense;  
 84 (2) Such child is not committable to an institution for the developmentally disabled or  
 85 mentally ill; and  
 86 (3) The petition alleges that such child:  
 87 (A) Was at least 15 years of age at the time of the commission of the offense and  
 88 committed an act which would be a felony if committed by an adult; or  
 89 (B) Was 13 or 14 years of age and either committed an act for which the punishment  
 90 is loss of life or confinement for life in a penal institution or committed aggravated  
 91 battery resulting in serious bodily injury to a an alleged victim who is not a public  
 92 safety officer as such term is defined in Code Section 16-5-19."

93

**SECTION 5.**

94 Said chapter is further amended by revising subsection (a) of Code Section 15-11-562,  
95 relating to transfer criteria, as follows:

96 "(a) The criteria that the juvenile court shall consider in determining whether to transfer  
97 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to  
98 superior court and the criteria that the superior court shall consider in determining whether  
99 to transfer any case involving a child 13 to 17 years of age alleged to have committed  
100 ~~voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated~~  
101 ~~sexual battery~~ any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b)  
102 of Code Section 15-11-560 to juvenile court as set forth in subsection (e) of Code Section  
103 15-11-560 includes, but shall not be limited to:

- 104 (1) The age of such child;
- 105 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 106 (3) Whether the protection of the community requires transfer of jurisdiction;
- 107 (4) Whether the alleged offense involved violence or was committed in an aggressive or  
108 premeditated manner;
- 109 (5) The impact of the alleged offense on the alleged victim, including the permanence  
110 of any physical or emotional injury sustained, health care expenses incurred, and lost  
111 earnings suffered;
- 112 (6) The culpability of such child including such child's level of planning and  
113 participation in the alleged offense;
- 114 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which  
115 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 116 (8) The record and history of such child, including experience with the juvenile justice  
117 system, other courts, supervision, commitments to juvenile institutions, and other  
118 placements;
- 119 (9) The sophistication and maturity of such child as determined by consideration of his  
120 or her home and environmental situation, emotional condition, and pattern of living;
- 121 (10) The program and facilities available to the juvenile court in considering disposition;  
122 and
- 123 (11) Whether or not a child can benefit from the treatment or rehabilitative programs  
124 available to the juvenile court."

125

**SECTION 6.**

126 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
127 amended in Article 2 of Chapter 5, relating to assault and battery, by adding a new Code  
128 section to read as follows:

129 "16-5-19.

130 As used in this article, the term:

131 (1) 'Correctional officer' shall include superintendents, wardens, deputy wardens, guards,  
 132 and correctional officers of state, county, and municipal penal institutions who are  
 133 certified by the Georgia Peace Officer Standards and Training Council pursuant to  
 134 Chapter 8 of Title 35 and employees of the Department of Juvenile Justice who are  
 135 known to be employees of the department or who have given reasonable identification  
 136 of their employment. The term 'correctional officer' shall also include county jail officers  
 137 who are certified or registered by the Georgia Peace Officer Standards and Training  
 138 Council pursuant to Chapter 8 of Title 35.

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

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

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

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

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

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

153 **SECTION 7.**

154 Said title is further amended by revising Code Section 16-5-21, relating to aggravated  
 155 assault, as follows:

156 "16-5-21.

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

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

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

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

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

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

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

171 ~~(d)~~(c) A person who knowingly commits the offense of aggravated assault upon a ~~peace~~  
 172 public safety officer while the ~~peace~~ public safety officer is engaged in, or on account of  
 173 the performance of, his or her official duties shall, upon conviction thereof, be punished  
 174 by imprisonment for not less than five nor more than 20 years. No portion of the minimum  
 175 term of imprisonment imposed upon a person who violates this subsection through the use  
 176 of any weapon, object, or device, other than such person's hands, shall be suspended,  
 177 stayed, probated, deferred, or otherwise withheld by the sentencing judge.

178 ~~(e)~~(d) Any person who commits the offense of aggravated assault against a person who is  
 179 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for  
 180 not less than three nor more than 20 years.

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

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

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

197 ~~(h)~~(f) Any person who commits the offense of aggravated assault upon a person in the  
 198 course of violating Code Section 16-8-2 where the property that was the subject of the theft  
 199 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,  
 200 including without limitation any such trailer, semitrailer, container, or other associated

201 equipment, or the cargo being transported therein or thereon, shall upon conviction be  
 202 punished by imprisonment for not less than five nor more than 20 years, a fine not less than  
 203 \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For purposes  
 204 of this subsection, the term 'vehicle' includes without limitation any railcar.

205 ~~(i)~~(g) A person convicted of an offense described in paragraph (4) of subsection ~~(b)~~ (a) of  
 206 this Code section shall be punished by imprisonment for not less than five nor more than  
 207 20 years.

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

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

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

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

229 ~~(n) A person who knowingly commits the offense of aggravated assault upon an~~  
 230 ~~emergency health worker while the worker is engaged in, or on account of the performance~~  
 231 ~~of, his or her official duties shall, upon conviction thereof, be punished by imprisonment~~  
 232 ~~for not less than five nor more than 20 years. As used in this subsection, the term~~  
 233 ~~'emergency health worker' means hospital emergency department personnel and emergency~~  
 234 ~~medical services personnel."~~

235 **SECTION 8.**

236 Said title is further amended by revising Code Section 16-5-24, relating to aggravated  
237 battery, as follows:

238 "16-5-24.

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

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

246 (c) A person who knowingly commits the offense of aggravated battery upon a ~~peace~~  
247 public safety officer while the public safety officer is engaged in, or on account of the  
248 performance of, his or her official duties shall, upon conviction thereof, be punished by  
249 imprisonment for not less than ten nor more than 20 years. The term of imprisonment  
250 imposed pursuant to this subsection shall not be suspended, stayed, probated, deferred, or  
251 otherwise withheld by the sentencing judge.

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

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

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

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

271 ~~(g)~~(f) Any person who commits the offense of aggravated battery upon a student or teacher  
 272 or other school personnel within a school safety zone as defined in Code Section  
 273 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than  
 274 five nor more than 20 years.

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

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

#### 286 SECTION 9.

287 Said title is further amended by revising Code Section 16-10-24, relating to obstructing or  
 288 hindering law enforcement officers, as follows:

289 "16-10-24.

290 (a) Except as otherwise provided in subsection (b) of this Code section, a person who  
 291 knowingly and willfully obstructs or hinders any law enforcement officer, prison guard,  
 292 jailer, correctional officer, community supervision officer, county or Department of  
 293 Juvenile Justice juvenile probation officer, probation officer serving pursuant to Article 6  
 294 of Chapter 8 of Title 42, or conservation officer in the lawful discharge of his or her official  
 295 duties is shall be guilty of a misdemeanor.

296 (b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement  
 297 officer, prison guard, jailer, correctional officer, community supervision officer, county or  
 298 Department of Juvenile Justice juvenile probation officer, probation officer serving  
 299 pursuant to Article 6 of Chapter 8 of Title 42, or conservation ranger in the lawful  
 300 discharge of his or her official duties by offering or doing violence to the person of such  
 301 officer or legally authorized person is shall be guilty of a felony and shall, upon conviction  
 302 thereof, be punished by imprisonment for not less than one nor more than ~~five~~ 15 years.

303 (c) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement  
 304 officer, prison guard, jailer, correctional officer, community supervision officer, county or  
 305 Department of Juvenile Justice juvenile probation officer, probation officer serving  
 306 pursuant to Article 6 of Chapter 8 of Title 42, or conservation ranger in the lawful

307 discharge of his or her official duties by causing or attempting to cause such law  
 308 enforcement officer, prison guard, jailer, correctional officer, community supervision  
 309 officer, probation officers, or conservation ranger to come into contact with human or  
 310 animal blood, urine, feces, vomitus, or seminal fluid by throwing, tossing, projecting, or  
 311 expelling such fluid or material shall be guilty of a felony and shall, upon conviction  
 312 thereof, be punished by imprisonment for not less than one nor more than five years."

313 **SECTION 10.**

314 Said title is further amended by revising Code Section 16-10-56, relating to riot in a penal  
 315 institution, as follows:

316 "16-10-56.

317 ~~(a) Any person legally confined to any penal institution of this state or of any political~~  
 318 ~~subdivision of this state who commits an unlawful act of violence or any other act in a~~  
 319 ~~violent or tumultuous manner commits the offense of riot in a penal institution. As used~~  
 320 in this Code section, the term 'penal institution' means any place of confinement for persons  
 321 accused of or convicted of violating a law of this state or an ordinance of a municipality  
 322 or political subdivision of this state.

323 ~~(b) Any person who violates subsection (a) of this Code section is guilty of a felony and,~~  
 324 ~~upon conviction thereof, shall be punished by imprisonment of not less than one nor more~~  
 325 ~~than 20 years. Any person legally confined to any penal institution of this state or of a~~  
 326 municipality or political subdivision of this state who commits an unlawful act of violence  
 327 or any other act in a violent or tumultuous manner commits the offense of violent or  
 328 tumultuous acts in a penal institution.

329 (c) Any person who violates subsection (b) of this Code section shall be guilty of a felony  
 330 and, upon conviction, shall be punished by imprisonment for not less than one nor more  
 331 than 20 years."

332 **SECTION 11.**

333 Said title is further amended by revising Code Section 16-11-43, relating to obstructing  
 334 highways, streets, sidewalks, or other public passages, as follows:

335 "16-11-43.

336 A person who, without authority of law, purposely or recklessly obstructs any highway,  
 337 street, sidewalk, or other public passage in such a way as to render it impassable without  
 338 unreasonable inconvenience or hazard and fails or refuses to remove the obstruction after  
 339 receiving a reasonable ~~official~~ request or the order of a peace officer that he or she do so;  
 340 is shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction  
 341 thereof, shall be punished as provided for in Code Section 17-10-4."

342

**SECTION 12.**

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