

The House Committee on Judiciary Non-Civil offers the following substitute to SB 1:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to repeal certain provisions relating to domestic terrorism and penalty; to
3 provide for the crime of domestic terrorism; to provide for definitions; to provide for
4 penalties; to provide for venue and jurisdiction for prosecutions; to change provisions
5 relating to possessing, transporting, or receiving explosives or destructive devices with intent
6 to kill, injure, or intimidate individuals or destroy public buildings; to change provisions
7 relating to disclosures by service providers pursuant to investigations; to amend Code Section
8 17-10-30 of the Official Code of Georgia Annotated, relating to the procedure for imposition
9 of the death penalty generally, so as to provide for domestic terrorism to be a statutory
10 aggravating circumstance; to amend Chapter 1 of Title 35 of the Official Code of Georgia
11 Annotated, relating to general provisions for law enforcement officers and agencies, so as
12 to provide for training in identifying domestic terrorism and reporting information to the
13 Georgia Information Sharing and Analysis Center; to provide for a short title; to provide for
14 related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **PART I**
17 **SECTION 1-1.**

18 This Act shall be known and may be cited as the "Protect Act - Protecting Georgians Against
19 Terrorism."

20 **PART II**
21 **SECTION 2-1.**

22 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
23 amended by repealing Code Section 16-4-10, relating to domestic terrorism and penalty.

S. B. 1 (SUB)

24 **SECTION 2-2.**

25 Said title is further amended by revising Chapter 11 of Title 16 of the Official Code of
26 Georgia Annotated, relating to offenses against public order and safety, by adding a new
27 article to read as follows:

28 "ARTICLE 6

29 16-11-220.

30 As used in this article, the term:

31 (1) 'Critical infrastructure' means publicly or privately owned facilities, systems,
32 functions, or assets, whether physical or virtual, providing or distributing services for the
33 benefit of the public, including, but not limited to, energy, fuel, water, agriculture, health
34 care, finance, or communication.

35 (2) 'Domestic terrorism' means any felony violation of, or attempt to commit a felony
36 violation of the laws of this state which, as part of a single unlawful act or a series of
37 unlawful acts which are interrelated by distinguishing characteristics, is intended to cause
38 serious bodily harm, kill any individual or group of individuals, or disable or destroy
39 critical infrastructure, a state or government facility, or a public transportation system
40 when such disability or destruction results in major economic loss, and is intended to:

41 (A) Intimidate the civilian population of this state or any of its political subdivisions;

42 (B) Alter, change, or coerce the policy of the government of this state or any of its
43 political subdivisions by intimidation or coercion; or

44 (C) Affect the conduct of the government of this state or any of its political
45 subdivisions by use of destructive devices, assassination, or kidnapping.

46 (3) 'Public transportation system' means all facilities, conveyances, and instrumentalities,
47 whether publicly or privately owned, that are used in or for publicly available services
48 for the transportation of individuals or cargo.

49 (4) 'Serious bodily harm' means harm to the body of another by depriving him or her of
50 a member of his or her body, by rendering a member of his or her body useless, or by
51 seriously disfiguring his or her body or a member thereof.

52 (5) 'State or government facility' means any permanent or temporary facility or
53 conveyance that is used or occupied by representatives of this state or any of its political
54 subdivisions, by the legislature, by the judiciary, or by officials or employees of this state
55 or any of its political subdivisions.

56 16-11-221.

57 (a) Any person who commits domestic terrorism shall be guilty of a felony and upon
58 conviction thereof shall be punished as follows:

59 (1) If death results to any individual, by death, by imprisonment for life without parole,
 60 or by imprisonment for life;

61 (2) If kidnapping occurs, by imprisonment for not less than 15 nor more than 35 years,
 62 or by imprisonment for life;

63 (3) If serious bodily harm occurs, by imprisonment for not less than 15 nor more than 35
 64 years; or

65 (4) If critical infrastructure, a state or government facility, or a public transportation
 66 system is disabled or destroyed, by imprisonment for not less than five nor more than 35
 67 years.

68 (b) No sentence imposed under this Code section shall be suspended, stayed, probated,
 69 deferred, or withheld by the sentencing court.

70 16-11-222.

71 A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1 for
 72 any conduct made unlawful by this article which the person engages in while:

73 (1) Either within or outside of this state if, by such conduct, the person commits a
 74 violation of this article which involves an individual who resides in this state or which
 75 involves critical infrastructure, a state or government facility, or a public transportation
 76 system located in this state; or

77 (2) Within this state if, by such conduct, the person commits a violation of this article
 78 which involves an individual who resides within or outside this state or which involves
 79 critical infrastructure, a state or government facility, or a public transportation system
 80 located in this state.

81 16-11-223.

82 The Attorney General shall have concurrent jurisdiction with district attorneys to conduct
 83 the criminal prosecution of a violation of this article.

84 16-11-224.

85 This article shall not be construed to infringe upon constitutionally protected speech or
 86 assembly."

87 **PART III**

88 **SECTION 3-1.**

89 Said title is further amended by revising paragraph (1) of Code Section 16-7-80, relating to
 90 definitions, and adding new paragraphs to read as follows:

S. B. 1 (SUB)

- 91 "(1) 'Bacteriological weapon' or 'biological weapon' means:
- 92 (A) The following toxic chemicals:
- 93 (i) O-Alkyl (\leq C10, including cycloalkyl) alkyl (Me, Et, n-Pr or
- 94 i-Pr)-phosphonofluoridates; e.g., Sarin: O-Isopropyl methylphosphonofluoridate,
- 95 Soman: O-Pinacolyl methylphosphonofluoridate;
- 96 (ii) O-Alkyl (\leq C10, including cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr)
- 97 phosphoramidocyanidates; e.g., Tabun: O-Ethyl N,N-dimethyl
- 98 phosphoramidocyanidate;
- 99 (iii) O-Alkyl (H or \leq C10, including cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or
- 100 i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding
- 101 alkylated or protonated salts; e.g., VX: O-Ethyl S-2-diisopropylaminoethyl methyl
- 102 phosphonothiolate;
- 103 (B) Sulfur mustards:
- 104 (i) 2-Chloroethylchloromethylsulfide;
- 105 (ii) Mustard gas: Bis(2-chloroethyl)sulfide;
- 106 (iii) Bis(2-chloroethylthio)methane;
- 107 (iv) Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane;
- 108 (v) 1,3-Bis(2-chloroethylthio)-n-propane;
- 109 (vi) 1,4-Bis(2-chloroethylthio)-n-butane;
- 110 (vii) 1,5 Bis(2-chloroethylthio)-n-pentane;
- 111 (viii) Bis(2-chloroethylthiomethyl)ether;
- 112 (ix) O-Mustard: Bis(2-chloroethylthioethyl)ether;
- 113 (C) Lewisites:
- 114 (i) Lewisite 1: 2-Chlorovinylchloroarsine;
- 115 (ii) Lewisite 2: Bis(2-chlorovinyl)chloroarsine;
- 116 (iii) Lewisite 3: Tris(2-chlorovinyl)arsine;
- 117 (D) Nitrogen mustards:
- 118 (i) HN1: Bis(2-chloroethyl)ethylamine;
- 119 (ii) HN2: Bis(2-chloroethyl)methylamine;
- 120 (iii) HN3: Tris(2-chloroethyl)amine;
- 121 (E) Saxitoxin;
- 122 (F) Ricin;
- 123 (G) Precursors:
- 124 (i) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides; e.g., DF:
- 125 Methylphosphonyldifluoride;
- 126 (ii) O-Alkyl (H or \leq C10, including cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or
- 127 i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding

128 alkylated or protonated salts; e.g., QL: O-Ethyl O-2-diisopropylaminoethyl
 129 methylphosphonite;

130 (iii) Chlorosarin: O-Isopropyl methylphosphonochloridate;

131 (iv) Chlorosoman: O-Pinacolyl methylphosphonochloridate; or

132 (H) Any any device which is designed in such a manner as to permit the intentional
 133 release into the population or environment of microbial or other biological agents or
 134 toxins or vectors whatever their origin or method of production in a manner not
 135 otherwise authorized by law or any device the development, production, or stockpiling
 136 of which is prohibited pursuant to the 'Convention on the Prohibition of the
 137 Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin
 138 Weapons and Their Destruction,' 26 U.S.T. 583, TIAS 8063.

139 (1.1) "Biological agent' means any microorganism, including, but not limited to, bacteria,
 140 viruses, fungi, rickettsiae or protozoa, or infectious substance, or any naturally occurring,
 141 bioengineered or synthesized component of any such microorganism or infectious
 142 substance, capable of causing:

143 (A) Death, disease, or other biological malfunction in a human, an animal, a plant, or
 144 another living organism;

145 (B) Deterioration of food, water, equipment, supplies, or material of any kind; or

146 (C) Deleterious alteration of the environment."

147 "(16.1) 'Toxin' means the toxic material or product of plants, animals, microorganisms,
 148 including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa, or infectious
 149 substances, or a recombinant or synthesized molecule, whatever their origin and method
 150 of production, and includes:

151 (A) Any poisonous substance or biological product that may be engineered as a result
 152 of biotechnology produced by a living organism; or

153 (B) Any poisonous isomer or biological product, homologue, or derivative of such a
 154 substance.

155 (16.2) 'Vector' means a living organism, or molecule, including a recombinant or
 156 synthesized molecule, capable of carrying a biological agent or toxin to a host."

157 **SECTION 3-2.**

158 Said title is further amended by revising subsection (a) of Code Section 16-7-88, relating to
 159 possessing, transporting, or receiving explosives or destructive devices with intent to kill,
 160 injure, or intimidate individuals or destroy public buildings, sentencing, and enhanced
 161 penalties, as follows:

162 "(a) Any person who possesses, transports, or receives or attempts to possess, transport,
 163 or receive any destructive device, or explosive, bacteriological weapon, or biological

164 weapon with the knowledge or intent that it will be used to kill, injure, or intimidate any
 165 individual or to destroy any public building shall be punished by imprisonment for not less
 166 than ten nor more than 20 years or by a fine of not more than \$125,000.00 or both or, if the
 167 defendant is a corporation, by a fine of not less than \$125,000.00 nor more than
 168 \$200,000.00 or sentenced to perform not fewer than 10,000 nor more than 20,000 hours of
 169 community service or both."

170 **SECTION 3-3.**

171 Said title is further amended by revising subsection (a) of Code Section 16-9-109, relating
 172 to disclosures by service providers pursuant to investigations, as follows:

173 "(a) Any law enforcement unit, the Attorney General, or any district attorney who is
 174 conducting an investigation of a violation of this article or an investigation of a violation
 175 of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, ~~or~~ 16-5-90, or 16-11-221, Article 8
 176 of Chapter 5 of this title, or Article 8 of this chapter involving the use of a computer,
 177 cellular telephone, or any other electronic device used in furtherance of the act may require
 178 the disclosure by a provider of electronic communication service or remote computing
 179 service of the contents of a wire or electronic communication that is in electronic storage
 180 in an electronic communications system for 180 days or less pursuant to a search warrant
 181 issued under the provisions of Article 2 of Chapter 5 of Title 17 by a court with jurisdiction
 182 over the offense under investigation. Such court may require the disclosure by a provider
 183 of electronic communication service or remote computing service of the contents of a wire
 184 or electronic communication that has been in electronic storage in an electronic
 185 communications system for more than 180 days as set forth in subsection (b) of this Code
 186 section."

187 **PART IV**

188 **SECTION 4-1.**

189 Code Section 17-10-30 of the Official Code of Georgia Annotated, relating to the procedure
 190 for imposition of the death penalty generally, is amended in subsection (b) by deleting "or"
 191 at the end of paragraph (10), by replacing the period with "; or" at the end of paragraph (11),
 192 and by adding a new paragraph to read as follows:

193 "(12) The murder was committed during an act of domestic terrorism."

194

PART V

195

SECTION 5-1.

196 Chapter 1 of Title 35 of the Official Code of Georgia Annotated, relating to general
197 provisions for law enforcement officers and agencies, is amended by adding a new Code
198 section to read as follows:

199 "35-1-21.

200 (a) The Georgia Peace Officer Standards and Training Council and the Georgia Public
201 Safety Training Center shall establish guidelines and procedures for the incorporation of
202 training materials and information in methods for:

203 (1) Identifying and reporting activity that may lead to domestic terrorism;

204 (2) Combating domestic terrorism; and

205 (3) Individuals, law enforcement officials, and personnel within state agencies and
206 departments and local governments to provide information to the Georgia Information
207 Sharing and Analysis Center to report activity that may lead to domestic terrorism.

208 (b) The guidelines and procedures listed in subsection (a) of this Code section shall be for
209 use by law enforcement training centers monitored by the Georgia Peace Officer Standards
210 and Training Council and monitored and funded by the Georgia Public Safety Training
211 Center in all courses for which they have responsibility and oversight."

212

PART VI

213

SECTION 6-1.

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