

Senate Bill 316

By: Senators Jackson of the 2nd, Jones of the 10th, Anderson of the 43rd, James of the 35th, Rhett of the 33rd and others

A BILL TO BE ENTITLED  
AN ACT

1 To enact the "Georgia Enhanced Penalties for Hate Crimes Act"; to amend Title 16 of the  
2 Official Code of Georgia Annotated, relating to crimes and offenses, so as to provide for  
3 sentencing of defendants who commit certain crimes which target a victim because of the  
4 victim's race, color, religion, gender, disability, sexual orientation, gender identity or  
5 expression, national origin, or ethnicity; to amend Article 1 of Chapter 10 of Title 17 of the  
6 Official Code of Georgia Annotated, relating to the procedure for sentencing and imposition  
7 of punishment, so as to repeal certain provisions regarding sentencing of defendants guilty  
8 of crimes involving bias or prejudice, notices for enhanced sentencing, and enhanced  
9 sentencing; to amend Code Section 15-11-2 of the Official Code of Georgia Annotated,  
10 relating to definitions for the Juvenile Code, so as to provide for a cross-reference; to revise  
11 a definition; to provide for related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **PART I**  
14 **SECTION 1-1.**

15 This Act shall be known and may be cited as the "Georgia Enhanced Penalties for Hate  
16 Crimes Act."

17 **PART II**  
18 **SECTION 2-1.**

19 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
20 amended in Code Section 16-5-20, relating to simple assault, by revising subsection (b) and  
21 by adding a new subsection to read as follows:

22 "(b) Except as provided in subsections (c) through ~~(h)~~ (i) of this Code section, a person  
23 who commits the offense of simple assault shall be guilty of a misdemeanor."

24 "(i) Any person who commits the offense of simple assault against an individual  
 25 intentionally selected because of such individual's race, color, religion, gender, disability,  
 26 sexual orientation, gender identity or expression, national origin, or ethnicity shall, upon  
 27 conviction thereof, be punished as for a misdemeanor of a high and aggravated nature."

28 **SECTION 2-2.**

29 Said title is further amended in Code Section 16-5-21, relating to aggravated assault, by  
 30 revising subsection (b) and by adding a new subsection to read as follows:

31 "(b) Except as provided in subsections (c) through ~~(k)~~ (l) of this Code section, a person  
 32 convicted of the offense of aggravated assault shall be punished by imprisonment for not  
 33 less than one nor more than 20 years."

34 "(l) Any person who commits the offense of aggravated assault upon an individual  
 35 intentionally selected because of such individual's race, color, religion, gender, disability,  
 36 sexual orientation, gender identity or expression, national origin, or ethnicity shall, upon  
 37 conviction thereof, be punished by imprisonment for not less than five nor more than 20  
 38 years."

39 **SECTION 2-3.**

40 Said title is further amended in Code Section 16-5-23, relating to simple battery, by revising  
 41 subsection (b) and by adding a new subsection to read as follows:

42 "(b) Except as otherwise provided in subsections (c) through ~~(i)~~ (j) of this Code section,  
 43 a person convicted of the offense of simple battery shall be punished as for a  
 44 misdemeanor."

45 "(j) Any person who commits the offense of simple battery against an individual  
 46 intentionally selected because of such individual's race, color, religion, gender, disability,  
 47 sexual orientation, gender identity or expression, national origin, or ethnicity shall, upon  
 48 conviction thereof, be punished as for a misdemeanor of a high and aggravated nature."

49 **SECTION 2-4.**

50 Said title is further amended in Code Section 16-5-23.1, relating to battery, by revising  
 51 subsection (c) and by adding a new subsection to read as follows:

52 "(c) Except as provided in subsections (d) through ~~(h)~~ (m) of this Code section, a person  
 53 who commits the offense of battery is guilty of a misdemeanor."

54 "(m) Any person who commits the offense of battery against an individual intentionally  
 55 selected because of such individual's race, color, religion, gender, disability, sexual  
 56 orientation, gender identity or expression, national origin, or ethnicity shall, upon  
 57 conviction thereof, be punished as for a misdemeanor of a high and aggravated nature."

58 **SECTION 2-5.**

59 Said title is further amended in Code Section 16-5-24, relating to aggravated battery, by  
60 revising subsection (b) and by adding a new subsection to read as follows:

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

64 "(j) Any person who commits the offense of aggravated battery upon an individual  
65 intentionally selected because of such individual's race, color, religion, gender, disability,  
66 sexual orientation, gender identity or expression, national origin, or ethnicity shall, upon  
67 conviction thereof, be punished by imprisonment for not less than five nor more than 20  
68 years."

69 **SECTION 2-6.**

70 Said title is further amended by revising subsection (b) of Code Section 16-7-22, relating to  
71 criminal damage to property in the first degree, as follows:

72 "(b) A person convicted of the offense of criminal damage to property in the first degree  
73 shall be punished by imprisonment for not less than one nor more than ten years; provided,  
74 however, that if the property was selected because of the property owner's race, color,  
75 religion, gender, disability, sexual orientation, gender identity or expression, national  
76 origin, or ethnicity, upon conviction thereof, he or she shall be punished by imprisonment  
77 for not less than three nor more than ten years."

78 **SECTION 2-7.**

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

81 "(b) A person convicted of the offense of criminal damage to property in the second degree  
82 shall be punished by imprisonment for not less than one nor more than five years; provided,  
83 however, that if the property was selected because of the property owner's race, color,  
84 religion, gender, disability, sexual orientation, gender identity or expression, national  
85 origin, or ethnicity, upon conviction thereof, he or she shall be punished by imprisonment  
86 for not less than two nor more than five years."

87 **SECTION 2-8.**

88 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to  
89 procedure for sentencing and imposition of punishment, is amended by repealing in its  
90 entirety Code Section 17-10-17, relating to sentencing of defendants guilty of crimes

91 involving bias or prejudice, circumstances, and parole, and designating said Code section as  
92 reserved.

93 **SECTION 2-9.**

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

96 **SECTION 2-10.**

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

100 **PART III**

101 **SECTION 3-1.**

102 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions for  
103 the Juvenile Code, is amended by revising division (12)(A)(iii) as follows:

104 "(iii) Aggravated assault upon an individual or situation described in subsection (d),  
105 (h), ~~or (k),~~ or (l) of Code Section 16-5-21 or assault with a deadly weapon or with any  
106 object, device, or instrument which, when used offensively against a person, actually  
107 does result in serious bodily injury, provided that such deadly weapon is not a  
108 firearm; and provided, further, that such injured person is not a public safety officer  
109 as defined in Code Section 16-5-19 and such acts are not prohibited under subsection  
110 (c) of Code Section 16-5-21;"

111 **PART IV**

112 **SECTION 4-1.**

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