

House Bill 247

By: Representatives Silcox of the 52nd, Cooper of the 43rd, Kelley of the 16th, and Fleming of the 121st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes
2 against the person, so as to repeal an enhanced penalty relating to battery against a person
3 65 years of age or older; to revise a definition relative to the protection of disabled adults and
4 elder persons; to amend Code Section 30-5-4 of the Official Code of Georgia Annotated,
5 relating to reporting of need for protective services, manner and contents of report, immunity
6 from civil or criminal liability, and privileged communications, so as to include notaries
7 public as a mandatory reporter for abuse of disabled adults and elder persons; to amend Code
8 Section 31-7-12.1 of the Official Code of Georgia Annotated, relating to unlicensed personal
9 care homes, so as to authorize inspections of unlicensed personal care homes by a local or
10 state law enforcement agency; to amend Code Section 45-17-8 of the Official Code of
11 Georgia Annotated, relating to powers and duties of notaries public generally, so as to require
12 notaries to report abuse of disabled adults or elder persons; to provide for related matters; to
13 provide for an effective date; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

16 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
17 the person, is amended in Code Section 16-5-23.1, relating to battery, by revising subsections
18 (c), (j), (k), and (l) as follows:

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

21 "~~(j) Except as otherwise provided in subsection (e) and paragraph (2) of subsection (f) of~~
22 ~~this Code section, any person who commits the offense of battery against a person who is~~
23 ~~65 years of age or older shall, upon conviction thereof, be punished for a misdemeanor of~~
24 ~~a high and aggravated nature.~~

25 ~~(h)~~(j) A person who is an employee, agent, or volunteer at any facility licensed or required
26 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code

27 Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,
 28 relating to personal care homes, or who is required to be licensed pursuant to Code Section
 29 31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense
 30 of battery against a person who is admitted to or receiving services from such facility,
 31 person, or entity shall, upon conviction thereof, be punished by imprisonment for not less
 32 than one nor more than five years, or a fine of not more than \$2,000.00, or both.

33 ~~(H)~~(k) Any person who commits the offense of battery against a sports official while such
 34 sports official is officiating an amateur contest or while such sports official is on or exiting
 35 the property where he or she will officiate or has completed officiating an amateur contest
 36 shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated
 37 nature. For purposes of this Code section, the term 'sports official' means any person who
 38 officiates, umpires, or referees an amateur contest at the collegiate, elementary or
 39 secondary school, or recreational level."

40 **SECTION 2.**

41 Said chapter is further amended in Code Section 16-5-100, relating to definitions relative to
 42 the protection of elder persons, by revising paragraph (6) as follows:

43 "(6) 'Exploit' means illegally or improperly using a disabled adult or elder person or that
 44 person's resources through undue influence, coercion, harassment, duress, deception, false
 45 representation, false pretense, or other similar means for one's own or another person's
 46 profit or advantage, including, but not limited to, the illegal taking of resources belonging
 47 to a disabled adult or elder person when access to the resources was obtained, either in
 48 whole or in part, due to the disabled adult's or elder person's mental or physical
 49 incapacity."

50 **SECTION 3.**

51 Code Section 30-5-4 of the Official Code of Georgia Annotated, relating to reporting of need
 52 for protective services, manner and contents of report, immunity from civil or criminal
 53 liability, and privileged communications, is amended by revising subsection (a) as follows:

54 "(a)(1)(A) The following persons having reasonable cause to believe that a disabled
 55 adult or elder person has been the victim of abuse, other than by accidental means, or
 56 has been neglected or exploited shall report or cause reports to be made in accordance
 57 with the provisions of this Code section:

- 58 (i) Any person required to report child abuse as provided in subsection (c) of Code
 59 Section 19-7-5;
 60 (ii) Physical therapists;
 61 (iii) Occupational therapists;

- 62 (iv) Day-care personnel;
- 63 (v) Coroners;
- 64 (vi) Medical examiners;
- 65 (vii) Emergency medical services personnel, as such term is defined in Code Section
66 31-11-49;
- 67 (viii) Any person who has been certified as an emergency medical technician, cardiac
68 technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;
- 69 (ix) Employees of a public or private agency engaged in professional health related
70 services to elder persons or disabled adults; ~~and~~
- 71 (x) Clergy members; and
- 72 (xi) Notaries public.
- 73 (B) Any employee of a financial institution or investment company having reasonable
74 cause to believe that a disabled adult or elder person has been exploited shall report or
75 cause reports to be made in accordance with the provisions of this Code section;
76 provided, however, that this obligation shall not apply to any employee of a financial
77 institution or investment company while that employee is acting as a fiduciary, but only
78 for such assets that the employee is holding or managing in a fiduciary capacity.
- 79 (C) When the person having a reasonable cause to believe that a disabled adult or elder
80 person is in need of protective services performs services as a member of the staff of
81 a hospital, social agency, financial institution, or similar facility, such person shall
82 notify the person in charge of the facility and such person or that person's designee shall
83 report or cause reports to be made in accordance with the provisions of this Code
84 section.
- 85 (2) Any other person having a reasonable cause to believe that a disabled adult or elder
86 person is in need of protective services or has been the victim of abuse, neglect, or
87 exploitation may report such information as provided in this Code section."

88 SECTION 4.

89 Code Section 31-7-12.1 of the Official Code of Georgia Annotated, relating to unlicensed
90 personal care homes, is amended by revising subsection (g) and by adding a new subsection
91 to read as follows:

92 "(g) Upon the designation by the department and with the consent of any local or state law
93 enforcement agency, such law enforcement agency may act as an agent of the department
94 in conducting inspections of unlicensed personal care homes required to be licensed under
95 this chapter. Any such inspections shall only be conducted by a law enforcement agency
96 if the law enforcement agency is already on site in the course of investigating a complaint
97 or performing other law enforcement duties and has consent or a warrant to enter the home.

98 Law enforcement agencies shall not be authorized to recoup any of the costs of inspections
 99 performed pursuant to this subsection from the department.

100 (h) Any person who owns or operates a personal care home in violation of subsection (b)
 101 of Code Section 31-7-12 shall be guilty of a misdemeanor for a first violation, unless such
 102 violation is in conjunction with ~~abuse, neglect, or exploitation as defined in Code Section~~
 103 ~~30-5-3~~ a violation of Article 8 of Chapter 5 of Title 16, in which case such person shall be
 104 guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than
 105 one nor more than five years. Upon conviction for a second or subsequent such violation,
 106 such person shall be guilty of a felony and, upon conviction, shall be punished by
 107 imprisonment for not less than one nor more than ten years."

108 **SECTION 5.**

109 Code Section 45-17-8 of the Official Code of Georgia Annotated, relating to powers and
 110 duties of notaries public generally, is amended by adding a new subsection to read as
 111 follows:

112 "(g) A notary who has reasonable cause to believe that a disabled adult or elder person has
 113 been the victim of abuse, other than by accidental means, or has been neglected or
 114 exploited shall report or cause reports to be made in accordance with the provisions of
 115 Code Section 30-5-4."

116 **SECTION 6.**

117 This Act shall become effective upon its approval by the Governor or upon its becoming law
 118 without such approval.

119 **SECTION 7.**

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