

The House Committee on Judiciary offers the following substitute to HB 247:

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 31-7-12.1 of the Official Code of Georgia Annotated,
5 relating to unlicensed personal care homes, so as to authorize inspections of unlicensed
6 personal care homes by a local or state law enforcement agency under certain circumstances;
7 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

16 "~~(j) Except as otherwise provided in subsection (e) and paragraph (2) of subsection (f) of~~
17 ~~this Code section, any person who commits the offense of battery against a person who is~~
18 ~~65 years of age or older shall, upon conviction thereof, be punished for a misdemeanor of~~
19 ~~a high and aggravated nature.~~

20 ~~(k)~~(j) A person who is an employee, agent, or volunteer at any facility licensed or required
21 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code
22 Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,
23 relating to personal care homes, or who is required to be licensed pursuant to Code Section
24 31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense
25 of battery against a person who is admitted to or receiving services from such facility,

26 person, or entity shall, upon conviction thereof, be punished by imprisonment for not less
27 than one nor more than five years, or a fine of not more than \$2,000.00, or both.

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

35 SECTION 2.

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

38 "(6) 'Exploit' means illegally or improperly using a disabled adult or elder person or that
39 person's resources through undue influence, coercion, harassment, duress, deception, false
40 representation, false pretense, or other similar means for one's own or another person's
41 profit or advantage, including, but not limited to, the illegal taking of resources belonging
42 to a disabled adult or elder person when access to the resources was obtained due to the
43 disabled adult's or elder person's mental or physical incapacity."

44 SECTION 3.

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

48 "(g) Upon the designation by the department and with the consent of any local or state law
49 enforcement agency, and subject to a written memorandum of understanding between the
50 department and such agencies, Georgia Peace Officer Standards and Training certified
51 investigators of such law enforcement agencies may act as agents of the department in
52 conducting inspections of unlicensed personal care homes required to be licensed under
53 this chapter. Such investigations shall be limited to instances where a law enforcement
54 agency is performing law enforcement duties and has consent or a warrant to enter the
55 home. Law enforcement agencies shall not be authorized to recoup any of the costs of
56 inspections performed pursuant to this subsection from the department.

57 (h) Any person who owns or operates a personal care home in violation of subsection (b)
58 of Code Section 31-7-12 shall be guilty of a misdemeanor for a first violation, unless such
59 violation is in conjunction with ~~abuse, neglect, or exploitation as defined in Code Section~~
60 ~~30-5-3~~ a violation of Article 8 of Chapter 5 of Title 16, in which case such person shall be

61 guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than
62 one nor more than five years. Upon conviction for a second or subsequent such violation,
63 such person shall be guilty of a felony and, upon conviction, shall be punished by
64 imprisonment for not less than one nor more than ten years."

65 **SECTION 4.**

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

68 **SECTION 5.**

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