

House Bill 955

By: Representatives Efstoration of the 104th, Cooper of the 43rd, and Oliver of the 82nd

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 enhanced penalties relating to simple battery and battery
3 against a person who is 65 years of age or older or by an employee, agent, or volunteer in a
4 long-term care facility; to provide for criminal offenses for failure to report abuse, neglect,
5 or exploitation of disabled adults or elder persons; to amend Chapter 5 of Title 30 of the
6 Official Code of Georgia Annotated, relating to the protection of disabled adults and elder
7 persons, so as to repeal a provision relating to criminal offenses and penalties for failure to
8 report abuse or exploitation of a resident in a long-term care facility; to amend Code Section
9 31-7-351 of the Official Code of Georgia Annotated, relating to definitions relative to the
10 Georgia long-term care background check program, so as to make a conforming change; to
11 amend Article 2 of Chapter 16 of Title 45 of the Official Code of Georgia Annotated, relating
12 to death investigations by coroners, so as to require notification to the coroner or county
13 medical examiner when a person dies in a long-term care facility under certain
14 circumstances; to provide for definitions; to provide for related matters; to repeal conflicting
15 laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
19 the person, is amended by revising Code Section 16-5-23, relating to simple battery, as
20 follows:

21 "16-5-23.

22 (a) A person commits the offense of simple battery when he or she either:

- 23 (1) Intentionally makes physical contact of an insulting or provoking nature with the
24 person of another; or
25 (2) Intentionally causes physical harm to another.

- 26 (b) Except as otherwise provided in subsections (c) through ~~(i)~~(h) of this Code section, a
27 person convicted of the offense of simple battery shall be punished as for a misdemeanor.
- 28 (c) Any person who commits the offense of simple battery ~~against a person who is 65~~
29 ~~years of age or older~~ or against a female who is pregnant at the time of the offense shall,
30 upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.
- 31 (d) Any person who commits the offense of simple battery in a public transit vehicle or
32 station shall, upon conviction thereof, be punished for a misdemeanor of a high and
33 aggravated nature. For purposes of this Code section, 'public transit vehicle' has the same
34 meaning as in subsection (c) of Code Section 16-5-20.
- 35 (e) Any person who commits the offense of simple battery against a police officer,
36 correction officer, or detention officer engaged in carrying out official duties shall, upon
37 conviction thereof, be punished for a misdemeanor of a high and aggravated nature.
- 38 (f) If the offense of simple battery is committed between past or present spouses, persons
39 who are parents of the same child, parents and children, stepparents and stepchildren, foster
40 parents and foster children, or other persons excluding siblings living or formerly living in
41 the same household, the defendant shall be punished for a misdemeanor of a high and
42 aggravated nature. In no event shall this subsection be applicable to corporal punishment
43 administered by a parent or guardian to a child or administered by a person acting in loco
44 parentis.
- 45 ~~(g) A person who is an employee, agent, or volunteer at any facility licensed or required~~
46 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~
47 ~~Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,~~
48 ~~relating to personal care homes, or who is required to be licensed pursuant to Code Section~~
49 ~~31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense~~
50 ~~of simple battery against a person who is admitted to or receiving services from such~~
51 ~~facility, person, or entity shall be punished for a misdemeanor of a high and aggravated~~
52 ~~nature.~~
- 53 ~~(h)~~(g) Any person who commits the offense of simple battery against a sports official
54 while such sports official is officiating an amateur contest or while such sports official is
55 on or exiting the property where he or she will officiate or has completed officiating an
56 amateur contest shall, upon conviction thereof, be punished for a misdemeanor of a high
57 and aggravated nature. For the purposes of this Code section, the term 'sports official'
58 means any person who officiates, umpires, or referees an amateur contest at the collegiate,
59 elementary or secondary school, or recreational level.
- 60 ~~(i)~~(h) Any person who commits the offense of simple battery against an employee of a
61 public school system of this state while such employee is engaged in official duties or on
62 school property shall, upon conviction of such offense, be punished for a misdemeanor of

63 a high and aggravated nature. For purposes of this Code section, 'school property' shall
 64 include public school buses and stops for public school buses as designated by local school
 65 boards of education."

66 **SECTION 2.**

67 Said chapter is further amended in Code Section 16-5-23.1, relating to battery, by revising
 68 subsections (c), (j), and (k) as follows:

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

71 "~~(j) A person who is an employee, agent, or volunteer at any facility licensed or required~~
 72 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~
 73 ~~Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,~~
 74 ~~relating to personal care homes, or who is required to be licensed pursuant to Code Section~~
 75 ~~31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense~~
 76 ~~of battery against a person who is admitted to or receiving services from such facility,~~
 77 ~~person, or entity shall, upon conviction thereof, be punished by imprisonment for not less~~
 78 ~~than one nor more than five years, or a fine of not more than \$2,000.00, or both.~~

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

86 **SECTION 3.**

87 Said chapter is further amended by adding a new Code section to Article 8, relating to
 88 protection of elder persons, to read as follows:

89 "16-5-106.

90 (a)(1) It shall be unlawful for any person or official required by paragraph (1) of
 91 subsection (a) of Code Section 30-5-4 to report a case of disabled adult or elder person
 92 abuse, neglect, or exploitation, as those terms are defined in Code Section 30-5-3, to
 93 knowingly and willfully fail to make a report in accordance with the requirements of
 94 Code Section 30-5-4.

95 (2) It shall be unlawful for any person or official required by subsection (a) of Code
 96 Section 31-8-82 to report a case of disabled adult or elder person abuse or exploitation,

97 as those terms are defined in Code Section 31-8-81, to knowingly and willfully fail to
 98 make a report in accordance with the requirements of Code Section 31-8-82.

99 (b) Any person violating the provisions of this Code section shall be guilty of a high and
 100 aggravated misdemeanor.

101 (c) Each violation of this Code section shall constitute a separate offense."

102 **SECTION 4.**

103 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the protection
 104 of disabled adults and elder persons, is amended by repealing and reserving Code Section
 105 30-5-8, relating to criminal offenses and penalties.

106 **SECTION 5.**

107 Code Section 31-7-351 of the Official Code of Georgia Annotated, relating to definitions
 108 relative to the Georgia long-term care background check program, is amended by revising
 109 paragraph (3) as follows:

110 "(3) 'Crime' means commission of:

111 (A) Any of the following offenses:

- 112 (i) A violation of Code Section 16-5-70;
- 113 (ii) A violation of Code Section 16-5-101;
- 114 (iii) A violation of Code Section 16-5-102;
- 115 (iv) A violation of Code Section 16-6-4;
- 116 (v) A violation of Code Section 16-6-5;
- 117 (vi) A violation of Code Section 16-6-5.1; or
- 118 (vii) A violation of Code Section ~~30-5-8~~ 16-5-106;

119 (B) A felony violation of:

- 120 (i) Chapter 5, 6, 8, 9, or 13 of Title 16;
- 121 (ii) Code Section 16-4-1;
- 122 (iii) Code Section 16-7-2; or
- 123 (iv) Subsection (f) of Code Section 31-7-12.1; or

124 (C) Any other offense committed in another jurisdiction which, if committed in this
 125 state, would be deemed to constitute an offense identified in this paragraph without
 126 regard to its designation elsewhere."

127 **SECTION 6.**

128 Article 2 of Chapter 16 of Title 45 of the Official Code of Georgia Annotated, relating to
 129 death investigations by coroners, is amended by adding new paragraphs to Code Section
 130 45-16-21, relating to definitions, to read as follows:

131 "(1.2) 'Compensated care' means services provided to an individual by a long-term care
 132 facility."

133 "(8.5) 'Long-term care facility' shall have the same meaning as in Code Section 31-8-51."

134 **SECTION 7.**

135 Said article is further amended by revising Code Section 45-16-24, relating to notification
 136 of suspicious or unusual deaths, court ordered medical examiner's inquiry, and written report
 137 of inquiry, as follows:

138 "45-16-24.

139 (a) When any individual dies in any county in this state:

140 (1) As a result of violence;

141 (2) By suicide or casualty;

142 (3) Suddenly when in apparent good health;

143 (4) In any suspicious or unusual manner, with particular attention to those individuals
 144 16 years of age and under;

145 (5) After birth but before seven years of age if the death is unexpected or unexplained;

146 (6) As a result of an execution carried out pursuant to the imposition of the death penalty
 147 under Article 2 of Chapter 10 of Title 17;

148 (7) When an inmate of a state hospital or a state, county, or city penal institution;

149 (8) After having been admitted to a hospital in an unconscious state and without
 150 regaining consciousness within 24 hours of admission;

151 (9) As a result of an apparent drug overdose; ~~or~~

152 (10) When unattended by a physician; or

153 (11) While receiving compensated care or within ten days of having received
 154 compensated care as a result of apparent:

155 (A) Overmedication, under medication, or wrongly administered medication;

156 (B) Exposure to weather;

157 (C) Drowning;

158 (D) Asphyxiation;

159 (E) Trauma;

160 (F) Burns;

161 (G) Electrical shock;

162 (H) Untreated wounds or conditions; or

163 (I) Failure of the long-term care facility to respond to a request for help that is related
 164 to medical care.

165 it shall be the duty of any law enforcement officer or other person having knowledge of
 166 such death to notify immediately the coroner or county medical examiner of the county in

167 which the acts or events resulting in the death occurred or the body is found. For the
 168 purposes of this Code section, no individual shall be deemed to have died unattended when
 169 the death occurred while he or she was a patient of a hospice licensed under Article 9 of
 170 Chapter 7 of Title 31.

171 (b) A coroner or county medical examiner who is notified of a death pursuant to
 172 subsection (a) of this Code section under circumstances specified in paragraphs (1) through
 173 (9) of such subsection shall order a medical examiner's inquiry of that death. This
 174 subsection shall not be construed to prohibit a medical examiner's inquiry of a death if
 175 when a coroner or county medical examiner is notified of a death under circumstances
 176 specified in ~~paragraph~~ paragraphs (10) or (11) of subsection (a) of this Code section.

177 (c) Whenever an affidavit is made and filed with a court having criminal jurisdiction
 178 attesting that a person came to his death by foul play, that court may interrogate and
 179 examine witnesses, if any exist, as to the necessity of a medical examiner's inquiry. Should
 180 the court decide that a medical examiner's inquiry is essential to the ends of justice, such
 181 inquiry shall be ordered by that court.

182 (d) A medical examiner's inquiry required under this Code section shall be reduced to
 183 writing and filed as provided in Code Section 45-16-32. At the time of such filing, a copy
 184 of the medical examiner's inquiry into a death reported to a coroner or county medical
 185 examiner pursuant to paragraph (6) of subsection (a) of this Code section shall also be
 186 transmitted to the department of family and children services of the county in which the
 187 child resided at the time of death."

188 SECTION 8.

189 Said article is further amended by revising paragraph (1) of subsection (a) of Code Section
 190 45-16-27, relating to when inquest to be held, special situations, coroner's fee, issuance of
 191 subpoenas, cost of copying, and limited disclosure of photographs, as follows:

192 "(a) Coroners shall require an inquest to be conducted in their respective counties as
 193 follows:

194 (1) When any individual dies under any circumstances specified in paragraphs (1)
 195 through ~~(10)~~(11) of subsection (a) of Code Section 45-16-24; provided, however, that an
 196 inquest shall not be required to be held, although the coroner shall be authorized to hold
 197 an inquest, under the following circumstances:

198 (A) When upon the completion of the medical examiner's inquiry the peace officer in
 199 charge and the medical examiner are satisfied that, even though death resulted from
 200 violence, no foul play was involved. In this event, the peace officer in charge and the
 201 medical examiner shall make a written report of their investigation and findings to the

202 division as set forth in Code Section 45-16-32, and upon their recommendation, the
203 coroner shall make and file a proper death certificate;

204 (B) When there is sufficient evidence to establish the cause and manner of death, even
205 though the medical examiner's inquiry revealed that death resulted from foul play;

206 (C) When no demand for an inquest is made within 30 days after the filing of the death
207 certificate. However, if such demand is made by the party or parties affected by the
208 death, the coroner shall be authorized to hold the inquest;

209 (D) When upon the completion of the medical examiner's inquiry the medical examiner
210 and peace officer in charge are sufficiently satisfied that death resulted from natural
211 causes, and that medical examiner or coroner is willing to and does sign and file a
212 proper death certificate, and no demand for an inquest is made within 30 days
213 thereafter;

214 (D.1) In cases of deaths resulting from an accident involving any civil aircraft, it shall
215 be the responsibility of the peace officer in charge to notify the National Transportation
216 Safety Board or the Federal Aviation Administration of such accident, to proceed to the
217 scene and guard the area in such manner that no bodies, wreckage, cargo, or mail shall
218 be moved or disturbed until authorized by a representative of the National
219 Transportation Safety Board or the Federal Aviation Administration except to the extent
220 necessary to remove individuals injured or trapped, to protect the wreckage from further
221 damage, or to protect the public from injury. When it is necessary to move aircraft
222 wreckage, mail, or cargo, sketches, descriptive notes, and photographs shall be made,
223 if possible, of the original positions and condition of the wreckage and any significant
224 impact marks. The coroner or medical examiner shall assist investigators from the
225 National Transportation Safety Board or the Federal Aviation Administration as
226 authorized by federal law;

227 (E) When after full and complete investigation no evidence of foul play is found in
228 cases of hidden cause of death which fall under the jurisdiction of the coroner. The
229 coroner shall be authorized to sign the death certificate on the basis of the information
230 given to him or her in the reports of the peace officer in charge and the medical
231 examiner, provided that, in such hidden causes of death, after a complete investigation,
232 if sufficient medical history is obtained by the coroner, the peace officer in charge, or
233 the medical examiner to disclose the cause of death and if the attending physician will
234 sign the death certificate, such cases shall not come under the jurisdiction of the
235 coroner; provided, further, that, if there are sufficient competent eyewitnesses to an act
236 in the opinion of the peace officer in charge, such cases shall not come under the
237 jurisdiction of the coroner; or

238 (F) In cases of deaths of personnel in the armed forces of the United States government
239 resulting from airplane disasters involving airplanes of the armed forces, including
240 crashes or explosions, which deaths shall not come under the jurisdiction of the coroner.
241 It shall be the responsibility of the peace officer in charge to notify the proper armed
242 forces of the United States government immediately of such airplane crashes or
243 explosions in order that they may send their trained forces to the scene for investigation.
244 It shall be the duty of the peace officer in charge, when notified of such crashes or
245 explosions, to proceed to the scene and guard the area in such manner that no bodies
246 or parts of said airplanes shall be moved or disturbed until the arrival of proper
247 investigating officers from the armed forces of the United States government;

248 (2) When an inmate of a state hospital or a state, county, or city penal institution dies
249 unexpectedly without an attending physician or as a result of violence. The chief medical
250 examiner or his or her designee, regional medical examiner, or local medical examiner
251 shall perform all medical examiners' inquiries. The coroner, in those counties in which
252 such office has not been replaced by a local medical examiner, shall hold an inquest after
253 receiving the written reports as set forth in Code Section 45-16-32;

254 (3) When ordered by a court in connection with a medical examiner's inquiry ordered by
255 that court pursuant to subsection (c) of Code Section 45-16-24; or

256 (4) Notwithstanding any other provisions of this subsection, no individual shall be
257 deemed to have died unattended by a physician when the death occurred while he or she
258 was a patient of a hospice licensed under Article 9 of Chapter 7 of Title 31."

259

SECTION 9.

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