

The House Committee on Governmental Affairs offers the following substitute to HB 955:

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 provide for related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

17 "16-5-23.

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

19 (1) Intentionally makes physical contact of an insulting or provoking nature with the
20 person of another; or

21 (2) Intentionally causes physical harm to another.

22 (b) Except as otherwise provided in subsections (c) through ~~(i)~~ (h) of this Code section,
23 a person convicted of the offense of simple battery shall be punished as for a misdemeanor.

24 (c) Any person who commits the offense of simple battery ~~against a person who is 65~~
25 ~~years of age or older or~~ against a female who is pregnant at the time of the offense shall,
26 upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

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27 (d) Any person who commits the offense of simple battery in a public transit vehicle or
28 station shall, upon conviction thereof, be punished for a misdemeanor of a high and
29 aggravated nature. For purposes of this Code section, 'public transit vehicle' has the same
30 meaning as in subsection (c) of Code Section 16-5-20.

31 (e) Any person who commits the offense of simple battery against a police officer,
32 correction officer, or detention officer engaged in carrying out official duties shall, upon
33 conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

34 (f) If the offense of simple battery is committed between past or present spouses, persons
35 who are parents of the same child, parents and children, stepparents and stepchildren, foster
36 parents and foster children, or other persons excluding siblings living or formerly living in
37 the same household, the defendant shall be punished for a misdemeanor of a high and
38 aggravated nature. In no event shall this subsection be applicable to corporal punishment
39 administered by a parent or guardian to a child or administered by a person acting in loco
40 parentis.

41 ~~(g) A person who is an employee, agent, or volunteer at any facility licensed or required~~
42 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~
43 ~~Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,~~
44 ~~relating to personal care homes, or who is required to be licensed pursuant to Code Section~~
45 ~~31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense~~
46 ~~of simple battery against a person who is admitted to or receiving services from such~~
47 ~~facility, person, or entity shall be punished for a misdemeanor of a high and aggravated~~
48 ~~nature.~~

49 ~~(h)~~(g) Any person who commits the offense of simple battery against a sports official
50 while such sports official is officiating an amateur contest or while such sports official is
51 on or exiting the property where he or she will officiate or has completed officiating an
52 amateur contest shall, upon conviction thereof, be punished for a misdemeanor of a high
53 and aggravated nature. For the purposes of this Code section, the term 'sports official'
54 means any person who officiates, umpires, or referees an amateur contest at the collegiate,
55 elementary or secondary school, or recreational level.

56 ~~(i)~~(h) Any person who commits the offense of simple battery against an employee of a
57 public school system of this state while such employee is engaged in official duties or on
58 school property shall, upon conviction of such offense, be punished for a misdemeanor of
59 a high and aggravated nature. For purposes of this Code section, 'school property' shall
60 include public school buses and stops for public school buses as designated by local school
61 boards of education."

62 **SECTION 2.**

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

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

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

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

82 **SECTION 3.**

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

85 "16-5-106.

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

91 (2) It shall be unlawful for any person or official required by subsection (a) of Code
92 Section 31-8-82 to report a case of disabled adult or elder person abuse or exploitation,
93 as those terms are defined in Code Section 31-8-81, to knowingly and willfully fail to
94 make a report in accordance with the requirements of Code Section 31-8-82.

95 (b) Any person violating the provisions of this Code section shall be guilty of a
96 misdemeanor.

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

98 **SECTION 4.**

99 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the protection
100 of disabled adults and elder persons, is amended by repealing and reserving Code Section
101 30-5-8, relating to criminal offenses and penalties.

102 **SECTION 5.**

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

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

107 (A) Any of the following offenses:

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

115 (B) A felony violation of:

- 116 (i) Chapter 5, 6, 8, 9, or 13 of Title 16;
- 117 (ii) Code Section 16-4-1;
- 118 (iii) Code Section 16-7-2; or
- 119 (iv) Subsection (f) of Code Section 31-7-12.1; or

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

123 **SECTION 6.**

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