

The Senate Committee on Public Safety offered the following substitute to SB 490:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and
2 traffic, so as to revise penalties for the offense of fleeing or attempting to elude a police
3 officer; to provide for related matters; to provide for an effective date and applicability; to
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
8 amended by revising Code Section 40-6-395, relating to fleeing or attempting to elude police
9 officer and impersonating law enforcement officer, as follows:

10 "40-6-395.

11 (a) It shall be unlawful for any driver of a vehicle willfully to fail or refuse to bring his or
12 her vehicle to a stop or otherwise to flee or attempt to elude a pursuing police vehicle or
13 police officer when given a visual or an audible signal to bring the vehicle to a stop. The
14 signal given by the police officer may be by hand, voice, emergency light, or siren. The
15 officer giving such signal shall be in uniform prominently displaying his or her badge of

16 office, and his or her vehicle shall be appropriately marked showing it to be an official
17 police vehicle.

18 (b)(1) Any person convicted of violating the provisions of subsection (a) of this Code
19 section ~~upon a first, second, or third conviction thereof shall be guilty of a high and~~
20 ~~aggravated misdemeanor and upon a fourth or subsequent conviction thereof shall be~~
21 ~~guilty of a felony and shall be punished as follows:~~

22 (A) Upon the first conviction shall be ~~fin~~ed guilty of a high and aggravated
23 misdemeanor and punished by a fine of not less than \$1,000.00 nor more than
24 \$5,000.00, ~~and the fine shall not be subject to suspension, stay, or probation, and~~
25 ~~imprisoned~~ confinement for not less than 30 days nor more than 12 months, or both.
26 The fine imposed pursuant to this subparagraph shall not be subject to suspension, stay,
27 or probation. Any period of such ~~imprisonment~~ confinement in excess of 30 days may,
28 in the sole discretion of the judge, be suspended, stayed, or probated;

29 (B) Upon the second conviction within a ten-year period of time, as measured from the
30 dates of previous arrests for which convictions were obtained to the date of the current
31 arrest for which a conviction is obtained, shall be ~~fin~~ed guilty of a high and aggravated
32 misdemeanor and punished by a fine of not less than \$2,500.00 nor more than
33 \$5,000.00, ~~and the fine shall not be subject to suspension, stay, or probation, and~~
34 ~~imprisoned~~ confinement for not less than 90 days nor more than 12 months, or both.
35 The fine imposed pursuant to this subparagraph shall not be subject to suspension, stay,
36 or probation. Any period of such ~~imprisonment~~ confinement in excess of 90 days may,
37 in the sole discretion of the judge, be suspended, stayed, or probated; and for purposes
38 of this paragraph, previous pleas of nolo contendere accepted within such ten-year
39 period shall constitute convictions; and

40 ~~(C) Upon the third conviction within a ten-year period of time, as measured from the~~
41 ~~dates of previous arrests for which convictions were obtained to the date of the current~~
42 ~~arrest for which a conviction is obtained, shall be fined not less than \$4,000.00 nor~~

43 ~~more than \$5,000.00, and the fine shall not be subject to suspension, stay, or probation,~~
44 ~~and imprisoned for not less than 180 days nor more than 12 months. Any period of~~
45 ~~such imprisonment in excess of 180 days may, in the sole discretion of the judge, be~~
46 ~~suspended, stayed, or probated; and for purposes of this paragraph, previous pleas of~~
47 ~~nolo contendere accepted within such ten-year period shall constitute convictions; and~~
48 ~~(D)(C)~~ Upon the ~~fourth~~ third or subsequent conviction within a ten-year period of time,
49 as measured from the ~~dates~~ date of any previous arrests for which convictions were
50 obtained to the date of the current arrest for which a conviction is obtained, shall be
51 fin~~ed~~ guilty of a felony and punished by a fine of not less than \$5,000.00 nor more than
52 \$10,000.00 and imprisoned, imprisonment for not less than ~~12 months~~ one year nor
53 more than ten years, or both.

54 (2) For the purpose of imposing a sentence under this subsection, a plea of guilty or nolo
55 contendere shall constitute a conviction.

56 (3) If the payment of the fine required under ~~subparagraphs~~ subparagraph (A) ~~through~~
57 ~~(C)~~ or (B) of paragraph (1) of this subsection will impose an economic hardship on the
58 defendant, the judge, at his or her sole discretion, may order the defendant to pay such
59 fine in installments and such order may be enforced through a contempt proceeding or
60 a revocation of any probation otherwise authorized by this subsection.

61 (4) Notwithstanding the limits set forth in any municipal charter, any municipal court of
62 any municipality shall be authorized to impose the punishments provided for in
63 subparagraphs (A) ~~through (C)~~ and B of paragraph (1) of this subsection upon a
64 conviction of violating such subparagraphs or upon conviction of violating any ordinance
65 adopting the provisions of such subparagraphs.

66 (c) Notwithstanding subparagraph (b)(1)(A) or (b)(1)(B) of this Code section, any Any
67 person violating the provisions of subsection (a) of this Code section who, while fleeing
68 or attempting to elude a pursuing police vehicle or police officer:

- 69 (1) Operates his or her vehicle in excess of 20 miles ~~an~~ per hour above the posted speed
70 limit;
- 71 (2) Strikes or collides with another vehicle or a pedestrian;
- 72 (3) Is the proximate cause of an accident;
- 73 (4) Flees in traffic conditions which place the general public at risk of receiving serious
74 injuries;
- 75 (5) Commits a violation of:
- 76 (A) Code Section 40-6-144;
- 77 (B) Subsection (a) of Code Section 40-6-163;
- 78 (C) Subsection (a) of Code Section 40-6-251;
- 79 (D) Subsection (a) of Code Section 40-6-390;
- 80 (E) Subsection (a) of Code Section 40-6-390.1; or
- 81 (F) Subsection (a) of Code Section 40-6-391; or
- 82 (6) Leaves the state
- 83 shall be guilty of a felony ~~punishable and punished~~ by a fine of not less than \$5,000.00 nor
84 more than \$10,000.00 ~~and~~, imprisonment for not less than ~~12 months~~ one year nor more
85 than ten years, or both.
- 86 (d) Following adjudication of guilt or imposition of sentence for a violation of
87 subparagraph ~~(b)(1)(D)~~ (b)(1)(C) or subsection (c) of this Code section, the sentence shall
88 not be suspended, probated, deferred, or withheld, and the charge shall not be reduced to
89 a lesser offense, merged with any other offense, or served concurrently with any other
90 offense.
- 91 (e) It shall be unlawful for a person:
- 92 (1) To impersonate a sheriff, deputy sheriff, state trooper, agent of the Georgia Bureau
93 of Investigation, agent of the Federal Bureau of Investigation, police officer, or any other
94 authorized law enforcement officer by using a motor vehicle, motorcycle, or blue light

95 designed, equipped, or marked so as to resemble a motor vehicle, motorcycle, or blue
96 light belonging to any federal, state, or local law enforcement agency; or
97 (2) Otherwise to impersonate any such law enforcement officer in order to direct, stop,
98 or otherwise control traffic."

99 **SECTION 2.**

100 This Act shall become effective on July 1, 2024, and shall apply to all offenses committed
101 on or after such date.

102 **SECTION 3.**

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