

House Bill 452 (AS PASSED HOUSE AND SENATE)

By: Representatives Petrea of the 166th, Hitchens of the 161st, Powell of the 32nd, Reeves of the 34th, Clark of the 147th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to repeal certain provisions relating to domestic terrorism and penalty; to
3 provide for the crime of domestic terrorism; to provide for definitions; to provide for
4 penalties; to provide for venue and jurisdiction for prosecutions; to change provisions
5 relating to possessing, transporting, or receiving explosives or destructive devices with intent
6 to kill, injure, or intimidate individuals or destroy public buildings; to change provisions
7 relating to disclosures by service providers pursuant to investigations; to amend Code Section
8 17-10-30 of the Official Code of Georgia Annotated, relating to the procedure for imposition
9 of the death penalty generally, so as to provide for domestic terrorism to be a statutory
10 aggravating circumstance; to amend Title 35 of the Official Code of Georgia Annotated,
11 relating to law enforcement officers and agencies, so as to provide for training in identifying
12 domestic terrorism and reporting information to the Georgia Information Sharing and
13 Analysis Center; to require the bureau to publicly post and share certain information from
14 the Law Enforcement Notification System of the Enforcement Integrated Database of the
15 United States Department of Homeland Security to the extent permitted by federal law; to
16 provide for a short title; to provide for related matters; to repeal conflicting laws; and for
17 other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **PART I**

20 **SECTION 1-1.**

21 This Act shall be known and may be cited as the "Protect Georgia Act."

22 **PART II**

23 **SECTION 2-1.**

24 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
25 amended by repealing Code Section 16-4-10, relating to domestic terrorism and penalty.

26 **SECTION 2-2.**

27 Said title is further amended by revising Chapter 11 of Title 16 of the Official Code of
28 Georgia Annotated, relating to offenses against public order and safety, by adding a new
29 article to read as follows:

30 "ARTICLE 6

31 16-11-220.

32 As used in this article, the term:

33 (1) 'Critical infrastructure' means publicly or privately owned facilities, systems,
34 functions, or assets, whether physical or virtual, providing or distributing services for the
35 benefit of the public, including, but not limited to, energy, fuel, water, agriculture, health
36 care, finance, or communication.

37 (2) 'Domestic terrorism' means any felony violation of, or attempt to commit a felony
38 violation of the laws of this state which, as part of a single unlawful act or a series of
39 unlawful acts which are interrelated by distinguishing characteristics, is intended to cause
40 serious bodily harm, kill any individual or group of individuals, or disable or destroy
41 critical infrastructure, a state or government facility, or a public transportation system
42 when such disability or destruction results in major economic loss, and is intended to:

43 (A) Intimidate the civilian population of this state or any of its political subdivisions;

44 (B) Alter, change, or coerce the policy of the government of this state or any of its
45 political subdivisions by intimidation or coercion; or

46 (C) Affect the conduct of the government of this state or any of its political
47 subdivisions by use of destructive devices, assassination, or kidnapping.

48 (3) 'Public transportation system' means all facilities, conveyances, and instrumentalities,
49 whether publicly or privately owned, that are used in or for publicly available services
50 for the transportation of individuals or cargo.

51 (4) 'Serious bodily harm' means harm to the body of another by depriving him or her of
52 a member of his or her body, by rendering a member of his or her body useless, or by
53 seriously disfiguring his or her body or a member thereof.

54 (5) 'State or government facility' means any permanent or temporary facility or
55 conveyance that is used or occupied by representatives of this state or any of its political
56 subdivisions, by the legislature, by the judiciary, or by officials or employees of this state
57 or any of its political subdivisions.

58 16-11-221.

59 (a) Any person who commits domestic terrorism shall be guilty of a felony and upon
60 conviction thereof shall be punished as follows:

61 (1) If death results to any individual, by death, by imprisonment for life without parole,
 62 or by imprisonment for life;

63 (2) If kidnapping occurs, by imprisonment for not less than 15 nor more than 35 years,
 64 or by imprisonment for life;

65 (3) If serious bodily harm occurs, by imprisonment for not less than 15 nor more than 35
 66 years; or

67 (4) If critical infrastructure, a state or government facility, or a public transportation
 68 system is disabled or destroyed, by imprisonment for not less than five nor more than 35
 69 years.

70 (b) No sentence imposed under this Code section shall be suspended, stayed, probated,
 71 deferred, or withheld by the sentencing court; provided, however, that in the court's
 72 discretion, the court may suspend, stay, probate, defer, or withhold part of such sentence
 73 when the prosecuting attorney and the defendant have agreed to such sentence.

74 16-11-222.

75 A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1 for
 76 any conduct made unlawful by this article which the person engages in while:

77 (1) Either within or outside of this state if, by such conduct, the person commits a
 78 violation of this article which involves an individual who resides in this state or which
 79 involves critical infrastructure, a state or government facility, or a public transportation
 80 system located in this state; or

81 (2) Within this state if, by such conduct, the person commits a violation of this article
 82 which involves an individual who resides within or outside this state or which involves
 83 critical infrastructure, a state or government facility, or a public transportation system
 84 located in this state.

85 16-11-223.

86 The Attorney General shall have concurrent jurisdiction with district attorneys to conduct
 87 the criminal prosecution of a violation of this article.

88 16-11-224.

89 This article shall not be construed to infringe upon constitutionally protected speech or
 90 assembly."

91 **PART III**
 92 **SECTION 3-1.**

93 Said title is further amended by revising paragraph (1) of Code Section 16-7-80, relating to
 94 definitions, and adding new paragraphs to read as follows:

95 "(1) 'Bacteriological weapon' or 'biological weapon' means:

96 (A) The following toxic chemicals:

97 (i) O-Alkyl (\leq C10, including cycloalkyl) alkyl (Me, Et, n-Pr or
 98 i-Pr)-phosphonofluoridates; e.g., Sarin: O-Isopropyl methylphosphonofluoridate,
 99 Soman: O-Pinacolyl methylphosphonofluoridate;

100 (ii) O-Alkyl (\leq C10, including cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr)
 101 phosphoramidocyanidates; e.g., Tabun: O-Ethyl N,N-dimethyl
 102 phosphoramidocyanidate;

103 (iii) O-Alkyl (H or \leq C10, including cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or
 104 i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding
 105 alkylated or protonated salts; e.g., VX: O-Ethyl S-2-diisopropylaminoethyl methyl
 106 phosphonothiolate;

107 (B) Sulfur mustards:

108 (i) 2-Chloroethylchloromethylsulfide;

109 (ii) Mustard gas: Bis(2-chloroethyl)sulfide;

110 (iii) Bis(2-chloroethylthio)methane;

111 (iv) Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane;

112 (v) 1,3-Bis(2-chloroethylthio)-n-propane;

113 (vi) 1,4-Bis(2-chloroethylthio)-n-butane;

114 (vii) 1,5 Bis(2-chloroethylthio)-n-pentane;

115 (viii) Bis(2-chloroethylthiomethyl)ether;

116 (ix) O-Mustard: Bis(2-chloroethylthioethyl)ether;

117 (C) Lewisites:

118 (i) Lewisite 1: 2-Chlorovinylchloroarsine;

119 (ii) Lewisite 2: Bis(2-chlorovinyl)chloroarsine;

120 (iii) Lewisite 3: Tris(2-chlorovinyl)arsine;

121 (D) Nitrogen mustards:

122 (i) HN1: Bis(2-chloroethyl)ethylamine;

123 (ii) HN2: Bis(2-chloroethyl)methylamine;

124 (iii) HN3: Tris(2-chloroethyl)amine;

125 (E) Saxitoxin;

126 (F) Ricin;

127 (G) Precursors:

128 (i) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides; e.g., DF:
 129 Methylphosphonyldifluoride;

130 (ii) O-Alkyl (H or ≤C10, including cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or
 131 i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding
 132 alkylated or protonated salts; e.g., QL: O-Ethyl O-2-diisopropylaminoethyl
 133 methylphosphonite;

134 (iii) Chlorosarin: O-Isopropyl methylphosphonochloridate;

135 (iv) Chlorosoman: O-Pinacolyl methylphosphonochloridate; or

136 (H) Any any device which is designed in such a manner as to permit the intentional
 137 release into the population or environment of microbial or other biological agents or
 138 toxins or vectors whatever their origin or method of production in a manner not
 139 otherwise authorized by law or any device the development, production, or stockpiling
 140 of which is prohibited pursuant to the 'Convention on the Prohibition of the
 141 Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin
 142 Weapons and Their Destruction,' 26 U.S.T. 583, TIAS 8063.

143 (1.1) "Biological agent" means any microorganism, including, but not limited to, bacteria,
 144 viruses, fungi, rickettsiae or protozoa, or infectious substance, or any naturally occurring,
 145 bioengineered or synthesized component of any such microorganism or infectious
 146 substance, capable of causing:

147 (A) Death, disease, or other biological malfunction in a human, an animal, a plant, or
 148 another living organism;

149 (B) Deterioration of food, water, equipment, supplies, or material of any kind; or

150 (C) Deleterious alteration of the environment."

151 "(16.1) 'Toxin' means the toxic material or product of plants, animals, microorganisms,
 152 including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa, or infectious
 153 substances, or a recombinant or synthesized molecule, whatever their origin and method
 154 of production, and includes:

155 (A) Any poisonous substance or biological product that may be engineered as a result
 156 of biotechnology produced by a living organism; or

157 (B) Any poisonous isomer or biological product, homologue, or derivative of such a
 158 substance.

159 (16.2) 'Vector' means a living organism, or molecule, including a recombinant or
 160 synthesized molecule, capable of carrying a biological agent or toxin to a host."

161 **SECTION 3-2.**

162 Said title is further amended by revising subsection (a) of Code Section 16-7-88, relating to
 163 possessing, transporting, or receiving explosives or destructive devices with intent to kill,
 164 injure, or intimidate individuals or destroy public buildings, sentencing, and enhanced
 165 penalties, as follows:

166 "(a) Any person who possesses, transports, or receives or attempts to possess, transport,
 167 or receive any destructive device, ~~or explosive, bacteriological weapon, or biological~~
 168 weapon with the knowledge or intent that it will be used to kill, injure, or intimidate any
 169 individual or to destroy any public building shall be punished by imprisonment for not less
 170 than ten nor more than 20 years or by a fine of not more than \$125,000.00 or both or, if the
 171 defendant is a corporation, by a fine of not less than \$125,000.00 nor more than
 172 \$200,000.00 or sentenced to perform not fewer than 10,000 nor more than 20,000 hours of
 173 community service or both."

174 **SECTION 3-3.**

175 Said title is further amended by revising subsection (a) of Code Section 16-9-109, relating
 176 to disclosures by service providers pursuant to investigations, as follows:

177 "(a) Any law enforcement unit, the Attorney General, or any district attorney who is
 178 conducting an investigation of a violation of this article or an investigation of a violation
 179 of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, ~~or 16-5-90, or 16-11-221~~, Article 8
 180 of Chapter 5 of this title, or Article 8 of this chapter involving the use of a computer,
 181 cellular telephone, or any other electronic device used in furtherance of the act may require
 182 the disclosure by a provider of electronic communication service or remote computing
 183 service of the contents of a wire or electronic communication that is in electronic storage
 184 in an electronic communications system for 180 days or less pursuant to a search warrant
 185 issued under the provisions of Article 2 of Chapter 5 of Title 17 by a court with jurisdiction
 186 over the offense under investigation. Such court may require the disclosure by a provider
 187 of electronic communication service or remote computing service of the contents of a wire
 188 or electronic communication that has been in electronic storage in an electronic
 189 communications system for more than 180 days as set forth in subsection (b) of this Code
 190 section."

191 **PART IV**

192 **SECTION 4-1.**

193 Code Section 17-10-30 of the Official Code of Georgia Annotated, relating to the procedure
 194 for imposition of the death penalty generally, is amended in subsection (b) by deleting "or"
 195 at the end of paragraph (10), by replacing the period with "; or" at the end of paragraph (11),
 196 and by adding a new paragraph to read as follows:

197 "(12) The murder was committed during an act of domestic terrorism."

198

PART V

199

SECTION 5-1.

200 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
201 agencies, is amended by adding a new Code section to read as follows:

202 "35-1-21.

203 (a) The Georgia Peace Officer Standards and Training Council and the Georgia Public
204 Safety Training Center shall establish guidelines and procedures for the incorporation of
205 training materials and information in methods for:

206 (1) Identifying and reporting activity that may lead to domestic terrorism;

207 (2) Combating domestic terrorism; and

208 (3) Individuals, law enforcement officials, and personnel within state agencies and
209 departments and local governments to provide information to the Georgia Information
210 Sharing and Analysis Center to report activity that may lead to domestic terrorism.

211 (b) The guidelines and procedures listed in subsection (a) of this Code section shall be for
212 use by law enforcement training centers monitored by the Georgia Peace Officer Standards
213 and Training Council and monitored and funded by the Georgia Public Safety Training
214 Center in all courses for which they have responsibility and oversight."

215

SECTION 5-2.

216 Said title is further amended by adding a new Code section to read as follows:

217 "35-3-14.

218 To the extent permitted by federal law, the bureau shall post on its public website the
219 information of persons who are aliens and who have been released from federal custody
220 within the boundaries of this state, as such information is presented within the Law
221 Enforcement Notification System of the Enforcement Integrated Database of the United
222 States Department of Homeland Security or the National Law Enforcement
223 Telecommunications System as received by the Georgia Information Sharing and Analysis
224 Center within the bureau or any replacement agency. Within 12 hours of receiving such
225 information, the bureau shall post such information as required by this Code section and
226 electronically send a copy of such information to the Georgia Sheriffs' Association. The
227 bureau shall promulgate rules and regulations for the implementation of this Code section."

228

PART VI

229

SECTION 6-1.

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