

The Senate Committee on Judiciary offered the following substitute to HB 505:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to justification and excuse, so as to provide for an affirmative defense in certain  
3 instances when an operator of a motor vehicle causes property damage, bodily harm, or death  
4 during flight from a riot; to provide for a burden of proof; to amend Chapter 11 of Title 16  
5 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to provide  
6 for a felony penalty for the offense of rioting; to provide for criminal offenses related to  
7 material support of terrorism; to provide for penalties; to provide for legislative intent; to  
8 provide for the creation of guidelines for law enforcement investigations; to provide for  
9 definitions; to amend Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia  
10 Annotated, relating to general provisions regarding bonds and recognizances, so as to include  
11 rioting as an offense only bailable before a superior court judge; to amend Article 1 of  
12 Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to general  
13 provisions relative to defense to tort actions, so as to provide for civil immunity in certain  
14 instances during flight from a riot; to provide for a burden of proof; to provide limitation on  
15 related actions; to provide for related matters; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18

**SECTION 1.**

19 Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to  
20 justification and excuse, is amended by adding a new Code section to read as follows:

21 "16-3-21.2.

22 (a) For purposes of this Code section, the term 'riot' shall have the same meaning as  
23 provided for rioting as described in Code Section 16-11-30.

24 (b)(1) An operator of a motor vehicle who causes property damage, bodily harm, or  
25 death against another while fleeing from a riot shall be immune from prosecution when  
26 he or she reasonably believes that such flight is necessary to protect his or her motor  
27 vehicle or himself or herself from bodily harm or death; provided, however, that such  
28 operator of a motor vehicle shall not be immune where it is shown that his or her actions  
29 manifested an intentional, grossly negligent, willful, reckless, or wanton disregard for life  
30 or property.

31 (2) For purposes of establishing the affirmative defense of justification as provided in  
32 this subsection, reasonable belief may be established by a preponderance of the evidence  
33 where the victim of the alleged property damage, bodily harm, or death was engaged in  
34 a riot at the time of such damage or harm; provided, however, that reasonable belief shall  
35 be established where such victim is convicted of or who pleads guilty to a violation  
36 arising from the same facts or circumstances which form the basis for the criminal  
37 prosecution against such operator of the motor vehicle.

38 (c) Upon motion by the defendant raising the defense of justification as provided by  
39 subsection (b) of this Code section, the court shall stay the criminal prosecution against the  
40 defendant during the pendency of the case against such victim unless the court finds that  
41 a conviction in the criminal prosecution would not form a valid defense."

42

**SECTION 2.**

43 Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to crimes and  
44 offenses, is amended by repealing Code Section 16-11-30, relating to riot, and enacting a  
45 new Code section to read as follows:

46 "16-11-30.

47 (a) A person commits the offense of rioting when he or she engages in a public disturbance  
48 involving an assemblage of 10 or more persons that, by tumultuous and violent conduct:

49 (1) Results in grave danger to persons and actual damage to property, or theft, that  
50 exceeds \$5,000.00;

51 (2) Obstructs the performance of a governmental function; or

52 (3) Results in grave danger of damage or injury to property or persons for the purpose  
53 of intimidation of a governmental employee.

54 (b) A person who commits an offense under this Code section shall be guilty of a felony  
55 and, upon conviction thereof, shall be punished by imprisonment for not less than one year  
56 nor more than ten years.

57 (c) A person who abandons, or withdraws from, a riot when he or she reasonably becomes  
58 aware that such situation is no longer a lawful or peaceful protest shall not be subject to this  
59 offense."

60

**SECTION 3.**

61 Said chapter is further amended by adding a new article to read as follows:

62

"ARTICLE 7

63 16-11-230.

64 (a) As used in this article, the term:

65 (1) 'Act of terrorism' means an activity that:

- 66 (A) Involves violent acts that are dangerous to human life and are a violation of the  
67 criminal laws of the United States or of any state; and
- 68 (B) Is intended to:
- 69 (i) Intimidate, injure, or coerce a civilian population;  
70 (ii) Influence the policy of a government by intimidation or coercion; or  
71 (iii) Affect the conduct of government through mass destruction, assassination, or  
72 kidnapping.
- 73 (2) 'Designated foreign terrorist organization' means an organization designated as a  
74 terrorist organization under 8 U.S.C. Section 1189.
- 75 (3) 'Expert advice or assistance' means advice or assistance derived from scientific,  
76 technical, or other specialized knowledge.
- 77 (4) 'Material support or resources' means any property, tangible or intangible, or service,  
78 including currency or monetary instruments or financial securities, financial services,  
79 lodging, training, expert advice or assistance, safe houses, false documentation or  
80 identification, communications equipment, facilities, weapons, lethal substances,  
81 explosives, personnel, or transportation. Such term does not include medicine or  
82 religious materials.
- 83 (5) 'Training' means instruction or teaching designed to impart a specific skill rather than  
84 general knowledge.
- 85 (b) A person commits a felony punishable by imprisonment for not more than 20 years or  
86 a fine of not more than \$100,000.00, or both, if the person:
- 87 (1) Provides material support or resources or conceals or disguises the nature, location,  
88 source, or ownership of the material support or resources, knowing or intending that the  
89 support or resources are to be used in preparation for or in carrying out an act of  
90 terrorism;
- 91 (2) Conceals an escape from the commission of a violation of paragraph (1) of this  
92 subsection; or

93 (3) Attempts or conspires to commit a violation of paragraph (1) of this subsection.

94 (c) A person who knowingly provides material support or resources to a designated foreign  
95 terrorist organization, or attempts or conspires to do so, commits a felony punishable by  
96 imprisonment for not more than 20 years or a fine of not more than \$100,000.00, or both.

97 To violate this subsection, a person shall have knowledge that the organization is a  
98 designated foreign terrorist organization or that the organization has engaged in or engages  
99 in acts of terrorism.

100 (d)(1) For purposes of prosecution under subsection (b) or (c) of this Code section, a  
101 person is deemed to provide material support or resources by providing personnel if the  
102 person knowingly provides, attempts to provide, or conspires to provide himself or  
103 herself or another person to:

104 (A) Work under the direction and control of a designated foreign terrorist organization  
105 or a person engaged in, or intending to engage in, an act of terrorism; or

106 (B) Organize, manage, supervise, or otherwise direct the operations of a designated  
107 foreign terrorist organization or a person engaged in, or intending to engage in, an act  
108 of terrorism.

109 (2) An individual who acts entirely independently of the designated foreign terrorist  
110 organization or the person engaged in, or intending to engage in, an act of terrorism to  
111 advance the organization's or person's goals or objectives is not working under the  
112 direction and control of the designated foreign terrorist organization or person engaged  
113 in, or intending to engage in, an act of terrorism.

114 (e) A person shall not be prosecuted under this article if his or her activity was authorized  
115 by a governmental or law enforcement agency of this state or of the United States in the  
116 agency's official capacity and pursuant to a lawful purpose or if the activity is that of an  
117 attorney who is authorized to practice law and is arranging or providing legal services to  
118 an individual who is accused of a violation of a criminal law of the United States or this  
119 state.

120 (f) It is the intent of the General Assembly that subsections (b) and (c) of this Code section  
121 be interpreted in a manner consistent with federal case law interpreting 18 U.S.C. Sections  
122 2339A and 2339B.

123 (g) The Attorney General shall create guidelines for law enforcement investigations  
124 conducted pursuant to this article to ensure the protection of privacy rights, civil rights, and  
125 civil liberties."

126 **SECTION 4.**

127 Article 1 of Chapter 6 of Title 17 of the Official Code of Georgia Annotated, relating to  
128 general provisions regarding bonds and recognizances, is amended by revising paragraphs  
129 (13) and (14) and adding a new paragraph to subsection (a) of Code Section 17-6-1, relating  
130 to when offenses bailable, procedure, schedule of bails, and appeal bonds, to read as follows:

131 "(13) Violating Code Section 16-5-46; ~~and~~

132 (14) Violations of Chapter 15 of Title 16; and

133 (15) Rioting."

134 **SECTION 5.**

135 Article 1 of Chapter 11 of Title 51 of the Official Code of Georgia Annotated, relating to  
136 general provisions relative to defense to tort actions, is amended by adding a new Code  
137 section to read as follows:

138 "51-11-11.

139 (a) For purposes of this Code section, the term 'riot' shall have the meaning set forth in  
140 Code Section 16-11-30.

141 (b)(1) An operator of a motor vehicle who causes property damage, bodily harm, or  
142 death against another while fleeing from a riot shall be immune from civil liability when  
143 he or she reasonably believes that such flight was necessary to protect his or her motor  
144 vehicle or himself or herself from bodily harm or death, unless it is shown that his or her

145 actions manifested an intentional, grossly negligent, willful, reckless, or wanton disregard  
146 for life or property.

147 (2) For purposes of establishing immunity as provided for in paragraph (1) of this  
148 subsection, reasonable belief may be established by a preponderance of the evidence that  
149 the claimant bringing suit against the operator of the motor vehicle was engaged in a riot  
150 at the time of the harm or damage; provided, however, that reasonable belief shall be  
151 established where such claimant is convicted of or who pleads guilty to a violation arising  
152 from the same facts or circumstances which form the basis for the claim by the claimant  
153 against the operator of the motor vehicle.

154 (c) Pursuant to subsection (b) of this Code section, any civil action against such operator  
155 of a motor vehicle shall be stayed upon motion of such operator, during the pendency of  
156 the criminal prosecution that forms the basis for the claim.

157 (d) The running of the period of limitations with respect to any cause of action in tort that  
158 may be brought by the person charged with an alleged crime or act, and is later found not  
159 guilty of such alleged crime or act or where all of the charges against such person are  
160 dismissed or nolle prossed, which arises out of the facts and circumstances relating to the  
161 commission of such alleged crime committed in this state, shall have been tolled from the  
162 date of the commission of the alleged crime or the act giving rise to such action in tort until  
163 the prosecution of such crime or act has become final or otherwise terminated, provided  
164 that such time does not exceed six years, except as otherwise provided in Code Section  
165 9-3-33.1."

166 **SECTION 6.**

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

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**SECTION 7.**

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