

Senate Bill 160

By: Senators Harper of the 7th, Shafer of the 48th, Mullis of the 53rd, Kirk of the 13th, Cowsert of the 46th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the
2 Juvenile Code, so as to revise the jurisdiction, definition, and penalties for certain crimes and
3 offenses; to add to the superior court's exclusive original jurisdiction the trial of any child 13
4 to 17 years of age who is alleged to have committed the offense of aggravated assault or
5 aggravated battery upon a peace officer while the peace officer is engaged in, or on account
6 of the performance of, his or her official duties; to clarify the definition of a class A
7 designated felony act in light of the jurisdictional changes; to amend Title 16 of the Official
8 Code of Georgia Annotated, relating to crimes and offenses, so as to provide for definitions;
9 to provide for the offenses of aggravated assault and aggravated battery upon a public safety
10 officer while the public safety officer is engaged in, or on account of the performance of, his
11 or her official duties; to revise the offenses of aggravated assault and aggravated battery upon
12 various law enforcement officials into aggravated assault and aggravated battery upon a
13 public safety officer while the public safety officer is engaged in, or on account of the
14 performance of, his or her official duties, respectively; to provide for sentencing to minimum
15 terms of imprisonment for persons who knowingly commit the offense of aggravated assault
16 upon a public safety officer through the use of weapons, objects, or devices; to provide for
17 the offense of, and criminal penalties for, knowingly and willfully resisting, obstructing, or
18 opposing certain law enforcement officers by placing upon such law enforcement officers
19 certain human or animal excreta; to provide for enhanced penalties for the offense of
20 resisting, obstructing, or opposing certain law enforcement officers by offering or doing
21 violence to the person of such law enforcement officers; to increase the penalties for the
22 offense of obstructing highways, streets, sidewalks, or other public passages; to provide for
23 a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

24 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

25 **SECTION 1.**

26 This Act shall be known and may be cited as the "Back the Badge Act of 2017."

27 **SECTION 2.**

28 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
29 Code, is amended in Code Section 15-11-2, relating to definitions, by revising subparagraphs
30 (A) and (B) of paragraph (12) as follows:

31 "(A) Aggravated assault in violation of paragraph (1), (3), or (4) of subsection ~~(b)~~ (a)
32 or subsection (d); ~~(e)~~; ~~(f)~~; ~~(j)~~; or ~~(m)~~ (h) of Code Section 16-5-21 or assault with a
33 deadly weapon or with any object, device, or instrument which, when used offensively
34 against a person, actually does result in serious bodily injury unless such assault was
35 a violation of subsection (c) of Code Section 16-5-21;

36 (B) Aggravated battery not involving a violation of subsection (c) of Code Section
37 16-5-24;"

38 **SECTION 3.**

39 Said chapter is further amended in Code Section 15-11-560, relating to concurrent and
40 original jurisdiction of superior court, by revising subsection (b) and paragraph (1) of
41 subsection (e) as follows:

42 "(b) The superior court shall have exclusive original jurisdiction over the trial of any child
43 13 to 17 years of age who is alleged to have committed any of the following offenses:

- 44 (1) Murder;
- 45 (2) Murder in the second degree;
- 46 (3) Voluntary manslaughter;
- 47 (4) Rape;
- 48 (5) Aggravated sodomy;
- 49 (6) Aggravated child molestation;
- 50 (7) Aggravated sexual battery; or
- 51 (8) Armed robbery if committed with a firearm;
- 52 (9) Aggravated assault upon a public safety officer while the public safety officer is
53 engaged in, or on account of the performance of, his or her official duties in violation of
54 subsection (c) of Code Section 16-5-21; or
- 55 (10) Aggravated battery upon a public safety officer while the public safety officer is
56 engaged in, or on account of the performance of, his or her official duties in violation of
57 subsection (c) of Code Section 16-5-24."

58 **SECTION 4.**

59 Said chapter is further amended in Code Section 15-11-561, relating to waiver of juvenile
60 court jurisdiction and transfer to superior court, by revising subsection (a) as follows:

61 "(a) After a petition alleging delinquency has been filed but before the adjudication
 62 hearing, on its own motion or on a motion by a prosecuting attorney, the court may
 63 convene a hearing to determine whether to transfer the offense to the appropriate superior
 64 court for criminal trial if the court determines that:

65 (1) There is probable cause to believe that a child committed the alleged offense;

66 (2) Such child is not committable to an institution for the developmentally disabled or
 67 mentally ill; and

68 (3) The petition alleges that such child:

69 (A) Was at least 15 years of age at the time of the commission of the offense and
 70 committed an act which would be a felony if committed by an adult; or

71 (B) Was 13 or 14 years of age and either committed an act for which the punishment
 72 is loss of life or confinement for life in a penal institution or committed aggravated
 73 battery resulting in serious bodily injury to a an alleged victim who is not a public
 74 safety officer."

75 SECTION 5.

76 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 77 amended in Article 2 of Chapter 5, relating to assault and battery, by adding a new Code
 78 section to read as follows:

79 "16-5-19.

80 As used in this article, the term:

81 (1) 'Correctional officer' shall include superintendents, wardens, deputy wardens, guards,
 82 and correctional officers of state, county, and municipal penal institutions who are
 83 certified by the Georgia Peace Officer Standards and Training Council pursuant to
 84 Chapter 8 of Title 35 and employees of the Department of Juvenile Justice who are
 85 known to be employees of the department or who have given reasonable identification
 86 of their employment. The term 'correctional officer' shall also include county jail officers
 87 who are certified or registered by the Georgia Peace Officer Standards and Training
 88 Council pursuant to Chapter 8 of Title 35.

89 (2) 'Emergency health worker' means hospital emergency department personnel and
 90 emergency medical services personnel.

91 (3) 'Firefighter' shall have the same meaning as provided for in Code Section 25-4-2.

92 (4) 'Highway emergency response operator' means an individual employed by the
 93 Department of Transportation who performs freeway service patrols.

94 (5) 'Officer of the court' means a judge, attorney, clerk of court, deputy clerk of court,
 95 court reporter, court interpreter, community supervision officer, county or Department

96 of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to
 97 Article 6 of Chapter 8 of Title 42.

98 (6) 'Public safety officer' means peace officer, correctional officer, emergency health
 99 worker, firefighter, highway emergency response operator, or officer of the court.

100 (7) 'Strangulation' means impeding the normal breathing or circulation of blood of
 101 another person by applying pressure to the throat or neck of such person or by obstructing
 102 the nose and mouth of such person."

103 SECTION 6.

104 Said title is further amended by revising Code Section 16-5-21, relating to aggravated
 105 assault, as follows:

106 "16-5-21.

107 (a) ~~As used in this Code section, the term 'strangulation' means impeding the normal~~
 108 ~~breathing or circulation of blood of another person by applying pressure to the throat or~~
 109 ~~neck of such person or by obstructing the nose and mouth of such person.~~

110 (b) A person commits the offense of aggravated assault when he or she assaults:

111 (1) With intent to murder, to rape, or to rob;

112 (2) With a deadly weapon or with any object, device, or instrument which, when used
 113 offensively against a person, is likely to or actually does result in serious bodily injury;

114 (3) With any object, device, or instrument which, when used offensively against a
 115 person, is likely to or actually does result in strangulation; or

116 (4) A person or persons without legal justification by discharging a firearm from within
 117 a motor vehicle toward a person or persons.

118 (c)(b) Except as provided in subsections (d) (c) through (j) of this Code section, a
 119 person convicted of the offense of aggravated assault shall be punished by imprisonment
 120 for not less than one nor more than 20 years.

121 (d)(c) A person who knowingly commits the offense of aggravated assault upon a ~~peace~~
 122 ~~public safety~~ officer while the ~~peace~~ public safety officer is engaged in, or on account of
 123 the performance of, his or her official duties shall, upon conviction thereof, be punished
 124 by imprisonment for not less than five nor more than 20 years. No portion of the minimum
 125 term of imprisonment imposed upon a person who violates this subsection through the use
 126 of any weapon, object, or device, other than such person's hands, shall be suspended,
 127 stayed, probated, deferred, or otherwise withheld by the sentencing judge.

128 (e)(d) Any person who commits the offense of aggravated assault against a person who is
 129 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for
 130 not less than three nor more than 20 years.

131 ~~(f)(1) As used in this subsection, the term 'correctional officer' shall include~~
 132 ~~superintendents, wardens, deputy wardens, guards, and correctional officers of state,~~
 133 ~~county, and municipal penal institutions who are certified by the Georgia Peace Officer~~
 134 ~~Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the~~
 135 ~~Department of Juvenile Justice who are known to be employees of the department or who~~
 136 ~~have given reasonable identification of their employment. The term 'correctional officer'~~
 137 ~~shall also include county jail officers who are certified or registered by the Georgia Peace~~
 138 ~~Officer Standards and Training Council pursuant to Chapter 8 of Title 35.~~

139 ~~(2) A person who knowingly commits the offense of aggravated assault upon a~~
 140 ~~correctional officer while the correctional officer is engaged in, or on account of the~~
 141 ~~performance of, his or her official duties shall, upon conviction thereof, be punished by~~
 142 ~~imprisonment for not less than five nor more than 20 years.~~

143 ~~(g)~~(e) Any person who commits the offense of aggravated assault in a public transit
 144 vehicle or station shall, upon conviction thereof, be punished by imprisonment for not less
 145 than three nor more than 20 years. For purposes of this Code section, 'public transit
 146 vehicle' has the same meaning as in subsection (c) of Code Section 16-5-20.

147 ~~(h)~~(f) Any person who commits the offense of aggravated assault upon a person in the
 148 course of violating Code Section 16-8-2 where the property that was the subject of the theft
 149 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,
 150 including without limitation any such trailer, semitrailer, container, or other associated
 151 equipment, or the cargo being transported therein or thereon, shall upon conviction be
 152 punished by imprisonment for not less than five nor more than 20 years, a fine not less than
 153 \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For purposes
 154 of this subsection, the term 'vehicle' includes without limitation any railcar.

155 ~~(i)~~(g) A person convicted of an offense described in paragraph (4) of subsection ~~(b)~~ (a) of
 156 this Code section shall be punished by imprisonment for not less than five nor more than
 157 20 years.

158 ~~(j)~~(h) Any person who commits the offense of aggravated assault involving the use of a
 159 firearm upon a student or teacher or other school personnel within a school safety zone as
 160 defined in Code Section 16-11-127.1 shall, upon conviction thereof, be punished by
 161 imprisonment for not less than five nor more than 20 years.

162 ~~(k)~~(i) If the offense of aggravated assault is committed between past or present spouses,
 163 persons who are parents of the same child, parents and children, stepparents and
 164 stepchildren, foster parents and foster children, or other persons excluding siblings living
 165 or formerly living in the same household, the defendant shall be punished by imprisonment
 166 for not less than three nor more than 20 years.

167 ~~(h)(j)~~ Any person who commits the offense of aggravated assault with intent to rape against
 168 a child under the age of 14 years shall be punished by imprisonment for not less than 25
 169 nor more than 50 years. Any person convicted under this subsection shall, in addition, be
 170 subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

171 ~~(m) A person who knowingly commits the offense of aggravated assault upon an officer~~
 172 ~~of the court while such officer is engaged in, or on account of the performance of, his or~~
 173 ~~her official duties shall, upon conviction thereof, be punished by imprisonment for not less~~
 174 ~~than five nor more than 20 years. As used in this subsection, the term 'officer of the court'~~
 175 ~~means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court~~
 176 ~~interpreter, community supervision officer, county or Department of Juvenile Justice~~
 177 ~~juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8~~
 178 ~~of Title 42.~~

179 ~~(n) A person who knowingly commits the offense of aggravated assault upon an~~
 180 ~~emergency health worker while the worker is engaged in, or on account of the performance~~
 181 ~~of, his or her official duties shall, upon conviction thereof, be punished by imprisonment~~
 182 ~~for not less than five nor more than 20 years. As used in this subsection, the term~~
 183 ~~'emergency health worker' means hospital emergency department personnel and emergency~~
 184 ~~medical services personnel."~~

185 **SECTION 7.**

186 Said title is further amended by revising Code Section 16-5-24, relating to aggravated
 187 battery, as follows:

188 "16-5-24.

189 (a) A person commits the offense of aggravated battery when he or she maliciously causes
 190 bodily harm to another by depriving him or her of a member of his or her body, by
 191 rendering a member of his or her body useless, or by seriously disfiguring his or her body
 192 or a member thereof.

193 (b) Except as provided in subsections (c) through ~~(f)~~ (g) of this Code section, a person
 194 convicted of the offense of aggravated battery shall be punished by imprisonment for not
 195 less than one nor more than 20 years.

196 (c) A person who knowingly commits the offense of aggravated battery upon a ~~peace~~
 197 public safety officer while the public safety officer is engaged in, or on account of the
 198 performance of, his or her official duties shall, upon conviction thereof, be punished by
 199 imprisonment for not less than ten nor more than 20 years. The term of imprisonment
 200 imposed pursuant to this subsection shall not be suspended, stayed, probated, deferred, or
 201 otherwise withheld by the sentencing judge.

202 (d) Any person who commits the offense of aggravated battery against a person who is 65
203 years of age or older shall, upon conviction thereof, be punished by imprisonment for not
204 less than five nor more than 20 years.

205 ~~(e)(1) As used in this subsection, the term 'correctional officer' shall include~~
206 ~~superintendents, wardens, deputy wardens, guards, and correctional officers of state,~~
207 ~~county, and municipal penal institutions who are certified by the Georgia Peace Officer~~
208 ~~Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the~~
209 ~~Department of Juvenile Justice who are known to be employees of the department or who~~
210 ~~have given reasonable identification of their employment. The term 'correctional officer'~~
211 ~~shall also include county jail officers who are certified or registered by the Georgia Peace~~
212 ~~Officer Standards and Training Council pursuant to Chapter 8 of Title 35.~~

213 ~~(2) A person who knowingly commits the offense of aggravated battery upon a~~
214 ~~correctional officer while the correctional officer is engaged in, or on account of the~~
215 ~~performance of, his or her official duties shall, upon conviction thereof, be punished by~~
216 ~~imprisonment for not less than ten nor more than 20 years.~~

217 ~~(f)(e)~~ Any person who commits the offense of aggravated battery in a public transit vehicle
218 or station shall, upon conviction thereof, be punished by imprisonment for not less than
219 five nor more than 20 years. For purposes of this Code section, 'public transit vehicle' has
220 the same meaning as in subsection (c) of Code Section 16-5-20.

221 ~~(g)(f)~~ Any person who commits the offense of aggravated battery upon a student or teacher
222 or other school personnel within a school safety zone as defined in Code Section
223 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than
224 five nor more than 20 years.

225 ~~(h)(g)~~ If the offense of aggravated battery is committed between past or present spouses,
226 persons who are parents of the same child, parents and children, stepparents and
227 stepchildren, foster parents and foster children, or other persons excluding siblings living
228 or formerly living in the same household, the defendant shall be punished by imprisonment
229 for not less than three nor more than 20 years.

230 ~~(i) A person who knowingly commits the offense of aggravated battery upon an~~
231 ~~emergency health worker while the worker is engaged in, or on account of the performance~~
232 ~~of, his or her official duties shall, upon conviction thereof, be punished by imprisonment~~
233 ~~for not less than five nor more than 20 years. As used in this subsection, the term~~
234 ~~'emergency health worker' means hospital emergency department personnel and emergency~~
235 ~~medical services personnel."~~

236 **SECTION 8.**

237 Said title is further amended by revising Code Section 16-10-24, relating to obstructing or
 238 hindering law enforcement officers, as follows:

239 "16-10-24.

240 (a) Except as otherwise provided in subsection (b) of this Code section, a person who
 241 knowingly and willfully obstructs or hinders any law enforcement officer, prison guard,
 242 jailer, correctional officer, community supervision officer, county or Department of
 243 Juvenile Justice juvenile probation officer, probation officer serving pursuant to Article 6
 244 of Chapter 8 of Title 42, or conservation officer in the lawful discharge of his or her official
 245 duties is shall be guilty of a misdemeanor.

246 (b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement
 247 officer, prison guard, jailer, correctional officer, community supervision officer, county or
 248 Department of Juvenile Justice juvenile probation officer, probation officer serving
 249 pursuant to Article 6 of Chapter 8 of Title 42, or conservation ranger in the lawful
 250 discharge of his or her official duties by offering or doing violence to the person of such
 251 officer or legally authorized person is shall be guilty of a felony and shall, upon conviction
 252 thereof, be punished by imprisonment for not less than one nor more than ~~five~~ 15 years.

253 (c) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement
 254 officer, prison guard, jailer, correctional officer, community supervision officer, county or
 255 Department of Juvenile Justice juvenile probation officer, probation officer serving
 256 pursuant to Article 6 of Chapter 8 of Title 42, or conservation ranger in the lawful
 257 discharge of his or her official duties by causing or attempting to cause such law
 258 enforcement officer, prison guard, jailer, correctional officer, community supervision
 259 officer, probation officers, or conservation ranger to come into contact with human or
 260 animal urine, feces, vomitus, or seminal fluid by throwing, tossing, projecting, or expelling
 261 such fluid or material shall be guilty of a felony and shall, upon conviction thereof, be
 262 punished by imprisonment for not less than one nor more than five years."

263 **SECTION 9.**

264 Said title is further amended by revising Code Section 16-10-56, relating to riot in a penal
 265 institution, as follows:

266 "16-10-56.

267 (a) ~~Any person legally confined to any penal institution of this state or of any political~~
 268 ~~subdivision of this state who commits an unlawful act of violence or any other act in a~~
 269 ~~violent or tumultuous manner commits the offense of riot in a penal institution. As used~~
 270 ~~in this Code section, the term 'penal institution' means any place of confinement for persons~~

271 accused of or convicted of violating a law of this state or an ordinance of a municipality
 272 or political subdivision of this state.

273 ~~(b) Any person who violates subsection (a) of this Code section is guilty of a felony and,~~
 274 ~~upon conviction thereof, shall be punished by imprisonment of not less than one nor more~~
 275 ~~than 20 years. Any person legally confined to any penal institution of this state or of a~~
 276 ~~municipality or political subdivision of this state who commits an unlawful act of violence~~
 277 ~~or any other act in a violent or tumultuous manner commits the offense of violent or~~
 278 ~~tumultuous acts in a penal institution.~~

279 (c) Any person who violates subsection (b) of this Code section shall be guilty of a felony
 280 and, upon conviction, shall be punished by imprisonment for not less than one nor more
 281 than 20 years."

282 **SECTION 10.**

283 Said title is further amended by revising Code Section 16-11-43, relating to obstructing
 284 highways, streets, sidewalks, or other public passages, as follows:

285 "16-11-43.

286 A person who, without authority of law, purposely or recklessly obstructs any highway,
 287 street, sidewalk, or other public passage in such a way as to render it impassable without
 288 unreasonable inconvenience or hazard and fails or refuses to remove the obstruction after
 289 receiving a reasonable ~~official~~ request or the order of a peace officer that he or she do so;
 290 is shall be guilty of a misdemeanor of a high and aggravated nature and, upon conviction
 291 thereof, shall be punished as provided for in Code Section 17-10-4."

292 **SECTION 11.**

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