

The House Committee on Judiciary offers the following substitute to SB 373:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 and Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia
2 Annotated, relating to crimes and offenses and the procedure for sentencing and imposition
3 of punishment, respectively, so as to repeal certain provisions regarding sentencing of
4 defendants guilty of crimes involving bias or prejudice, notices for enhanced sentencing, and
5 enhanced sentencing; to provide for sentencing of defendants who are convicted of certain
6 crimes which target an individual due to such individual's actual or perceived religion or
7 certain characteristics; to amend Code Section 15-11-2 of the Official Code of Georgia
8 Annotated, relating to definitions for juvenile proceedings, so as to provide for a
9 cross-reference; to provide for related matters; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 PART I
13 SECTION 1-1.

14 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
15 amended in Code Section 16-5-20, relating to simple assault, by revising subsection (b) and
16 by adding a new subsection to read as follows:

17 "~~(b)~~ Except as otherwise provided in subsections (c) through ~~(h)~~ (g) or subsection (i) of this
18 Code section, a person ~~who commits~~ convicted of the offense of simple assault shall be
19 ~~guilty of punished as for~~ a misdemeanor."

20 "(i) Any person who commits the offense of simple assault against an individual
21 intentionally selected because of such individual's actual or perceived religion, race,
22 national origin, homeless status, gender, or sexual orientation shall, upon conviction
23 thereof, be punished as for a misdemeanor of a high and aggravated nature."

24 **SECTION 1-2.**

25 Said title is further amended in Code Section 16-5-21, relating to aggravated assault, by
26 revising subsection (b) and by adding a new subsection to read as follows:

27 "(b) Except as otherwise provided in subsections (c) through (k) (f) and (h) through (l) of
28 this Code section, a person convicted of the offense of aggravated assault shall be punished
29 by imprisonment for not less than one nor more than 20 years."

30 "(l) Any person who commits the offense of aggravated assault against an individual
31 intentionally selected because of such individual's actual or perceived religion, race,
32 national origin, homeless status, gender, or sexual orientation shall, upon conviction
33 thereof, be punished by imprisonment for not less than three nor more than 20 years."

34 **SECTION 1-3.**

35 Said title is further amended in Code Section 16-5-23, relating to simple battery, by revising
36 subsection (b) and by adding a new subsection to read as follows:

37 "(b) Except as otherwise provided in subsections (c) through (i) (j) of this Code section,
38 a person convicted of the offense of simple battery shall be punished as for a
39 misdemeanor."

40 "(j) Any person who commits the offense of simple battery against an individual
41 intentionally selected because of such individual's actual or perceived religion, race,
42 national origin, homeless status, gender, or sexual orientation shall, upon conviction
43 thereof, be punished as for a misdemeanor of a high and aggravated nature."

44 **SECTION 1-4.**

45 Said title is further amended in Code Section 16-5-23.1, relating to battery, by revising
46 subsection (c) and by adding a new subsection to read as follows:

47 "(c) Except as otherwise provided in subsections (d) through (h) (i) and (k) through (m) of
48 this Code section, a person ~~who commits~~ convicted of the offense of battery ~~is guilty of~~
49 shall be punished as for a misdemeanor."

50 "(m) Any person who commits the offense of battery against an individual intentionally
51 selected because of such individual's actual or perceived religion, race, national origin,
52 homeless status, gender, or sexual orientation shall, upon conviction thereof, be punished
53 as for a misdemeanor of a high and aggravated nature."

54 **SECTION 1-5.**

55 Said title is further amended in Code Section 16-5-24, relating to aggravated battery, by
56 revising subsection (b) and by adding a new subsection to read as follows:

57 "(b) Except as otherwise provided in subsections (c) through ~~(g)~~ (h) of this Code section,
 58 a person convicted of the offense of aggravated battery shall be punished by imprisonment
 59 for not less than one nor more than 20 years."

60 "(h) Any person who commits the offense of aggravated battery against an individual
 61 intentionally selected because of such individual's actual or perceived religion, race,
 62 national origin, homeless status, gender, or sexual orientation shall, upon conviction
 63 thereof, be punished by imprisonment for not less than five nor more than 20 years."

64 **SECTION 1-6.**

65 Said title is further amended by revising subsection (b) of Code Section 16-7-22, relating to
 66 criminal damage to property in the first degree, as follows:

67 "(b) A person convicted of the offense of criminal damage to property in the first degree
 68 shall be punished by imprisonment for not less than one nor more than ten years; provided,
 69 however, that if such property was selected because of such property owner's actual or
 70 perceived religion, race, national origin, homeless status, gender, or sexual orientation,
 71 upon conviction thereof, such person shall be punished by imprisonment for not less than
 72 three nor more than ten years."

73 **SECTION 1-7.**

74 Said title is further amended by revising subsection (b) of Code Section 16-7-23, relating to
 75 criminal damage to property in the second degree, as follows:

76 "(b) A person convicted of the offense of criminal damage to property in the second degree
 77 shall be punished by imprisonment for not less than one nor more than five years; provided,
 78 however, that if such property was selected because of such property owner's actual or
 79 perceived religion, race, national origin, homeless status, gender, or sexual orientation,
 80 upon conviction thereof, such person shall be punished by imprisonment for not less than
 81 two nor more than five years."

82 **SECTION 1-8.**

83 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
 84 procedure for sentencing and imposition of punishment, is amended by repealing in its
 85 entirety Code Section 17-10-17, relating to sentencing of defendants guilty of crimes
 86 involving bias or prejudice, circumstances, and parole, and designating said Code section as
 87 reserved.

88 **SECTION 1-9.**

89 Said article is further amended by repealing in its entirety Code Section 17-10-18, relating
 90 to notification to seek enhanced penalty, and designating said Code section as reserved.

91 **SECTION 1-10.**

92 Said article is further amended by repealing in its entirety Code Section 17-10-19, relating
 93 to determination of defendant's guilt, object of the offense, and enhancement of sentence, and
 94 designating said Code section as reserved.

95 **PART II**96 **SECTION 2-1.**

97 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions for
 98 the Juvenile Code, is amended by revising division (12)(A)(iii) as follows:

99 "(iii) Aggravated assault upon an individual or situation described in subsection (d),
 100 (h), ~~or (k), or (l)~~ of Code Section 16-5-21 or assault with a deadly weapon or with any
 101 object, device, or instrument which, when used offensively against a person, actually
 102 does result in serious bodily injury, provided that such deadly weapon is not a
 103 firearm; and provided, further, that such injured person is not a public safety officer
 104 as defined in Code Section 16-5-19 and such acts are not prohibited under subsection
 105 (c) of Code Section 16-5-21;"

106 **PART III**107 **SECTION 3-1.**

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