

House Bill 363

By: Representatives LaHood of the 175th, Cooper of the 43rd, Rich of the 97th, Scoggins of the 14th, and Leverett of the 33rd

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 revise definitions relative to the protection of elder persons; to remove
3 enhanced penalties for certain offenses against persons 65 years of age or older or
4 employees, agents, or volunteers at long-term care facilities; to provide for related matters;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
9 amended by revising subsection (e) of Code Section 16-5-20, relating to simple assault, as
10 follows:

11 ~~"(e) Any person who commits the offense of simple assault against a person who is 65~~
12 ~~years of age or older shall, upon conviction thereof, be punished for a misdemeanor of a~~
13 ~~high and aggravated nature. Reserved."~~

14 **SECTION 2.**

15 Said title is further amended in Code Section 16-5-23, relating to simple battery, by revising
16 subsection (g) as follows:

17 ~~"(g) A person who is an employee, agent, or volunteer at any facility licensed or required~~
18 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~
19 ~~Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,~~
20 ~~relating to personal care homes, or who is required to be licensed pursuant to Code Section~~
21 ~~31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense~~
22 ~~of simple battery against a person who is admitted to or receiving services from such~~
23 ~~facility, person, or entity shall be punished for a misdemeanor of a high and aggravated~~
24 ~~nature. Reserved."~~

25 **SECTION 3.**

26 Said title is further amended in Code Section 16-5-23.1, relating to battery, by revising
27 subsection (j) as follows:

28 ~~"(j) A person who is an employee, agent, or volunteer at any facility licensed or required~~
29 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~
30 ~~Section 31-7-12.2, relating to assisted living communities, or Code Section 31-7-12,~~
31 ~~relating to personal care homes, or who is required to be licensed pursuant to Code Section~~
32 ~~31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense~~
33 ~~of battery against a person who is admitted to or receiving services from such facility,~~
34 ~~person, or entity shall, upon conviction thereof, be punished by imprisonment for not less~~
35 ~~than one nor more than five years, or a fine of not more than \$2,000.00, or both.~~
36 ~~Reserved."~~

37

SECTION 4.

38 Said title is further amended in Code Section 16-5-100, relating to definitions relative to the
39 protection of elder persons, by adding a new paragraph and revising paragraph (6) as follows:

40 "(0.1) 'Abuse of access' means the illegal taking of resources belonging to a disabled
41 adult or elder person when access to the resources was obtained due to the disabled
42 adult's or elder person's mental or physical incapacity."

43 "(6) 'Exploit' means illegally or improperly using a disabled adult or elder person or that
44 person's resources through undue influence, coercion, harassment, duress, deception, false
45 representation, false pretense, abuse of access, or other similar means for one's own or
46 another person's profit or advantage, including, but not limited to, the illegal taking of
47 resources belonging to a disabled adult or elder person when access to the resources was
48 obtained due to the disabled adult's or elder person's mental or physical incapacity."

49

SECTION 5.

50 Said title is further amended in Code Section 16-8-12, relating to penalties for theft in
51 violation of Code Sections 16-8-2 through 16-8-9, by revising subsection (b) as follows:

52 "(b) Except as otherwise provided in paragraph (5) of subsection (a) of this Code section,
53 any person who commits the offense of theft by deception when the property which was
54 the subject of the theft exceeded \$500.00 in value and the offense was committed against
55 a person who is 65 years of age or older shall, upon conviction thereof, be punished by
56 imprisonment for not less than five nor more than ten years. Reserved."

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SECTION 6.

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