

House Bill 46

By: Representatives Au of the 50th, Newton of the 127th, Camp of the 135th, Cooper of the 45th, and Lott of the 131st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,
2 relating to assault and battery and related offenses against persons, so as to expand enhanced
3 punishment for aggravated assault and aggravated battery committed upon emergency health
4 workers to all healthcare workers in a hospital or healthcare facility; to provide for a
5 definition; to provide for related matters; to provide for an effective date and applicability;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
10 assault and battery and related offenses against persons, is amended by revising Code Section
11 16-5-19, relating to definitions, as follows:

12 "16-5-19.

13 As used in this article, the term:

14 (1) 'Correctional officer' means any person who is authorized to exercise the power of
15 arrest and who is employed or appointed by the Department of Corrections or the State
16 Board of Pardons and Paroles.

- 17 (2) 'Emergency health worker' means hospital emergency department personnel and
18 emergency medical services personnel.
- 19 (3) 'Firefighter' shall have the same meaning as set forth in Code Section 25-4-2.
- 20 (3.1) 'Healthcare worker' means any employee or independent contractor of a hospital
21 or other healthcare facility.
- 22 (4) 'Highway emergency response operator' means an individual employed by the
23 Department of Transportation who operates a towing or recovery vehicle or highway
24 maintenance vehicle.
- 25 (5) 'Jail officer' means any person who is employed or appointed by a county or a
26 municipality and who has the responsibility of supervising inmates who are confined in
27 a municipal or county detention facility.
- 28 (6) 'Juvenile correctional officer' means any person employed or appointed by the
29 Department of Juvenile Justice who has the primary responsibility for the supervision and
30 control of youth confined in its programs and facilities.
- 31 (7) 'Officer of the court' means a judge, attorney, clerk of court, deputy clerk of court,
32 court reporter, or court interpreter.
- 33 (8) 'Probation officer' means a community supervision officer, county or Department of
34 Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article
35 6 of Chapter 8 of Title 42.
- 36 (9) 'Public safety officer' means peace officer, correctional officer, emergency health
37 worker, firefighter, highway emergency response operator, jail officer, juvenile
38 correctional officer, or probation officer.
- 39 (10) 'Public transit vehicle' shall have the same meaning as set forth in Code Section
40 16-5-20.
- 41 (11) 'Strangulation' means impeding the normal breathing or circulation of blood of
42 another person by applying pressure to the throat or neck of such person or by obstructing
43 the nose and mouth of such person."

44

SECTION 2.

45 Said article is further amended by revising subsection (c) of Code Section 16-5-21, relating
46 to aggravated assault, as follows:

47 "(c)(1) A person who knowingly commits the offense of aggravated assault upon a public
48 safety officer or healthcare worker while he or she is engaged in, or on account of the
49 performance of, his or her official duties shall, upon conviction thereof, be punished as
50 follows:

51 (A) When such assault occurs by the discharge of a firearm by a person who is at least
52 17 years of age, such person shall be punished by imprisonment for not less than ten nor
53 more than 20 years and shall be sentenced to a mandatory minimum term of
54 imprisonment of ten years and no portion of the mandatory minimum sentence imposed
55 shall be suspended, stayed, probated, deferred, or withheld by the sentencing court;
56 provided, however, that in the court's discretion, the court may depart from such
57 mandatory minimum sentence when the prosecuting attorney and defendant have
58 agreed to a sentence that is below such mandatory minimum;

59 (B) When such assault does not involve the discharge of a firearm by a person who is
60 at least 17 years of age, and does not involve only the use of the person's body, such
61 person shall be punished by imprisonment for not less than five nor more than 20 years
62 and, for persons who are at least 17 years of age, shall be sentenced to a mandatory
63 minimum term of imprisonment of three years and no portion of the mandatory
64 minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld
65 by the sentencing court; provided, however, that in the court's discretion, the court may
66 depart from such mandatory minimum sentence when the prosecuting attorney and
67 defendant have agreed to a sentence that is below such mandatory minimum; or

68 (C) When such assault occurs only involving the use of the person's body, by
69 imprisonment for not less than five nor more than 20 years.

70 (2) A person convicted under this subsection shall be punished, in addition to any term
71 of imprisonment imposed, by a fine as provided by law which shall be at least \$2,000.00.
72 With respect to \$2,000.00 of the fine imposed, after distributing the surcharges and
73 deductions required by Chapter 21 of Title 15, Code Sections 36-15-9 and 42-8-34, and
74 Title 47, it shall be earmarked for the Georgia State Indemnification Fund for purposes
75 of payment of indemnification for death or disability as provided for in Part 1 of Article
76 5 of Chapter 9 of Title 45.

77 (3) As used in this subsection, the term 'firearm' means any handgun, rifle, shotgun, or
78 similar device or weapon which will or can be converted to expel a projectile by the
79 action of an explosive or electrical charge."

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SECTION 3.

81 Said article is further amended by revising subsection (c) of Code Section 16-5-24, relating
82 to aggravated battery, as follows:

83 "(c)(1) A person who knowingly commits the offense of aggravated battery upon a public
84 safety officer or healthcare worker while the public safety officer or healthcare worker
85 is engaged in, or on account of the performance of, his or her official duties shall, upon
86 conviction thereof, be punished by imprisonment for not less than ten nor more than 20
87 years; provided, however, that for persons who are at least 17 years of age, a mandatory
88 minimum term of imprisonment of three years shall be imposed and no portion of the
89 mandatory minimum sentence shall be suspended, stayed, probated, deferred, or
90 otherwise withheld by the sentencing court; provided, however, that in the court's
91 discretion, the court may depart from such mandatory minimum sentence when the
92 prosecuting attorney and defendant have agreed to a sentence that is below such
93 mandatory minimum.

94 (2) A person convicted under this subsection shall be punished, in addition to any term
95 of imprisonment imposed, by a fine as provided by law which shall be at least \$2,000.00.

96 With respect to \$2,000.00 of the fine imposed, after distributing the surcharges and
97 deductions required by Chapter 21 of Title 15, Code Sections 36-15-9 and 42-8-34, and
98 Title 47, it shall be earmarked for the Georgia State Indemnification Fund for purposes
99 of payment of indemnification for death or disability as provided for in Part 1 of Article
100 5 of Chapter 9 of Title 45.”

101 **SECTION 4.**

102 This Act shall become effective on July 1, 2023, and shall be applicable to all offenses
103 committed on or after such date.

104 **SECTION 5.**

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