

Senate Bill 359

By: Senators Albers of the 56th, Gooch of the 51st, Kennedy of the 18th, Robertson of the 29th, Kirkpatrick of the 32nd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-14-3 of the Official Code of Georgia Annotated, relating to
2 definitions under the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act,"
3 so as to amend the definition of "pattern of racketeering activity" to include felonies and
4 certain misdemeanors which meet criteria for the imposition of enhanced penalties; to amend
5 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
6 procedure for sentencing and imposition punishment, so as to include additional offenses
7 under the definition of "designated misdemeanor"; to include political affiliation or belief as
8 contributing factors for the imposition of enhanced penalties; to provide for statutory
9 construction; to provide for related matters; to provide for a short title; to provide for an
10 effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 This Act shall be known and may be cited as the "Protecting Georgians Act."

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SECTION 2.

14
15 Code Section 16-14-3 of the Official Code of Georgia Annotated, relating to definitions
16 under the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act," is
17 amended by revising paragraph (4) as follows:

18 "(4) 'Pattern of racketeering activity' means:

19 (A) Engaging in at least two acts of racketeering activity in furtherance of one or more
20 incidents, schemes, or transactions that have the same or similar intents, results,
21 accomplices, victims, or methods of commission or otherwise are interrelated by
22 distinguishing characteristics and are not isolated incidents, provided at least one of
23 such acts occurred after July 1, 1980, and that the last of such acts occurred within four
24 years, excluding any periods of imprisonment, after the commission of a prior act of
25 racketeering activity; or

26 (B) Engaging in any one or more acts of domestic terrorism as described in paragraph
27 (2) of Code Section 16-11-220 or any criminal attempt, criminal solicitation, or
28 criminal conspiracy related thereto; or

29 (C) Committing, attempting to commit, or soliciting, coercing, or intimidating another
30 person to commit one or more acts which constitute a felony or a designated
31 misdemeanor, as such term is defined on Code Section 17-10-17, chargeable by
32 indictment under the laws of this state and which meets the criteria provided for in
33 subparagraph (b)(1)(A) or (b)(1)(B) of Code Section 17-10-17."

SECTION 3.

34
35 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
36 procedure for sentencing and imposition punishment, is amended by revising Code Section
37 17-10-17, relating to sentencing of defendants guilty of crimes involving bias or prejudice
38 and identification of increased sentence, as follows:

39 "17-10-17.

40 (a) As used in this Code section, the term 'designated misdemeanor' means:

41 (1) Misdemeanor simple ~~Simple~~ assault ~~as defined in violation of~~ Code Section 16-5-20;

42 (2) Misdemeanor simple ~~Simple~~ battery ~~as defined in violation of~~ Code Section 16-5-23;

43 (3) Misdemeanor battery ~~Battery~~ ~~as defined in violation of~~ Code Section 16-5-23.1;

44 (4) Criminal trespass ~~as defined in violation of~~ Code Section 16-7-21; and

45 (5) Littering in violation of Code Section 16-7-43;

46 (6) Placements of posters, signs, and advertisements in violation of Code Section
47 16-7-58;

48 (7) Misdemeanor theft by taking ~~as defined in violation of~~ Code Section 16-8-2;

49 (8) Disorderly or disruptive conduct with the intent to impede, disrupt, disturb, or
50 interfere with the orderly conduct of any funeral or memorial service or with the normal
51 activities and functions carried on in the facilities or buildings where such funeral or
52 memorial service is taking place in violation of Code Section 16-11-34.2;

53 (9) Loitering or prowling in violation of Code Section 16-11-36;

54 (10) Misdemeanor terroristic threats in violation of Code Section 16-11-37;

55 (11) Disorderly conduct in violation of Code Section 16-11-39; and

56 (12) Harassing communications in violation of Code Section 16-11-39.1.

57 (b)(1) Subject to the notice requirement provided in Code Section 17-10-18 and in
58 enhancement of the penalty imposed, the sentencing court shall impose a sentence
59 provided for in paragraph (2) of this subsection if the trier of fact determines beyond a
60 reasonable doubt that the defendant intentionally selected any victim or group of victims
61 or any property as the object of the offense because of such victim's or group of victims'
62 actual or perceived race, color, religion, national origin, sex, sexual orientation, gender,
63 political affiliation or beliefs, mental disability, or physical disability, the judge imposing
64 sentence shall:

65 ~~(1)~~(2)(A) If the offense for which the defendant was convicted is a designated
66 misdemeanor, the sentencing court shall impose a sentence of imprisonment for a
67 period of not less than six nor more than 12 months, and a fine not to exceed \$5,000.00;
68 or.

69 ~~(2)~~(B) If the offense for which the defendant was convicted is a felony, the sentencing
70 court shall impose a sentence of imprisonment for a period of not less than two years,
71 and a fine ~~not to exceed~~ not less than \$5,000.00.

72 (c) The judge shall state when he or she imposes the sentence the amount of the increase
73 of the sentence based on the application of subsection (b) of this Code section.

74 (d) Nothing in this Code section shall be construed to diminish or infringe upon:

75 (1) Any right protected under the First Amendment to the United States Constitution or
76 the Georgia Constitution; or

77 (2) Any individual's right to engage in legally protected conduct or expressive activity
78 pertaining to any matter of United States foreign or domestic policy or international
79 affairs.

80 (e) Nothing in this Code section shall be construed to alter the evidentiary grounds upon
81 which a trier of fact could determine beyond a reasonable doubt that the defendant
82 intentionally selected any victim or group of victims or any property as the object of the
83 offense because of such victim's or group of victims' actual or perceived race, color,
84 religion, national origin, sex, sexual orientation, gender, political affiliation or beliefs,
85 mental disability, or physical disability."

86 **SECTION 4.**

87 Section 2 this Act shall become effective on July 1, 2024, and shall apply to all offenses
88 committed on or after such date. Section 3 of this Act shall become effective on July 1,
89 2024, and shall apply to any motions made or hearings or trials commenced on or after such

90 date. All other sections of this Act shall become effective upon the approval of this Act by
91 the Governor or upon its becoming law without such approval.

92 **SECTION 5.**

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