

The House Committee on Judiciary Non-Civil offers the following substitute to SB 421:

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 provide for the offense of drive-by shooting; to modify the offense of
3 aggravated assault; to provide for enhanced criminal penalties in certain circumstances; to
4 provide for and revise definitions; to provide for penalties; to enhance penalties for the
5 offense of transmitting a false public alarm; to revise restitution provisions for such offense;
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **PART I**
9 **SECTION 1-1.**

10 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
11 amended in Code Section 16-5-21, relating to aggravated assault, by revising subsection (a)
12 as follows:

13 "(a) A person commits the offense of aggravated assault when he or she assaults:

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

S. B. 421 (SUB)

- 1 -

- 15 (2) With a deadly weapon or with any object, device, or instrument which, when used
 16 offensively against a person, is likely to or actually does result in serious bodily injury;
 17 (3) With any object, device, or instrument which, when used offensively against a
 18 person, is likely to or actually does result in strangulation; or
 19 (4) ~~A person or persons without~~ Without legal justification by discharging a firearm from
 20 within a motor vehicle or after immediately exiting a vehicle toward a person, an
 21 occupied motor vehicle, or persons occupied building."

22 SECTION 1-2.

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

25 "(b) A person commits the offense of criminal damage to property in the first degree when
 26 he or she:

- 27 (1) Knowingly and without authority interferes with any property in a manner so as to
 28 endanger human life; ~~or~~
 29 (2) Knowingly and without authority and by either force or violence or by electronic
 30 means interferes with the proper operation of any critical infrastructure or any vital public
 31 service; or
 32 (3) Knowingly and without justification causes damage to a building by discharging a
 33 firearm while inside a vehicle or after immediately exiting a vehicle."

34 SECTION 1-3.

35 Said title is further amended in Code Section 16-15-3, relating to definitions regarding street
 36 gang terrorism and prevention, by revising subparagraph (A) of paragraph (1) as follows:

37 "(A) Any offense defined as racketeering activity by Code Section 16-14-3, or any
 38 offense defined in Code Section 16-15-4.1;"

39 **SECTION 1-4.**

40 Said title is further amended in Chapter 15, relating to street gang terrorism and prevention,
41 by adding a new Code section to read as follows:

42 "16-15-4.1.

43 (a) As used in this Code section, the term:

44 (1) 'Dwelling' shall have the same meaning as provided in Code Section 16-7-1.

45 (2) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will
46 or can be converted to expel a projectile by the action of an explosive or electrical charge.

47 (b) A person commits the offense of drive-by shooting when he or she, while in a motor
48 vehicle or close to the motor vehicle that was used to transport the shooter or the firearm,
49 or both, with intent to injure another, or damage the property of another, discharges a
50 firearm at or toward:

51 (1) An occupied dwelling, building, or motor vehicle;

52 (2) A dwelling, building, or motor vehicle such person knew or should have known to
53 be occupied; or

54 (3) A person.

55 (c) A person convicted of the offense of drive-by shooting shall be punished by
56 imprisonment for not less than five nor more than 20 years."

57 **PART II**58 **SECTION 2-1.**

59 Said title is further amended in Article 2 of Chapter 10, relating to obstruction of public
60 administration and related offenses, by revising Code Section 16-10-28, relating to
61 transmitting a false public alarm and restitution, as follows:

62 "16-10-28.

63 (a) As used in this Code section, the term:

64 (1) 'Critical infrastructure' means any building, place of assembly, or facility that is
65 located in this state and necessary for national or public security, education, or public
66 safety.

67 (2) 'Destructive device' ~~means a destructive device as such term is defined by~~ shall have
68 the same meaning as provided in Code Section 16-7-80.

69 (3) 'Dwelling' shall have the same meaning as provided in Code Section 16-7-1.

70 ~~(3)(4)~~ (4) 'Hazardous substance' ~~means a hazardous substance as such term is defined by~~
71 shall have the same meaning as provided in Code Section 12-8-92.

72 ~~(4)(5)~~ (5) 'Public agency' means the state and any city, county, city and county, municipal
73 corporation, chartered organization, public district, or public authority located in whole
74 or in part within this state which provides or has authority to provide fire-fighting, law
75 enforcement, ambulance, medical, or other emergency services.

76 ~~(5)(6)~~ (6) 'Public safety agency' means a functional division of a public agency which
77 provides fire-fighting, law enforcement, emergency medical, suicide prevention,
78 emergency management dispatching, poison control, drug prevention, child abuse, spouse
79 abuse, or other emergency services.

80 ~~(6)(7)~~ (7) 'Request for emergency services assistance' means a report, transmission, or
81 request for assistance made to a public safety agency, ~~or to another person knowing at the~~
82 ~~time of such report, transmission, or request that such report, transmission, or request is~~
83 ~~likely to result in such other person making a report, transmission, or request to a public~~
84 ~~safety agency,~~ through a public safety answering point or other form of communication
85 or a report, statement, or request for assistance knowingly made to another person that
86 is likely to result in the recipient making a report, transmission, or request for assistance
87 from a public safety agency through a public safety answering point or other form of
88 communication.

89 (b) A person commits the offense of making an unlawful request for emergency services
90 assistance when he or she knowingly and intentionally transmits in any manner a request

91 for emergency services assistance knowing at the time of the request for emergency
92 services assistance that there is no reasonable ground for believing the truth of information
93 which forms the basis of such request and when the request involves or relates to:

94 (1) A purported destructive device or hazardous substance located in such a place that
95 its explosion, detonation, or release would endanger human life or cause injury or damage
96 to property;

97 (2) An individual who purportedly has caused or threatened to cause physical harm to
98 himself or herself or another individual by using a deadly weapon or with any object,
99 device, or instrument which, when used offensively against a person, is likely to result
100 in serious bodily injury;

101 (3) An individual who purportedly has committed a criminal act involving the use or
102 threat of physical force or violence or an act constituting an immediate threat to any
103 person's life or safety; or

104 (4) The knowing use of any electronic device or software to alter, conceal, or disguise,
105 or attempt to alter, conceal, or disguise, the location or identity of the person making the
106 request.

107 ~~(c)(1)~~ Except as provided in ~~paragraph (2) of this subsection~~ (d) of this Code section, a
108 person convicted of a violation of subsection (b) of this Code section shall be punished as
109 for follows:

110 (1) Upon a first conviction, a misdemeanor of a high and aggravated nature ~~and upon~~
111 ~~conviction for a second or subsequent violation of subsection (b) of this Code section~~
112 ~~shall be guilty of;~~

113 (2) Upon a second conviction, a felony and punished by imprisonment for not less than
114 ~~one~~ five nor more than ten years, by a fine of not less than \$5,000.00, or both; and

115 (3) Upon a third or subsequent conviction, a felony and punished by imprisonment for
116 not less than ten nor more than 15 years, by a fine of not less than \$25,000.00, or both.

117 ~~(2)(A)(d)(1)~~ If the location of the unlawful request for emergency services assistance in
 118 violation of paragraph (1) of subsection (b) of this Code section is critical infrastructure,
 119 such a person convicted of a violation of this Code section shall be guilty of a felony and
 120 ~~upon conviction~~ shall be punished by imprisonment for not less than five nor more than
 121 ten years, by a fine of not more than \$100,000.00, or both.

122 ~~(B)(2)~~ If serious bodily harm or death results from the response of a public safety
 123 agency, ~~such person~~ or if the location of response to an unlawful request for emergency
 124 assistance is a dwelling or a place of worship, a person convicted of a first violation of
 125 this Code section shall be guilty of a felony and ~~upon conviction~~ shall be punished by
 126 imprisonment for not less than one nor more than ten years ~~and~~, by a fine of not less than
 127 \$5,000.00, or both.

128 ~~(d)(e)~~ In addition to any other penalty imposed by law for a violation of this Code section,
 129 the court ~~may~~ shall require the defendant to make restitution to any affected natural person
 130 or public or private entity for the reasonable costs or damages associated with the offense,
 131 including, without limitation, damage to property, expenses to treat bodily injuries, and the
 132 actual value of any goods, services, or income lost as a result of such violation. Restitution
 133 made pursuant to this subsection shall not preclude any party from obtaining any other civil
 134 or criminal remedy available under any other provision of law. The restitution authorized
 135 by this subsection is supplemental and not exclusive."

136 **PART III**
 137 **SECTION 3-1.**

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