

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 10 of Title 17, Title 35, and Chapter 1 of Title 51 of the
2 Official Code of Georgia Annotated, relating to the procedure for sentencing and imposition
3 of punishment, law enforcement officers and agencies, and general provisions relating to
4 torts, respectively, so as to repeal certain provisions regarding sentencing of defendants
5 guilty of crimes involving bias or prejudice; to provide for sentencing of defendants who
6 commit certain crimes which target a victim or his or her property because of the defendant's
7 belief regarding the victim's race, color, religion, national origin, sexual orientation, gender,
8 gender identity, mental disability, or physical disability; to provide for training in identifying
9 and reporting of hate crimes; to provide for civil liability for hate crimes; to provide for
10 construction; to provide for related matters; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

15 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to the
16 procedure for sentencing and imposition of punishment, is amended by repealing in its
17 entirety Code Section 17-10-17, relating to sentencing of defendants guilty of crimes
18 involving bias or prejudice, circumstances, and parole, and enacting a new Code Section
19 17-10-17 to read as follows:

20 "17-10-17.

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

22 (1) 'Developmental disability' shall have the same meaning as set forth in Code Section
23 37-1-1.

24 (2) 'Mental disability' means having a mental illness or developmental disability.

25 (3) 'Mental illness' shall have the same meaning as set forth in Code Section 37-1-1.

26 (b) Subject to the notice requirement provided in Code Section 17-10-18 and in
 27 enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable
 28 doubt that the defendant intentionally selected any victim or any property of the victim as
 29 the object of the offense because of the individual's belief or perception regarding the race,
 30 color, religion, national origin, sexual orientation, gender, gender identity, mental
 31 disability, or physical disability of such person or group of persons, whether or not such
 32 individual's belief or perception was correct, the judge imposing sentence shall:

33 (1) If the offense for which the defendant was convicted is a misdemeanor, impose a
 34 sentence of not less than three and not more than 12 months, and an additional fine of not
 35 more than \$5,000.00;

36 (2) If the offense for which the defendant was convicted is a misdemeanor of a high and
 37 aggravated nature, impose a sentence of not less than six and not more than 12 months,
 38 and an additional fine of not more than \$5,000.00; or

39 (3) If the offense for which the defendant was convicted is a felony, impose a sentence
 40 of not less than two years.

41 (c) When imposing sentence, the judge shall state the amount of the increase of the
 42 sentence based on the application of subsection (b) of this Code section.

43 (d) Any felony sentence imposed pursuant to this Code section shall not be suspended,
 44 stayed, probated, deferred, or withheld by the sentencing court. Any misdemeanor
 45 sentence imposed pursuant to this Code section shall not be given earned time allowances
 46 as authorized by Code Section 42-4-7 and such sentence shall not be stayed, probated,
 47 deferred, or withheld by the sentencing court."

48 **SECTION 1-2.**

49 Said article is further amended by revising Code Section 17-10-18, relating to notification
 50 to seek enhanced penalty, as follows:

51 "17-10-18.

52 At any time after the filing of an indictment or accusation but not later than the
 53 arraignment, the state shall notify the ~~defendant~~ accused of its intention to seek the
 54 ~~enhanced penalty or penalties~~ authorized by Code Section 17-10-17. The notice shall be
 55 in writing and shall allege the specific ~~factor or factors~~ authorizing ~~an enhanced a~~ sentence
 56 in the case pursuant to Code Section 17-10-17."

57 **SECTION 1-3.**

58 Said article is further amended by revising Code Section 17-10-19, relating to determination
 59 of guilt, object of the offense, and enhancement of sentence, as follows:

60 "17-10-19.

61 (a) In a case where notice has been given pursuant to Code Section 17-10-18, the trier of
 62 fact shall initially determine the defendant's guilt on the charge or charges. If the trier of
 63 fact finds the defendant guilty of such charge or charges, the trial shall immediately be
 64 recommenced to receive evidence as is relevant to determine whether the defendant
 65 intentionally selected the victim or the property of the victim as the object of the offense
 66 as set forth in the notice given pursuant to Code Section 17-10-18.

67 (b) If the trier of fact determines beyond a reasonable doubt that the defendant so acted,
 68 the judge shall ~~enhance the sentence imposed~~ impose a sentence in accordance with ~~the~~
 69 ~~provisions of~~ Code Section 17-10-17."

70 **PART II**

71 **SECTION 2-1.**

72 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 73 agencies, is amended by adding a new Code section to read as follows:

74 "35-1-22.

75 (a) As used in this Code section, the term 'hate crimes' means the conduct prohibited by
 76 subsection (b) of Code Section 17-10-17.

77 (b) The Georgia Peace Officer Standards and Training Council and the Georgia Public
 78 Safety Training Center shall establish guidelines and procedures for the incorporation of
 79 training materials and information in methods for:

80 (1) Identifying, responding to, and reporting activity involving or allegedly involving
 81 hate crimes;

82 (2) Combating hate crimes; and

83 (3) Individuals, law enforcement officials, and personnel within state agencies and
 84 departments and local governments to provide information to the Georgia Crime
 85 Information Center to report activity that involves or may lead to a hate crime.

86 (c) The guidelines and procedures listed in subsection (b) of this Code section shall be for
 87 use by law enforcement training centers monitored by the Georgia Peace Officer Standards
 88 and Training Council and monitored and funded by the Georgia Public Safety Training
 89 Center in all courses for which they have responsibility and oversight.

90 (d) It shall be the duty of every law enforcement officer who receives a report based on
 91 reliable information that involves a hate crime to report such information to the Georgia
 92 Crime Information Center immediately after receiving such report. The board is authorized
 93 and directed to promulgate rules and regulations pertaining to the submission of reports

94 provided for in this subsection. Such rules and regulations shall include time limits for the
 95 submission of reports and the forms upon which reports shall be submitted."

96 **SECTION 2-2.**

97 Said title is further amended by revising paragraph (3) of subsection (a) of Code Section
 98 35-3-33, relating to the powers and duties of the Georgia Crime Information Center
 99 generally, as follows:

100 "(3) Provide a uniform crime reporting system for the periodic collection, analysis, and
 101 reporting of crimes reported to and otherwise processed by any and all law enforcement
 102 agencies within the state, as defined and provided for in this article, including
 103 specifications of when a crime is apparently committed due to a victim's actual or
 104 perceived race, color, religion, national origin, sexual orientation, gender, gender identity,
 105 mental disability, or physical disability;"

106 **PART III**

107 **SECTION 3-1.**

108 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
 109 provisions relating to torts, is amended by adding a new Code section to read as follows:

110 "51-1-14.1.

111 When an individual violates Code Section 17-10-17, he or she may be liable for damages
 112 to any person incurring an injury or damage to his or her person or property as a result of
 113 such conduct. In addition to the damages recoverable as provided in Chapter 12 of this
 114 title, a plaintiff may recover reasonable attorney's fees and costs of litigation."

115 **PART IV**

116 **SECTION 4-1.**

117 Nothing in this Act shall be construed or applied in a manner that infringes on any rights
 118 under the First Amendment to the United States Constitution or Article I, Section I,
 119 Paragraphs III, IV, or V of the Georgia Constitution.

120 **SECTION 4-2.**

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