

House Bill 426 (AS PASSED HOUSE AND SENATE)

By: Representatives Efration of the 104th, Smyre of the 135th, Bennett of the 94th, Silcox of the 52nd, Drenner of the 85th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated,
2 relating to procedure for sentencing and imposition of punishment, so as to repeal certain
3 provisions regarding the sentencing of defendants for crimes involving bias or prejudice; to
4 provide criteria for imposition of punishment for defendants who select their victims based
5 upon certain biases or prejudices; to provide the sanctions for such crimes; to provide a
6 definition; to provide for reporting of bias motivated crimes and the attributes of the parties;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
11 procedure for sentencing and imposition of punishment, is amended by repealing Code
12 Section 17-10-17, relating to sentencing of defendants guilty of crimes involving bias or
13 prejudice, circumstances, and parole, in its entirety and inserting in lieu thereof a new Code
14 section to read as follows:

15 "17-10-17.

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

17 (1) Simple assault as defined in Code Section 16-5-20;

18 (2) Simple battery as defined in Code Section 16-5-23;

19 (3) Battery as defined in Code Section 16-5-23.1;

20 (4) Criminal trespass as defined in Code Section 16-7-21; and

21 (5) Misdemeanor theft by taking as defined in Code Section 16-8-2.

22 (b) Subject to the notice requirement provided in Code Section 17-10-18 and in
23 enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable
24 doubt that the defendant intentionally selected any victim or group of victims or any
25 property as the object of the offense because of such victim's or group of victims' actual or

26 perceived race, color, religion, national origin, sex, sexual orientation, gender, mental
 27 disability, or physical disability, the judge imposing sentence shall:

28 (1) If the offense for which the defendant was convicted is a designated misdemeanor,
 29 impose a sentence of imprisonment for a period of not less than six nor more than 12
 30 months, and a fine not to exceed \$5,000.00; or

31 (2) If the offense for which the defendant was convicted is a felony, impose a sentence
 32 of imprisonment for a period of not less than two years, and a fine not to exceed
 33 \$5,000.00.

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

36 **SECTION 2.**

37 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 38 amended in Article 2 of Chapter 4, relating to arrest by law enforcement officers generally,
 39 by adding a new Code section to read as follows:

40 "17-4-20.2.

41 (a) Whenever a law enforcement officer investigates an incident of a crime in which it
 42 appears that the defendant intentionally selected any victim or group of victims or any
 43 property as the object of the offense because of such victim's or group of victims' actual or
 44 perceived race, color, religion, national origin, sex, sexual orientation, gender, mental
 45 disability, or physical disability, whether or not an arrest is made, the officer shall prepare
 46 and submit to the law enforcement officer's supervisor or other designated person a written
 47 report of the incident entitled 'Bias Crime Report.' Forms for such reports shall be designed
 48 and provided by the Georgia Bureau of Investigation. The report shall include:

49 (1) Names of the parties;

50 (2) Relationship of the parties;

51 (3) Sex and gender of the parties;

52 (4) Race of the parties;

53 (5) Religion of the parties;

54 (6) Dates of birth of the parties;

55 (7) Time, place, and date of the incident;

56 (8) Whether there is evidence to indicate that the incident occurred because of a person's
 57 actual or perceived attributes as specified by subsection (a) of this Code section;

58 (9) Type and extent of the alleged violation;

59 (10) Existence of any objects or symbols associated with the terrorizing of persons based
 60 upon actual or perceived race, religion, or sex;

- 61 (11) Number and types of weapons involved, if any;
62 (12) Existence of any prior difficulties between the parties;
63 (13) Type of police action taken in disposition of case;
64 (14) Whether the victim was apprised of available remedies and services; and
65 (15) Any other information the officer deems pertinent.
- 66 (b) The report provided for in subsection (a) of this Code section shall be considered for
67 statistical purposes only and, where no arrests are made, shall not be subject to the
68 provisions of Article 4 of Chapter 18 of Title 50. However, upon request, a defendant who
69 has been arrested for a criminal violation subject to Code Section 17-10-17 and the victim
70 shall be entitled to review and copy any report prepared in accordance with this Code
71 section relating to the defendant.
- 72 (c) Each police department, including local precincts and county sheriff departments, shall
73 report, according to rules and regulations of the Georgia Crime Information Center, all
74 incidents involving alleged criminal violations subject to the provisions of this Code
75 section, both arrests and nonarrests, to the Georgia Bureau of Investigation, which shall
76 compile and analyze statistics of such crimes and cause them to be published annually in
77 the Georgia Uniform Crime Reports. An offense shall be counted for each incident
78 reported to the police. A zero shall be reported if no incidents have occurred during the
79 reporting period."

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SECTION 3.

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