

Senate Bill 160

By: Senators Harper of the 7th, Shafer of the 48th, Mullis of the 53rd, Kirk of the 13th, Cowsert of the 46th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To provide for increased punishment when certain crimes are committed against public
2 safety officers; to amend Chapter 11 of Title 15, Title 16, and Code Section 45-9-85 of the
3 Official Code of Georgia Annotated, relating to the Juvenile Code, crimes and offenses, and
4 payment of indemnification for death or disability of certain public safety officers,
5 respectively, so as to provide the superior court with exclusive original jurisdiction for cases
6 involving aggravated assault upon a public safety officer involving the use of a firearm and
7 aggravated battery upon a public safety officer; to allow a superior court the discretion to
8 transfer such cases back to juvenile court; to clarify the definitions of a class A or class B
9 designated felony act in light of the jurisdictional changes; to provide for definitions; to
10 change provisions relating to aggravated assault and aggravated battery and provide for
11 mandatory terms of imprisonment and fines under certain circumstances; to earmark money
12 collected from certain fines to the Georgia State Indemnification Fund; to change provisions
13 relating to obstructing or hindering law enforcement officers and increase the punishment for
14 subsequent convictions; to provide for the offense of, and criminal penalties for, placing
15 human or animal excreta upon law enforcement officers; to change provisions relating to a
16 riot in a penal institution; to increase the amount of payment of indemnification for death or
17 disability; to provide for a short title; to provide for related matters; to repeal conflicting
18 laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **PART I**
21 **SECTION 1-1.**

22 This Act shall be known and may be cited as the "Back the Badge Act of 2017."

23 **PART II**

24 **SECTION 2-1.**

25 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
26 Code, is amended by revising subparagraphs (A) and (B) of paragraph (12) and subparagraph
27 (A) of paragraph (13) of Code Section 15-11-2, relating to definitions, as follows:

28 "(A)(i) Aggravated assault in violation of paragraph (1), (3), or (4) of subsection (b)
29 or subsection (d), (e), (f), (j), or (m) of (3) of subsection (a) of Code Section 16-5-21;
30 (ii) Aggravated assault in violation of paragraph (1) or (4) of subsection (a) of Code
31 Section 16-5-21 other than upon a public safety officer as such acts are prohibited
32 under subsection (c) of Code Section 16-5-21, not involving a firearm; or
33 (iii) Aggravated assault upon an individual or situation described in subsection (d),
34 (h), or (k) of Code Section 16-5-21 or assault with a deadly weapon or with any
35 object, device, or instrument which, when used offensively against a person, actually
36 does result in serious bodily injury, provided that such deadly weapon is not a
37 firearm; and provided, further, that such injured person is not a public safety officer
38 as defined in Code Section 16-5-19 and such acts are not prohibited under subsection
39 (c) of Code Section 16-5-21;

40 (B) Aggravated battery not upon a public safety officer as such acts are prohibited
41 under subsection (c) of Code Section 16-5-24;"

42 "(A)(i) Aggravated assault in violation of subsection (g), (h), or (k) (e), (f), or (i) of
43 Code Section 16-5-21; or
44 (ii) Aggravated assault involving an assault with a deadly weapon or with any object,
45 device, or instrument which, when used offensively against a person, would be likely
46 to result in serious bodily injury but which did not result in serious bodily injury;"

47 **SECTION 2-2.**

48 Said chapter is further amended in Code Section 15-11-560, relating to concurrent and
49 original jurisdiction of superior court, by revising subsection (b) and paragraph (1) of
50 subsection (e) and adding a new subsection to read as follows:

51 "(b) The superior court shall have exclusive original jurisdiction over the trial of any child
52 13 to 17 years of age who is alleged to have committed any of the following offenses:

- 53 (1) Murder;
54 (2) Murder in the second degree;
55 (3) Voluntary manslaughter;
56 (4) Rape;
57 (5) Aggravated sodomy;
58 (6) Aggravated child molestation;

59 (7) Aggravated sexual battery; ~~or~~
 60 (8) Armed robbery if committed with a firearm;
 61 (9) Aggravated assault if committed with a firearm upon a public safety officer as such
 62 acts are prohibited under subsection (c) of Code Section 16-5-21; or
 63 (10) Aggravated battery upon a public safety officer as such acts are prohibited under
 64 subsection (c) of Code Section 16-5-24."
 65 "(e)(1) After indictment, the superior court may after investigation transfer to the juvenile
 66 court any case involving a child 13 to 17 years of age alleged to have committed
 67 ~~voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated~~
 68 ~~sexual battery~~ any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection
 69 (b) of this Code section. In considering the transfer of such case, the court shall consider
 70 the criteria set forth in Code Section 15-11-562. Any such transfer shall be appealable
 71 by the State of Georgia pursuant to Code Section 5-7-1. Upon such a transfer by the
 72 superior court, jurisdiction shall vest in the juvenile court and jurisdiction of the superior
 73 court shall terminate."
 74 "(h) As used in this Code section, the term 'firearm' means a handgun, rifle, shotgun, or
 75 other weapon which will or can be converted to expel a projectile by the action of an
 76 explosive or electrical charge."

77 **SECTION 2-3.**

78 Said chapter is further amended by revising subsection (a) of Code Section 15-11-561,
 79 relating to waiver of juvenile court jurisdiction and transfer to superior court, as follows:

80 "(a) After a petition alleging delinquency has been filed but before the adjudication
 81 hearing, on its own motion or on a motion by a prosecuting attorney, the court may
 82 convene a hearing to determine whether to transfer the offense to the appropriate superior
 83 court for criminal trial if the court determines that:

- 84 (1) There is probable cause to believe that a child committed the alleged offense;
 85 (2) Such child is not committable to an institution for the developmentally disabled or
 86 mentally ill; and
 87 (3) The petition alleges that such child:
 88 (A) Was at least 15 years of age at the time of the commission of the offense and
 89 committed an act which would be a felony if committed by an adult; or
 90 (B) Was 13 or 14 years of age and either committed an act for which the punishment
 91 is loss of life or confinement for life in a penal institution or committed aggravated
 92 battery resulting in serious bodily injury to ~~a victim~~ an alleged victim who is not a
 93 public safety officer as such term is defined in Code Section 16-5-19."

SECTION 2-4.

94

95 Said chapter is further amended by revising subsection (a) of Code Section 15-11-562,
96 relating to transfer criteria, as follows:

97 "(a) The criteria that the juvenile court shall consider in determining whether to transfer
98 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to
99 superior court and the criteria that the superior court shall consider in determining whether
100 to transfer any case involving a child 13 to 17 years of age alleged to have committed
101 ~~voluntary manslaughter, aggravated sodomy, aggravated child molestation, or aggravated~~
102 ~~sexual battery~~ any act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b)
103 of Code Section 15-11-560 to juvenile court as set forth in subsection (e) of Code Section
104 15-11-560 includes, but shall not be limited to:

105 (1) The age of such child;

106 (2) The seriousness of the alleged offense, especially if personal injury resulted;

107 (3) Whether the protection of the community requires transfer of jurisdiction;

108 (4) Whether the alleged offense involved violence or was committed in an aggressive or
109 premeditated manner;

110 (5) The impact of the alleged offense on the alleged victim, including the permanence
111 of any physical or emotional injury sustained, health care expenses incurred, and lost
112 earnings suffered;

113 (6) The culpability of such child including such child's level of planning and
114 participation in the alleged offense;

115 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
116 indicates that such child may be beyond rehabilitation in the juvenile justice system;

117 (8) The record and history of such child, including experience with the juvenile justice
118 system, other courts, supervision, commitments to juvenile institutions, and other
119 placements;

120 (9) The sophistication and maturity of such child as determined by consideration of his
121 or her home and environmental situation, emotional condition, and pattern of living;

122 (10) The program and facilities available to the juvenile court in considering disposition;
123 and

124 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
125 available to the juvenile court."

126

PART III

127

SECTION 3-1.

128 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
 129 amended in Article 2 of Chapter 5, relating to assault and battery, by adding a new Code
 130 section to read as follows:

131 "16-5-19.

132 As used in this article, the term:

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

136 (2) 'Emergency health worker' means hospital emergency department personnel and
 137 emergency medical services personnel.

138 (3) 'Firefighter' shall have the same meaning as set forth in Code Section 25-4-2.

139 (4) 'Highway emergency response operator' means an individual employed by the
 140 Department of Transportation who operates a towing or recovery vehicle or highway
 141 maintenance vehicle.

142 (5) 'Jail officer' means any person who is employed or appointed by a county or a
 143 municipality and who has the responsibility of supervising inmates who are confined in
 144 a municipal or county detention facility.

145 (6) 'Juvenile correctional officer' means any person employed or appointed by the
 146 Department of Juvenile Justice who has the primary responsibility for the supervision and
 147 control of youth confined in its programs and facilities.

148 (7) 'Officer of the court' means a judge, attorney, clerk of court, deputy clerk of court,
 149 court reporter, or court interpreter.

150 (8) 'Probation officer' means a community supervision officer, county or Department of
 151 Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article
 152 6 of Chapter 8 of Title 42.

153 (9) 'Public safety officer' means peace officer, correctional officer, emergency health
 154 worker, firefighter, highway emergency response operator, jail officer, juvenile
 155 correctional officer, or probation officer.

156 (10) 'Public transit vehicle' shall have the same meaning as set forth in Code Section
 157 16-5-20.

158 (11) 'Strangulation' means impeding the normal breathing or circulation of blood of
 159 another person by applying pressure to the throat or neck of such person or by obstructing
 160 the nose and mouth of such person."

SECTION 3-2.

161
162 Said title is further amended by revising Code Section 16-5-21, relating to aggravated
163 assault, as follows:

164 "16-5-21.

165 ~~(a) As used in this Code section, the term 'strangulation' means impeding the normal~~
166 ~~breathing or circulation of blood of another person by applying pressure to the throat or~~
167 ~~neck of such person or by obstructing the nose and mouth of such person.~~

168 ~~(b)~~(a) A person commits the offense of aggravated assault when he or she assaults:

- 169 (1) With intent to murder, to rape, or to rob;
170 (2) With a deadly weapon or with any object, device, or instrument which, when used
171 offensively against a person, is likely to or actually does result in serious bodily injury;
172 (3) With any object, device, or instrument which, when used offensively against a
173 person, is likely to or actually does result in strangulation; or
174 (4) A person or persons without legal justification by discharging a firearm from within
175 a motor vehicle toward a person or persons.

176 ~~(c)~~(b) Except as provided in subsections ~~(d)~~ (c) through ~~(n)~~ (k) of this Code section, a
177 person convicted of the offense of aggravated assault shall be punished by imprisonment
178 for not less than one nor more than 20 years.

179 ~~(d)~~(c)(1) A person who knowingly commits the offense of aggravated assault upon a
180 peace public safety officer while the peace officer he or she is engaged in, or on account
181 of the performance of, his or her official duties shall, upon conviction thereof, be
182 punished as follows:

183 (A) When such assault occurs by the discharge of a firearm by a person who is at least
184 17 years of age, such person shall be punished by imprisonment for not less than ten nor
185 more than 20 years and shall be sentenced to a mandatory minimum term of
186 imprisonment of ten years and no portion of the mandatory minimum sentence imposed
187 shall be suspended, stayed, probated, deferred, or withheld by the sentencing court;
188 provided, however, that in the court's discretion, the court may depart from such
189 mandatory minimum sentence when the prosecuting attorney and defendant have
190 agreed to a sentence that is below such mandatory minimum;

191 (B) When such assault does not involve the discharge of a firearm by a person who is
192 at least 17 years of age, and does not involve only the use of the person's body, such
193 person shall be punished by imprisonment for not less than five nor more than 20 years
194 and, for persons who are at least 17 years of age, shall be sentenced to a mandatory
195 minimum term of imprisonment of three years and no portion of the mandatory
196 minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld
197 by the sentencing court; provided, however, that in the court's discretion, the court may

198 depart from such mandatory minimum sentence when the prosecuting attorney and
 199 defendant have agreed to a sentence that is below such mandatory minimum; or
 200 (C) When such assault occurs only involving the use of the person's body, by
 201 imprisonment for not less than five nor more than 20 years.

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

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

212 ~~(e)~~(d) Any person who commits the offense of aggravated assault against a person who is
 213 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for
 214 not less than three nor more than 20 years.

215 ~~(f)(1) As used in this subsection, the term 'correctional officer' shall include~~
 216 ~~superintendents, wardens, deputy wardens, guards, and correctional officers of state,~~
 217 ~~county, and municipal penal institutions who are certified by the Georgia Peace Officer~~
 218 ~~Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the~~
 219 ~~Department of Juvenile Justice who are known to be employees of the department or who~~
 220 ~~have given reasonable identification of their employment. The term 'correctional officer'~~
 221 ~~shall also include county jail officers who are certified or registered by the Georgia Peace~~
 222 ~~Officer Standards and Training Council pursuant to Chapter 8 of Title 35.~~

223 ~~(2) A person who knowingly commits the offense of aggravated assault upon a~~
 224 ~~correctional officer while the correctional officer is engaged in, or on account of the~~
 225 ~~performance of, his or her official duties shall, upon conviction thereof, be punished by~~
 226 ~~imprisonment for not less than five nor more than 20 years.~~

227 ~~(g)~~(e) Any person who commits the offense of aggravated assault in a public transit
 228 vehicle or station shall, upon conviction thereof, be punished by imprisonment for not less
 229 than three nor more than 20 years. ~~For purposes of this Code section, 'public transit~~
 230 ~~vehicle' has the same meaning as in subsection (c) of Code Section 16-5-20.~~

231 ~~(h)~~(f) Any person who commits the offense of aggravated assault upon a person in the
 232 course of violating Code Section 16-8-2 where the property that was the subject of the theft
 233 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,
 234 including without limitation any such trailer, semitrailer, container, or other associated

235 equipment, or the cargo being transported therein or thereon, shall upon conviction be
 236 punished by imprisonment for not less than five nor more than 20 years, a fine not less than
 237 \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For purposes
 238 of this subsection, the term 'vehicle' includes without limitation any railcar.

239 ~~(i)~~(g) Except as provided in subsection (c) of this Code section, a ~~A~~ person convicted of
 240 an offense described in paragraph (4) of subsection ~~(b)~~ (a) of this Code section shall be
 241 punished by imprisonment for not less than five nor more than 20 years.

242 ~~(j)~~(h) Any person who commits the offense of aggravated assault involving the use of a
 243 firearm upon a student or teacher or other school personnel within a school safety zone as
 244 defined in Code Section 16-11-127.1 shall, upon conviction thereof, be punished by
 245 imprisonment for not less than five nor more than 20 years.

246 ~~(k)~~(i) If the offense of aggravated assault is committed between past or present spouses,
 247 persons who are parents of the same child, parents and children, stepparents and
 248 stepchildren, foster parents and foster children, or other persons excluding siblings living
 249 or formerly living in the same household, the defendant shall be punished by imprisonment
 250 for not less than three nor more than 20 years.

251 ~~(l)~~(j) Any person who commits the offense of aggravated assault with intent to rape against
 252 a child under the age of 14 years shall be punished by imprisonment for not less than 25
 253 nor more than 50 years. Any person convicted under this subsection shall, in addition, be
 254 subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

255 ~~(m)~~(k) A person who knowingly commits the offense of aggravated assault upon an officer
 256 of the court while such officer is engaged in, or on account of the performance of, his or
 257 her official duties shall, upon conviction thereof, be punished by imprisonment for not less
 258 than five nor more than 20 years. ~~As used in this subsection, the term 'officer of the court'~~
 259 ~~means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court~~
 260 ~~interpreter, community supervision officer, county or Department of Juvenile Justice~~
 261 ~~juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8~~
 262 ~~of Title 42.~~

263 ~~(n)~~ A person who knowingly commits the offense of aggravated assault upon an
 264 emergency health worker while the worker is engaged in, or on account of the performance
 265 of, his or her official duties shall, upon conviction thereof, be punished by imprisonment
 266 for not less than five nor more than 20 years. ~~As used in this subsection, the term~~
 267 ~~'emergency health worker' means hospital emergency department personnel and emergency~~
 268 ~~medical services personnel."~~

269 **SECTION 3-3.**

270 Said title is further amended by revising Code Section 16-5-24, relating to aggravated
271 battery, as follows:

272 "16-5-24.

273 (a) A person commits the offense of aggravated battery when he or she maliciously causes
274 bodily harm to another by depriving him or her of a member of his or her body, by
275 rendering a member of his or her body useless, or by seriously disfiguring his or her body
276 or a member thereof.

277 (b) Except as provided in subsections (c) through (f) (g) of this Code section, a person
278 convicted of the offense of aggravated battery shall be punished by imprisonment for not
279 less than one nor more than 20 years.

280 (c)(1) A person who knowingly commits the offense of aggravated battery upon a ~~peace~~
281 public safety officer while the public safety officer is engaged in, or on account of the
282 performance of, his or her official duties shall, upon conviction thereof, be punished by
283 imprisonment for not less than ten nor more than 20 years; provided, however, that for
284 persons who are at least 17 years of age, a mandatory minimum term of imprisonment of
285 three years shall be imposed and no portion of the mandatory minimum sentence shall be
286 suspended, stayed, probated, deferred, or otherwise withheld by the sentencing court;
287 provided, however, that in the court's discretion, the court may depart from such
288 mandatory minimum sentence when the prosecuting attorney and defendant have agreed
289 to a sentence that is below such mandatory minimum.

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

297 (d) Any person who commits the offense of aggravated battery against a person who is 65
298 years of age or older shall, upon conviction thereof, be punished by imprisonment for not
299 less than five nor more than 20 years.

300 (e)(1) ~~As used in this subsection, the term 'correctional officer' shall include~~
301 ~~superintendents, wardens, deputy wardens, guards, and correctional officers of state,~~
302 ~~county, and municipal penal institutions who are certified by the Georgia Peace Officer~~
303 ~~Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the~~
304 ~~Department of Juvenile Justice who are known to be employees of the department or who~~
305 ~~have given reasonable identification of their employment. The term 'correctional officer'~~

306 shall also include county jail officers who are certified or registered by the Georgia Peace
307 Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

308 ~~(2) A person who knowingly commits the offense of aggravated battery upon a~~
309 ~~correctional officer while the correctional officer is engaged in, or on account of the~~
310 ~~performance of, his or her official duties shall, upon conviction thereof, be punished by~~
311 ~~imprisonment for not less than ten nor more than 20 years.~~

312 ~~(f)(e)~~ Any person who commits the offense of aggravated battery in a public transit vehicle
313 or station shall, upon conviction thereof, be punished by imprisonment for not less than
314 five nor more than 20 years. For purposes of this Code section, 'public transit vehicle' has
315 the same meaning as in subsection (c) of Code Section 16-5-20.

316 ~~(g)(f)~~ Any person who commits the offense of aggravated battery upon a student or teacher
317 or other school personnel within a school safety zone as defined in Code Section
318 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than
319 five nor more than 20 years.

320 ~~(h)(g)~~ If the offense of aggravated battery is committed between past or present spouses,
321 persons who are parents of the same child, parents and children, stepparents and
322 stepchildren, foster parents and foster children, or other persons excluding siblings living
323 or formerly living in the same household, the defendant shall be punished by imprisonment
324 for not less than three nor more than 20 years.

325 ~~(i) A person who knowingly commits the offense of aggravated battery upon an~~
326 ~~emergency health worker while the worker is engaged in, or on account of the performance~~
327 ~~of, his or her official duties shall, upon conviction thereof, be punished by imprisonment~~
328 ~~for not less than five nor more than 20 years. As used in this subsection, the term~~
329 ~~'emergency health worker' means hospital emergency department personnel and emergency~~
330 ~~medical services personnel."~~

331 **SECTION 3-4.**

332 Said title is further amended by revising Code Section 16-10-24, relating to obstructing or
333 hindering law enforcement officers, as follows:

334 "16-10-24.

335 (a) Except as otherwise provided in subsection (b) of this Code section, a person who
336 knowingly and willfully obstructs or hinders any law enforcement officer, prison guard,
337 jailer, correctional officer, community supervision officer, county or Department of
338 Juvenile Justice juvenile probation officer, probation officer serving pursuant to Article 6
339 of Chapter 8 of Title 42, or conservation ranger in the lawful discharge of his or her official
340 duties is shall be guilty of a misdemeanor.

341 (b) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement
 342 officer, prison guard, jailer, correctional officer, community supervision officer, county or
 343 Department of Juvenile Justice juvenile probation officer, probation officer serving
 344 pursuant to Article 6 of Chapter 8 of Title 42, or conservation ranger in the lawful
 345 discharge of his or her official duties by offering or doing violence to the person of such
 346 officer or legally authorized person is shall be guilty of a felony and shall, upon a first
 347 conviction thereof, be punished by imprisonment for not less than one year nor more than
 348 five years. Upon a second conviction for a violation of this subsection, such person shall
 349 be punished by imprisonment for not less than two years nor more than ten years. Upon
 350 a third or subsequent conviction for a violation of this subsection, such person shall be
 351 punished by imprisonment for not less than three years nor more than 15 years.

352 (c) Whoever knowingly and willfully resists, obstructs, or opposes any law enforcement
 353 officer, prison guard, jailer, correctional officer, community supervision officer, county or
 354 Department of Juvenile Justice juvenile probation officer, probation officer serving
 355 pursuant to Article 6 of Chapter 8 of Title 42, or conservation ranger in the lawful
 356 discharge of his or her official duties by knowingly and willfully throwing, projecting, or
 357 expelling human or animal blood, urine, feces, vomitus, or seminal fluid on or at such
 358 individual shall be guilty of a felony and shall, upon conviction thereof, be punished by
 359 imprisonment for not less than one year nor more than five years.

360 (d) A person convicted under this Code section shall be punished, in addition to any term
 361 of imprisonment imposed, by a fine as provided by law which shall be at least \$300.00.
 362 With respect to \$300.00 of the fine imposed, after distributing the surcharges and
 363 deductions required by Chapter 21 of Title 15, Code Sections 36-15-9 and 42-8-34, and
 364 Title 47, it shall be earmarked for the Georgia State Indemnification Fund for purposes of
 365 payment of indemnification for death or disability as provided for in Part 1 of Article 5 of
 366 Chapter 9 of Title 45."

367 SECTION 3-5.

368 Said title is further amended by revising Code Section 16-10-56, relating to riot in a penal
 369 institution, as follows:

370 "16-10-56.

371 (a) As used in this Code section, the term 'penal institution' means any place of
 372 confinement for persons accused of or convicted of violating a law of this state or an
 373 ordinance of a municipality or political subdivision of this state.

374 ~~(a)(b) No~~ Any person legally confined to any a penal institution of this state or of any
 375 ~~political subdivision of this state who commits~~ shall commit an unlawful act of violence

376 or any other act in a violent or tumultuous manner ~~commits the offense of riot~~ in a penal
 377 institution.
 378 ~~(b)~~(c) Any person who violates ~~subsection (a)~~ of this Code section is shall be guilty of a
 379 felony and, upon conviction thereof, shall be punished by imprisonment of not less than
 380 one year nor more than 20 years."

381 **PART IV**

382 **SECTION 4-1.**

383 Code Section 45-9-85 of the Official Code of Georgia Annotated, relating to payment of
 384 indemnification for death or disability, procedure for making payments, and appeal, is
 385 amended by revising paragraph (3) of subsection (a) as follows:

386 "(3) In the case of death or organic brain damage suffered in the line of duty by a law
 387 enforcement officer, firefighter, emergency medical technician, emergency management
 388 specialist, state highway employee, or prison guard, payment shall be made to the
 389 surviving unremarried spouse or the dependents of the spouse or deceased person as
 390 shown in his or her most recent tax return or to the legal guardian of the organically brain
 391 damaged person. The surviving unremarried spouse, dependents, or the legal guardian
 392 may elect to receive payment in a lump sum payment of ~~\$100,000.00~~ \$150,000.00 paid
 393 in equal monthly installments for five years or a lump sum of such amount reduced to its
 394 present value upon the basis of interest calculated at the rate of 6 percent per annum."

395 **PART V**

396 **SECTION 5-1.**

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