

House Bill 426

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 revise the criteria
3 for imposition of punishment for crimes involving bias or prejudice; to revise the sanctions
4 for such crimes; to provide for the manner of serving such sentences; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to
9 procedure for sentencing and imposition of punishment, is amended by revising Code
10 Section 17-10-17, relating to sentencing of defendants guilty of crimes involving bias or
11 prejudice, circumstances, and parole, as follows:

12 "17-10-17.

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

20 (1) If the offense for which the defendant was convicted is a misdemeanor, ~~increase the~~
21 ~~sentence and the fine normally imposed by the court through court policy or voluntary~~
22 ~~sentencing guidelines by 50 percent up to the maximum authorized by law~~ impose a
23 sentence of imprisonment for a period of not less than three nor more than 12 months,
24 and a fine not to exceed \$5,000.00;

25 (2) If the offense for which the defendant was convicted is a misdemeanor of a high and
26 aggravated nature, ~~increase the sentence and fine normally imposed by the court through~~

27 ~~court policy or voluntary sentencing guidelines by 50 percent up to the maximum~~
28 ~~authorized by law~~ impose a sentence of imprisonment for a period of not less than six nor
29 more than 12 months, and a fine not to exceed \$5,000.00; or

30 (3) If the offense for which the defendant was convicted is a felony, ~~increase the~~
31 ~~sentence normally imposed by the court through court policy or voluntary sentencing~~
32 ~~guidelines by up to five years, not to exceed the maximum authorized by law~~ impose a
33 sentence of imprisonment for a period of not less than two years.

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

36 (c) Any ~~person convicted of a felony and given an enhanced sentence under this Code~~
37 ~~section shall not be eligible for any form of parole or early release until such person has~~
38 ~~served at least 90 percent of the sentence imposed by the sentencing court~~ felony sentence
39 imposed pursuant to this Code section shall be not be suspended, stayed, probated,
40 deferred, or withheld by the sentencing court. Any misdemeanor sentence imposed
41 pursuant to this Code section shall be computed by actual days of incarceration."

42 **SECTION 2.**

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