

The House Committee on Judiciary Non-Civil offers the following substitute to HB 67:

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 designate the existing crime of highjacking a motor vehicle as being in the
3 first degree and create a new crime of highjacking a motor vehicle in the second degree; to
4 provide for penalties; to change provisions relating to burglary in the second degree
5 involving a vehicle; to amend the Official Code of Georgia Annotated to provide for
6 conforming cross-references; to provide for related matters; to repeal conflicting laws; and
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 PART I

10 SECTION 1-1.

11 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
12 amended by revising subsections (b) through (d) of Code Section 16-5-44.1, relating to
13 highjacking a motor vehicle, as follows:

14 "(b)(1) A person commits the offense of hijacking a motor vehicle in the first degree
15 when such person while in possession of a firearm or weapon obtains a motor vehicle
16 from ~~the person~~ an individual or the presence of another individual by force and violence
17 or intimidation or attempts or conspires to do so.

18 (2) A person commits the offense of hijacking a motor vehicle in the second degree when
19 such person obtains a motor vehicle from an individual without his or her consent or from
20 the presence of another individual without his or her consent or attempts or conspires to
21 do so.

22 (c)(1) A person convicted of the offense of hijacking a motor vehicle in the first degree
23 shall be punished by imprisonment for not less than ten nor more than 20 years and a fine
24 of not less than \$10,000.00 nor more than \$100,000.00, provided that any person who has
25 previously committed an offense under the laws of the United States or of Georgia or of

26 any of the several states or of any foreign nation recognized by the United States which
 27 if committed in Georgia would have constituted the offense of hijacking a motor vehicle
 28 shall be punished by imprisonment for life and a fine of not less than \$100,000.00 nor
 29 more than \$500,000.00. The punishment imposed pursuant to this paragraph shall not be
 30 deferred, suspended, or probated. For purposes of this ~~subsection~~ paragraph, the term
 31 'state' shall include the District of Columbia and any territory, possession, or dominion
 32 of the United States.

33 (2) A person convicted of the offense of hijacking a motor vehicle in the second degree
 34 shall be punished upon a first conviction by imprisonment for not less than one nor more
 35 than 20 years and a fine of not more than \$5,000.00. Upon a second conviction for
 36 hijacking a motor vehicle in the second degree, a person shall be punished by
 37 imprisonment for not less than three nor more than 20 years and a fine of not more than
 38 \$5,000.00. Upon a third or subsequent conviction of highjacking a motor vehicle in the
 39 second degree, a person shall be punished by imprisonment for not less than five nor
 40 more than 20 years and a fine of not more than \$5,000.00.

41 (d) The offense of hijacking a motor vehicle in the first degree shall be considered a
 42 separate offense and shall not merge with any other offense; ~~and the punishment prescribed~~
 43 ~~by subsection (c) of this Code section shall not be deferred, suspended, or probated."~~

44 **SECTION 1-2.**

45 Said title is further amended by revising subsection (c) of Code Section 16-7-1, relating to
 46 burglary, as follows:

47 "(c) A person commits the offense of burglary in the second degree when, without
 48 authority and with the intent to commit a felony or theft therein, he or she enters or remains
 49 within an occupied, unoccupied, or vacant building, structure, ~~vehicle~~, railroad car,
 50 watercraft, or aircraft. A person who commits the offense of burglary in the second degree
 51 shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment
 52 for not less than one nor more than five years. Upon the second and all subsequent
 53 convictions for burglary in the second degree, the defendant shall be guilty of a felony and
 54 shall be punished by imprisonment for not less than one nor more than eight years."

55 **PART II**

56 **SECTION 2-1.**

57 The Official Code of Georgia Annotated is amended by replacing "highjacking a motor
 58 vehicle" with "highjacking a motor vehicle in the first degree" in the following:

- 59 (1) Subparagraph (a)(12)(G) of Code Section 15-11-2, relating to definitions for the
60 Juvenile Code;
- 61 (2) Subparagraph (b)(1)(L) of Code Section 15-11-505, relating to use of detention
62 assessments to determine if detention is warranted and "serious delinquent act" defined;
- 63 (3) Paragraph (6) of subsection (a) of Code Section 17-6-1, relating to where offenses
64 are bailable, procedure, schedule of bails, and appeal bonds; and
- 65 (4) Subparagraph (a)(2)(C) of Code Section 17-6-12, relating to the discretion of the
66 court to release person charged with a crime on person's own recognizance only.

67 **PART III**

68 **SECTION 3-1.**

69 Code Section 16-11-131 of the Official Code of Georgia Annotated, relating to possession
70 of a firearm by convicted felons and first-offender probationers, is amended by revising
71 subsection (e) as follows:

72 "(e) As used in this Code section, the term 'forcible felony' means any felony which
73 involves the use or threat of physical force or violence against any person and further
74 includes, without limitation, murder; murder in the second degree; burglary in any degree;
75 robbery; armed robbery; home invasion in any degree; kidnapping; hijacking of an aircraft
76 or highjacking a motor vehicle in the first degree; aggravated stalking; rape; aggravated
77 child molestation; aggravated sexual battery; arson in the first degree; the manufacturing,
78 transporting, distribution, or possession of explosives with intent to kill, injure, or
79 intimidate individuals or destroy a public building; terroristic threats; or acts of treason or
80 insurrection."

81 **SECTION 3-2.**

82 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
83 amended by revising division (a)(11)(A)(vi) of Code Section 17-7-130, relating to
84 proceedings upon plea of mental incompetence to stand trial, as follows:

85 "(vi) Hijacking of a motor vehicle in the first degree or highjacking an aircraft;"

86 **SECTION 3-3.**

87 Said title is further amended by revising paragraph (6) of subsection (a) of Code Section
88 17-10-9.1, relating to voluntary surrender to county jail or correctional institution, as follows:

89 "(6) Aircraft hijacking and hijacking of a motor vehicle in the first degree;"

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PART IV

91

SECTION 4-1.

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