

House Bill 1120

By: Representative Jones of the 91<sup>st</sup>

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 for an affirmative defense; to provide the  
6 sanctions for such crimes; to provide for related matters; to repeal conflicting laws; and for  
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **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 enacting a new Code  
14 Section 17-10-17 to read as follows:

15 "17-10-17.

16 (a) Subject to the notice requirement provided in Code Section 17-10-18 and in  
17 enhancement of the penalty imposed pursuant thereto, if the trier of fact determines beyond  
18 a reasonable doubt that the defendant intentionally selected any victim or group of victims  
19 or any property as the object of the offense because of the actual or perceived political  
20 beliefs or political associations of such victim or group of victims, the judge imposing  
21 sentence shall:

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

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

30 (b) The judge shall state when he or she imposes the sentence the amount of the increase  
31 of the sentence based upon the application of subsection (a) of this Code section.

32 (c) It shall be an affirmative defense to an enhancement of penalty under this Code section  
33 if the underlying offense for which an individual was convicted was solely the result of a  
34 sudden, violent, and irresistible passion resulting from serious provocation sufficient to  
35 excite such passion in a reasonable person."

36 **SECTION 2.**

37 All laws and parts of laws in conflict with this Act are repealed.