

House Bill 227

By: Representatives Leverett of the 123rd, Williamson of the 112th, Smith of the 18th,
Anderson of the 10th, Burchett of the 176th, and others

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 provide for the offense of criminal interference with critical infrastructure;
3 to provide for definitions; to provide for penalties; to amend Code Sections 35-2-36,
4 42-8-35.4, and 43-34-10 of the Official Code of Georgia Annotated, relating to composition
5 of battalion, rank of battalion personnel, employment of recruits or cadets by commissioner,
6 promulgation of rules and regulations as to enlistment and training of recruits or cadets,
7 confinement in probation detention center, and notification of conviction, respectively, so as
8 to provide for conforming cross-references; to provide for related matters; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
13 amended by revising Code Section 16-1-3, relating to definitions regarding the general
14 provisions of crimes and offenses, as follows:

15 "16-1-3.

16 As used in this title, the term:

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17 (1) 'Affirmative defense' means, with respect to any affirmative defense authorized in
18 this title, unless the state's evidence raises the issue invoking the alleged defense, the
19 defendant must present evidence thereon to raise the issue. The enumeration in this title
20 of some affirmative defenses shall not be construed as excluding the existence of others.

21 (2) 'Agency' means:

22 (A) When used with respect to the state government, any department, commission,
23 committee, authority, board, or bureau thereof; and

24 (B) When used with respect to any political subdivision of the state government, any
25 department, commission, committee, authority, board, or bureau thereof.

26 (3) 'Another' means a person or persons other than the accused.

27 (4) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding
28 of guilty of a crime or upon a plea of guilty.

29 (5) 'Critical infrastructure' shall have the meaning set forth in Code Section 16-11-220.

30 (6) 'Felony' means a crime punishable by death, by imprisonment for life, or by
31 imprisonment for more than 12 months.

32 ~~(6)~~(7) 'Forcible felony' means any felony which involves the use or threat of physical
33 force or violence against any person.

34 ~~(7)~~(8) 'Forcible misdemeanor' means any misdemeanor which involves the use or threat
35 of physical force or violence against any person.

36 ~~(8)~~(9) 'Government' means the United States, the state, any political subdivision thereof,
37 or any agency of the foregoing.

38 ~~(9)~~(10) 'Misdemeanor' and 'misdemeanor of a high and aggravated nature' mean any
39 crime other than a felony.

40 ~~(10)~~(11) 'Owner' means a person who has a right to possession of property which is
41 superior to that of a person who takes, uses, obtains, or withholds it from him or her and
42 which the person taking, using, obtaining, or withholding is not privileged to infringe.

43 ~~(11)~~(12) 'Peace officer' means any person who by virtue of his or her office or public
44 employment is vested by law with a duty to maintain public order or to make arrests for
45 offenses, whether that duty extends to all crimes or is limited to specific offenses.

46 ~~(12)~~(13) 'Person' means an individual, a public or private corporation, an incorporated
47 association, government, government agency, partnership, or unincorporated association.

48 ~~(13)~~(14) 'Property' means anything of value, including but not limited to real estate,
49 tangible and intangible personal property, contract rights, services, choses in action, and
50 other interests in or claims to wealth, admission or transportation tickets, captured or
51 domestic animals, food and drink, and electric or other power.

52 ~~(14)~~(15) 'Prosecution' means all legal proceedings by which a person's liability for a
53 crime is determined, commencing with the return of the indictment or the filing of the
54 accusation, and including the final disposition of the case upon appeal.

55 ~~(15)~~(16) 'Public place' means any place where the conduct involved may reasonably be
56 expected to be viewed by people other than members of the actor's family or household.

57 ~~(16)~~(17) 'Reasonable belief' means that the person concerned, acting as a reasonable man
58 person, believes that the described facts exist.

59 ~~(17)~~(18) 'State' means the State of Georgia, all land and water in respect to which this
60 state has either exclusive or concurrent jurisdiction, and the airspace above such land and
61 water.

62 (19) 'Vital public services' shall include, without limitation, water, sewerage, electric,
63 telecommunication, internet, navigation, collision avoidance, public transportation, and
64 public transit systems; ambulance, hospital, emergency medical, and emergency rescue
65 services; police, military, coast guard, prison and fire services provided by or authorized
66 through the federal or state government; and similar additional vital public services which
67 constitute critical infrastructure, the loss of which would be likely to have a debilitating
68 impact on the public health, safety, or welfare.

69 ~~(18)~~(20) 'Without authority' means without legal right or privilege or without permission
70 of a person legally entitled to withhold the right.

71 ~~(19)~~(21) 'Without his consent' means that a person whose concurrence is required has
72 not, with knowledge of the essential facts, voluntarily yielded to the proposal of the
73 accused or of another."

74 **SECTION 2.**

75 Said title is further amended by revising Code Section 16-7-22, relating to criminal damage
76 to property in the first degree, as follows:

77 "16-7-22.

78 (a) A person commits the offense of criminal damage to property in the first degree when
79 he or she:

80 ~~(1) Knowingly~~ knowingly and without authority interferes with any property in a manner
81 so as to endanger human life; ~~or~~

82 ~~(2) Knowingly and without authority and by force or violence interferes with the~~
83 ~~operation of any system of public communication, public transportation, sewerage,~~
84 ~~drainage, water supply, gas, power, or other public utility service or with any constituent~~
85 ~~property thereof.~~

86 (b) A person convicted of the offense of criminal damage to property in the first degree
87 shall be punished by imprisonment for not less than one nor more than ten years."

88 **SECTION 3.**

89 Said title is further amended by revising Code Section 16-7-25, relating to damaging,
90 injuring, or interfering with property of public utility companies, municipalities, or political
91 subdivisions, as follows:

92 "16-7-25.

93 ~~(a) It shall be unlawful for any person intentionally and without authority to injure or~~
94 ~~destroy any meter, pipe, conduit, wire, line, post, lamp, or other apparatus belonging to a~~
95 ~~company, municipality, or political subdivision engaged in the manufacture or sale of~~
96 ~~electricity, gas, water, telephone, or other public services; intentionally and without~~
97 ~~authority to prevent a meter from properly registering the quantity of such service supplied;~~
98 ~~in any way to interfere with the proper action of such company, municipality, or political~~
99 ~~subdivision; intentionally to divert any services of such company, municipality, or political~~
100 ~~subdivision; or otherwise intentionally and without authority to use or cause to be used,~~
101 ~~without the consent of the company, municipality, or political subdivision, any service~~
102 ~~manufactured, sold, or distributed by the company, municipality, or political subdivision.~~

103 ~~(b) Where there is no evidence to the contrary, the person performing any of the illegal~~
104 ~~acts set forth in subsection (a) of this Code section and the person who with knowledge of~~
105 ~~such violation receives the benefit of such service without proper charge as a result of the~~
106 ~~improper action shall be presumed to be responsible for the act of tampering or diversion.~~

107 ~~(c) This Code section shall be cumulative to and shall not prohibit the enactment of any~~
108 ~~other general and local laws, rules, and regulations of state or local authorities or agencies~~
109 ~~and local ordinances prohibiting such activities which are more restrictive than this Code~~
110 ~~section.~~

111 ~~(d) Any person who violates this Code section shall be guilty of a misdemeanor.~~

112 (a) A person commits the offense of criminal interference with the function of critical
113 infrastructure in the second degree when he or she intentionally and without authority
114 damages, destroys, or interferes with the proper operation of any critical infrastructure.

115 (b) A person commits the offense of criminal interference with the function of critical
116 infrastructure in the first degree when he or she intentionally and without authority
117 damages, destroys, or interferes with the proper operation of any critical infrastructure in
118 a manner that is intended, or reasonably likely, to alter, impair, or disable the provision of

119 any vital public service in a manner likely to have a substantial impact on the public health,
120 safety, or welfare.

121 (c) A person convicted of the offense of criminal interference with the function of critical
122 infrastructure in the second degree shall be punished by payment of restitution for all
123 damages arising directly from the crime, including without limitation monetary damages
124 to the owners and operators of the critical infrastructure and to the customers of such
125 owners and operators arising from the loss of the critical infrastructure, including without
126 limitation monetary damages to the owners and operators of the critical infrastructure for
127 the costs of repair and restoration of the critical infrastructure, and by imprisonment for not
128 less than one nor more than ten years.

129 (d) A person convicted of the offense of criminal interference with the function of critical
130 infrastructure in the first degree shall be punished by payment of restitution for all damages
131 arising directly from the crime, including without limitation monetary damages to the
132 owners and operators of the critical infrastructure and to customers of such owners and
133 operators arising from the loss of the vital public service, including without limitation
134 monetary damages to the owners and operators of the critical infrastructure for the costs
135 of repair and restoration, and by imprisonment for not less than five nor more than 20
136 years.

137 (e) No provision of this Code section shall be construed to prohibit the prosecution and
138 conviction of a person charged with an offense or offenses under this Code section with the
139 offense of domestic terrorism under the provisions of Chapter 11 of this title."

140 **SECTION 4.**

141 Said title is further amended by adding a new Code section to Article 1 of Chapter 8, relating
142 to offenses involving theft, to read as follows:

143 "16-8-5.3.

144 (a) It shall be unlawful for any person intentionally and without authority to alter, remove,
145 injure, or destroy any meter, pipe, conduit, wire, line, post, lamp, or other apparatus
146 belonging to a company, municipality, or political subdivision engaged in the manufacture
147 or sale of electricity, gas, water, telephone, or other public services; intentionally and
148 without authority to prevent a meter from properly registering the quantity of such service
149 supplied; in any way to interfere with the proper action of such company, municipality, or
150 political subdivision; intentionally to divert any services of such company, municipality,
151 or political subdivision; or otherwise intentionally and without authority to use or cause to
152 be used, without the consent of the company, municipality, or political subdivision, any
153 service manufactured, sold, or distributed by the company, municipality, or political
154 subdivision.

155 (b) Where there is no evidence to the contrary, the person performing any of the illegal
156 acts set forth in subsection (a) of this Code section and the person who with knowledge of
157 such violation receives the benefit of such service without proper charge as a result of the
158 improper action shall be presumed to be responsible for the act of tampering or diversion.

159 (c) This Code section shall be cumulative to and shall not prohibit the enactment of any
160 other general and local laws, rules, and regulations of state or local authorities or agencies
161 and local ordinances prohibiting such activities which are more restrictive than this Code
162 section.

163 (d) Any person who violates this Code section shall be guilty of a misdemeanor."

164 **SECTION 5.**

165 Code Section 35-2-36 of the Official Code of Georgia Annotated, relating to composition of
166 battalion, rank of battalion personnel, employment of recruits or cadets by commissioner, and
167 promulgation of rules and regulations as to enlistment and training of recruits or cadets, is
168 amended by revising subsection (c) as follows:

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169 "(c) Within the limits set by available appropriations, the commissioner, with the approval
170 of the board, is authorized to employ such recruits or cadets as may be deemed necessary,
171 who may become members of the Uniform Division but who shall not be members of the
172 Uniform Division so long as they remain recruits or cadets; provided, however, that such
173 recruits or cadets are designated as 'peace officers' as such term is defined in paragraph ~~(H)~~
174 (12) of Code Section 16-1-3 and shall have the authority of a peace officer."

175 **SECTION 6.**

176 Code Section 42-8-35.4 of the Official Code of Georgia Annotated, relating to confinement
177 in probation detention center, is amended by revising subsection (a) as follows:

178 "(a) Notwithstanding any other terms and conditions of probation which may be imposed,
179 a court may require that a defendant convicted of a felony and sentenced to a period of not
180 less than one year on probation or a defendant who has been previously sentenced to
181 probation for a forcible misdemeanor as defined in paragraph ~~(7)~~ (8) of Code Section
182 16-1-3 or a misdemeanor of a high and aggravated nature and has violated probation or
183 other probation alternatives and is subsequently sentenced to a period of not less than one
184 year on probation shall complete satisfactorily, as a condition of such probation, a program
185 of confinement, not to exceed 180 days, in a probation detention center. Probationers so
186 sentenced shall be required to serve the period of confinement, not to exceed 180 days,
187 specified in the court order."

188 **SECTION 7.**

189 Code Section 43-34-10 of the Official Code of Georgia Annotated, relating to notification
190 of conviction, is amended as follows:

191 "43-34-10.

192 Any licensee, certificate holder, or permit holder who is convicted under the laws of this
193 state, the United States, or any other state, territory, or country of a felony as defined in

194 paragraph ~~(5)~~ (6) of Code Section 16-1-3 shall be required to notify the board of the
195 conviction within ten days of the conviction. The failure to notify the board of a conviction
196 shall be considered grounds for revocation of his or her license, certificate, permit, or other
197 authorization to conduct a profession regulated under this chapter."

198 **SECTION 8.**

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