

## Insights

# GEORGIA PASSES HATE-CRIMES LEGISLATION

Jun 25, 2020

On June 23, 2020, the Georgia Legislature passed a closely watched hate-crimes bill – House Bill 426 (“HB 426”). Georgia is currently one of only four states in the U.S. without such hate-crimes legislation. If enacted, the bill would impose increased criminal penalties against those who intentionally target victims based on their race, gender, sexual orientation, national origin, religion, and physical or mental disability.

HB 426 follows a prior hate-crime law enacted by the Georgia General Assembly in 2000. *See Georgia Laws 2000, p. 224, § 1.* The Georgia Supreme Court struck down that prior law in 2004 as “unconstitutionally vague.”<sup>1</sup>

HB 426 specifically seeks to amend Section 17-10-17 of the Georgia Code. Under this amendment, Georgia would impose criminal penalties if a defendant is found—beyond a reasonable doubt—to have “intentionally selected any victim or group of victims or any property . . . because of such victim’s or group of victims’ actual or perceived **race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability** . . . .” The Bill provides increased punishment up to 12 months imprisonment and a fine not to exceed \$5,000.00 for defendants convicted of crimes defined as a “designated misdemeanor.” For defendants convicted of a felony, the increased punishment includes imprisonment of not less than two years and a fine not to exceed \$5,000.00. HB 426 also requires law enforcement officials to complete a “Bias Crime Report” gathering statistics for all crimes where it appears the victim was targeted based on one of the protected categories under this legislation.

The Bill received wide bipartisan support from both the state Senate, which passed the measure by a vote of 47 to 6, as well as the state House, which passed the measure by a vote of 127 to 38. Georgia Gov. Brian Kemp’s office released a statement following the legislature’s passage of the Bill stating: “Governor Kemp commends the General Assembly’s bipartisan work and will sign House Bill 426 pending legal review.”<sup>2</sup> HB 426 also would be the first legislation passed in Georgia which specifically protects members of the LGBTQ community from crimes intentionally directed toward them based on their perceived sexual orientation.

HB 426 is now on the desk of Gov. Kemp for signature.

1. See *Botts v. State*, 604 S.E.2d 512 (Ga. 2004).
2. Maya T. Prabhu, Atlanta Journal Constitution, “*Today is the finest’ Georgia Legislature approves hate-crimes bill*”, (June 23, 2020), available at <https://www.ajc.com/news/state-regional-govt-politics/today-the-finest-georgia-legislature-approves-hate-crimes-bill/qgyUSzdZ33F9mdCRD9umVK/>

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