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## CRIMES AND OFFENSES Offenses Against Public Order: Control Disruptions of State Capitol Business

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## CRIMES AND OFFENSES

### *Offenses Against Public Order: Control Disruptions of State Capitol Business*

|                 |  |
|-----------------|--|
| CODE SECTION:   | O.C.G.A. § 16-11-34.1 (new)  |
| BILL NUMBER:    | HB 126   |
| ACT NUMBER:     | 610  |
| SUMMARY:        | The Act prohibits disruptions of legislative proceedings at the state capitol, outlaws the possession of weapons in the state capitol building and other structures, prohibits certain disruptive activities at the capitol, and provides penalties for violators. |
| EFFECTIVE DATE: | July 1, 1987   |

#### *History*

Georgia lawmakers and other state officials have experienced a growing problem in recent years with individuals and members of various organizations who hold demonstrations and protests at the state capitol. Among the troubles that legislators have had to confront are the disruption of legislative meetings and other state business, the use of abusive language, and the display of disorderly conduct in certain areas of state office buildings.<sup>1</sup>

Prior to adoption of this Act, such activities were prohibited only under the general provisions of O.C.G.A. § 16-11-34, which relates to the prevention or disruption of lawful meetings, gatherings, or processions.<sup>2</sup> Under that law, a person who “recklessly or knowingly commits any act which may reasonably be expected to prevent or disrupt a lawful meeting, gathering, or procession is guilty of a misdemeanor.”<sup>3</sup> However, many lawmakers felt the statute was ineffective in dealing with many activities at the state capitol, primarily because many of those arrested at the capitol building are repeat offenders and yet can be charged only with a misdemeanor offense regardless of how many times they are arrested.<sup>4</sup>

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1. Telephone interview with Representative Vinson Wall, House District No. 61 (May 21, 1987) [hereinafter Wall Interview].

2. O.C.G.A. § 16-11-34(a) (1984).

3. *Id.*

4. Wall Interview, *supra* note 1.

*HB 126*

HB 126, as introduced and eventually passed by the General Assembly, defines certain prohibited conduct at the state capitol and establishes substantial penalties for repeat offenders. When the bill first went before the House Committee on Special Judiciary, however, a committee substitute received approval that changed the entire focus of the bill by amending O.C.G.A. § 16-11-127, which prohibits possession of weapons at public gatherings.<sup>5</sup> The committee proposal would have added the state capitol to the list of buildings included within this Code section.<sup>6</sup> Supporters of the original legislation, however, feeling that the committee substitute had significantly weakened the bill, succeeded in the Senate in restoring the bill to its original form with only a few changes.<sup>7</sup>

The Act controls seven types of activities in and around the state capitol building. They include (1) acts that "may reasonably be expected" to prevent or disrupt legislative proceedings; (2) the possession of weapons or incendiary devices in the capitol; (3) the obstruction of sidewalks, hallways and offices in the capitol or any other state building in the capitol square area; (4) unauthorized entry onto the floor of the Senate or House of Representatives; (5) unauthorized entry into the Senate or House gallery; (6) entry into any other portion of the state capitol "with intent to disrupt the orderly conduct of official business"; and (7) parading, demonstrating or picketing within the capitol building.<sup>8</sup> The "intent" clause, added to the entry provision, addresses a potential first amendment problem with the bill as introduced. The U.S. Supreme Court has ruled that states cannot make criminal "the peaceful expression of unpopular views."<sup>9</sup>

The Act provides for a graduated system of penalties. A first offender will be guilty only of a misdemeanor, while a second offender will have committed "a misdemeanor of a high and aggravated nature."<sup>10</sup> Conviction for a third or subsequent offense, however, will make the violator guilty of a felony. Such a violation will be punishable by imprisonment from one to three years.<sup>11</sup>

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5. HB 126 (HCS), 1987 Ga. Gen. Assem.

6. *Id.*

7. Wall Interview, *supra* note 1.

8. O.C.G.A. § 16-11-34.1(a)-(g) (Supp. 1987).

9. *Edwards v. South Carolina*, 372 U.S. 229 (1963).

10. O.C.G.A. § 16-11-34.1(h) (Supp. 1987).

11. *Id.*