

Week 8 Assignment Document Library

While your personal values and experiences are important, your report should be based solely on information provided in this document

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Georgia Assault and Battery Laws

Code Sections	Simple Assault: O.C.G.A. §16-5-20 Aggravated Assault: O.C.G.A §16-5-21 Simple Battery: O.C.G.A §16-5-23 Aggravated Battery: O.C.G.A §16-5-24
What is Prohibited	Simple Assault: Attempting to commit a violent injury on someone else or putting them in a situation where it's reasonable they can be injured in such a manner. No actual physical touching is necessary to violate the law. Words can be enough. For example, threatening to break someone's neck, if done in a menacing manner, can be considered simple assault. Aggravated Assault: Assaulting someone: (1) With intent to murder, to rape, or to rob; (2) With a deadly weapon or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; or (3) Shooting a firearm from within a motor vehicle toward a person or persons. Simple Battery: (1) Intentionally making physical contact of an insulting or provoking nature with the person of another; or (2) Intentionally causing physical harm to another person. Aggravated Battery: Intentionally and maliciously inflicting a serious injury to the victim, such as loss of a limb, loss of use of a limb, or serious disfigurement.
What is "Serious Disfigurement?"	Any kind of physical alteration to another person's body, such as a visible scar on someone's face or other body part; or a broken bone that alters one's physical appearance
Penalty	Simple Assault: Misdemeanor: Up to 1 year in jail, fines reaching \$1,000, probation, and restitution. Can be elevated to a "high" and "aggravated" misdemeanor with enhanced penalties (up to 1 year in jail and \$5,000 fines) if the assault committed involved a firearm, public transportation, a pregnant woman, a public school employee, a senior citizen, or if it was a domestic assault (committed against a family member). Aggravated Assault: Felony: One to twenty years in prison, fines, restitution.

	Simple Battery: Misdemeanor: Up to 1 year in jail, fines up to \$1,000, probation, and restitution. Can be elevated to a misdemeanor of high and aggravated nature if it's determined the victim was pregnant, over 65, a police officer, a caregiver, school employee, or if the crime is domestic. This misdemeanor is also punishable by up to one year but carries potential fines up to \$5,000. Aggravated Battery: Felony: one to twenty years in prison minimum, fines, restitution.
Who Prosecutes this Crime?	Georgia District Attorney's Offices
Hate Crimes	O.C.G.A. §17-10-17. If someone commits an assault or battery or any crime against a victim because of bias or prejudice, such as racial or gender bias, the court must impose a more severe penalty than would be normally imposed for the crime (according to court or local policy), but no greater than the maximum sentence permitted under the statute. The offender must serve at least 90% of the sentence before being released (offenders serving sentences in jail or prison generally serve less than the sentence imposed because of "good time" credit or early release programs for good behavior).

<http://statelaws.findlaw.com/georgia-law/georgia-assault-and-battery-laws.html>

Definitions of Georgia Assault and Battery Laws

Georgia Criminal Code Title 16

2010 GEORGIA CODE
TITLE 16 - CRIMES AND OFFENSES
CHAPTER 5 - CRIMES AGAINST THE PERSON
ARTICLE 2 - ASSAULT AND BATTERY
§ 16-5-20 - Simple assault
O.C.G.A. 16-5-20 (2010)

16-5-20. Simple assault

(a) A person commits the offense of simple assault when he or she either:

(1) Attempts to commit a violent injury to the person of another; or

(2) Commits an act which places another in reasonable apprehension of immediately receiving a violent injury.

(b) Except as provided in subsections (c) through (h) of this Code section, a person who commits the offense of simple assault shall be guilty of a misdemeanor.

(c) Any person who commits the offense of simple assault in a public transit vehicle or station shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature. For purposes of this Code section, "public transit vehicle" means a bus, van, or rail car used for the transportation of passengers within a system which receives a subsidy from tax revenues or is operated under a franchise contract with a county or municipality of this state.

(d) If the offense of simple assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished for a misdemeanor of a high and aggravated nature. In no event shall this subsection be applicable to corporal punishment administered by a parent or guardian to a child or administered by a person acting in loco parentis.

(e) Any person who commits the offense of simple assault against a person who is 65 years of age or older shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

(f) Any person who commits the offense of simple assault against an employee of a public school system of this state while such employee is engaged in official duties or

on school property shall, upon conviction of such offense, be punished for a misdemeanor of a high and aggravated nature. For purposes of this Code section, "school property" shall include public school buses and stops for public school buses as designated by local school boards of education.

(g) Any person who commits the offense of simple assault against a female who is pregnant at the time of the offense shall, upon conviction thereof, be punished for a misdemeanor of a high and aggravated nature.

(h) Nothing in this Code section shall be construed to permit the prosecution of:

(1) Any person for conduct relating to an abortion for which the consent of the pregnant woman, or person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) Any person for any medical treatment of the pregnant woman or her unborn child; or

(3) Any woman with respect to her unborn child.

For the purposes of this subsection, the term "unborn child" means a member of the species homo sapiens at any stage of development who is carried in the womb.

TITLE 16 - CRIMES AND OFFENSES
CHAPTER 5 - CRIMES AGAINST THE PERSON
ARTICLE 2 - ASSAULT AND BATTERY
§ 16-5-21 - Aggravated assault
O.C.G.A. 16-5-21 (2010)

16-5-21. Aggravated assault

(a) A person commits the offense of aggravated assault when he or she assaults:

(1) With intent to murder, to rape, or to rob;

(2) With a deadly weapon or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; or

(3) A person or persons without legal justification by discharging a firearm from within a motor vehicle toward a person or persons.

(b) Except as provided in subsections (c) through (k) of this Code section, a person convicted of the offense of aggravated assault shall be punished by imprisonment for not less than one nor more than 20 years.

(c) A person who knowingly commits the offense of aggravated assault upon a peace officer while the peace officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.

(d) Any person who commits the offense of aggravated assault against a person who is 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for not less than three nor more than 20 years.

(e) (1) As used in this subsection, the term "correctional officer" shall include superintendents, wardens, deputy wardens, guards, and correctional officers of state, county, and municipal penal institutions who are certified by the Georgia Peace Officer Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the Department of Juvenile Justice who are known to be employees of the department or who have given reasonable identification of their employment. The term "correctional officer" shall also include county jail officers who are certified or registered by the Georgia Peace Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

(2) A person who knowingly commits the offense of aggravated assault upon a correctional officer while the correctional officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.

(f) Any person who commits the offense of aggravated assault in a public transit vehicle or station shall, upon conviction thereof, be punished by imprisonment for not less than three nor more than 20 years. For purposes of this Code section, "public transit vehicle" has the same meaning as in subsection (c) of Code Section 16-5-20.

(g) Any person who commits the offense of aggravated assault upon a person in the course of violating Code Section 16-8-2 where the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto, including without limitation any such trailer, semitrailer, container, or other associated equipment, or the cargo being transported therein or thereon, shall upon conviction be punished by imprisonment for not less than five years nor more than 20 years, a fine not less than \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For purposes of this subsection, the term "vehicle" includes without limitation any railcar.

(h) A person convicted of an offense described in paragraph (3) of subsection (a) of this Code section shall be punished by imprisonment for not less than five nor more than 20 years.

(i) Any person who commits the offense of aggravated assault involving the use of a firearm upon a student or teacher or other school personnel within a school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.

(j) If the offense of aggravated assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished by imprisonment for not less than three nor more than 20 years.

(k) Any person who commits the offense of aggravated assault with intent to rape against a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this subsection shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

(l) A person who knowingly commits the offense of aggravated assault upon an officer of the court while such officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years. As used in this subsection, the term "officer of the court" means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court interpreter or probation officer.

2010 Georgia Code
 TITLE 16 - CRIMES AND OFFENSES
 CHAPTER 5 - CRIMES AGAINST THE PERSON
 ARTICLE 2 - ASSAULT AND BATTERY
 § 16-5-24 - Aggravated battery O.C.G.A. 16-5-24 (2010)

16-5-24. Aggravated battery

A person commits the offense of aggravated battery when he or she maliciously causes bodily harm to another by depriving him or her of a member of his or her body, by rendering a member of his or her body useless, or by seriously disfiguring his or her body or a member thereof.

(b) Except as provided in subsections (c) through (h) of this Code section, a person convicted of the offense of aggravated battery shall be punished by imprisonment for not less than one nor more than 20 years.

(c) A person who knowingly commits the offense of aggravated battery upon a peace officer while the officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than ten nor more than 20 years.

(d) Any person who commits the offense of aggravated battery against a person who is 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.

(e)(1) As used in this subsection, the term "correctional officer" shall include superintendents, wardens, deputy wardens, guards, and correctional officers of state, county, and municipal penal institutions who are certified by the Georgia Peace Officer Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the Department of Juvenile Justice who are known to be employees of the department or who have given reasonable identification of their employment. The term "correctional officer" shall also include county jail officers who are certified or registered by the Georgia Peace Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

(2) A person who knowingly commits the offense of aggravated battery upon a correctional officer while the correctional officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than ten nor more than 20 years.

(f) Any person who commits the offense of aggravated battery in a public transit vehicle or station shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years. For purposes of this Code section, "public transit vehicle" has the same meaning as in subsection (c) of Code Section 16-5-20.

(g) Any person who commits the offense of aggravated battery upon a student or

teacher or other school personnel within a school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.

(h) If the offense of aggravated battery is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished by imprisonment for not less than three nor more than 20 years.

2010 Georgia Code

TITLE 16 - CRIMES AND OFFENSES

CHAPTER 5 - CRIMES AGAINST THE PERSON

ARTICLE 2 - ASSAULT AND BATTERY

§ 16-5-25 - Opprobrious or abusive language as justification for simple assault or simple battery

O.C.G.A. 16-5-25 (2010)

16-5-25. Opprobrious or abusive language as justification for simple assault or simple battery

A person charged with the offense of simple assault or simple battery may introduce in evidence any opprobrious or abusive language used by the person against whom force was threatened or used; and the trier of facts may, in its discretion, find that the words used were justification for simple assault or simple battery.

[Georgia Aggravated Assault & Battery Laws](#)

LEGAL PRESUMPTIONS

What is Aggravated Assault?

The act of inflicting bodily harm on someone, or causing them to fear bodily harm is considered a crime in the U.S., regardless of whether actual physical harm occurs. For example, John is walking down the street carrying a bag of groceries. Bob, who is walking toward John, makes a fist and tells John to move over or he will hit him. John is stunned, and so does not move over immediately. Bob swings his fist at John's face but misses, and John sprints away in fear. Bob may be charged with simple assault as he caused John to reasonably fear that he would suffer bodily harm if he remained.

Simple Assault vs. Aggravated Assault

Most states classify assaults as *simple* or *aggravated* according to the circumstances surrounding the offense. Simple assault is most commonly recognized as an attempt or threat to injure another person without actually striking them or causing bodily harm. Aggravated assault occurs when the crime is taken a step further, such as when a weapon is used, or the harm or threat takes place in certain circumstances. For instance, threatening a person with a fist is often considered simple assault, but if a perpetrator threatens another person with a baseball bat, it would be considered *aggravated assault*.

Example of Aggravated Assault

If Bob, from the example above, moves his jacket aside to show to John that he is carrying a gun in his belt, he would likely be charged with aggravated assault, rather than simple assault. This would be true, even though he did not make a physical attempt to hit or shoot John, because he made a threat with a weapon, causing John to reasonably believe he would be harmed.

Deadly Weapons

A deadly weapon is any item that can be used to cause serious or fatal injury to a person or animal. Deadly weapons include such weapons as guns and knives, but other instruments can be considered deadly if they are used to threaten or attack someone. Such weapons of opportunity may include boards, baseball bats, rocks, bricks, ice picks, letter openers, tools, or any object that could cause serious harm or death. In some jurisdictions, people with HIV (the human immunodeficiency virus) who have had unprotected sex with a person not aware of the disease have been charged with using a "deadly weapon." The reasoning is that a person who knows he carries HIV exposes another to the deadly virus basically assaults the other person with a weapon capable of causing death.

Degrees of Aggravated Assault

Many states break down the crime of assault even further than the basic and aggravated assault charges in some jurisdictions. By using first- through fourth-degree classifications, the judicial system is able to take into account the exact nature of the offense.

- First-Degree Aggravated Assault – refers to a deliberate act in which the perpetrator used premeditated malice. The perpetrator must have had the intent to cause, or to attempt to cause, serious bodily injury (also “great bodily harm”).
- Second-Degree Aggravated Assault – refers to a deliberate act in which there was no premeditation. This takes into account the mental state of the perpetrator at the time of the assault.
- Third-Degree Assault – refers to an act in which the perpetrator attempts to cause less serious bodily harm, making this a common charge when two individuals are involved in a fight.
- Fourth-Degree Assault – refers to minor threats of harm, or causing the victim to fear being harmed.

Great Bodily Harm

The term “great bodily harm” is used interchangeably with “serious bodily injury,” “grievous bodily harm,” and “great bodily injury.” These terms refer to injuries that cause extreme physical pain, unconsciousness, serious or permanent injury or disfigurement, or long-term loss of function of any organ or body part. Great bodily harm also refers to the infliction of any injury that creates a substantial risk of death.

Definition of Self-defense

GEORGIA CRIMINAL CODE

TITLE 16

SELF DEFENSE

2010 Georgia Code

TITLE 16 - CRIMES AND OFFENSES

CHAPTER 3 - DEFENSES TO CRIMINAL PROSECUTIONS

ARTICLE 2 - JUSTIFICATION AND EXCUSE

O.C.G.A. 16-3-21 (2010)

16-3-21. Use of force in defense of self or others; evidence of belief that force was necessary in murder or manslaughter prosecution

(a) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other's imminent use of unlawful force; however, except as provided in Code Section 16-3-23, a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony.

(b) A person is not justified in using force under the circumstances specified in subsection (a) of this Code section if he:

(1) Initially provokes the use of force against himself with the intent to use such force as an excuse to inflict bodily harm upon the assailant;

(2) Is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or

(3) Was the aggressor or was engaged in a combat by agreement unless he withdraws from the encounter and effectively communicates to such other person his intent to do so and the other, notwithstanding, continues or threatens to continue the use of unlawful force.

(c) Any rule, regulation, or policy of any agency of the state or any ordinance, resolution, rule, regulation, or policy of any county, municipality, or other political subdivision of the state which is in conflict with this Code section shall be null, void, and of no force and effect.

(d) In a prosecution for murder or manslaughter, if a defendant raises as a defense a justification provided by subsection (a) of this Code section, the defendant, in order to establish the defendant's reasonable belief that the use of force or deadly force was immediately necessary, may be permitted to offer:

(1) Relevant evidence that the defendant had been the victim of acts of family violence or child abuse committed by the deceased, as such acts are described in Code Sections 19-13-1 and 19-15-1, respectively; and

(2) Relevant expert testimony regarding the condition of the mind of the defendant at the time of the offense, including those relevant facts and circumstances relating to the family violence or child abuse that are the bases of the expert's opinion.