

The Senate Committee on Judiciary offered the following substitute to SB 150:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to carrying and possession of firearms, so as to provide that persons
3 convicted of family violence offenses or subject to family violence temporary protective
4 orders cannot receive, possess, transport, purchase, or transfer firearms; to provide for
5 definitions; to provide for related matters; to provide for an effective date and applicability;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
10 relating to carrying and possession of firearms, is amended by revising Code
11 Section 16-11-131, relating to possession of firearms by convicted felons and first offender
12 probationers, as follows:

13 "16-11-131.

14 (a) As used in this Code section, the term:

15 (1) 'Antique firearm' means:

16 (A) Any firearm, including, but not limited to, any firearm with a matchlock, flintlock,
17 percussion cap, or similar type of ignition system, manufactured in or before 1898;

18 (B) Any replica of any firearm described in subparagraph (A) of this paragraph if such
19 replica:

20 (i) Is not designed or redesigned for using rimfire or conventional centerfire fixed
21 ammunition, or

22 (ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer
23 manufactured in the United States and which is not readily available in the ordinary
24 channels of commercial trade; or

25 (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which
26 is designed to use black powder, or a black powder substitute, and which cannot use

27 fixed ammunition. Such term shall not include any weapon which incorporates a
 28 firearm frame or receiver, any firearm which is converted into a muzzle loading
 29 weapon, or any muzzle loading weapon which can be readily converted to fire fixed
 30 ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

31 (2) 'Family violence offense' shall include the offenses listed in paragraph (2) of Code
 32 Section 19-13-1 when committed against past or present spouses, persons who are parents
 33 of the same child, parents and children, stepparents and stepchildren, foster parents and
 34 foster children, or other persons living or formerly living in the same household.

35 (3) 'Family violence protective order' means:

36 (A) An order issued pursuant to either Code Section 19-13-3 or 19-13-4;

37 (B) Which was issued after a hearing in which the responding party received actual
 38 notice and had an opportunity to participate;

39 (C) Which restrains the responding party from harassing, stalking, or threatening the
 40 petitioning party; and

41 (D) Includes a finding that the responding party presents a credible threat to the
 42 physical safety of the petitioning party or by its terms explicitly prohibits the use,
 43 attempted use, or threatened use of physical force against the petitioning party that
 44 would be reasonably expected to cause bodily injury.

45 ~~(4)~~ (4) 'Felony' means any offense punishable by imprisonment for a term of one year or
 46 more and includes conviction by a court-martial under the Uniform Code of Military
 47 Justice for an offense which would constitute a felony under the laws of the United
 48 States.

49 ~~(2)~~ (5) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can
 50 be converted to expel a projectile by the action of an explosive or electrical charge. Such
 51 term shall not include an antique firearm.

52 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of
 53 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under
 54 subsection (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony by a
 55 court of this state or any other state; by a court of the United States including its territories,
 56 possessions, and dominions; or by a court of any foreign nation and who receives,
 57 possesses, or transports any firearm commits a felony and, upon conviction thereof, shall
 58 be imprisoned for not less than one year nor more than ten years; provided, however, that
 59 upon a second or subsequent conviction, such person shall be imprisoned for not less than
 60 five nor more than ten years; provided, further, that if the felony for which the person is on
 61 probation or has been previously convicted is a forcible felony, then upon conviction of
 62 receiving, possessing, or transporting a firearm, such person shall be imprisoned for a
 63 period of five years.

64 (b.1) Any person who is prohibited by this Code section from possessing a firearm because
65 of conviction of a forcible felony or because of being on probation as a first offender or
66 under conditional discharge for a forcible felony and who attempts to purchase or obtain
67 transfer of a firearm shall be guilty of a felony and upon conviction shall be punished by
68 imprisonment for not less than one year nor more than five years; provided, however, that
69 upon a second or subsequent conviction, such person shall be punished by imprisonment
70 for not less than five nor more than ten years.

71 (b.2) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8
72 of Title 42 for a family violence offense or who has been convicted of a family violence
73 offense by a court of this state or any other state; by a court of the United States including
74 its territories, possessions, and dominions; or by a court of any foreign nation and who
75 receives, possesses, or transports any firearm or attempts to purchase or obtain transfer of
76 a firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less
77 than one year nor more than five years; provided, however, that, if the family violence as
78 to which the person is on probation or has been previously convicted is a forcible felony,
79 then upon conviction of receiving, possessing, transporting, or attempting to purchase or
80 obtain transfer of a firearm, such person shall be imprisoned for a period of five years.

81 (b.3) Any person who is subject to a family violence protective order and who, during the
82 pendency of such protective order, receives, possesses, transports, or attempts to purchase
83 or obtain transfer of any firearm commits a felony and, upon conviction thereof, shall be
84 imprisoned for not less than one year nor more than five years.

85 (c) This Code section shall not apply to any person who has been pardoned for the felony
86 by the President of the United States, the State Board of Pardons and Paroles, or the person
87 or agency empowered to grant pardons under the constitutions or laws of the several states
88 or of a foreign nation and, by the terms of the pardon, has expressly been authorized to
89 receive, possess, or transport a firearm. Any person suffering from a disability pursuant
90 to this Code section may seek to have his or her rights restored by the superior court or by
91 the State Board of Pardons and Paroles after five years have passed from the completion
92 of the sentence if the offender has no pending charges and has paid all fines and any
93 restitution ordered.

94 (d) A person who has been convicted of a felony or of a family violence offense, but who
95 has been granted relief from the disabilities imposed by the laws of the United States with
96 respect to the acquisition, receipt, transfer, shipment, or possession of firearms by the
97 secretary of the United States Department of the Treasury pursuant to 18 U.S.C.
98 Section 925, shall, upon presenting to the Board of Public Safety proof that the relief has
99 been granted and it being established from proof submitted by the applicant to the
100 satisfaction of the Board of Public Safety that the circumstances regarding the conviction

101 and the applicant's record and reputation are such that the acquisition, receipt, transfer,
 102 shipment, or possession of firearms by the person would not present a threat to the safety
 103 of the citizens of Georgia and that the granting of the relief sought would not be contrary
 104 to the public interest, be granted relief from the disabilities imposed by this Code section.
 105 A person who has been convicted under federal or state law of a felony pertaining to
 106 antitrust violations, unfair trade practices, or restraint of trade shall, upon presenting to the
 107 Board of Public Safety proof, and it being established from said proof, submitted by the
 108 applicant to the satisfaction of the Board of Public Safety that the circumstances regarding
 109 the conviction and the applicant's record and reputation are such that the acquisition,
 110 receipt, transfer, shipment, or possession of firearms by the person would not present a
 111 threat to the safety of the citizens of Georgia and that the granting of the relief sought
 112 would not be contrary to the public interest, be granted relief from the disabilities imposed
 113 by this Code section. A record that the relief has been granted by the board shall be entered
 114 upon the criminal history of the person maintained by the Georgia Crime Information
 115 Center and the board shall maintain a list of the names of such persons which shall be open
 116 for public inspection.

117 (e) As used in this Code section, the term 'forcible felony' means any felony which
 118 involves the use or threat of physical force or violence against any person and further
 119 includes, without limitation, murder; murder in the second degree; burglary in any degree;
 120 robbery; armed robbery; home invasion in any degree; kidnapping; hijacking of an aircraft
 121 or hijacking a motor vehicle in the first degree; aggravated stalking; rape; aggravated child
 122 molestation; aggravated sexual battery; arson in the first degree; the manufacturing,
 123 transporting, distribution, or possession of explosives with intent to kill, injure, or
 124 intimidate individuals or destroy a public building; terroristic threats; or acts of treason or
 125 insurrection.

126 (f) Any person sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42
 127 or sentenced pursuant to subsection (a) or (c) of Code Section 16-13-2 and subsequently
 128 discharged without court adjudication of guilt as a matter of law pursuant to Code
 129 Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be relieved from the
 130 disabilities imposed by this Code section.

131 (g) Any person subject to a family violence protective order shall, upon the expiration or
 132 dismissal of such family violence protective order, be relieved from the disabilities
 133 imposed by this Code section."

134 **SECTION 2.**

135 This Act shall become effective on July 1, 2019, and shall apply to any family violence
 136 conviction or family violence protective order issued on or after such date.

137

SECTION 3.

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