

House Bill 20

By: Representative Bazemore of the 63rd

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 cannot possess or carry firearms; to provide a
4 definition; to provide exceptions; to provide for related matters; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

12 "16-11-131.

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

14 (1) 'Family violence' shall have the same meaning as provided in Code Section 19-13-1.

15 ~~(1)~~(2) 'Felony' means any offense punishable by imprisonment for a term of one year or
16 more and includes conviction by a court-martial under the Uniform Code of Military
17 Justice for an offense which would constitute a felony under the laws of the United
18 States.

19 ~~(2)~~(3) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can
20 be converted to expel a projectile by the action of an explosive or electrical charge.

21 (4) 'Forcible felony' means any felony which involves the use or threat of physical force
22 or violence against any person and further includes, without limitation, murder; murder
23 in the second degree; burglary in any degree; robbery; armed robbery; home invasion in
24 any degree; kidnapping; hijacking of an aircraft or hijacking a motor vehicle in the first
25 degree; aggravated stalking; rape; aggravated child molestation; aggravated sexual
26 battery; arson in the first degree; the manufacturing, transporting, distribution, or

27 possession of explosives with intent to kill, injure, or intimidate individuals or destroy a
28 public building; terroristic threats; or acts of treason or insurrection.

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

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

48 (b.2) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8
49 of Title 42 as a result of having committed an act of family violence or who has been
50 convicted of a crime of family violence by a court of this state or any other state; by a court
51 of the United States including its territories, possessions, and dominions; or by a court of
52 any foreign nation and who receives, possesses, or transports any firearm commits a felony
53 and, upon conviction thereof, shall be imprisoned for not less than one year nor more than
54 ten years; provided, however, that upon a second or subsequent conviction, such person
55 shall be imprisoned for not less than five nor more than ten years.

56 (b.3) Any person who is prohibited by this Code section from possessing a firearm because
57 of conviction of a crime of family violence or because of being on probation as a first
58 offender or under conditional discharge for a crime of family violence and who attempts
59 to purchase or obtain transfer of a firearm shall be guilty of a felony and upon conviction
60 shall be punished by imprisonment for not less than one year nor more than five years;
61 provided, however, that upon a second or subsequent conviction, such person shall be
62 punished by imprisonment for not less than five nor more than ten years.

63 (c) This Code section shall not apply to any person who has been pardoned for the felony
64 by the President of the United States, the State Board of Pardons and Paroles, or the person
65 or agency empowered to grant pardons under the constitutions or laws of the several states
66 or of a foreign nation and, by the terms of the pardon, has expressly been authorized to
67 receive, possess, or transport a firearm.

68 (d) A person who has been convicted of a felony, but who has been granted relief from the
69 disabilities imposed by the laws of the United States with respect to the acquisition, receipt,
70 transfer, shipment, or possession of firearms by the secretary of the United States
71 Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to
72 the Board of Public Safety proof that the relief has been granted and it being established
73 from proof submitted by the applicant to the satisfaction of the Board of Public Safety that
74 the circumstances regarding the conviction and the applicant's record and reputation are
75 such that the acquisition, receipt, transfer, shipment, or possession of firearms by the
76 person would not present a threat to the safety of the citizens of Georgia and that the
77 granting of the relief sought would not be contrary to the public interest, be granted relief
78 from the disabilities imposed by this Code section. A person who has been convicted
79 under federal or state law of a felony pertaining to antitrust violations, unfair trade
80 practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof,
81 and it being established from said proof, submitted by the applicant to the satisfaction of
82 the Board of Public Safety that the circumstances regarding the conviction and the
83 applicant's record and reputation are such that the acquisition, receipt, transfer, shipment,
84 or possession of firearms by the person would not present a threat to the safety of the
85 citizens of Georgia and that the granting of the relief sought would not be contrary to the
86 public interest, be granted relief from the disabilities imposed by this Code section. A
87 record that the relief has been granted by the board shall be entered upon the criminal
88 history of the person maintained by the Georgia Crime Information Center and the board
89 shall maintain a list of the names of such persons which shall be open for public inspection.

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

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

104 **SECTION 2.**

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