

House Bill 751

By: Representatives Pullin of the 131<sup>st</sup>, Cooke of the 18<sup>th</sup>, Gurtler of the 8<sup>th</sup>, Singleton of the 71<sup>st</sup>, Moore of the 1<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 16-11-173 of the Official Code of Georgia Annotated, relating to  
2 legislative findings, preemption of local regulation and lawsuits, and exceptions, so as to  
3 occupy and preempt the entire field of legislation in this state involving extreme risk  
4 protection orders; to provide for a definition; to prohibit the enforcement of federal and other  
5 extreme risk protection orders in this state; to provide for a criminal offense; to provide for  
6 a short title; to provide for legislative findings; to provide for related matters; to repeal  
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "Anti-Red Flag - Second Amendment  
11 Conservation Act."

12 **SECTION 2.**

13 The General Assembly finds that:

14 (1) The Second Amendment to the Constitution of the United States reads "A well  
15 regulated Militia, being necessary to the security of a free State, the right of the people  
16 to keep and bear Arms, shall not be infringed."

17 (2) The Fourth Amendment to the Constitution of the United States reads "The right of  
18 the people to be secure in their persons, houses, papers, and effects, against unreasonable  
19 searches and seizures, shall not be violated, and no Warrants shall issue, but upon  
20 probable cause, supported by Oath or affirmation, and particularly describing the place  
21 to be searched, and the persons or things to be seized."

22 (3) The Fifth Amendment to the Constitution of the United States reads "No person shall  
23 be held to answer for a capital, or otherwise infamous crime, unless on a presentment or  
24 indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the  
25 Militia, when in actual service in time of War or public danger; nor shall any person be

26 subject for the same offence to be twice put in jeopardy of life or limb; nor shall be  
 27 compelled in any criminal case to be a witness against himself, nor be deprived of life,  
 28 liberty, or property, without due process of law; nor shall private property be taken for  
 29 public use, without just compensation."

30 (4) Red Flag legislation that has been introduced in the United States House of  
 31 Representatives and the Georgia House of Representatives violates the Second, Fourth,  
 32 and Fifth Amendments to the United States Constitution.

33 (5) It is the responsibility of the General Assembly to protect the people of Georgia when  
 34 unconstitutional legislation is passed and signed into law or executive orders are issued  
 35 by the United States Federal Government that infringes upon or interferes with people's  
 36 preexisting rights and liberties guaranteed by the United States Constitution.

### 37 SECTION 3.

38 Code Section 16-11-173 of the Official Code of Georgia Annotated, relating to legislative  
 39 findings, preemption of local regulation and lawsuits, and exceptions, is amended by adding  
 40 a new subsection to read as follows:

41 "(b.1)(1) As used in this subsection, the term 'extreme risk protection order' means an  
 42 executive order or written order or warrant issued by a federal or state court or signed by  
 43 a judge or comparable officer of the court, for which the primary purpose is to reduce the  
 44 risk of firearm related death or injury by doing one or more of the following:

45 (A) Prohibiting a named individual from having under his or her custody or control the  
 46 ownership, possession, or receipt of a firearm; or

47 (B) Removing a firearm or requiring the surrender of firearms from a named  
 48 individual.

49 (2) Pursuant to paragraph (1) of subsection (a) of this Code section, the General  
 50 Assembly hereby occupies and preempts the entire field of legislation in this state that in  
 51 any way touches upon federal or state extreme risk protection orders against or upon a  
 52 citizen of Georgia.

53 (3) Any federal statute, rule, or executive order; federal or state judicial order; or judicial  
 54 findings that would have the effect of enforcing an extreme risk protection order or ex  
 55 parte extreme risk protection order against or upon a citizen of Georgia, which would  
 56 infringe upon a citizen's constitutionally protected rights, including, but not limited to,  
 57 the right to due process, the right to keep and bear arms, and the right to free speech, shall  
 58 be null, void, unenforceable, and of no effect in this state.

59 (4) Any state department, agency, board, bureau, office, commission, public corporation,  
 60 authority, or political subdivision of this state shall be prohibited from accepting any  
 61 federal grants to implement any federal statute, rule, or executive order; federal or state

62 judicial order; or judicial findings that would have the effect of enforcing an extreme risk  
63 protection order against or upon a citizen of Georgia.

64 (5) Any individual, including, but not limited to, a law enforcement officer, who attempts  
65 to enforce an extreme risk protection order upon a citizen of Georgia shall be guilty of  
66 a felony and shall be punished by imprisonment for not less than one year nor more than  
67 three years or by a fine of not less than \$1,000.00 nor more than \$5,000.00, or both."

68 **SECTION 4.**

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