

House Bill 44

By: Representatives Au of the 50<sup>th</sup>, Beverly of the 143<sup>rd</sup>, Mitchell of the 88<sup>th</sup>, Park of the 107<sup>th</sup>, Roberts of the 52<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 5 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to Brady Law Regulations, so as to require universal background checks  
3 in all manner of firearm transfers and purchases; to provide for definitions; to provide for  
4 exceptions; to provide for criminal penalties; to provide for applicability; to provide for  
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 5 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
9 relating to Brady Law Regulations, is amended by revising Code Section 16-11-171, relating  
10 to definitions, as follows:

11 "16-11-171.

12 As used in this part, the term:

13 (1) 'Center' means the Georgia Crime Information Center within the Georgia Bureau of  
14 Investigation.

15 (2) 'Dealer' means any person licensed as a dealer pursuant to 18 U.S.C. Section 921, et  
16 seq.

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17 (3) 'Firearm' means any weapon that is designed to or may readily be converted to expel  
18 a projectile by the action of an explosive or the frame or receiver of any such weapon,  
19 any firearm muffler or firearm silencer, or any destructive device as defined in 18 U.S.C.  
20 Section 921(a)(3).

21 (4) 'Involuntarily hospitalized' means hospitalized as an inpatient in any mental health  
22 facility pursuant to Code Section 37-3-81 or hospitalized as an inpatient in any mental  
23 health facility as a result of being adjudicated mentally incompetent to stand trial or being  
24 adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of  
25 Article 6 of Chapter 7 of Title 17.

26 (5) 'NICS' means the National Instant Criminal Background Check System created by  
27 the federal 'Brady Handgun Violence Prevention Act' (P. L. No. 103-159).

28 (6) 'Person' means any corporation, company, association, firm, partnership, club,  
29 organization, society, joint stock company, or other entity and shall include any entity  
30 that engages in business in this state, in whole or part, through internet or mail order  
31 sales.

32 (7) 'Transferee' means an unlicensed person who intends to receive a firearm from  
33 another unlicensed person.

34 (8) 'Transferor' means an unlicensed person who intends to transfer a firearm to another  
35 unlicensed person.

36 (9) 'Unlicensed person' means a person who is not validly licensed as a firearms dealer,  
37 manufacturer, or importer pursuant to 18 U.S.C. Section 921, et seq."

38 **SECTION 2.**

39 Said part is further amended by adding a new Code section to read as follows:

40 "16-11-174.

41 (a) No unlicensed person shall transfer a firearm to another unlicensed person unless such  
42 transfer is facilitated by a dealer in accordance with this Code section. A dealer who

43 facilitates a firearm transfer on behalf of an unlicensed person shall use the same  
44 procedures and comply with all state and federal laws required by such dealer for the  
45 transfer of a firearm from such dealer's own inventory, including, but not limited to, the  
46 performance of background checks and maintenance of records. A dealer shall be  
47 authorized to charge a reasonable fee to facilitate the transfer of a firearm pursuant to this  
48 Code section.

49 (b) When a background check indicates that the transferee is not prohibited from receiving  
50 or possessing the firearm under state or federal law and all legal requirements to complete  
51 the transfer are met, the dealer shall deliver the firearm to the transferee.

52 (c) When a background check indicates that the transferee is not authorized to receive or  
53 possess the firearm under state or federal law, or if the dealer cannot otherwise lawfully  
54 deliver the firearm to the transferee, the dealer shall not complete the transfer and shall  
55 return the firearm to the transferor; provided, however, that the dealer shall be authorized  
56 to conduct a background check to ensure that the transferor is not prohibited from receiving  
57 or possessing the firearm under state or federal law. If such background check indicates  
58 that the transferor is not authorized to receive or possess the firearm, the dealer shall not  
59 return the firearm to the transferor.

60 (d) The provisions of this Code section shall not apply to:

61 (1) The transfer of any:

62 (A) Firearm, including any handgun with a matchlock, flintlock, percussion cap, or  
63 similar type of ignition system, manufactured in or before 1898;

64 (B) Replica of any firearm described in subparagraph (A) of paragraph (1) of this  
65 subsection, if such replica is not designed or redesigned to use rimfire or conventional  
66 center-fire fixed ammunition or uses rimfire or conventional center-fire fixed  
67 ammunition which is no longer manufactured in the United States and which is not  
68 readily available in the ordinary channels of commercial trade; or

69 (C) Firearm which is a curio or relic as defined by 27 C.F.R. 178.11;

70 (2) The transfer of a firearm by or to any law enforcement agency or officer, armed  
71 private security professional, or member of the armed forces, to the extent that the  
72 agency, officer, professional, or member is acting within the course and scope of  
73 employment and official duties;

74 (3) A transfer that is a loan or bona fide gift between spouses; between domestic  
75 partners; between parents and their children, including stepparents and their stepchildren;  
76 between siblings; between aunts or uncles and their nieces or nephews; or between  
77 grandparents and their grandchildren, if the transferor has no reason to believe that the  
78 transferee will use or intends to use the firearm in a crime or that the transferee is not  
79 authorized to receive or possess firearms under state or federal law;

80 (4) A transfer to an executor, administrator, trustee, or personal representative of an  
81 estate or a trust that occurs by operation of law upon the death of another person;

82 (5) A temporary transfer that is necessary to prevent imminent death or great bodily  
83 harm, including harm to self, family, household members, or others, if the transferee  
84 possesses the firearm only as long as is reasonably necessary to prevent such imminent  
85 death or great bodily harm;

86 (6) A transfer that is approved by the Attorney General under Section 5812 of the  
87 Internal Revenue Code of 1986;

88 (7) A gunsmith who receives a firearm solely for the purpose of service or repair or the  
89 return of the firearm to its owner by the gunsmith; or

90 (8) A temporary transfer if the transferor has no reason to believe that the transferee will  
91 use or intends to use the firearm in a crime or that the transferee is not authorized to  
92 receive or possess firearms under state or federal law, provided that the transfer of the  
93 firearm and the transferee's possession of the firearm occur exclusively:

94 (A) While in the presence of the transferor;

95 (B) At a shooting range or in a shooting gallery or other area designated for the  
96 purpose of target shooting; or

97 (C) While reasonably necessary for the purposes of hunting, trapping, or fishing, if the  
98 transferor has no reason to believe that the transferee intends to use the firearm in a  
99 place where it is illegal and has reason to believe that the transferee will comply with  
100 all licensing and permit requirements for such hunting, trapping, or fishing.

101 (e) A person who knowingly violates any provision of this Code section shall:

102 (1) For a first offense, be guilty of a misdemeanor; or

103 (2) For a second or subsequent offense, be guilty of a felony and, upon conviction, be  
104 punished by confinement for not less than one nor more than three years.

105 (f) This Code section shall apply to transfers completed on or after July 1, 2023, and shall  
106 not apply to any transfer completed prior to such date."

107

### SECTION 3.

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