

Senate Bill 119

By: Senators Parent of the 42nd, Butler of the 55th, Jones II of the 22nd, Harrell of the 40th,
Jackson of the 41st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 16 and 19 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses and to domestic relations, respectively, so as to prohibit persons convicted of
3 misdemeanor crimes of family violence from receiving, possessing, or transporting a firearm
4 and to prohibit persons subject to family violence protective orders from receiving,
5 possessing, or transporting a firearm; to provide for definitions; to provide an effective date
6 and applicability; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
11 amended in Code Section 16-5-20, relating to simple assault, by revising subsection (e) as
12 follows:

13 "(e) Upon conviction of simple assault under paragraph (1) of subsection (a) of this Code
14 section, or, if the offense involves a firearm, under paragraph (2) of subsection (a) of this
15 Code section, that is committed between past or present spouses, persons who are parents
16 of the same child, parents and children, stepparents and stepchildren, foster parents and
17 foster children, or other persons living or formerly living in the same household, the court

18 shall inform the offender orally and in writing that such offender is prohibited from
19 receiving, possessing, or transporting a firearm under subsection (b) of Code
20 Section 16-11-131, indicate such prohibition on the record of conviction, order such
21 offender orally and in writing to transfer any and all firearms in his or her possession or
22 control, and ensure transfer is made as provided under subsection (b.1) of Code Section
23 16-11-131 Reserved."

24 **SECTION 2.**

25 Said title is further amended in Code Section 16-5-23, relating to simple battery, by revising
26 subsection (g) as follows:

27 "(g) If the offense of simple battery is committed between past or present spouses, persons
28 who are parents of the same child, parents and children, stepparents and stepchildren, foster
29 parents and foster children, or other persons living or formerly living in the same
30 household, the court, upon conviction, shall inform such offender orally and in writing that
31 the offender is prohibited from receiving, possessing, or transporting a firearm under
32 subsection (b) of Code Section 16-11-131, indicate such prohibition on the record of
33 conviction, order such offender orally and in writing to transfer any and all firearms in his
34 or her possession or control, and ensure transfer is made as provided under subsection (b.1)
35 of Code Section 16-11-131 Reserved."

36 **SECTION 3.**

37 Said title is further amended in Code Section 16-5-23.1, relating to battery, by adding a new
38 subsection to read as follows:

39 "(f.1) If the offense of battery is committed between past or present spouses, persons who
40 are parents of the same child, parents and children, stepparents and stepchildren, foster
41 parents and foster children, or other persons living or formerly living in the same
42 household, the court, upon conviction, shall inform such offender orally and in writing that

43 such offender is prohibited from receiving, possessing, or transporting a firearm under
44 subsection (b) of Code Section 16-11-131, indicate such prohibition on the record of
45 conviction, order such offender orally and in writing to transfer any and all firearms in his
46 or her possession or control, and ensure transfer is made as provided under subsection (b.1)
47 of Code Section 16-11-131."

48 **SECTION 4.**

49 Said title is further amended by revising Code Section 16-11-102, relating to pointing or
50 aiming a gun or pistol at another, as follows:

51 "16-11-102.

52 (a) A person is guilty of a misdemeanor when he or she intentionally and without legal
53 justification points or aims a gun or pistol at another, whether the gun or pistol is loaded
54 or unloaded.

55 (b) If the offense of pointing or aiming a gun or pistol at another is committed between
56 past or present spouses, persons who are parents of the same child, parents and children,
57 stepparents and stepchildren, foster parents and foster children, or other persons living or
58 formerly living in the same household, the court, upon conviction, shall inform such
59 offender orally and in writing that such offender is prohibited from receiving, possessing,
60 or transporting a firearm under subsection (b) of Code Section 16-11-131, indicate the
61 prohibition on the record of conviction, order such offender orally and in writing to transfer
62 any and all firearms in his or her possession or control, and ensure transfer is made as
63 provided under subsection (b.1) of Code Section 16-11-131."

64 **SECTION 5.**

65 Said title is further amended in Code Section 16-11-131, relating to possession of firearms
66 by convicted felons and first offender probationers, by revising subsections (a), (b), and (b.1)
67 and by adding a new subsection to read as follows:

68 "16-11-131.

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

70 (1) 'Family violence protective order' means an order issued under Code Section 19-13-4
 71 or an equivalent order in this state or elsewhere that was issued after the restrained person
 72 received notice of the proceedings and an opportunity to be heard.

73 ~~(1)~~(2) 'Felony' means any offense punishable by imprisonment for a term of one year or
 74 more and includes conviction by a court-martial under the Uniform Code of Military
 75 Justice for an offense which would constitute a felony under the laws of the United
 76 States.

77 ~~(2)~~(3) 'Firearm' includes any a handgun, rifle, shotgun, or other weapon which will or
 78 can be converted to expel a projectile by the action of an explosive or electrical charge.

79 (4) 'Misdemeanor crime of family violence' means any offense provided for under Code
 80 Section 16-5-20, 16-5-23, 16-5-23.1, or 16-11-102 that:

81 (A) Is committed between past or present spouses, persons who are parents of the same
 82 child, parents and children, stepparents and stepchildren, foster parents and foster
 83 children, or other persons living in or formerly living in the same household; and

84 (B) Involves the use or attempted use of physical force or the use or threatened use of
 85 a firearm.

86 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of
 87 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection
 88 (a) or (c) of Code Section 16-13-2, or who is subject to a family violence protective order,
 89 or who has been convicted of a misdemeanor offense of family violence, or a felony by a
 90 court of this state or any other state; by a court of the United States including its territories,
 91 possessions, and dominions; or by a court of any foreign nation and who receives,
 92 possesses, or transports any a firearm commits a felony and, upon conviction thereof, shall
 93 be imprisoned for not less than one year nor more than ten years; provided, however, that
 94 upon a second or subsequent conviction, such person shall be imprisoned for not less than

95 five nor more than ten years; provided, further, that if the felony for which the person is on
96 probation or has been previously convicted is a forcible felony, then upon conviction of
97 receiving, possessing, or transporting a firearm, such person shall be imprisoned for a
98 period of five years.

99 (b.1)(1) Upon entering a conviction for a misdemeanor crime of family violence, a court
100 shall immediately:

101 (A) Inform such offender orally and in writing that, pursuant to subsection (b) of this
102 Code section, the offender shall not receive, possess, or transport any firearm;

103 (B) Order such offender orally and in writing to surrender all firearms in the offender's
104 possession, within 24 hours of the order to a federally licensed firearms dealer;

105 (C) Provide such offender the opportunity to attest orally and in writing that he or she
106 at the time of the conviction, has no firearms in his or her possession or control; and

107 (D) If such offender does not attest orally and in writing as provided in
108 subparagraph (C) of this paragraph, schedule a hearing to occur within 72 hours, during
109 which time the offender shall either:

110 (i) Present a receipt showing that any firearms in the offender's possession or control
111 at the time of conviction were physically surrendered to a federally licensed firearms
112 dealer and attest orally and in writing that such firearms have been physically
113 surrendered to a federally licensed firearms dealer and that the offender, at the time
114 of the hearing, has no firearms in the offender's possession or control; or

115 (ii) Attest orally and in writing that the offender, at the time of the conviction, had
116 no firearms in his or her possession or control and, at the time of the hearing, has no
117 firearm in his or her possession or control.

118 (2) An offender transporting a firearm to surrender in accordance with this subsection
119 shall not be subject to prosecution under subsection (b) of this Code section.

120 (b.2) Any person who is prohibited by this Code section from possessing a firearm because
121 of conviction of a forcible felony or because of being on probation as a first offender or

122 under conditional discharge for a forcible felony and who attempts to purchase or obtain
123 transfer of a firearm shall be guilty of a felony and upon conviction shall be punished by
124 imprisonment for not less than one year nor more than five years; provided, however, that
125 upon a second or subsequent conviction, such person shall be punished by imprisonment
126 for not less than five nor more than ten years."

127 **SECTION 6.**

128 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
129 amended in Code Section 19-13-4, relating to family violence protective orders and consent
130 agreements, by adding a new subsection to read as follows:

131 "(a.1)(1) An order issued pursuant to subsection (a) of this Code section that was granted
132 after notice was provided to the respondent and after such respondent was given an
133 opportunity to be heard shall prohibit such respondent from receiving, possessing, or
134 transporting a firearm. Upon issuance of such an order a court shall immediately:

135 (A) Inform such respondent in writing that, pursuant to subsection (b) of Code
136 Section 16-11-131, the offender shall not receive, possess, or transport a firearm;

137 (B) Order such respondent in writing to surrender all firearms in his or her possession
138 within 24 hours of the order to a federally licensed firearms dealer;

139 (C) If such respondent is present at the time the order is issued, provide him or her the
140 opportunity to attest orally and in writing that her or she, at the time of the issuance of
141 the protective order, has no firearms in his or her possession or control; and

142 (D) If such respondent does not attest orally and in writing as provided in
143 subparagraph (C) of this paragraph, schedule a hearing to occur within 72 hours, during
144 which time the respondent shall either:

145 (i) Present a receipt showing that a firearm in his or her possession or control at the
146 time the order was issued was physically surrendered to a federally licensed firearms
147 dealer and attest orally and in writing that a firearm in the respondent's possession or

148 control at the time the protective order was issued has been physically surrendered to
149 a federally licensed firearms dealer and that the respondent, at the time of the hearing,
150 has no firearm in his or her possession or control; or
151 (ii) Attest orally and in writing that the respondent, at the time the protective order
152 was issued, had no firearm in his or her possession or control and, at the time of the
153 hearing, has no firearm in his or her possession or control.
154 (2) A respondent transporting a firearm to surrender in accordance with this subsection
155 shall not be subject to prosecution under subsection (b) of Code Section 16-11-131."

156 **SECTION 7.**

157 This Act shall become effective on July 1, 2023, and shall apply to any conviction or
158 protective order issued on or after such date.

159 **SECTION 8.**

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