

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 certain 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 which involved an
50 injury to another person or a forcible felony or who has been convicted of a crime of family
51 violence which involved an injury to another person or a forcible felony by a court of this
52 state or any other state; by a court of the United States including its territories, possessions,
53 and dominions; or by a court of any foreign nation and who receives, possesses, or
54 transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned
55 for not less than one year nor more than ten years; provided, however, that upon a second
56 or subsequent conviction, such person shall be imprisoned for not less than five nor more
57 than ten years.

58 (b.3) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8
59 of Title 42 as a result of having committed an act of family violence which did not involve
60 injury to another person or a forcible felony or who has been convicted of a crime of family
61 violence which did not include injury to another person or a forcible felony by a court of
62 this state or any other state; by a court of the United States including its territories,
63 possessions, and dominions; or by a court of any foreign nation and who receives,
64 possesses, or transports any firearm commits a misdemeanor of a high and aggravated
65 nature; provided, however, that upon a second or subsequent conviction, such person shall
66 be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one
67 year nor more than ten years.

68 (b.4) Any person who is prohibited by this Code section from possessing a firearm because
69 of conviction of a crime of family violence which involved an injury to another person or
70 a forcible felony or because of being on probation as a first offender or under conditional

71 discharge for a crime of family violence which involved an injury to another person or a
72 forcible felony and who attempts to purchase or obtain transfer of a firearm shall be guilty
73 of a felony and, upon conviction thereof, shall be punished by imprisonment for not less
74 than one year nor more than five years; provided, however, that upon a second or
75 subsequent conviction, such person shall be punished by imprisonment for not less than
76 five nor more than ten years.

77 (b.5) Any person who is prohibited by this Code section from possessing a firearm because
78 of conviction of a crime of family violence which did not involve an injury to another
79 person or a forcible felony or because of being on probation as a first offender or under
80 conditional discharge for a crime of family violence which did not involve an injury to
81 another person or a forcible felony and who attempts to purchase or obtain transfer of a
82 firearm shall be guilty of a misdemeanor of a high and aggravated nature; provided,
83 however, that upon a second or subsequent conviction, such person shall be guilty of a
84 felony and, upon conviction thereof, shall be punished by imprisonment for not less than
85 one year nor more than five years.

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

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

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

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

~~(f)~~(e) Any person sentenced as a first offender pursuant to Article 3 of Chapter 8 of
122 Title 42 or sentenced pursuant to subsection (a) or (c) of Code Section 16-13-2 and
123 subsequently discharged without court adjudication of guilt as a matter of law pursuant to
124

125 Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be relieved
126 from the disabilities imposed by this Code section."

127 **SECTION 2.**
128 All laws and parts of laws in conflict with this Act are repealed.