

Senate Bill 467

By: Senators Thompson of the 33rd, Stokes of the 43rd and Tanksley of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations,
2 so as to create standards, uniformity, oversight, and certification for family violence
3 intervention programs; to provide a short title; to change provisions relating to family
4 violence counseling; to add an article to manage family violence intervention programs; to
5 define terms; to provide for the administration of the programs; to establish a certification
6 process; to include compliance standards and annual reporting; to provide for penalties; to
7 change provisions relating to the administrative attachment of the State Commission on
8 Family Violence; to amend Title 42 of the Official Code of Georgia Annotated, relating to
9 penal institutions, so as to conform certain language relating to family violence intervention
10 programs; to provide for other matters relative to the foregoing; to provide for an effective
11 date and applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 This Act shall be known and may be cited as the "Georgia Family Violence Intervention
15 Program Certification Act."

16 style="text-align:center">**SECTION 2.**

17 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
18 amended in Code Section 19-9-7, relating to parental visitation, by striking paragraph (3) of
19 subsection (a) and inserting in lieu thereof the following:

20 "(3) Order the perpetrator of family violence to attend and complete, to the satisfaction
21 of the court, a certified family violence intervention program ~~of intervention~~ for
22 perpetrators ~~or other designated counseling~~ as a condition of the visitation;"

1 to, newspapers, radio, television, magazines, or telephone directories, by a family violence
2 intervention program shall not be considered a violation of this Code section.

3 19-13-13.

4 (a) The commissioner is authorized to promulgate, adopt, and enforce rules and regulations
5 necessary to carry out this article, including, but not limited to, prescribing the form of
6 applications, visiting program facilities, and investigating complaints.

7 (b) The department shall be responsible for the approval and certification of programs.
8 This responsibility includes the training for and monitoring of all programs under this
9 article.

10 19-13-14.

11 (a) Any program must be certified as required by this article. The department shall
12 establish standards and requirements concerning the content of a program's courses,
13 including, but not limited to, duration of courses, qualifications of instructors, program and
14 certification fees, attendance requirements, and examinations. In order to be approved, a
15 program shall meet the standards established by the department.

16 (b) Programs may be operated by any individual, partnership, corporation, association,
17 civic group, club, county, municipality, board of education, school, or college or any
18 public, private, or governmental entity. The Department of Corrections is authorized to
19 operate programs in its facilities, provided that such programs meet the certification criteria
20 promulgated by the department. All programs operated by the Department of Corrections
21 shall be exempt from fee provisions relating to obtaining certification.

22 (c) The department is responsible for establishing requirements for the certification of
23 programs. An applicant must meet the certification requirements promulgated by the
24 department through standards established by the department. No program shall be
25 approved unless the owner of the program agrees in writing to submit reports as required
26 in the rules and regulations of the department and to allow the examination and audit of the
27 books, records, and financial statements of the program or its authorized agent. No program
28 will be approved unless the owner of the program agrees in writing to pay to the state, for
29 the costs of administration, a fee as established by the department, provided that nothing
30 in this Code section shall be construed so as to allow the department to retain any funds
31 required by the Constitution of this state to be paid into the state treasury; and provided,
32 further, that the department shall comply with all provisions of Part 1 of Article 4 of
33 Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior to expending
34 any such miscellaneous funds.

1 (e) The department has the authority to deny, suspend, or revoke a certificate under this
2 article or to impose sanctions upon and discipline a program which is not complying with
3 the rules and regulations set forth by the department. The commissioner shall establish
4 criteria to determine noncompliance with department rules and regulations, sanctions for
5 noncompliance, and methods of appeal if certification is denied, suspended, or revoked.

6 (f) The department shall maintain a list of programs certified pursuant to this article and
7 make the list available to the public and all courts.

8 19-13-15.

9 As an alternative to criminal or other civil enforcement, the commissioner or his or her
10 designee, in order to enforce this article or any orders, rules, or regulations promulgated
11 pursuant to this article, may issue an administrative fine not to exceed \$1,000.00 for each
12 violation, whenever the commissioner or his or her designee, after a hearing, determines
13 that any person, firm, or corporation has violated any provision of this article or any order,
14 rule, or regulation promulgated pursuant to this article. The hearing and any administrative
15 review thereof shall be conducted in accordance with the procedures for contested cases
16 under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person,
17 firm, or corporation that has exhausted all administrative remedies available and that is
18 aggrieved or adversely affected by a final order or action of the commissioner or his or her
19 designee shall have the right of judicial review in accordance with Chapter 13 of Title 50.
20 All fines recovered under this Code section shall be paid into the state treasury. The
21 commissioner or his or her designee may file in the superior court (1) wherein the person
22 under order resides; (2) if such person is a corporation, in the county wherein the
23 corporation maintains its principal place of business; or (3) in the county wherein the
24 violation occurred, a certified copy of a final order of the commissioner or his or her
25 designee, whether unappealed from or affirmed upon appeal, whereupon the court shall
26 render judgment in accordance with the judgment and notify the parties. The judgment
27 shall have the same effect and proceedings in relation thereto shall thereafter be the same
28 as though the judgment had been rendered in an action duly heard and determined by the
29 court. The penalty prescribed in this Code section shall be concurrent, alternative, and
30 cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures,
31 or penalties provided, allowed, or available to the commissioner or his or her designee with
32 respect to any violation of this article or any order, rule, or regulation promulgated pursuant
33 to this article.

1 19-13-16.

2 (a) A court, in addition to imposing any penalty provided by law, when sentencing a
3 defendant or revoking a defendant's probation for an offense involving family violence,
4 or when imposing a protective order against family violence, shall order the defendant to
5 participate in a program certified under this article, unless the court determines and states
6 on the record why the program is not appropriate.

7 (b) The State Board of Pardons and Paroles, when revoking the status of a parolee or
8 conditional releasee for a violation of parole or conditional release for an offense involving
9 family violence, shall require the parolee or conditional releasee to participate in a program
10 certified under this article, unless the State Board of Pardons and Paroles determines and
11 states on the record why the program is not appropriate."

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SECTION 4.

14 Said title is further amended in Code Section 19-13-31, relating to the creation of the State
15 Commission on Family Violence, its plan for ending family violence, and the establishment
16 of community task forces, by striking the Code section in its entirety and inserting in lieu
17 thereof the following:

18 "19-13-31.

19 There is created a State Commission on Family Violence which shall be responsible for
20 developing a comprehensive state plan for ending family violence. This plan shall include
21 the initiation, coordination, and oversight of the implementation of family violence laws
22 and the establishment in each judicial circuit of a Community Task Force on Family
23 Violence. These task forces shall be supported by and work in collaboration with the state
24 commission. The commission shall be assigned for administrative purposes only, as set out
25 in Code Section 50-4-3, to the ~~Administrative Office of the Courts~~ Department of Human
26 Resources."

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SECTION 5.

28 Said title is further amended by striking Code Section 42-8-35.6, relating to a family violence
29 intervention program or counseling related to family violence as a condition of probation,
30 and inserting in lieu thereof the following:

31 "42-8-35.6.

32 Notwithstanding any other terms or conditions of probation which may be imposed, a court
33 sentencing a defendant to probation for an offense involving family violence as such term
34 is defined in Code Section ~~19-13-1~~ 19-13-11 shall, to the extent that services are available,
35 require as a condition of probation that the defendant participate in a court approved family
36 violence intervention program or receive counseling related to family violence certified

1 pursuant to Code Section 19-13-15, unless the court determines and states on the record
2 why a certified family violence intervention program is not appropriate. Unless the
3 defendant is indigent, the cost of ~~such participation in the program or counseling~~ shall be
4 borne by the defendant. If the defendant is indigent, then the cost of the program shall be
5 determined by a sliding scale based upon the defendant's ability to pay."

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SECTION 6.

8 This Act shall become effective July 1, 2002, and shall apply to sentences or parole or
9 conditional release revocations that occur on or after that date.

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SECTION 7.

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