

Senate Bill 467

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

AS PASSED

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 require courts and the State Board of Pardons and Paroles to utilize certified family violence
8 intervention programs, with certain exceptions; to change provisions relating to the
9 administrative attachment and duties of the State Commission on Family Violence; to amend
10 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, so as to
11 conform certain language relating to family violence intervention programs; to provide for
12 other matters relative to the foregoing; to provide for effective dates and applicability; to
13 repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known and may be cited as the "Georgia's Family Violence Intervention
17 Program Certification Act."

18 **SECTION 2.**

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

22 "(3) Order the perpetrator of family violence to attend and complete, to the satisfaction
23 of the court, a certified family violence intervention program ~~of intervention~~ for
24 perpetrators ~~or other designated counseling as defined in Article 1A of Chapter 13 of this~~
25 title as a condition of the visitation;"

SECTION 3.

Said title is further amended in Chapter 13, relating to family violence, by inserting between Articles 1 and 2 a new Article 1A to read as follows:

"ARTICLE 1A

19-13-10.

As used in this article, the term:

(1) 'Commission' means the State Commission on Family Violence.

(2) 'Commissioner' means the commissioner of corrections.

(3) 'Department' means the Department of Corrections.

(4) 'Family or household members' means past or present spouses, persons who are parents of the same child, or other persons living or formerly living in the same household.

(5) 'Family violence' means the commission of the offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, or criminal trespass between family or household members.

(6) 'Family violence intervention program' or 'program' means any program that is certified by the Department of Corrections pursuant to Code Section 19-13-14 and designed to rehabilitate family violence offenders. The term includes, but is not limited to, batterer intervention programs, anger management programs, anger counseling, family problem resolution, and violence therapy.

19-13-11.

In carrying out the purpose of this article, the department shall charge a fee for the consideration of applications for certification of family violence intervention programs and instructors. The amount of this fee shall be established by the commission and shall, as best as the commission shall determine, approximate the expense incurred by the department in consideration of an application. These certifications shall be valid for a period of two years unless suspended or revoked prior to the expiration of that time period.

19-13-12.

Reserved.

19-13-13.

(a) A program certified pursuant to this article shall be administered by the department. The department is authorized to promulgate, adopt, and enforce rules and regulations

1 necessary to carry out this article, including, but not limited to, prescribing the form of
2 applications, visiting program facilities, and investigating complaints.

3 (b) The department shall be responsible for the approval and certification of programs and
4 staff. This responsibility includes the training for and monitoring of all programs under this
5 article.

6 19-13-14.

7 (a) The commission and the department shall establish standards and requirements
8 concerning the content of courses, including, but not limited to, duration of courses,
9 qualifications of instructors, program and certification fees, attendance requirements, and
10 examinations. In order to be certified, a program shall meet the standards established by
11 the commission and the department.

12 (b) Programs may be operated by any individual, partnership, corporation, association,
13 civic group, club, county, municipality, board of education, school, or college or any
14 public, private, or governmental entity.

15 (c) No official or employee, or his or her spouse, of the department or the State Board of
16 Pardons or Paroles shall own, operate, instruct at, or be employed by a program except as
17 provided by Code Section 19-13-15.

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

33 (e) The department has the authority to deny, suspend, or revoke a certificate under this
34 article or to impose sanctions upon and discipline a program which is not complying with
35 the rules and regulations set forth by the department. The department shall establish criteria

1 to determine noncompliance with its rules and regulations, sanctions for noncompliance,
2 and methods of appeal if certification is denied, suspended, or revoked.

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

5 19-13-15.

6 The department and the State Board of Pardons and Paroles may operate family violence
7 intervention programs which meet the requirements of the department. The courts and the
8 State Board of Pardons and Paroles may accept such programs in lieu of certified family
9 violence intervention programs as defined in paragraph (1) of Code Section 19-13-10.

10 19-13-16.

11 (a) A court, in addition to imposing any penalty provided by law, when sentencing a
12 defendant or revoking a defendant's probation for an offense involving family violence,
13 or when imposing a protective order against family violence, shall order the defendant to
14 participate in a family violence intervention program, whether a certified program pursuant
15 to this article or a program operated pursuant to Code Section 19-13-15, unless the court
16 determines and states on the record why participation in such a program is not appropriate.

17 (b) The State Board of Pardons and Paroles, for a violation of parole for an offense
18 involving family violence, shall require the conditional releasee to participate in a family
19 violence intervention program, whether a certified program pursuant to this article or a
20 program operated pursuant to Code Section 19-13-15, unless the State Board of Pardons
21 and Paroles determines why participation in such a program is not appropriate.

22 (c) Unless the defendant is indigent, the cost of the family violence intervention program
23 as provided by this Code section shall be borne by the defendant. If the defendant is
24 indigent, then the cost of the program shall be determined by a sliding scale based upon the
25 defendant's ability to pay.

26 19-13-17.

27 As an alternative to criminal or other civil enforcement, the commissioner or his or her
28 designee, in order to enforce this article or any orders, rules, or regulations promulgated
29 pursuant to this article, may issue an administrative fine not to exceed \$1,000.00 for each
30 violation, whenever that commissioner or his or her designee, after a hearing, determines
31 that any person, firm, or corporation has violated any provision of this article or any order,
32 rule, or regulation promulgated pursuant to this article. The hearing and any administrative
33 review thereof shall be conducted in accordance with the procedures for contested cases
34 under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Any person,

1 firm, or corporation that has exhausted all administrative remedies available and that is
 2 aggrieved or adversely affected by a final order or action of the commissioner or his or her
 3 designee shall have the right of judicial review in accordance with Chapter 13 of Title 50.
 4 All fines collected or recovered by the commissioner under this Code section shall be
 5 remitted to the Office of Treasury and Fiscal Services to the credit of the general fund of
 6 this state. The commissioner or his or her designee may file in the superior court (1)
 7 wherein the person under order resides; (2) if such person is a corporation, in the county
 8 wherein the corporation maintains its principal place of business; or (3) in the county
 9 wherein the violation occurred, a certified copy of a final order of the commissioner or his
 10 or her designee, whether unappealed from or affirmed upon appeal, whereupon the court
 11 shall render judgment in accordance with the judgment and notify the parties. The
 12 judgment shall have the same effect and proceedings in relation thereto shall thereafter be
 13 the same as though the judgment had been rendered in an action duly heard and determined
 14 by the court. The penalty prescribed in this Code section shall be concurrent, alternative,
 15 and cumulative with any and all other civil, criminal, or alternative rights, remedies,
 16 forfeitures, or penalties provided, allowed, or available to the commissioner or his or her
 17 designee with respect to any violation of this article or any order, rule, or regulation
 18 promulgated pursuant to this article."

19

SECTION 4.

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

24 "19-13-31.

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

33

SECTION 5.

34 Said title is further amended in Code Section 19-13-34, relating to powers and duties of the
 35 commission, in subsection (a) by striking "and" at the end of paragraph (7), by striking the

1 period and inserting "; and" at the end of paragraph (8), and by adding a new paragraph (9)
 2 to read as follows:

3 "(9) To develop standards to be utilized by the Department of Corrections in the
 4 certification and regulation of family violence intervention programs."

5 **SECTION 6.**

6 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
 7 by striking Code Section 42-8-35.6, relating to a family violence intervention program or
 8 counseling related to family violence as a condition of probation, and inserting in lieu
 9 thereof the following:

10 "42-8-35.6.

11 (a) Notwithstanding any other terms or conditions of probation which may be imposed,
 12 a court sentencing a defendant to probation for an offense involving family violence as
 13 such term is defined in Code Section ~~19-13-1~~ 19-13-10 shall, to the extent that services are
 14 available, require as a condition of probation that the defendant participate in a court
 15 approved family violence intervention program or receive counseling related to family
 16 violence certified pursuant to Article 1A of Chapter 13 of Title 19, unless the court
 17 determines and states on the record why participation in such a program is not appropriate.
 18 Unless the defendant is indigent, the cost of such participation in the program or counseling
 19 shall be borne by the defendant.

20 (b) A court, in addition to imposing any penalty provided by law, when revoking a
 21 defendant's probation for an offense involving family violence as defined by Code Section
 22 19-13-10, or when imposing a protective order against family violence, shall order the
 23 defendant to participate in a family violence intervention program certified pursuant to
 24 Article 1A of Chapter 13 of Title 19, unless the court determines and states on the record
 25 why participation in such program is not appropriate.

26 (c) The State Board of Pardons and Paroles, for a violation of parole for an offense
 27 involving family violence as defined by Code Section 19-13-10, shall require the
 28 conditional releasee to participate in a family violence intervention program certified
 29 pursuant to Article 1A of Chapter 13 of Title 19, unless the State Board of Pardons and
 30 Paroles determines why participation in such a program is not appropriate.

31 (d) Unless the defendant is indigent, the cost of the family violence intervention program
 32 as provided by this Code section shall be borne by the defendant. If the defendant is
 33 indigent, then the cost of the program shall be determined by a sliding scale based upon the
 34 defendant's ability to pay."

1 **SECTION 7.**

2 This section and Sections 1, 4, 5, and 8 of this Act shall become effective on July 1, 2002.
3 Section 2 of this Act shall become effective on July 1, 2003. Section 3 of this Act shall
4 become effective on July 1, 2002, for the purposes of the development process by the
5 Department of Corrections and the State Commission on Family Violence for certified family
6 violence intervention programs and for the purposes of collecting application fees; for all
7 other purposes, Section 3 of this Act shall become effective on July 1, 2003. Section 6 of
8 this Act shall become effective on July 1, 2003, and shall apply to sentences or conditional
9 release revocations that occur on or after that date.

10 **SECTION 8.**

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