

House Bill 630

By: Representative Mueller of the 152nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes
2 against the person, so as to establish a procedure whereby a protective order may be obtained
3 on behalf of an incapacitated adult to protect the incapacitated adult against contact by
4 another person which causes emotional distress to the incapacitated adult; to provide that
5 violation of such a protective order shall constitute a crime and may also be punishable as
6 contempt of court; to provide for grounds and procedures for obtaining such protective
7 orders; to provide for related matters; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
11 the person, is amended by adding at its end a new Article 9 to read as follows:

12 **"ARTICLE 9**

13 16-5-110.

14 (a) As used in this Code section, the term 'incapacitated adult' means an adult who is under
15 the care or custody of a legally appointed guardian of the person.

16 (b) The guardian of the person of an incapacitated adult may seek and be granted a
17 protective order prohibiting any third party from contacting the incapacitated adult if
18 contact by such third party causes emotional distress to the incapacitated adult. It shall not
19 be a requirement for issuance of such a protective order that there be a rational basis for the
20 emotional distress caused by the contact.

21 (c) Except for proceedings involving a nonresident respondent, the superior court of the
22 county where the respondent resides shall have jurisdiction over all proceedings under this
23 article. For proceedings under this article involving a nonresident respondent, the superior
24 court where the incapacitated adult resides shall have jurisdiction.

1 (d) Upon the filing of a verified petition in which the petitioner alleges with specific facts
2 that probable cause exists to establish that emotional distress has been caused to an
3 incapacitated adult in the past and may occur in the future, the court may order such
4 temporary relief ex parte as it deems necessary. If the court issues an ex parte order, a copy
5 of the order shall be immediately furnished to the petitioner.

6 (e) The court may, upon the filing of a verified petition, grant any protective order or
7 approve any consent agreement to protect the incapacitated adult from unnecessary
8 emotional distress. The order or agreement may:

9 (1) Direct the respondent to refrain from unnecessary contact with the incapacitated
10 adult;

11 (2) Direct the incapacitated adult to refrain from unnecessarily being present at specified
12 places at specified times where the incapacitated adult's presence would make it
13 unreasonably difficult or burdensome for the respondent to comply with the court's order;
14 and

15 (3) Contain such other terms and conditions as may be appropriate to protect the
16 incapacitated adult from unnecessary emotional distress without placing unreasonable
17 limits on the otherwise permissible activities of the respondent.

18 (f) A copy of the order shall be issued by the clerk of the superior court to the sheriff of
19 the county wherein the order was entered and shall be retained by the sheriff as long as that
20 order shall remain in effect.

21 (g) Any such order granted under this Code section shall be a permanent order, subject to
22 modification for good cause shown on the petition of the incapacitated adult or the
23 respondent.

24 (h) A protective order issued pursuant to this Code section shall apply and shall be
25 effective throughout this state. It shall be the duty of every superior court and of every
26 sheriff, every deputy sheriff, and every state, county, or municipal law enforcement officer
27 within this state to enforce and carry out the terms of any valid protective order issued by
28 any court under the provisions of this Code section.

29 (i) Any person who intentionally and willfully violates a protective order issued pursuant
30 to this Code section shall upon conviction be guilty of a misdemeanor. An order issued
31 pursuant to this Code section may also be enforced through proceedings for contempt."

32 SECTION 2.

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