

Senate Bill 26

By: Senators Hill of the 4th, Kemp of the 3rd and Cagle of the 49th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-5-23.1, of the Official Code of Georgia Annotated, relating to
2 battery, so as to provide for an enhanced penalty for the offense of family battery if
3 conviction is subsequent to any of specified offenses against a person with one of specified
4 relationships to defendant; to provide that family violence battery does not apply to
5 reasonable corporal punishment of a child; to provide for an effective date and for
6 applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 16-5-23.1, of the Official Code of Georgia Annotated, relating to battery, is
10 amended by striking subsection (f) in its entirety and inserting in lieu thereof the following:

11 "(f)(1) If the offense of battery is committed between past or present spouses, persons
12 who are parents of the same child, parents and children, stepparents and stepchildren,
13 foster parents and foster children, or other persons living or formerly living in the same
14 household, then such offense shall constitute the offense of family violence battery and
15 shall be punished as follows:

16 ~~(1)(A)~~ (A) Upon a first conviction of family violence battery, the defendant shall be guilty
17 of and punished for a misdemeanor; ~~and~~

18 ~~(2)(B)~~ (B) Upon a second or subsequent conviction of family violence battery against the
19 same or another victim, the defendant shall be guilty of a felony and shall be punished
20 by imprisonment for not less than one nor more than five years. ~~In no event shall this~~
21 ~~subsection be applicable to reasonable corporal punishment administered by parent to~~
22 ~~child.; and~~

23 (C) Upon conviction of family violence battery subsequent to a plea of guilty to, plea
24 of nolo contendere to, or conviction of:

25 (i) Any felony, or a misdemeanor violation of simple battery, simple assault, criminal
26 damage to property, unlawful restraint, or criminal trespass;

1 (ii) Any violation of Code Section 16-5-70, relating to cruelty to children;

2 (iii) Any violation of Code Section 16-5-72, relating to reckless abandonment; or

3 (iv) The laws of the United States or its territories, possessions, or dominions, any of

4 the several states, or any foreign state which would constitute an offense specified in

5 this subparagraph if committed in this state;

6 if such offense is against a person who is or was in a family or household relationship

7 listed in the undesignated introductory portion of Code Section 19-13-1, the defendant

8 shall be guilty of a felony and shall be punished by imprisonment for not less than one

9 nor more than five years.

10 (2) In no event shall paragraph (1) of this subsection be applied to reasonable corporal

11 punishment administered by a parent to a child, stepparent to a stepchild, or foster parent

12 to a foster child."

13 **SECTION 2.**

14 This Act shall become effective on July 1, 2001, and shall apply to offenses committed on

15 or after such date.

16 **SECTION 3.**

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