

House Bill 21

By: Representative Manning of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 19 of the Official Code of Georgia Annotated, relating to
2 alimony and child support in general, so as to change provisions relating to verification of
3 financial status of parties in support proceedings; to provide that in cases involving support
4 issues no final judgment shall be entered until each party has filed an affidavit concerning
5 his or her financial condition; to provide that where such a case has been the subject of
6 mediation no mediated judgment shall be entered until the court has been presented with
7 verification concerning the applicability of support guidelines; to provide that orders may be
8 modified when a party is or has been convicted of perjury, false swearing, or other similar
9 criminal conduct; to provide for practice and procedure, awards, enforcement, and other
10 matters relative to such modifications; to amend Code Section 48-7-60 of the Official Code
11 of Georgia Annotated, relating to confidentiality of income tax records, so as to provide for
12 an exception with respect to confidentiality for information to be used in criminal cases
13 involving perjury, false swearing, or other similar conduct for the purpose of avoiding
14 support; to provide for other related matters; to provide for an effective date and for
15 applicability; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 6 of Title 19 of the Official Code of Georgia Annotated, relating to alimony and
19 child support in general, is amended by adding new Code Sections 19-6-17.1 and 19-6-17.2
20 to read as follows:

21 "19-6-17.1.

22 (a) In any divorce proceeding or any other proceeding involving issues of alimony for the
23 support of a spouse or for the support of a child or children, no final judgment or order
24 shall be entered until each party has filed an appropriate affidavit verifying the accuracy
25 of any information concerning the financial condition of the parties which has been placed
26 before the court.

1 (b) In any proceeding involving issues of child support, where the proceeding has been the
2 subject of mediation, no mediated judgment or order shall be entered until the court has
3 been presented with verification that the order and judgment are within the guidelines
4 specified in Code Section 19-6-15.

5 19-6-17.2.

6 (a) Any judgment providing permanent alimony for the support of a spouse or for the
7 support of a child or children or both or any divorce or custody decree in which no support
8 is awarded shall be subject to modification if a party to the prior proceeding is or has been
9 convicted of perjury, false swearing, or other similar charges, and such perjury, false
10 swearing, or other similar criminal conduct was committed in whole or in part for the
11 purpose of avoiding in whole or in part the payment of alimony or child support.

12 (b) The procedure for obtaining a modification of support under this Code section shall be
13 as otherwise provided by applicable law, except as otherwise provided in this Code section.

14 (c) There shall be no time limit prohibiting the bringing of an action for modification
15 under this Code section within any period of time following a prior action for modification
16 under any other law.

17 (d) Notwithstanding any other provision of law, a modification of support under this Code
18 section may be made retroactive to the time of the perjury, false swearing, or other similar
19 criminal conduct.

20 (e) Whenever possible, the court shall decide a proceeding under this Code section by
21 summary judgment in order to minimize further expense to the party not at fault.

22 (f) Where entitlement to modification is established under this Code section, the order of
23 the court should be such as will:

24 (1) Eliminate any reward to the party at fault for his or her unlawful conduct;

25 (2) Make the party entitled to support whole for the unlawful conduct of the party at
26 fault, through the award of: support arrears; expenses including attorney's fees incurred;
27 adjustment of prior incurred expenses such as medical expenses; and any other damages;

28 (3) Provide a minimum of 12 percent interest on support arrears and other items of
29 damages from the time incurred; and

30 (4) Establish future support payments as justified by all the facts, including facts
31 previously concealed by the party at fault.

32 (g) A judgment under this Code section shall take precedence over any and all other prior
33 judgments and modifications.

34 (h) There shall be no period of limitations for the bringing of an action under this Code
35 section, except that such action must be filed no later than the later of:

- 1 (1) One year after the final conviction triggering the right of action under this Code
 2 section; or
- 3 (2) Three years after the termination of any obligation of support sought to be modified.
- 4 (i) A party against whom modification is awarded under this Code section shall not be
 5 entitled to file for modification of support until the expiration of four years after the entry
 6 of judgment under this Code section.
- 7 (j) Any lump sum award under this Code section shall be due and payable within 30 days
 8 after the entry of judgment under this Code section and shall be subject to collection by any
 9 remedy applicable to other judgments."

10 SECTION 2.

11 Code Section 48-7-60, relating to confidentiality of income tax records, is amended by
 12 striking subsection (e) and inserting in its place new subsections (e) and (f) to read as
 13 follows:

14 "(e) The commissioner may permit any law enforcement officer or prosecuting attorney
 15 to inspect and copy the state income tax returns of any taxpayer if the requested
 16 information will be used for the investigation or prosecution of the crime of perjury, false
 17 swearing, or other similar criminal conduct committed in whole or in part for the purpose
 18 of avoiding in whole or in part the payment of alimony or child support.

19 ~~(e)~~ (f) Notwithstanding any other law, this Code section shall remain in full force and
 20 effect unless specific reference is made in such other law to this Code section and to the
 21 disclosure of income tax information contained in any report or return required under this
 22 Code section."

23 SECTION 3.

24 This Act shall become effective on July 1, 2003. The provisions of this Act relating to
 25 support modification proceedings shall apply with respect to modification of judgments and
 26 orders entered before, on, or after that date.

27 SECTION 4.

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