

House Bill 1489 (AM)

By: Representatives Oliver of the 56th, Post 2, Hill of the 81st, Mosby of the 59th, Post 3, Thomas of the 43rd, Post 1, and Moraitakis of the 42nd, Post 4

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to where
2 offenses are bailable, procedure, schedule of bails, and appeal bonds, so as to clarify bond
3 conditions for family violence offenses; to provide for related matters; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to where offenses
8 are bailable, procedure, schedule of bails, and appeal bonds, is amended by striking
9 subparagraph (b)(2)(B) of said Code section and inserting in lieu thereof the following:

10 "(B) When an arrest is made by a law enforcement officer ~~without a warrant upon~~ for
11 an act of family violence as defined in Code Section 19-13-1 ~~pursuant to Code Section~~
12 ~~17-4-20~~, the person charged with the offense shall not be eligible for bail prior to the
13 arresting officer or some other law enforcement officer taking the arrested person
14 before a judicial officer pursuant to Code Section 17-4-21. The judicial officer shall
15 consider imposing specific conditions of bail as set forth in paragraph (3) of subsection
16 (f) of this Code section."

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

18 Said Code section is further amended by striking subsection (f) and inserting in lieu thereof
19 the following:

20 "(f)(1) Except as provided in subsection (a) of this Code section or as otherwise provided
21 in this subsection, the judge of any court of inquiry may by written order establish a
22 schedule of bails and unless otherwise ordered by the judge of any court, a person
23 charged with committing any offense shall be released from custody upon posting bail
24 as fixed in the schedule.

1 (2) For offenses involving an act of family violence, as defined in Code Section 19-13-1,
2 ~~the~~ The schedule of bails provided for in paragraph (1) of this subsection shall require
3 increased bail and shall include a listing of specific conditions which shall include, but
4 not be limited to, having no contact of any kind or character with the victim or any
5 member of the victim's family or household, not physically abusing or threatening to
6 physically abuse the victim, the immediate enrollment in and participation in domestic
7 violence counseling, substance abuse therapy, or other therapeutic requirements not apply
8 to any offense involving an act of family violence as defined in Code Section 19-13-1.

9 (3) For offenses involving an act of family violence as defined in Code Section 19-13-1,
10 the judge shall within 48 hours determine ~~whether the schedule of bails and one or more~~
11 ~~of its~~ the amount of bail and whether specific conditions shall be used, ~~except that any~~
12 ~~offense involving an act of family violence and serious injury to the victim shall be~~
13 ~~bailable only before a judge when the judge or the arresting officer is of the opinion that~~
14 ~~the danger of further violence to or harassment or intimidation of the victim is such as to~~
15 ~~make it desirable that the consideration of the imposition of additional conditions as~~
16 ~~authorized in this Code section should be made~~ including, but not limited to, having no
17 contact of any kind or character with the victim or any member of the victim's family or
18 household, not physically abusing or threatening to physically abuse the victim, or the
19 immediate enrollment in and participation in domestic violence counseling, substance
20 abuse therapy, or other therapeutic requirements. Upon setting bail in any case involving
21 family violence, the judge shall give particular consideration to the exigencies of the case
22 at hand and shall impose any specific conditions as he or she may deem necessary. ~~As~~
23 ~~used in this Code section, the term 'serious injury' means bodily harm capable of being~~
24 ~~perceived by a person other than the victim and may include, but is not limited to,~~
25 ~~substantially blackened eyes, substantially swollen lips or other facial or body parts,~~
26 ~~substantial bruises to body parts, fractured bones, or permanent disfigurements and~~
27 ~~wounds inflicted by deadly weapons or any other objects which, when used offensively~~
28 ~~against a person, are capable of causing serious bodily injury.~~

29 (4) If probable cause is shown that the offense charged is in furtherance of a pattern of
30 criminal gang activity as defined by Code Section 16-15-3, the court shall require
31 increased bail and shall include as a condition of bail or pretrial release that the defendant
32 shall not have contact of any kind or character with any other member or associate of a
33 criminal street gang and that the defendant shall not have contact of any kind or character
34 with the victim or any member of the victim's family or household.

35 (5) For offenses involving violations of Code Section 40-6-393, bail or other release
36 from custody shall be set by a judge on an individual basis and not a schedule of bails
37 pursuant to this Code section."

1 **SECTION 3.**

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