

House Bill 493

By: Representative Marin of the 96th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to
2 family violence, so as to provide that acts of family violence shall include inflicting,
3 attempting to inflict, or threatening to inflict unjustified physical injury against a family or
4 household animal; to redefine the term "family violence" and make such definition uniform
5 in the several articles of said chapter; to make conforming amendments to other provisions
6 of the Official Code of Georgia Annotated; to provide for related matters; to provide an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to family violence,
11 is amended by revising Code Section 19-13-1, relating to the definition of "family violence,"
12 as follows:

13 "19-13-1.

14 As used in this ~~article~~ chapter, the term 'family violence' means the occurrence of one or
15 more of the following acts between past or present spouses, persons who are parents of the
16 same child, parents and children, stepparents and stepchildren, foster parents and foster
17 children, or other persons living or formerly living in the same household:

18 (1) Any felony; ~~or~~

19 (2) Commission of offenses of battery, simple battery, simple assault, assault, stalking,
20 criminal damage to property, unlawful restraint, or criminal trespass; or

21 (3) Inflicting, attempting to inflict, or threatening to inflict unjustified physical injury
22 against an animal owned or kept by one or more of such persons.

23 The term 'family violence' shall not be deemed to include reasonable discipline
24 administered by a parent to a child in the form of corporal punishment, restraint, or
25 detention."

26

SECTION 2.

27 Said chapter is further amended in Code Section 19-13-4, relating to protective orders and
 28 consent agreements, by revising subsection (a) as follows:

29 "(a) The court may, upon the filing of a verified petition, grant any protective order or
 30 approve any consent agreement to bring about a cessation of acts of family violence. The
 31 court shall not have the authority to issue or approve mutual protective orders concerning
 32 paragraph (1), (2), (5), (9), or (11) of this subsection, or any combination thereof, unless
 33 the respondent has filed a verified petition as a counter petition pursuant to Code Section
 34 19-13-3 no later than three days, not including Saturdays, Sundays, and legal holidays,
 35 prior to the hearing and the provisions of Code Section 19-13-3 have been satisfied. The
 36 orders or agreements may:

- 37 (1) Direct the respondent to refrain from such acts;
 38 (2) Grant to a party possession of the residence or household of the parties and exclude
 39 the other party from the residence or household;
 40 (3) Require a party to provide suitable alternate housing for a spouse, former spouse, or
 41 parent and the parties' child or children;
 42 (4) Award temporary custody of minor children and establish temporary visitation rights;
 43 (5) Order the eviction of a party from the residence or household and order assistance to
 44 the victim in returning to it, or order assistance in retrieving personal property of the
 45 victim if the respondent's eviction has not been ordered;
 46 (6) Order either party to make payments for the support of a minor child as required by
 47 law;
 48 (7) Order either party to make payments for the support of a spouse as required by law;
 49 (8) Provide for possession of personal property of the parties;
 50 (9) Order the respondent to refrain from harassing or interfering with the victim;
 51 (10) Grant to the petitioner the exclusive care, custody, or control of an animal and order
 52 the respondent to refrain from interfering with the animal;
 53 ~~(10)~~(11) Award costs and attorney's fees to either party; and
 54 ~~(11)~~(12) Order the respondent to receive appropriate psychiatric or psychological
 55 services as a further measure to prevent the recurrence of family violence.

56

SECTION 3.

57 Said chapter is further amended in Code Section 19-13-10, relating to definitions applicable
 58 to family violence intervention programs, by revising paragraph (5) as follows:

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

62 **SECTION 4.**

63 Said chapter is further amended in Code Section 19-13-20, relating to definitions applicable
 64 to family violence shelters and programs, by revising paragraph (3) as follows:

65 ~~"(3) Reserved. 'Family violence' means the occurrence of one of the following acts~~
 66 ~~between family or household members who reside together:~~

67 ~~(A) Attempting to cause or causing bodily injury or serious bodily injury with or~~
 68 ~~without a deadly weapon; or~~

69 ~~(B) By physical menace, placing another in fear of imminent serious bodily injury."~~

70 **SECTION 5.**

71 Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to examples of
 72 unfair insurance practices, is amended by revising division (b)(15)(A)(ii) as follows:

73 ~~"(ii) 'Family violence' means family violence as defined in Code Sections 19-13-1~~
 74 ~~and 19-13-20 and as limited by Code Section 19-13-1."~~

75 **SECTION 6.**

76 Code Section 42-8-35.6, relating to requiring family violence intervention programs by court
 77 order and as a condition of probation and parole, is revised as follows:

78 "42-8-35.6

79 (a) Notwithstanding any other terms or conditions of probation which may be imposed,
 80 a court sentencing a defendant to probation for an offense involving family violence as
 81 such term is defined in Code Section ~~19-13-10~~ 19-13-1 shall require as a condition of
 82 probation that the defendant participate in a family violence intervention program certified
 83 pursuant to Article 1A of Chapter 13 of Title 19, unless the court determines and states on
 84 the record why participation in such a program is not appropriate.

85 (b) A court, in addition to imposing any penalty provided by law, when revoking a
 86 defendant's probation for an offense involving family violence as defined by Code Section
 87 ~~19-13-10~~ 19-13-1, or when imposing a protective order against family violence, shall order
 88 the defendant to participate in a family violence intervention program certified pursuant to
 89 Article 1A of Chapter 13 of Title 19, unless the court determines and states on the record
 90 why participation in such program is not appropriate.

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

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

100 **SECTION 7.**

101 This Act shall become effective upon its approval by the Governor or upon its becoming law
102 without such approval.

103 **SECTION 8.**

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