

House Bill 123 (AS PASSED HOUSE AND SENATE)

By: Representatives Powell of the 171st, Bearden of the 68th, Willard of the 49th, Rynders of the 152nd, Battles of the 15th, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 2 of Chapter 10 of Title 16 of the Official Code of Georgia Annotated,
2 relating to obstruction of public administration and related offenses, so as to clarify that
3 provisions relating to removal or attempted removal of a weapon from a public official
4 includes stun guns and tasers; to provide for related matters; to provide for an effective date
5 and applicability; to repeal conflicting laws; and for other purposes.

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

7 **SECTION 1.**

8 Article 2 of Chapter 10 of Title 16 of the Official Code of Georgia Annotated, relating to
9 obstruction of public administration and related offenses, is amended by revising Code
10 Section 16-10-33, relating to removal or attempted removal of a weapon from a public
11 official and punishment therefor, as follows:

12 "16-10-33.

13 (a) For the purposes of this Code section, the term 'firearm' shall include stun guns and
tasers. A stun gun or taser is any device that is powered by electrical charging units such
as batteries and emits an electrical charge in excess of 20,000 volts or is otherwise capable
of incapacitating a person by an electrical charge.

17 (a)(b) It shall be unlawful for any person knowingly to remove or attempt to remove a
18 firearm, chemical spray, or baton from the possession of another person if:

- 19 (1) The other person is lawfully acting within the course and scope of employment; and
20 (2) The person has knowledge or reason to know that the other person is employed as:
21 (A) A peace officer as defined in paragraph (8) of Code Section 35-8-2;
22 (B) A probation officer, or other employee with the power of arrest, by the Department
23 of Corrections;
24 (C) A parole supervisor, or other employee with the power of arrest, by the State Board
25 of Pardons and Paroles;

(D) A jail officer or guard by a county or municipality and has the responsibility of supervising inmates who are confined in a county or municipal jail or other detention facility; or

(E) A juvenile correctional officer by the Department of Juvenile Justice and has the primary responsibility for the supervision and control of youth confined in such department's programs and facilities.

(b)(c) Any person who violates subsection (a)(b) of this Code section shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years or a fine of not more than \$10,000.00, or both.

~~(e)~~(d) A violation of this Code section shall constitute a separate offense. A sentence imposed under this Code section may be imposed separately from and consecutive to or concurrent with a sentence for any other offense related to the act or acts establishing the offense under this Code section."

SECTION 2.

40 This Act shall become effective on July 1, 2011, and shall apply to offenses committed on
41 or after such date.

SECTION 3.

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