

Senate Bill 86

By: Senator Stone of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 5 of Title 16 and Title 17 of the Official Code of Georgia
2 Annotated, relating to stalking and criminal procedure, respectively, so as to provide greater
3 protection to victims of family violence; to define "family violence order"; to change
4 provisions relating to arrests with and without warrants involving family violence orders; to
5 change provisions relating to bail for persons charged with violating family violence orders;
6 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 7 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
11 stalking, is amended by revising Code Section 16-5-95, relating to the offense of violating
12 a family violence order, as follows:

13 "16-5-95.

14 (a) As used in this Code section, the term:

15 (1) 'Family violence' shall have the same meaning as set forth in Code Section 19-13-1.

16 (2) 'Family violence order' means:

17 (A) Any temporary restraining order, temporary protective order, permanent
18 restraining order, or permanent protective order issued pursuant to Article 1 of Chapter
19 13 of Title 19;

20 (B) Any order of pretrial release issued as a result of an arrest for an act of family
21 violence; or

22 (C) Any order for probation issued as a result of a conviction or plea of guilty, nolo
23 contendere, or first offender to an act of family violence.

24 (b) A person commits the offense of violating a family violence order when ~~the~~ such
25 person knowingly and in a nonviolent manner violates the terms of ~~a family violence~~
26 ~~temporary restraining order, temporary protective order, permanent restraining order, or~~

27 ~~permanent protective such~~ order issued against that person pursuant to ~~Article 1 of Chapter~~
 28 ~~13 of Title 19~~, which:

29 (1) Excludes, evicts, or excludes and evicts the person from a residence or household;

30 (2) Directs the person to stay away from a residence, workplace, or school;

31 (3) Restrains the person from approaching within a specified distance of another person;

32 or

33 (4) Restricts the person from having any contact, direct or indirect, by telephone, pager,
 34 facsimile, e-mail, or any other means of communication with another person, except as
 35 specified in the order.

36 ~~(b)(c)~~ Any person convicted of a violation of subsection ~~(a)~~ (b) of this Code section shall
 37 be guilty of a misdemeanor.

38 ~~(c)(d)~~ Nothing contained in this Code section shall prohibit a prosecution for the offense
 39 of stalking or aggravated stalking that arose out of the same course of conduct; provided,
 40 however, that, for purposes of sentencing, a violation of this Code section shall be merged
 41 with a violation of any provision of Code Section 16-5-90 or 16-5-91 that arose out of the
 42 same course of conduct."

43 **SECTION 2.**

44 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
 45 amended by revising subsection (a) of Code Section 17-4-20, relating to authorization of
 46 arrests with and without warrants, as follows:

47 "(a) An arrest for a crime may be made by a law enforcement officer either under a warrant
 48 or without a warrant if ~~the~~:

49 (1) The offense is committed in such officer's presence or within such officer's
 50 immediate knowledge; ~~if the~~

51 (2) The offender is endeavoring to escape; ~~if the~~

52 (3) The officer has probable cause to believe that an act of family violence, as defined
 53 in Code Section 19-13-1, has been committed; ~~if the~~

54 (4) The officer has probable cause to believe that the offender has violated a family
 55 violence order, as defined in Code Section 16-5-95;

56 (5) The officer has probable cause to believe that an offense involving physical abuse has
 57 been committed against a vulnerable adult, who shall be for the purposes of this
 58 subsection a person 18 years old or older who is unable to protect himself or herself from
 59 physical or mental abuse because of a physical or mental impairment; or ~~for~~

60 (6) For other cause if there is likely to be failure of justice for want of a judicial officer
 61 to issue a warrant."

62 **SECTION 3.**

63 Said title is further amended by revising subparagraph (b)(2)(B) of Code Section 17-6-1,
64 relating to where offenses are bailable, as follows:

65 "(B) When an arrest is made by a law enforcement officer without a warrant upon an
66 act of family violence or violation of a family violence order pursuant to Code Section
67 17-4-20, the person charged with the offense shall not be eligible for bail prior to the
68 arresting officer or some other law enforcement officer taking the arrested person
69 before a judicial officer pursuant to Code Section 17-4-21."

70 **SECTION 4.**

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

73 **SECTION 5.**

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