

The House Committee on Judiciary Non-civil offers the following substitute to SB 86:

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 provide for definitions; to change provisions
4 relating to arrests without warrants involving certain family violence orders; to change
5 provisions relating to bail for persons charged with violating certain family violence orders;
6 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 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) 'Civil family violence order' means any temporary protective order or permanent
16 protective order issued pursuant to Article 1 of Chapter 13 of Title 19.

17 (2) 'Criminal family violence order' means:

18 (A) Any order of pretrial release issued as a result of an arrest for an act of family
19 violence; or

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

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

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

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

- 28 (1) Excludes, evicts, or excludes and evicts the person from a residence or household;
 29 (2) Directs the person to stay away from a residence, workplace, or school;
 30 (3) Restrains the person from approaching within a specified distance of another person;
 31 or
 32 (4) Restricts the person from having any contact, direct or indirect, by telephone, pager,
 33 facsimile, e-mail, or any other means of communication with another person, except as
 34 specified in the such order.

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

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

42 SECTION 2.

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

46 "(a) An arrest for a crime may be made by a law enforcement officer:

47 (1) Under either ~~under~~ a warrant; or

48 (2) Without ~~without~~ a warrant if:

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

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

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

54 (D) The officer has probable cause to believe that the offender has violated a criminal
 55 family violence order, as defined in Code Section 16-5-95; provided, however, that
 56 such officer shall not have any prior or current familial relationship with the alleged
 57 victim or the offender;

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

62 (F) For ~~for~~ other cause if there is likely to be failure of justice for want of a judicial
63 officer to issue a warrant."

64 **SECTION 3.**

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

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

72 **SECTION 4.**

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

75 **SECTION 5.**

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