

Senate Bill 48

By: Senators Fort of the 39th, Jones II of the 22nd, Rhett of the 33rd, Parent of the 42nd, Orrock of the 36th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to carrying and possession of firearms, so as to prohibit restoration of gun
3 rights to persons who have been convicted of a forcible felony; to provide for definitions; to
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
8 relating to carrying and possession of firearms, is amended by revising Code Section
9 16-11-131, relating to possession of firearms by convicted felons and first offender
10 probationers, as follows:

11 "16-11-131.

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

13 (1) 'Felony' means any offense punishable by imprisonment for a term of one year or
14 more and includes conviction by a court-martial under the Uniform Code of Military
15 Justice for an offense which would constitute a felony under the laws of the United
16 States.

17 (2) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can be
18 converted to expel a projectile by the action of an explosive or electrical charge.

19 (3) 'Forcible felony' means any felony which involves the use or threat of physical force
20 or violence against any person and further includes, without limitation, murder; murder
21 in the second degree; burglary in any degree; robbery; armed robbery; home invasion in
22 any degree; kidnapping; hijacking of an aircraft or motor vehicle; aggravated stalking;
23 rape; aggravated child molestation; aggravated sexual battery; arson in the first degree;
24 the manufacturing, transporting, distribution, or possession of explosives with intent to
25 kill, injure, or intimidate individuals or destroy a public building; terroristic threats; or
26 acts of treason or insurrection.

27 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of
28 Chapter 8 of Title 42 or who has been convicted of a felony by a court of this state or any
29 other state; by a court of the United States including its territories, possessions, and
30 dominions; or by a court of any foreign nation and who receives, possesses, or transports
31 any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less
32 than one nor more than five years; provided, however, that if the felony as to which the
33 person is on probation or has been previously convicted is a forcible felony, then upon
34 conviction of receiving, possessing, or transporting a firearm, such person shall be
35 imprisoned for a period of five years.

36 (b.1) Any person who is prohibited by this Code section from possessing a firearm because
37 of conviction of a forcible felony or because of being on probation as a first offender for
38 a forcible felony pursuant to this Code section and who attempts to purchase or obtain
39 transfer of a firearm shall be guilty of a felony and shall be punished by imprisonment for
40 not less than one nor more than five years.

41 (c) This Code section shall not apply to any person who has been pardoned for the felony
42 by the President of the United States, the State Board of Pardons and Paroles, or the person
43 or agency empowered to grant pardons under the constitutions or laws of the several states
44 or of a foreign nation and, by the terms of the pardon, has expressly been authorized to
45 receive, possess, or transport a firearm; provided, however, that this subsection shall not
46 apply to any person who has been convicted of a forcible felony.

47 (d) A person who has been convicted of a felony, but who has been granted relief from the
48 disabilities imposed by the laws of the United States with respect to the acquisition, receipt,
49 transfer, shipment, or possession of firearms by the secretary of the United States
50 Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to
51 the Board of Public Safety proof that the relief has been granted and it being established
52 from proof submitted by the applicant to the satisfaction of the Board of Public Safety that
53 the circumstances regarding the conviction and the applicant's record and reputation are
54 such that the acquisition, receipt, transfer, shipment, or possession of firearms by the
55 person would not present a threat to the safety of the citizens of Georgia and that the
56 granting of the relief sought would not be contrary to the public interest, be granted relief
57 from the disabilities imposed by this Code section. A person who has been convicted
58 under federal or state law of a felony pertaining to antitrust violations, unfair trade
59 practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof,
60 and it being established from said proof, submitted by the applicant to the satisfaction of
61 the Board of Public Safety that the circumstances regarding the conviction and the
62 applicant's record and reputation are such that the acquisition, receipt, transfer, shipment,
63 or possession of firearms by the person would not present a threat to the safety of the

64 citizens of Georgia and that the granting of the relief sought would not be contrary to the
65 public interest, be granted relief from the disabilities imposed by this Code section. A
66 record that the relief has been granted by the board shall be entered upon the criminal
67 history of the person maintained by the Georgia Crime Information Center and the board
68 shall maintain a list of the names of such persons which shall be open for public inspection;
69 provided, however, that no such relief shall be granted to any person who has been
70 convicted of a forcible felony.

71 ~~(e) As used in this Code section, the term 'forcible felony' means any felony which~~
72 ~~involves the use or threat of physical force or violence against any person and further~~
73 ~~includes, without limitation, murder; murder in the second degree; burglary in any degree;~~
74 ~~robbery; armed robbery; home invasion in any degree; kidnapping; hijacking of an aircraft~~
75 ~~or motor vehicle; aggravated stalking; rape; aggravated child molestation; aggravated~~
76 ~~sexual battery; arson in the first degree; the manufacturing, transporting, distribution, or~~
77 ~~possession of explosives with intent to kill, injure, or intimidate individuals or destroy a~~
78 ~~public building; terroristic threats; or acts of treason or insurrection.~~

79 ~~(f)~~(e) Any person placed on probation as a first offender pursuant to Article 3 of Chapter
80 8 of Title 42 and subsequently discharged without court adjudication of guilt pursuant to
81 Code Section 42-8-62 shall, upon such discharge, be relieved from the disabilities imposed
82 by this Code section."

83

SECTION 2.

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