

House Bill 728

By: Representatives Powell of the 32nd and Weldon of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 5 of Title 16 and Article 1 of Chapter 13 of Title 19 of the
2 Official Code of Georgia Annotated, relating to stalking and the granting of relief by superior
3 courts, respectively, so as to prohibit persons who have secured protective orders from
4 affirmatively soliciting or inviting contact or approach from the party to which the protective
5 order applies for the interests of public safety; to provide for exceptions; to provide for a
6 criminal offense; to provide for related matters; to repeal conflicting laws; and for other
7 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 paragraph (1) of subsection (d) of Code Section 16-5-94,
12 relating to restraining orders and protective orders, as follows:

13 "(1) Direct a party to refrain from such conduct; provided, however, that if the court
14 directs the respondent to refrain from contact with or approaching within a specified
15 distance of the petitioner, it shall be a violation of the order for the petitioner to
16 affirmatively solicit or invite contact or approach from the respondent absent any terms
17 and conditions established by the court for such contact or approaching of the parties;"

18 SECTION 2.

19 Said article is further amended by adding a new subsection to and revising subsection (c) of
20 Code Section 16-5-95, relating to the offense of violating family violence order and penalty,
21 as follows:

22 "(b.1) A person commits the offense of violating a civil family violence order when such
23 person affirmatively solicits or invites contact or approach from a party against whom such
24 person has secured a civil family violence order when such affirmative solicitation or

25 invitation is in violation of paragraph (1) of subsection (d) of Code Section 16-5-94 and
 26 paragraph (1) of subsection (a) of Code Section 19-13-4.

27 (c) Any person convicted of a violation of subsection (b) or (b.1) of this Code section shall
 28 be guilty of a misdemeanor."

29 **SECTION 3.**

30 Article 1 of Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to
 31 granting of relief by superior courts, is amended by revising subsection (a) of Code Section
 32 19-13-4, relating to protective orders and consent agreements, contents, issuing copy of order
 33 to sheriff, expiration, and enforcement, as follows:

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

43 (1) Direct the respondent to refrain from such acts; provided, however, that if the court
 44 directs the respondent to refrain from contact with or approaching within a specified
 45 distance of the petitioner, it shall be a violation of the order for the petitioner to
 46 affirmatively solicit or invite contact or approach from the respondent absent any terms
 47 and conditions established by the court for such contact or approaching of the parties;

48 (2) Grant to a party possession of the residence or household of the parties and exclude
 49 the other party from the residence or household; provided, however, that if such party
 50 affirmatively solicits or invites such other party back into such residence or household
 51 absent any terms and conditions established by the court for such solicitation or
 52 invitation, such party shall be in violation of the order;

53 (3) Require a party to provide suitable alternate housing for a spouse, former spouse, or
 54 parent and the parties' child or children;

55 (4) Award temporary custody of minor children and establish temporary visitation rights;

56 (5) Order the eviction of a party from the residence or household and order assistance to
 57 the victim in returning to it, or order assistance in retrieving personal property of the
 58 victim if the respondent's eviction has not been ordered;

59 (6) Order either party to make payments for the support of a minor child as required by
 60 law;

- 61 (7) Order either party to make payments for the support of a spouse as required by law;
62 (8) Provide for possession of personal property of the parties;
63 (9) Order the respondent to refrain from harassing or interfering with the victim;
64 (10) Award costs and attorney's fees to either party; and
65 (11) Order the respondent to receive appropriate psychiatric or psychological services
66 as a further measure to prevent the recurrence of family violence."

67 **SECTION 4.**

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