

House Bill 58

By: Representatives Burnough of the 77th, Boddie of the 62nd, Schofield of the 60th, Clark of the 108th, Holland of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to prohibit persons convicted of misdemeanor crimes of family violence from
3 receiving, possessing, or transporting firearms; to provide for notifications upon convictions;
4 to provide for a definition; to provide for related matters; to provide for an effective date and
5 applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
9 amended in Code Section 16-5-20, relating to simple assault, by adding a new subsection to
10 read as follows:

11 "(d.1) Upon conviction of simple assault under paragraph (1) of subsection (a) of this Code
12 section, or, if the offense involves a firearm, under paragraph (2) of subsection (a) of this
13 Code section, that is committed between past or present spouses, persons who are parents
14 of the same child, parents and children, stepparents and stepchildren, foster parents and
15 foster children, or other persons living or formerly living in the same household, the court
16 shall inform the offender orally and in writing that such offender is prohibited from
17 receiving, possessing, or transporting any firearm under subsection (b) of Code Section
18 16-11-131, indicate such prohibition on the record of conviction, order such offender orally
19 and in writing to transfer any and all firearms in his or her possession or control, and ensure
20 transfer is made as provided under subsection (b.1) of Code Section 16-11-131."

21 **SECTION 2.**

22 Said title is further amended in Code Section 16-5-23, relating to simple battery, by adding
23 a new subsection to read as follows:

24 "(f.1) If the offense of simple battery is committed between past or present spouses,
25 persons who are parents of the same child, parents and children, stepparents and

26 stepchildren, foster parents and foster children, or other persons living or formerly living
 27 in the same household, the court, upon conviction, shall inform such offender orally and
 28 in writing that the offender is prohibited from receiving, possessing, or transporting any
 29 firearm under subsection (b) of Code Section 16-11-131, indicate such prohibition on the
 30 record of conviction, order such offender orally and in writing to transfer any and all
 31 firearms in his or her possession or control, and ensure transfer is made as provided under
 32 subsection (b.1) of Code Section 16-11-131."

33 **SECTION 3.**

34 Said title is further amended in Code Section 16-5-23.1, relating to battery, by adding a new
 35 subsection to read as follows:

36 "(f.1) If the offense of battery is committed between past or present spouses, persons who
 37 are parents of the same child, parents and children, stepparents and stepchildren, foster
 38 parents and foster children, or other persons living or formerly living in the same
 39 household, the court, upon conviction, shall inform such offender orally and in writing that
 40 such offender is prohibited from receiving, possessing, or transporting any firearm under
 41 subsection (b) of Code Section 16-11-131, indicate such prohibition on the record of
 42 conviction, order such offender orally and in writing to transfer any and all firearms in his
 43 or her possession or control, and ensure transfer is made as provided under subsection (b.1)
 44 of Code Section 16-11-131."

45 **SECTION 4.**

46 Said title is further amended by revising Code Section 16-11-102, relating to pointing or
 47 aiming a gun or pistol at another, as follows:

48 "16-11-102.

49 (a) A person is guilty of a misdemeanor when he or she intentionally and without legal
 50 justification points or aims a gun or pistol at another, whether the gun or pistol is loaded
 51 or unloaded.

52 (b) If the offense of pointing or aiming a gun or pistol at another is committed between
 53 past or present spouses, persons who are parents of the same child, parents and children,
 54 stepparents and stepchildren, foster parents and foster children, or other persons living or
 55 formerly living in the same household, the court, upon conviction, shall inform such
 56 offender orally and in writing that such offender is prohibited from receiving, possessing,
 57 or transporting any firearm under subsection (b) of Code Section 16-11-131, indicate the
 58 prohibition on the record of conviction, order such offender orally and in writing to transfer
 59 any and all firearms in his or her possession or control, and ensure transfer is made as
 60 provided under subsection (b.1) of Code Section 16-11-131."

61 **SECTION 5.**

62 Said title is further amended in Code Section 16-11-131, relating to possession of firearms
63 by convicted felons and first offender probationers, by adding a new paragraph to subsection
64 (a) and revising subsections (b) and (b.1) as follows:

65 "(3) 'Misdemeanor crime of family violence' means any offense punishable by
66 imprisonment for a term of one year or less that:

67 (A) Is committed between past or present spouses, persons who are parents of the same
68 child, parents and children, stepparents and stepchildren, foster parents and foster
69 children, or other persons living or formerly living in the same household; and

70 (B) Involves the use or attempted use of physical force or the threatened use of a
71 firearm.

72 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of
73 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection
74 (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony or a
75 misdemeanor crime of family violence by a court of this state or any other state; by a court
76 of the United States including its territories, possessions, and dominions; or by a court of
77 any foreign nation and who receives, possesses, or transports any firearm commits a felony
78 and, upon conviction thereof, shall be imprisoned for not less than one year nor more than
79 ten years; provided, however, that upon a second or subsequent conviction, such person
80 shall be imprisoned for not less than five nor more than ten years; and provided, further,
81 that if the felony for which the person is on probation or has been previously convicted is
82 a forcible felony, then upon conviction of receiving, possessing, or transporting a firearm,
83 such person shall be imprisoned for a period of five years.

84 (b.1)(1) Upon entering a conviction for a misdemeanor crime of family violence, a court
85 shall immediately:

86 (A) Inform such offender orally and in writing that, pursuant to subsection (b) of this
87 Code section, the offender shall not receive, possess, or transport any firearm;

88 (B) Order such offender orally and in writing to surrender all firearms in the offender's
89 possession within 72 hours of the order to a federally licensed firearms dealer;

90 (C) Provide such offender the opportunity to attest orally and in writing that the
91 offender, at the time of the conviction, has no firearms in the offender's possession or
92 control; and

93 (D) If such offender does not attest orally and in writing as provided in
94 subparagraph (C) of this paragraph, schedule a hearing to occur within 72 hours, during
95 which time the offender shall either:

96 (i) Present a receipt showing that any firearms in the offender's possession or control
97 at the time of conviction were physically surrendered to a federally licensed firearms

98 dealer and attest orally and in writing that such firearms have been physically
99 surrendered to a federally licensed firearms dealer and that the offender, at the time
100 of the hearing, has no firearms in the offender's possession or control; or

101 (ii) Attest orally and in writing that the offender, at the time of the conviction, had
102 no firearms in the offender's possession or control and, at the time of the hearing, has
103 no firearm in the offender's possession or control.

104 (2) An offender transporting a firearm to surrender such firearm in accordance with this
105 subsection shall not be subject to prosecution under subsection (b) of this Code section.

106 (b.2) Any person who is prohibited by this Code section from possessing a firearm because
107 of conviction of a forcible felony or because of being on probation as a first offender or
108 under conditional discharge for a forcible felony and who attempts to purchase or obtain
109 transfer of a firearm shall be guilty of a felony and upon conviction shall be punished by
110 imprisonment for not less than one year nor more than five years; provided, however, that
111 upon a second or subsequent conviction, such person shall be punished by imprisonment
112 for not less than five nor more than ten years."

113 **SECTION 6.**

114 This Act shall become effective on July 1, 2019, and shall apply to any conviction on or after
115 such date.

116 **SECTION 7.**

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