The Senate Committee on Judiciary offered the following substitute to SB 150:

A BILL TO BE ENTITLED
AN ACT

To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to carrying and possession of firearms, so as to provide that persons convicted of family violence offenses or subject to family violence temporary protective orders cannot receive, possess, transport, purchase, or transfer firearms; to provide for definitions; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"16-11-131.

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

(1) 'Antique firearm' means:

(A) Any firearm, including, but not limited to, any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(B) Any replica of any firearm described in subparagraph (A) of this paragraph if such replica:

(i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use
fixed ammunition. Such term shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(2) 'Family violence offense' shall include the offenses listed in paragraph (2) of Code Section 19-13-1 when committed against past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household.

(3) 'Family violence protective order' means:

(A) An order issued pursuant to either Code Section 19-13-3 or 19-13-4;
(B) Which was issued after a hearing in which the responding party received actual notice and had an opportunity to participate;
(C) Which restrains the responding party from harassing, stalking, or threatening the petitioning party; and
(D) Includes a finding that the responding party presents a credible threat to the physical safety of the petitioning party or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the petitioning party that would be reasonably expected to cause bodily injury.

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

(2) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge. Such term shall not include an antique firearm.

(b) Any person who is on probation as a felony first offender pursuant to Article 3 of Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and who receives, possesses, or transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than ten years; provided, however, that upon a second or subsequent conviction, such person shall be imprisoned for not less than five nor more than ten years; provided, further, that if the felony for which the person is on probation or has been previously convicted is a forcible felony, then upon conviction of receiving, possessing, or transporting a firearm, such person shall be imprisoned for a period of five years.
(b.1) Any person who is prohibited by this Code section from possessing a firearm because of conviction of a forcible felony or because of being on probation as a first offender or under conditional discharge for a forcible felony and who attempts to purchase or obtain transfer of a firearm shall be guilty of a felony and upon conviction shall be punished by imprisonment for not less than one year nor more than five years; provided, however, that upon a second or subsequent conviction, such person shall be punished by imprisonment for not less than five nor more than ten years.

(b.2) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8 of Title 42 for a family violence offense or who has been convicted of a family violence offense by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and who receives, possesses, or transports any firearm or attempts to purchase or obtain transfer of a firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years; provided, however, that, if the family violence as to which the person is on probation or has been previously convicted is a forcible felony, then upon conviction of receiving, possessing, transporting, or attempting to purchase or obtain transfer of a firearm, such person shall be imprisoned for a period of five years.

(b.3) Any person who is subject to a family violence protective order and who, during the pendency of such protective order, receives, possesses, transports, or attempts to purchase or obtain transfer of any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than five years.

(c) This Code section shall not apply to any person who has been pardoned for the felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitutions or laws of the several states or of a foreign nation and, by the terms of the pardon, has expressly been authorized to receive, possess, or transport a firearm. Any person suffering from a disability pursuant to this Code section may seek to have his or her rights restored by the superior court or by the State Board of Pardons and Paroles after five years have passed from the completion of the sentence if the offender has no pending charges and has paid all fines and any restitution ordered.

(d) A person who has been convicted of a felony or of a family violence offense, but who has been granted relief from the disabilities imposed by the laws of the United States with respect to the acquisition, receipt, transfer, shipment, or possession of firearms by the secretary of the United States Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to the Board of Public Safety proof that the relief has been granted and it being established from proof submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction
and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section.

A person who has been convicted under federal or state law of a felony pertaining to antitrust violations, unfair trade practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof, and it being established from said proof, submitted by the applicant to the satisfaction of the Board of Public Safety that the circumstances regarding the conviction and the applicant's record and reputation are such that the acquisition, receipt, transfer, shipment, or possession of firearms by the person would not present a threat to the safety of the citizens of Georgia and that the granting of the relief sought would not be contrary to the public interest, be granted relief from the disabilities imposed by this Code section. A record that the relief has been granted by the board shall be entered upon the criminal history of the person maintained by the Georgia Crime Information Center and the board shall maintain a list of the names of such persons which shall be open for public inspection.

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

(f) Any person sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42 or sentenced pursuant to subsection (a) or (c) of Code Section 16-13-2 and subsequently discharged without court adjudication of guilt as a matter of law pursuant to Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be relieved from the disabilities imposed by this Code section.

(g) Any person subject to a family violence protective order shall, upon the expiration or dismissal of such family violence protective order, be relieved from the disabilities imposed by this Code section.

SECTION 2.

This Act shall become effective on July 1, 2019, and shall apply to any family violence conviction or family violence protective order issued on or after such date.
SECTION 3.

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