

House Bill 188

By: Representatives Lim of the 98th, Holcomb of the 101st, and Lupton of the 83rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17, Title 19, and Title 44 of the Official Code of Georgia Annotated, relating
2 to criminal procedure, domestic relations, and property, respectively, so as to extend certain
3 protections for victims of family violence and stalking with respect to residential leases; to
4 clarify that a petition seeking relief from family violence may include a request that the
5 superior court order the respondent to vacate any shared rental or leased premises; to
6 authorize the individual termination of a family violence or stalking offender's tenancy of a
7 shared premises by a landlord upon the family violence or stalking victim's request; to
8 prohibit a landlord from discriminating against victims of family violence or stalking; to
9 provide for a civil right of action and remedies; to provide for statutory construction; to make
10 conforming changes; to provide for definitions; to provide for an effective date and
11 applicability; to provide for related matters; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
16 amended by revising paragraph (3) of subsection (e) of Code Section 17-6-1.1, relating to

17 electronic pretrial release and monitoring program for defendants, requirements, procedures,
18 and fees, as follows:

19 "(3) Compliance with any court orders or special conditions of bond which may include
20 an order directing that no contact, direct or indirect, be made with the victim or
21 forbidding entry upon, about, or near certain premises, including, but not limited to, any
22 rental or leased premises shared with the victim;"

23 SECTION 2.

24 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
25 amended by revising subsection (a) of Code Section 19-13-3, relating to petition seeking
26 relief from family violence, temporary ex parte, hearing, dismissal of petition upon failure
27 to hold hearing, procedural advice for victims, and delays, as follows:

28 "(a) A person who is not a minor may seek relief under this article by filing a petition with
29 the superior court alleging one or more acts of family violence. A person who is not a
30 minor may also seek relief on behalf of a minor by filing such a petition. A person filing
31 a petition for relief under this article may request that the superior court order the
32 respondent to vacate any shared residence, including, but not limited to, a rental or leased
33 premises."

34 SECTION 3.

35 Said title is further amended by revising paragraph (5) of subsection (a) of Code
36 Section 19-13-4, relating to protective orders and consent agreements, contents, delivery to
37 sheriff, expiration, and enforcement, as follows:

38 "(5) Notwithstanding a party's shared tenancy or shared ownership of a residence or
39 household, order ~~Order~~ the eviction of a such party from the residence or household and
40 order assistance to the victim in returning to it, or order assistance in retrieving personal
41 property of the victim if the respondent's eviction has not been ordered;"

SECTION 4.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by revising Code Section 44-7-23, relating to termination of residential lease after issuance of civil or criminal family violence order or civil or criminal stalking order, notice, and occupancy, waiver or modification prohibited, as follows:

"44-7-23.

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

(1) 'Civil family violence order' means:

(A) Any protective order issued pursuant to Article 1 of Chapter 13 of Title 19, provided that the respondent was present or had notice of the hearing that resulted in the issuance of such order; or

(B) Any ex parte temporary protective order issued pursuant to Article 1 of Chapter 13 of Title 19, provided that such order is accompanied by a police report showing a basis for such order.

(2) 'Civil stalking order' means:

(A) Any protective order issued pursuant to Code Section 16-5-94, provided that the respondent was present or had notice of the hearing that resulted in the issuance of such order; or

(B) Any ex parte temporary protective order issued pursuant to Code Section 16-5-94, provided that such order is accompanied by a police report showing a basis for such order.

(3) 'Criminal family violence order' means:

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

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

(4) 'Criminal stalking order' means:

(A) Any order of pretrial release issued as a result of an arrest for an act of stalking under Article 7 of Chapter 5 of Title 16; or

(B) Any order for probation issued as a result of a conviction or plea of guilty, nolo contendere, or first offender to an act of stalking under Article 7 of Chapter 5 of Title 16.

(5) 'Tenant offender' means a person who is a party to a residential rental or lease agreement against whom a civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order has been entered that is in current effect.

(6) 'Tenant victim' means an adult, or the parent or guardian of a minor, who is a party to a residential rental or lease agreement and who has been granted a civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order that is in current effect for his or her own protection or the protection of a minor child, regardless of whether such individual had any obligation to pay rent to the landlord.

~~(b) A tenant may terminate his or her residential rental or lease agreement for real estate effective 30 days after providing the landlord with a written notice of termination when a civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order has been issued:~~

~~(1) Protecting such tenant or his or her minor child; or~~

~~(2) Protecting such tenant when he or she is a joint tenant, or his or her minor child, even when such protected tenant had no obligation to pay rent to the landlord.~~

~~(c) The notice to the landlord pursuant to subsection (b) of this Code section shall be accompanied by a copy of the applicable civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order and a copy of the police report if such order was an ex parte temporary protective order.~~

(b) Upon the issuance of a civil family violence order, civil stalking order, criminal family violence order, or criminal stalking order, the tenant victim protected by any such order may:

96 (1) Terminate his or her residential rental or lease agreement as to any rental or leased
97 premises shared with the tenant offender by providing the landlord with a written notice
98 of termination, accompanied by a copy of the applicable civil family violence order, civil
99 stalking order, criminal family violence order, or criminal stalking order and a copy of
100 the police report if such order was an ex parte temporary protective order. Any notice of
101 termination provided pursuant to this paragraph shall be effective 30 days after receipt
102 by the landlord and shall not terminate the residential rental or lease agreement as to the
103 tenant offender or any other joint tenants; or

104 (2) Provide the landlord with a written request to terminate the tenant offender's rental
105 or lease agreement as to any rental or leased premises shared with the tenant offender,
106 pursuant to subsection (c) of this Code section. Any request provided pursuant to this
107 paragraph shall be accompanied by a copy of the applicable civil family violence order,
108 civil stalking order, criminal family violence order, or criminal stalking order and a copy
109 of the police report if such order was an ex parte temporary protective order.

110 (c)(1) So long as the tenant victim has not elected to terminate his or her residential
111 rental or lease agreement pursuant to paragraph (1) of subsection (b) of this Code section,
112 a landlord is authorized to terminate the residential rental or lease agreement of a tenant
113 offender as to any rental or leased premises shared with the tenant victim upon receipt of
114 a written request for such termination from a tenant victim accompanied by a copy of the
115 applicable civil family violence order, civil stalking order, criminal family violence order,
116 or criminal stalking order and a copy of the police report if such order was an ex parte
117 temporary protective order.

118 (2) At least 72 hours prior to the termination effective date of a tenant offender's
119 residential rental or lease agreement pursuant to paragraph (1) of this subsection, the
120 landlord shall provide the tenant offender with written notice of termination specifying
121 the cause for the termination and such effective date of such termination. Such notice
122 shall be posted conspicuously on the door of the premises in a sealed envelope addressed

123 to the tenant offender and delivered via any additional method or methods agreed upon
124 in the rental or lease agreement.

125 (d) Upon any termination of a tenant victim's or tenant offender's residential rental or lease
126 agreement under this Code section, the tenant may occupy the real estate until the
127 termination is effective;

128 (1) Such tenant victim or tenant offender shall be liable for the jointly liable with any
129 other joint tenants for any rent due under such the residential rental or lease agreement
130 prorated to the effective date of the termination, payable at such time as would have
131 otherwise been required by the terms of such agreement, and for any delinquent or unpaid
132 rent or other sums owed to the landlord prior to the effective date of the termination of
133 such agreement;

134 (2) Such tenant victim or tenant offender ~~The tenant~~ shall not be liable for any other fees,
135 rent, or damages due to the early termination of the tenancy as provided for in this Code
136 section. Any termination of ~~Notwithstanding any provision of law to the contrary, if a~~
137 ~~tenant terminates~~ a residential rental or lease agreement pursuant to subsection (b) or (c)
138 of this Code section at least 14 or more days prior to occupancy, no damages or penalties
139 of any kind will be assessable; and

140 (3) No landlord shall require any remaining joint tenant to pay a rental amount higher
141 than the total rental amount for the premises specified in the residential rental or lease
142 agreement or any additional deposit or other fees due to the early termination of the
143 tenancy as provided for in this Code section.

144 (e)(1) No landlord shall terminate a tenancy, fail to renew a tenancy, or refuse to enter
145 into a residential rental or lease agreement with a person based on such person's or a
146 household member's status as a victim of family violence or stalking or based on the
147 person or a household member's having previously terminated a residential rental or lease
148 agreement on the basis of being a tenant victim.

(2) If a landlord terminates a tenancy, fails to renew a tenancy, or refuses to enter into a residential rental or lease agreement based on circumstances provided for in paragraph (1) of this subsection, the aggrieved person may commence a civil action in the same manner and may seek the same remedies as provided in Code Section 8-3-217.

(f) This Code section shall not be waived or modified by agreement of the parties under any circumstances.

(g) Nothing in this Code section shall be construed to impair any eviction related rights afforded to a tenant victim or tenant offender, including, but not limited to, any such rights afforded under Article 3 of Chapter 7 of Title 44, relating to dispossessory proceedings."

SECTION 5.

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

(b) This Act shall apply to all residential rental or lease agreements entered into on or after the effective date of this Act, and to any renewals, modifications, or extensions of such agreements entered into on or after such date.

SECTION 6.

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