

Senate Bill 472

By: Senators Jordan of the 6th and Williams of the 39th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 16 and 19 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses and to domestic relations, respectively, so as to prohibit persons convicted of
3 misdemeanor crimes of family violence from receiving, possessing, or transporting a firearm
4 and to prohibit persons subject to family violence protective orders from receiving,
5 possessing, or transporting a firearm; to provide an effective date and applicability; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "(d.1) Upon conviction of simple assault under paragraph (1) of subsection (a) of this Code
13 section, or, if the offense involves a firearm, under paragraph (2) of subsection (a) of this
14 Code section, that is committed between past or present spouses, persons who are parents
15 of the same child, parents and children, stepparents and stepchildren, foster parents and
16 foster children, or other persons living or formerly living in the same household, the court
17 shall inform the offender orally and in writing that such offender is prohibited from
18 receiving, possessing, or transporting any firearm under subsection (b) of Code
19 Section 16-11-131, indicate such prohibition on the record of conviction, order such
20 offender orally and in writing to transfer any and all firearms in his or her possession or
21 control, and ensure transfer is made as provided under subsection (b.1) of Code Section
22 16-11-131."

23 **SECTION 2.**

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

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

35 **SECTION 3.**

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

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

47 **SECTION 4.**

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

50 "16-11-102.

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

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

61 any and all firearms in his or her possession or control, and ensure transfer is made as
 62 provided under subsection (b.1) of Code Section 16-11-131."

63 **SECTION 5.**

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

67 "16-11-131.

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

69 (1) 'Family violence protective order' means an order issued under Code Section 19-13-4
 70 or an equivalent order in this state or elsewhere that was issued after the restrained person
 71 received notice of the proceedings and an opportunity to be heard.

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

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

78 (3) 'Misdemeanor crime of family violence' means any offense provided for under Code
 79 Section 16-5-20, 16-5-23, 16-5-23.1, or 16-11-102 that:

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

83 (B) Involves the use or attempted use of physical force or the use or threatened use of
 84 a firearm.

85 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of
 86 Chapter 8 of Title 42, who is subject to a family violence protective order, or who has been
 87 convicted of a felony or a misdemeanor crime of family violence by a court of this state or
 88 any other state; by a court of the United States including its territories, possessions, and
 89 dominions; or by a court of any foreign nation and who receives, possesses, or transports
 90 any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less
 91 than one nor more than five years; provided, however, that if the felony as to which the
 92 person is on probation or has been previously convicted is a forcible felony, then upon
 93 conviction of receiving, possessing, or transporting a firearm, such person shall be
 94 imprisoned for a period of five years.

95 (b.1)(1) Upon entering a conviction for a misdemeanor crime of family violence a court
 96 shall immediately:

97 (A) Inform such offender orally and in writing that, pursuant to subsection (b) of this
 98 Code section, the offender shall not receive, possess, or transport any firearm;
 99 (B) Order such offender orally and in writing to surrender all firearms in the offender's
 100 possession, within 24 hours of the order to a federally licensed firearms dealer;
 101 (C) Provide such offender the opportunity to attest orally and in writing that the
 102 offender, at the time of the conviction, has no firearms in the offender's possession or
 103 control; and
 104 (D) If such offender does not attest orally and in writing as provided in
 105 subparagraph (C) of this paragraph, schedule a hearing to occur within 72 hours, during
 106 which time the offender shall either:
 107 (i) Present a receipt showing that any firearms in the offender's possession or control
 108 at the time of conviction were physically surrendered to a federally licensed firearms
 109 dealer and attest orally and in writing that such firearms have been physically
 110 surrendered to a federally licensed firearms dealer and that the offender, at the time
 111 of the hearing, has no firearms in the offender's possession or control; or
 112 (ii) Attest orally and in writing that the offender, at the time of the conviction, had
 113 no firearms in the offender's possession or control and, at the time of the hearing, has
 114 no firearm in the offender's possession or control.
 115 (2) An offender transporting a firearm to surrender in accordance with this subsection
 116 shall not be subject to prosecution under subsection (b) of this Code section.
 117 (b.2) Any person who is prohibited by this Code section from possessing a firearm because
 118 of conviction of a forcible felony or because of being on probation as a first offender for
 119 a forcible felony pursuant to this Code section and who attempts to purchase or obtain
 120 transfer of a firearm shall be guilty of a felony and shall be punished by imprisonment for
 121 not less than one nor more than five years."

122 **SECTION 6.**

123 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 124 amended in Code Section 19-13-4, relating to family violence protective orders and consent
 125 agreements, by adding a new subsection to read as follows:

126 "(a.1)(1) An order issued pursuant to subsection (a) of this Code section that was granted
 127 after notice was provided to the respondent and after such respondent was given an
 128 opportunity to be heard shall prohibit such respondent from receiving, possessing, or
 129 transporting any firearm. Upon issuance of such an order a court shall immediately:
 130 (A) Inform such respondent in writing that, pursuant to subsection (b) of Code
 131 Section 16-11-131, the offender shall not receive, possess, or transport any firearm;

- 132 (B) Order such respondent in writing to surrender all firearms in the respondent's
133 possession within 24 hours of the order to a federally licensed firearms dealer;
- 134 (C) If such respondent is present at the time the order is issued, provide the respondent
135 the opportunity to attest orally and in writing that the respondent, at the time of the
136 issuance of the protective order, has no firearms in the respondent's possession or
137 control; and
- 138 (D) If such respondent does not attest orally and in writing as provided in
139 subparagraph (C) of this paragraph, schedule a hearing to occur within 72 hours, during
140 which time the respondent shall either:
- 141 (i) Present a receipt showing that any firearms in the respondent's possession or
142 control at the time the order was issued were physically surrendered to a federally
143 licensed firearms dealer and attest orally and in writing that any firearms in the
144 respondent's possession or control at the time the protective order was issued have
145 been physically surrendered to a federally licensed firearms dealer and that the
146 respondent, at the time of the hearing, has no firearms in the respondent's possession
147 or control; or
- 148 (ii) Attest orally and in writing that the respondent, at the time the protective order
149 was issued, had no firearms in the respondent's possession or control and, at the time
150 of the hearing, has no firearm in the respondent's possession or control.
- 151 (2) A respondent transporting a firearm to surrender in accordance with this subsection
152 shall not be subject to prosecution under subsection (b) of Code Section 16-11-131."

153 **SECTION 7.**

154 This Act shall become effective on July 1, 2018, and shall apply to any conviction or
155 protective order issued on or after such date.

156 **SECTION 8.**

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