

Senate Bill 366

By: Senators Karinshak of the 48th, Jones of the 10th, Jordan of the 6th, Davenport of the 44th, Rahman of the 5th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 5 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to Brady Law regulations, so as to require universal background checks
3 in all manner of firearm transfers and purchases; to provide for definitions; to provide for
4 exceptions; to provide for criminal penalties; to provide for applicability; to provide for
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 5 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
9 relating to Brady Law regulations, is amended by revising Code Section 16-11-171, relating
10 to definitions, as follows:

11 "16-11-171.

12 As used in this part, the term:

13 (1) 'Center' means the Georgia Crime Information Center within the Georgia Bureau of
14 Investigation.

15 (2) 'Dealer,' 'licensed dealer,' or 'firearms dealer' ~~'Dealer'~~ means any person licensed as
16 a dealer pursuant to 18 U.S.C. Section 921, et seq.

17 (3) 'Firearm' means any weapon that is designed to or may readily be converted to expel
18 a projectile by the action of an explosive or the frame or receiver of any such weapon,
19 any firearm muffler or firearm silencer, or any destructive device as defined in 18 U.S.C.
20 Section 921(a)(3).

21 (4) 'Involuntarily hospitalized' means hospitalized as an inpatient in any mental health
22 facility pursuant to Code Section 37-3-81 or hospitalized as an inpatient in any mental
23 health facility as a result of being adjudicated mentally incompetent to stand trial or being
24 adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of
25 Article 6 of Chapter 7 of Title 17.

26 (5) 'NICS' means the National Instant Criminal Background Check System created by
27 the federal 'Brady Handgun Violence Prevention Act' (P. L. No. 103-159).

28 (6) 'Person' means any corporation, company, association, firm, partnership, club,
29 organization, society, joint stock company or other entity, and shall include any entity
30 that engages in business in this state, in whole or part, through internet or mail order
31 sales.

32 (7) 'Transferee' means an unlicensed person who intends to receive a firearm from
33 another unlicensed person.

34 (8) 'Transferor' means an unlicensed person who intends to transfer a firearm to another
35 unlicensed person.

36 (9) 'Unlicensed person' means a person who is not validly licensed as a firearms dealer,
37 manufacturer, or importer pursuant to 18 U.S.C. Section 921, et seq."

38 **SECTION 2.**

39 Said part is further amended by adding a new Code section to read as follows:

40 "16-11-174.

41 (a) Except as provided for in subsection (e) of this Code section, an unlicensed person
42 shall not transfer a firearm to any other unlicensed person, unless a licensed firearms dealer
43 has first taken possession of the firearm and completed the requirements of this Code
44 section.

45 (b) Upon taking possession of a firearm under subsection (a) of this Code section, the
46 licensed dealer shall facilitate the firearm transfer using the same procedures, and in
47 compliance with all state and federal laws, that would apply if the dealer were transferring
48 the firearm from the dealer's own inventory, including, but not limited to, completing a
49 background check on the transferee and complying with applicable record-keeping
50 requirements. A licensed dealer may charge a reasonable fee to facilitate the transfer of a
51 firearm pursuant to this Code section.

52 (c) If the background check indicates that the transferee is not prohibited from receiving
53 or possessing the firearm under state or federal law, and all legal requirements to complete
54 the transfer are met, the licensed dealer shall deliver the firearm to the transferee.

55 (d) If the background check does not indicate that the transferee is approved to receive and
56 possess the firearm under state or federal law, or if the licensed dealer cannot otherwise
57 lawfully deliver the firearm to the transferee, the dealer shall decline to complete the
58 transfer, and shall return the firearm to the transferor; provided, however, that the dealer
59 may first conduct a background check to ensure that the transferor is not prohibited from
60 receiving or possessing the firearm.

61 (e) The provisions of this Code section shall not apply to:

62 (1) The transfer of any:

63 (A) Firearm, including any handgun with a matchlock, flintlock, percussion cap, or
64 similar type of ignition system, manufactured in or before 1898;

65 (B) Replica of any firearm described in paragraph (1) of this subsection, if such replica
66 is not designed or redesigned to use rimfire or conventional center-fire fixed
67 ammunition or uses rimfire or conventional center-fire fixed ammunition which is no
68 longer manufactured in the United States and which is not readily available in the
69 ordinary channels of commercial trade; or

70 (C) Firearm which is a curio or relic as defined by 27 C.F.R. 178.11;

71 (2) The transfer of a firearm by or to any law enforcement agency, or law officer, armed
72 private security professional, or member of the armed forces, to the extent that the officer,
73 professional, or member is acting within the course and scope of employment and official
74 duties;

75 (3) A transfer that is a loan or bona fide gift between spouses, between domestic
76 partners, between parents and their children, including stepparents and their stepchildren,
77 between siblings, between aunts or uncles and their nieces or nephews, or between
78 grandparents and their grandchildren, if the transferor has no reason to believe that the
79 transferee will use or intends to use the firearm in a crime or is prohibited from receiving
80 or possessing firearms under state or federal law;

81 (4) A transfer to an executor, administrator, trustee, or personal representative of an
82 estate or a trust that occurs by operation of law upon the death of another person;

83 (5) A temporary transfer that is necessary to prevent imminent death or great bodily
84 harm, including harm to self, family, household members, or others, if the transferee
85 possesses the firearm only as long as reasonably necessary to prevent the imminent death
86 or great bodily harm;

87 (6) A transfer that is approved by the Attorney General under Section 5812 of the
88 Internal Revenue Code of 1986;

89 (7) A gunsmith who receives a firearm solely for the purpose of service or repair or the
90 return of the firearm to its owner by the gunsmith; or

91 (8) A temporary transfer if the transferor has no reason to believe that the transferee will
92 use or intends to use the firearm in a crime or is prohibited from receiving or possessing
93 firearms under state or federal law, provided that the transfer of the firearm and the
94 transferee's possession of the firearm occur exclusively:

95 (A) While in the presence of the transferor;

96 (B) At a shooting range or in a shooting gallery or other area designated for the
97 purpose of target shooting; or

98 (C) While reasonably necessary for the purposes of hunting, trapping, or fishing, if the
99 transferor has no reason to believe that the transferee intends to use the firearm in a
100 place where it is illegal and has reason to believe that the transferee will comply with
101 all licensing and permit requirements for such hunting, trapping, or fishing.
102 (f) A person who knowingly violates any provision of this Code section shall:
103 (1) For a first offense, be guilty of a misdemeanor; and
104 (2) For a second or subsequent offense, be guilty of a felony and, upon conviction, be
105 punished by confinement for not less than one nor more than three years.
106 (g) This Code section shall apply to transfers completed on and after July 1, 2021, and
107 shall not apply to any transfer completed prior to such date."

108

SECTION 3.

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