

House Bill 1213

By: Representative Jones of the 167<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated,  
2 relating to arrests by private persons, so as to provide for definitions to revise the law with  
3 regard to the detainment of offenders by private citizens; to provide when and to what degree  
4 force may be used to effectuate such detainment; to provide that unauthorized detainments  
5 may be resisted and to provide when and to what degree force may be used to resist an  
6 unauthorized detainment by a private citizen; to make conforming changes; to provide for  
7 related matters; to provide a short title; to provide an effective date; to repeal conflicting  
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Citizens Detainment Act."

12 **SECTION 2.**

13 Article 4 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to  
14 arrests by private persons, is amended by revising Code Section 17-4-60, relating to grounds  
15 for arrest by private persons, as follows:

16 "17-4-60.

17 (a) As used in this article, the term:

18 (1) 'Detain' or 'detainment' means the holding of an alleged offender for purposes of  
19 questioning or further action by a peace officer or judicial officer.

20 (2) 'Forcible felony' has the same meaning as provided in Code Section 16-1-3.

21 (3) 'Probable cause' means a reasonable amount of suspicion supported by facts and  
22 circumstances sufficiently strong to justify a prudent and cautious person's belief that a  
23 crime was committed based upon such person's personal observations.

24 (4) 'Property crime' means the theft or damage to the property of another without  
 25 authority and without the use of threat or physical force including, but not limited to,  
 26 crimes involving burglary, theft, arson, and vandalism.

27 (b) A private person may arrest detain an offender for a misdemeanor or felony if the  
 28 offense is committed in his such private person's presence or within his such private  
 29 person's immediate knowledge.

30 (c) If the offense is a felony and the offender is escaping or attempting to escape, a private  
 31 person may arrest him detain such offender upon reasonable and probable grounds of  
 32 suspicion cause.

33 (d) A private person may use force to effectuate a detainment under this Code section only  
 34 if:

35 (1) The use of such force is reasonably necessary to effectuate such detainment;

36 (2) Such detainment is authorized under this Code section; and

37 (3) Such force used is reasonable under the circumstances.

38 (e) A private person shall use force that is intended or likely to cause death or great bodily  
 39 harm in attempting to effectuate a detainment under this Code section only if:

40 (1) Such detainment is authorized under this Code section;

41 (2) Such crime is not a property crime; and

42 (3) Such force is necessary to prevent death or great bodily injury to such private person  
 43 or a third person or to prevent the commission of a forcible felony.

44 (f) An individual shall have the right to resist an unauthorized detainment by a private  
 45 person with the degree of force necessary to prevent such detainment that is reasonable  
 46 under the circumstances; provided, however, that force that is intended or likely to cause  
 47 death or great bodily harm may be used to resist an unauthorized detainment only if such  
 48 force is necessary to prevent death or great bodily injury to such individual or a third  
 49 person or to prevent the commission of a forcible felony against the individual or a third  
 50 person.

51 (g) This Code section is not intended to provide a private person with immunity from civil  
 52 liability or criminal prosecution for actions taken pursuant to this Code section except to  
 53 the extent that such private person fully complies with the terms of this Code section and  
 54 acts appropriately."

### 55 **SECTION 3.**

56 Said article is further amended by revising Code Section 17-4-61, relating to taking of  
 57 persons arrested before judicial officer or to peace officer and duty and liability of peace  
 58 officer taking custody, as follows:

59 "17-4-61.

60 (a) A private person who ~~makes an arrest~~ detains a person pursuant to Code  
61 Section 17-4-60 shall, without any unnecessary delay, take the detained person ~~arrested~~  
62 before a judicial officer, as provided in Code Section 17-4-62, or deliver the person and all  
63 effects removed from him or her to a peace officer of this state.

64 (b) A peace officer who takes custody of a person ~~arrested~~ detained by a private person  
65 shall immediately proceed in accordance with Code Section 17-4-62.

66 (c) A peace officer who in good faith and within the scope of his or her authority takes  
67 custody of a person ~~arrested~~ detained by a private person pursuant to this Code section shall  
68 not be liable at law for false arrest or false imprisonment arising out of the ~~arrest~~  
69 detainment."

70

#### SECTION 4.

71 Said article is further amended by revising Code Section 17-4-62, relating to taking of  
72 persons arrested before judicial officer within 48 hours of arrest, as follows:

73 "17-4-62.

74 In every case of ~~an arrest~~ a detainment without a warrant, the person ~~arresting~~ detaining  
75 shall, without delay, convey the offender before the most convenient judicial officer  
76 authorized to receive an affidavit and issue a warrant as provided for in Code  
77 Section 17-4-40. No such imprisonment shall be legal beyond a reasonable time allowed  
78 for this purpose; and any person who is not brought before such judicial officer within 48  
79 hours of ~~arrest~~ detainment shall be released."

80

#### SECTION 5.

81 This Act shall become effective upon its approval by the Governor or upon its becoming law  
82 without such approval.

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#### SECTION 6.

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