

The Senate Committee on Judiciary offered the following substitute to HB 231:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 5 of Title 16 and Title 19 of the Official Code of Georgia
2 Annotated, relating to stalking and domestic relations, respectively, so as to expand the
3 applicability of protective orders involving victims of stalking; to provide for dating violence
4 protective orders; to provide for definitions; to provide for jurisdiction within the superior
5 court; to require the court to make certain findings prior to granting protective orders alleging
6 dating violence; to provide for penalties; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 7 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
11 stalking, is amended by revising subsection (e) of Code Section 16-5-94, relating to
12 restraining orders and protective orders, as follows:

13 "(e) The provisions of subsections (c), ~~and (d)~~, and (e) of Code Section 19-13-3,
14 subsections (b), (c), and (d) of Code Section 19-13-4, and Code Section 19-13-5, relating
15 to family violence petitions, shall apply to petitions filed pursuant to this Code section,
16 except that the clerk of court may provide forms for petitions and pleadings to persons

17 alleging conduct constituting stalking and to any other person designated by the superior
18 court pursuant to this Code section as authorized to advise persons alleging conduct
19 constituting stalking on filling out and filing such petitions and pleadings."

20

SECTION 2.

21 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
22 amended by adding a new chapter to read as follows:

23

"CHAPTER 13A

24 19-13A-1.25 As used in this chapter, the term:

26 (1) 'Dating relationship' means a committed romantic relationship characterized by a
27 level of intimacy that is not associated with mere friendship or between persons in an
28 ordinary business, social, or educational context; provided, however, that such term shall
29 not require sexual involvement.

30 (2) 'Dating violence' means the occurrence of one or more of the following acts between
31 persons through whom a current pregnancy has developed or persons currently, or within
32 the last six months were, in a dating relationship:

33 (A) Any felony; or34 (B) Commission of the offenses of simple battery, battery, simple assault, or stalking.35 19-13A-2.

36 (a) Except for proceedings involving a nonresident respondent, the superior court of the
37 county where the respondent resides shall have jurisdiction over all proceedings under this
38 chapter.

39 (b) For proceedings under this chapter involving a nonresident respondent, the superior
40 court where the petitioner resides or the superior court where an act or injury involving

41 dating violence allegedly occurred shall have jurisdiction, where the act or injury involving
42 dating violence meets the elements for personal jurisdiction provided for under paragraph
43 (2) or (3) of Code Section 9-10-91.

44 19-13A-3.

45 (a) Upon the filing of a verified petition in which the petitioner alleges with specific facts
46 that probable cause exists to establish that dating violence has occurred in the past and may
47 occur in the future, the court may order such temporary relief ex parte as it deems
48 necessary to protect the petitioner from dating violence. If the court issues an ex parte
49 order, a copy of the order shall be immediately furnished to the petitioner and such order
50 shall remain in effect until the court issues an order dismissing such order or a hearing as
51 set forth in subsection (b) of this Code section occurs, whichever occurs first.

52 (b) Within ten days of the filing of the petition under this chapter or as soon as practical
53 thereafter, but not later than 30 days after the filing of the petition, a hearing shall be held
54 at which the petitioner must prove the allegations of the petition by a preponderance of the
55 evidence as in other civil cases. In the event a hearing cannot be scheduled within the
56 county where the case is pending within the 30 day period, the same shall be scheduled and
57 heard within any other county of that circuit. If a hearing is not held within 30 days of the
58 filing of the petition, the petition shall stand dismissed unless the parties otherwise agree.

59 (c) Social service agency staff members designated by the court may explain to all
60 petitioners not represented by counsel the procedures for filling out and filing all forms and
61 pleadings necessary for the presentation of their petition to the court. The clerk of the court
62 may provide forms for petitions and pleadings to petitioners and to any other person
63 designated by the superior court pursuant to this Code section as authorized to advise
64 petitioners on filling out and filing such petitions and pleadings. The clerk shall not be
65 required to provide assistance to persons in completing such forms or in presenting their
66 case to the court. Any assistance provided pursuant to this Code section shall be performed

67 without cost to the petitioners. The performance of such assistance shall not constitute the
68 practice of law as defined in Code Section 15-19-51.

69 (d) If the court finds a party is avoiding service to delay a hearing, the court may delay
70 dismissal of the petition for an additional 30 days.

71 19-13A-4.

72 (a)(1) In order to determine if a protective order alleging dating violence shall be
73 granted, the court shall provide findings of fact establishing that:

74 (A) There is a committed romantic relationship between the parties that is not
75 associated with mere friendship or ordinary business, social, or educational
76 fraternization;

77 (B) Factors exist which corroborate the dating relationship;

78 (C) The parties developed interpersonal bonding above a mere casual fraternization;

79 (D) The length of the relationship between the parties is indicative of a dating
80 relationship;

81 (E) The nature and frequency of the parties' interactions, including communications,
82 indicate the parties intended to be in a dating relationship;

83 (F) The parties by statement or conduct demonstrated an affirmation of their
84 relationship to others; or

85 (G) Both parties have acknowledged the dating relationship.

86 (2) Nothing in this chapter shall be construed as preventing the filing or granting of a
87 protective order otherwise provided for under law for persons who reside together.

88 (b) The court may, upon the filing of a verified petition and as provided in subsection (a)
89 of this Code section, grant any protective order or approve any consent agreement to bring
90 about a cessation of acts of dating violence. The court shall not have the authority to issue
91 or approve mutual protective orders concerning paragraph (1), (3), or (5) of this subsection,
92 or any combination thereof, unless the respondent has filed a verified petition as a counter

93 petition pursuant to Code Section 19-13A-3 no later than three days prior to the hearing and
94 the provisions of Code Section 19-13A-3 have been satisfied. The orders or agreements
95 may:

96 (1) Direct the respondent to refrain from such acts;
97 (2) Provide for possession of personal property of the parties;
98 (3) Order the respondent to refrain from harassing or interfering with the petitioner;
99 (4) Award costs and attorney's fees to either party; and
100 (5) Order the respondent to receive appropriate psychiatric, psychological, or educational
101 services as a further measure to prevent the recurrence of dating violence.

102 (c) A copy of the order shall be issued by the clerk of the superior court to the sheriff of
103 the county wherein the order was entered and shall be retained by the sheriff as long as that
104 order shall remain in effect.

105 (d) Any order granted under this Code section shall remain in effect for up to one year;
106 provided, however, that upon the motion of a petitioner and notice to the respondent and
107 after a hearing, the court in its discretion may convert a temporary order granted under this
108 Code section to an order effective for not more than three years or to a permanent order.

109 (e) A protective order issued pursuant to this Code section shall apply and shall be
110 effective throughout this state. It shall be the duty of every superior court and of every
111 sheriff, every deputy sheriff, and every state, county, or municipal law enforcement officer
112 within this state to enforce and carry out the terms of any valid protective order issued by
113 any court under the provisions of this Code section.

114 19-13A-5.

115 The remedies provided by this chapter are not exclusive but are additional to any other
116 remedies provided by law.

117 19-13A-6.

118 A violation of an order issued pursuant to this chapter may be punished by an action for
119 contempt or criminally punished as provided in Article 7 of Chapter 5 of Title 16."

120

SECTION 3.

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