

House Bill 526

By: Representatives Neal of the 74th, Gilliard of the 162nd, Wilensky of the 79th, Frye of the 118th, and Taylor of the 91st

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 arrest of certain offenders by private citizens; to provide when and to what
4 degree force may be used to effectuate such arrest; to provide that unauthorized arrests may
5 be resisted and to provide when and to what degree force may be used to resist an
6 unauthorized arrest by a private citizen; to provide that the defense of justification shall be
7 available to a person who attempts to arrest someone when such person is not authorized
8 under the law to make such arrest; to provide for related matters; to provide an effective date;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

15 "17-4-60.

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

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- 17 (1) 'Forcible felony' has the same meaning as provided in Code Section 16-1-3.
- 18 (2) 'Probable cause' means a reasonable amount of suspicion supported by facts and
19 circumstances sufficiently strong to justify a prudent and cautious person's belief that a
20 crime was committed based upon such person's personal observations.
- 21 (3) 'Property crime' means the theft or damage to the property of another without
22 authority and without the use of threat or physical force including, but not limited to,
23 crimes involving burglary, theft, arson, and vandalism.
- 24 (b) A private person may arrest an offender for a misdemeanor or a felony if the offense
25 is committed in his such private person's presence or within his such private person's
26 immediate knowledge.
- 27 (c) If the offense is a felony and the offender is escaping or attempting to escape, a private
28 person may arrest him such offender upon reasonable and probable grounds of suspicion
29 cause.
- 30 (d) A private person may use force to effectuate an arrest under this Code section only if:
- 31 (1) The use of such force is reasonably necessary to effectuate such arrest;
32 (2) Such arrest is authorized under this Code section; and
33 (3) Such force used is reasonable under the circumstances.
- 34 (e) A private person shall use force that is intended or likely to cause death or great bodily
35 harm in attempting to effectuate an arrest under this Code section only if:
- 36 (1) Such arrest is authorized under this Code section;
37 (2) Such crime is not a property crime; and
38 (3) Such force is necessary to prevent death or great bodily injury to such private person
39 or a third person or to prevent the commission of a forcible felony.
- 40 (f) An individual shall have the right to resist an unauthorized arrest by a private person
41 with the degree of force necessary to prevent such arrest that is reasonable under the
42 circumstances; provided, however, that force that is intended or likely to cause death or
43 great bodily harm may be used to resist an unauthorized arrest only if such force is

44 necessary to prevent death or great bodily injury to such individual or a third person or to
45 prevent the commission of a forcible felony against the individual or a third person. A
46 private person who attempts to arrest an individual when such arrest is not authorized under
47 this Code section to assert a defense under Code Section 16-3-20 if such person initially
48 provokes the use of force against himself with the intent to use such force as an excuse to
49 inflict bodily harm upon the assailant; is attempting to commit, committing, or fleeing after
50 the commission of a felony; or was the aggressor or was engaged in a combat by agreement
51 unless he withdraws from the encounter and effectively communicates to such other person
52 his intent to do so and the other, notwithstanding, continues or threatens to continue the use
53 of unlawful force as a defense to prosecution for any crimes committed during an attempt
54 to effectuate such arrest."

55 **SECTION 2.**

56 This Act shall become effective on July 1, 2021, and shall apply to all cases arising on and
57 after such date.

58 **SECTION 3.**

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