

Senate Bill 48

By: Senators Fort of the 39th, Jones II of the 22nd, Rhett of the 33rd, Jackson of the 24th, Orrock of the 36th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to carrying and possession of firearms, so as to prohibit restoration of gun  
3 rights to persons who have been convicted of a forcible felony; to provide for definitions; to  
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
8 relating to carrying and possession of firearms, is amended by revising Code Section  
9 16-11-131, relating to possession of firearms by convicted felons and first offender  
10 probationers, as follows:

11 "16-11-131.

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

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

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

19 (3) 'Forcible felony' means any felony which involves the use or threat of physical force  
20 or violence against any person and further includes, without limitation, murder; murder  
21 in the second degree; burglary in any degree; robbery; armed robbery; home invasion in  
22 any degree; kidnapping; hijacking of an aircraft or motor vehicle; aggravated stalking;  
23 rape; aggravated child molestation; aggravated sexual battery; arson in the first degree;  
24 the manufacturing, transporting, distribution, or possession of explosives with intent to  
25 kill, injure, or intimidate individuals or destroy a public building; terroristic threats; or  
26 acts of treason or insurrection.

27 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of  
28 Chapter 8 of Title 42 or who has been convicted of a felony by a court of this state or any  
29 other state; by a court of the United States including its territories, possessions, and  
30 dominions; or by a court of any foreign nation and who receives, possesses, or transports  
31 any firearm commits a felony and, upon conviction thereof, shall be imprisoned for not less  
32 than one nor more than five years; provided, however, that if the felony as to which the  
33 person is on probation or has been previously convicted is a forcible felony, then upon  
34 conviction of receiving, possessing, or transporting a firearm, such person shall be  
35 imprisoned for a period of five years.

36 (b.1) Any person who is prohibited by this Code section from possessing a firearm because  
37 of conviction of a forcible felony or because of being on probation as a first offender for  
38 a forcible felony pursuant to this Code section and who attempts to purchase or obtain  
39 transfer of a firearm shall be guilty of a felony and shall be punished by imprisonment for  
40 not less than one nor more than five years.

41 (c) This Code section shall not apply to any person who has been pardoned for the felony  
42 by the President of the United States, the State Board of Pardons and Paroles, or the person  
43 or agency empowered to grant pardons under the constitutions or laws of the several states  
44 or of a foreign nation and, by the terms of the pardon, has expressly been authorized to  
45 receive, possess, or transport a firearm; provided, however, that this subsection shall not  
46 apply to any person who has been convicted of a forcible felony.

47 (d) A person who has been convicted of a felony, but who has been granted relief from the  
48 disabilities imposed by the laws of the United States with respect to the acquisition, receipt,  
49 transfer, shipment, or possession of firearms by the secretary of the United States  
50 Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to  
51 the Board of Public Safety proof that the relief has been granted and it being established  
52 from proof submitted by the applicant to the satisfaction of the Board of Public Safety that  
53 the circumstances regarding the conviction and the applicant's record and reputation are  
54 such that the acquisition, receipt, transfer, shipment, or possession of firearms by the  
55 person would not present a threat to the safety of the citizens of Georgia and that the  
56 granting of the relief sought would not be contrary to the public interest, be granted relief  
57 from the disabilities imposed by this Code section. A person who has been convicted  
58 under federal or state law of a felony pertaining to antitrust violations, unfair trade  
59 practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof,  
60 and it being established from said proof, submitted by the applicant to the satisfaction of  
61 the Board of Public Safety that the circumstances regarding the conviction and the  
62 applicant's record and reputation are such that the acquisition, receipt, transfer, shipment,  
63 or possession of firearms by the person would not present a threat to the safety of the

64 citizens of Georgia and that the granting of the relief sought would not be contrary to the  
 65 public interest, be granted relief from the disabilities imposed by this Code section. A  
 66 record that the relief has been granted by the board shall be entered upon the criminal  
 67 history of the person maintained by the Georgia Crime Information Center and the board  
 68 shall maintain a list of the names of such persons which shall be open for public inspection;  
 69 provided, however, that no such relief shall be granted to any person who has been  
 70 convicted of a forcible felony.

71 ~~(e) As used in this Code section, the term 'forcible felony' means any felony which~~  
 72 ~~involves the use or threat of physical force or violence against any person and further~~  
 73 ~~includes, without limitation, murder; murder in the second degree; burglary in any degree;~~  
 74 ~~robbery; armed robbery; home invasion in any degree; kidnapping; hijacking of an aircraft~~  
 75 ~~or motor vehicle; aggravated stalking; rape; aggravated child molestation; aggravated~~  
 76 ~~sexual battery; arson in the first degree; the manufacturing, transporting, distribution, or~~  
 77 ~~possession of explosives with intent to kill, injure, or intimidate individuals or destroy a~~  
 78 ~~public building; terroristic threats; or acts of treason or insurrection.~~

79 ~~(f)~~(e) Any person placed on probation as a first offender pursuant to Article 3 of Chapter  
 80 8 of Title 42 and subsequently discharged without court adjudication of guilt pursuant to  
 81 Code Section 42-8-62 shall, upon such discharge, be relieved from the disabilities imposed  
 82 by this Code section."

83 **SECTION 2.**

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