

House Bill 137

By: Representatives Bazemore of the 63<sup>rd</sup>, Wilensky of the 79<sup>th</sup>, Frye of the 118<sup>th</sup>, Beverly of the 143<sup>rd</sup>, Bruce of the 61<sup>st</sup>, 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 provide that persons  
3 convicted of certain family violence offenses cannot possess or carry firearms; to provide a  
4 definition; to provide exceptions; to provide for related matters; to repeal conflicting laws;  
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

12 "16-11-131.

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

14 (1) 'Family violence' shall have the same meaning as provided in Code Section 19-13-1.

15 ~~(1)~~(2) 'Felony' means any offense punishable by imprisonment for a term of one year or  
16 more and includes conviction by a court-martial under the Uniform Code of Military  
17 Justice for an offense which would constitute a felony under the laws of the United  
18 States.

19 ~~(2)~~(3) 'Firearm' includes any handgun, rifle, shotgun, or other weapon which will or can  
20 be converted to expel a projectile by the action of an explosive or electrical charge.

21 (4) 'Forcible felony' means any felony which involves the use or threat of physical force  
22 or violence against any person and further includes, without limitation, murder; murder  
23 in the second degree; burglary in any degree; robbery; armed robbery; home invasion in  
24 any degree; kidnapping; hijacking of an aircraft or hijacking a motor vehicle in the first  
25 degree; aggravated stalking; rape; aggravated child molestation; aggravated sexual  
26 battery; arson in the first degree; the manufacturing, transporting, distribution, or

27 possession of explosives with intent to kill, injure, or intimidate individuals or destroy a  
28 public building; terroristic threats; or acts of treason or insurrection.

29 (b) Any person who is on probation as a felony first offender pursuant to Article 3 of  
30 Chapter 8 of Title 42, who is on probation and was sentenced for a felony under subsection  
31 (a) or (c) of Code Section 16-13-2, or who has been convicted of a felony by a court of this  
32 state or any other state; by a court of the United States including its territories, possessions,  
33 and dominions; or by a court of any foreign nation and who receives, possesses, or  
34 transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned  
35 for not less than one year nor more than ten years; provided, however, that upon a second  
36 or subsequent conviction, such person shall be imprisoned for not less than five nor more  
37 than ten years; provided, further, that if the felony for which the person is on probation or  
38 has been previously convicted is a forcible felony, then upon conviction of receiving,  
39 possessing, or transporting a firearm, such person shall be imprisoned for a period of five  
40 years.

41 (b.1) Any person who is prohibited by this Code section from possessing a firearm because  
42 of conviction of a forcible felony or because of being on probation as a first offender or  
43 under conditional discharge for a forcible felony and who attempts to purchase or obtain  
44 transfer of a firearm shall be guilty of a felony and upon conviction shall be punished by  
45 imprisonment for not less than one year nor more than five years; provided, however, that  
46 upon a second or subsequent conviction, such person shall be punished by imprisonment  
47 for not less than five nor more than ten years.

48 (b.2) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8  
49 of Title 42 as a result of having committed an act of family violence which involved an  
50 injury to another person or a forcible felony or who has been convicted of a crime of family  
51 violence which involved an injury to another person or a forcible felony by a court of this  
52 state or any other state; by a court of the United States including its territories, possessions,  
53 and dominions; or by a court of any foreign nation and who receives, possesses, or  
54 transports any firearm commits a felony and, upon conviction thereof, shall be imprisoned  
55 for not less than one year nor more than ten years; provided, however, that upon a second  
56 or subsequent conviction, such person shall be imprisoned for not less than five nor more  
57 than ten years.

58 (b.3) Any person who is on probation as a first offender pursuant to Article 3 of Chapter 8  
59 of Title 42 as a result of having committed an act of family violence which did not involve  
60 injury to another person or a forcible felony or who has been convicted of a crime of family  
61 violence which did not include injury to another person or a forcible felony by a court of  
62 this state or any other state; by a court of the United States including its territories,  
63 possessions, and dominions; or by a court of any foreign nation and who receives,

64 possesses, or transports any firearm commits a misdemeanor of a high and aggravated  
65 nature; provided, however, that upon a second or subsequent conviction, such person shall  
66 be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one  
67 year nor more than ten years.

68 (b.4) Any person who is prohibited by this Code section from possessing a firearm because  
69 of conviction of a crime of family violence which involved an injury to another person or  
70 a forcible felony or because of being on probation as a first offender or under conditional  
71 discharge for a crime of family violence which involved an injury to another person or a  
72 forcible felony and who attempts to purchase or obtain transfer of a firearm shall be guilty  
73 of a felony and upon conviction shall be punished by imprisonment for not less than one  
74 year nor more than five years; provided, however, that upon a second or subsequent  
75 conviction, such person shall be punished by imprisonment for not less than five nor more  
76 than ten years.

77 (b.5) Any person who is prohibited by this Code section from possessing a firearm because  
78 of conviction of a crime of family violence which did not involve an injury to another  
79 person or a forcible felony or because of being on probation as a first offender or under  
80 conditional discharge for a crime of family violence which did not involve an injury to  
81 another person or a forcible felony and who attempts to purchase or obtain transfer of a  
82 firearm shall be guilty of a misdemeanor of a high and aggravated nature; provided,  
83 however, that upon a second or subsequent conviction, such person shall be guilty of a  
84 felony and upon conviction shall be punished by imprisonment for not less than one year  
85 nor more than five years.

86 (c) This Code section shall not apply to any person who has been pardoned for the felony  
87 by the President of the United States, the State Board of Pardons and Paroles, or the person  
88 or agency empowered to grant pardons under the constitutions or laws of the several states  
89 or of a foreign nation and, by the terms of the pardon, has expressly been authorized to  
90 receive, possess, or transport a firearm.

91 (d) A person who has been convicted of a felony, but who has been granted relief from the  
92 disabilities imposed by the laws of the United States with respect to the acquisition, receipt,  
93 transfer, shipment, or possession of firearms by the secretary of the United States  
94 Department of the Treasury pursuant to 18 U.S.C. Section 925, shall, upon presenting to  
95 the Board of Public Safety proof that the relief has been granted and it being established  
96 from proof submitted by the applicant to the satisfaction of the Board of Public Safety that  
97 the circumstances regarding the conviction and the applicant's record and reputation are  
98 such that the acquisition, receipt, transfer, shipment, or possession of firearms by the  
99 person would not present a threat to the safety of the citizens of Georgia and that the  
100 granting of the relief sought would not be contrary to the public interest, be granted relief

101 from the disabilities imposed by this Code section. A person who has been convicted  
 102 under federal or state law of a felony pertaining to antitrust violations, unfair trade  
 103 practices, or restraint of trade shall, upon presenting to the Board of Public Safety proof,  
 104 and it being established from said proof, submitted by the applicant to the satisfaction of  
 105 the Board of Public Safety that the circumstances regarding the conviction and the  
 106 applicant's record and reputation are such that the acquisition, receipt, transfer, shipment,  
 107 or possession of firearms by the person would not present a threat to the safety of the  
 108 citizens of Georgia and that the granting of the relief sought would not be contrary to the  
 109 public interest, be granted relief from the disabilities imposed by this Code section. A  
 110 record that the relief has been granted by the board shall be entered upon the criminal  
 111 history of the person maintained by the Georgia Crime Information Center and the board  
 112 shall maintain a list of the names of such persons which shall be open for public inspection.

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

122 ~~(f)~~(e) Any person sentenced as a first offender pursuant to Article 3 of Chapter 8 of  
 123 Title 42 or sentenced pursuant to subsection (a) or (c) of Code Section 16-13-2 and  
 124 subsequently discharged without court adjudication of guilt as a matter of law pursuant to  
 125 Code Section 42-8-60 or 16-13-2, as applicable, shall, upon such discharge, be relieved  
 126 from the disabilities imposed by this Code section."

127

## SECTION 2.

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