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CRIMES AND OFFENSES Offenses Against Public Order and Safety: Change Penalty Provisions Applicable to the Offense of Furnishing a Pistol to a Person Under the Age of 18; Change the Penalty Provisions Applicable to the Offense of Unlawful Possession of Firearms or Weapons; Change the Penalty Provisions Applicable to a Second or Subsequent Offenses of Carrying a Concealed Weapon; Change the Penalty Provisions Applicable to Carrying Certain Weapons Within a School Safety Zone; Change the Penalty Provisions Applicable to Possession of a Firearm by a Convicted Felon; Change the Penalty

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Provisions Applicable to Possession of a Firearm by a person Under 18; Provide That It Is a Felony for a Person convicted of or on First Offender Probation for a Forcible Felony To Attempt To Purchase a Firearm

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CRIMES AND OFFENSES

Offenses Against Public Order and Safety: Change Penalty Provisions Applicable to the Offense of Furnishing a Pistol to a Person Under the Age of 18; Change the Penalty Provisions Applicable to the Offense of Unlawful Possession of Firearms or Weapons; Change the Penalty Provisions Applicable to a Second or Subsequent Offenses of Carrying a Concealed Weapon; Change the Penalty Provisions Applicable to Carrying Certain Weapons Within a School Safety Zone; Change the Penalty Provisions Applicable to Possession of a Firearm by a Convicted Felon; Change the Penalty Provisions Applicable to Possession of a Firearm by a Person Under 18; Provide That It Is a Felony for a Person Convicted of or on First Offender Probation for a Forcible Felony To Attempt To Purchase a Firearm

CODE SECTIONS: O.C.G.A. §§ 16-11-101.1, -123, -126, -127.1, -131, -132 (amended)

BILL NUMBER: SB 466

ACT NUMBER: 924

GEORGIA LAWS: 2000 Ga. Laws 1630

SUMMARY: The Act increases the minimum penalty for furnishing a pistol or a revolver to a minor from two to three years. The Act also increases the minimum sentence for unlawful possession of firearms from one to five years and raises the minimum sentence for carrying a concealed weapon to two years. The Act increases the minimum sentence for carrying specified weapons into a school zone. Further, the Act makes it a felony for a person convicted of a forcible felony to attempt to obtain a firearm and increases the penalty for these individuals for possessing a firearm. Finally, the Act raises the minimum

fine and sentence for possession of a
pistol or a revolver by a minor.

EFFECTIVE DATE: July 1, 2000

History

In the wake of school shootings in Littleton, Colorado; Conyers, Georgia; Paducah, Kentucky; and Mount Morris Township, Michigan, Georgia legislators focused on updating Georgia gun laws to prevent such crimes in the future.¹ Specifically, legislators wanted to increase the penalties for furnishing a firearm to a minor, add additional penalties for bringing firearms within a school safety zone, and increase penalties for convicted felons who attempt to obtain a firearm.² These goals took the form of SB 466, which was part of Governor Barnes' legislative package for the 2000 session of the Georgia General Assembly.³ The Governor's floor leaders, Senators Steve Thompson and Charlie Tanksley sponsored the bill in the Senate.⁴

The increased penalties of SB 466 were aimed at individuals who do not have a right to possess a firearm, such as convicted felons and minors, as well as the people who furnish firearms to those individuals.⁵ Consequently, the National Rifle Association did not oppose the bill because the bill would not hurt the rights of law-abiding citizens to possess legal firearms.⁶ Governor Barnes commented that the "bill helps keep guns out of the hands of convicted criminals and away from our children and schools."⁷ Dr. Charles Bullock, a political science professor at the University of Georgia, reviewed this bill and concluded that

1. See Debbie Howlett, *Boy, 6, Fatally Shoots Classmate: Many Ask How Child Got Weapon*, USA TODAY, Mar. 1, 2000, at 3A; see also Telephone Interview with Sen. Charlie Tanksley, Senate District No. 32 (July 7, 2000) [hereinafter Tanksley Interview]; Kathey Pruitt et al., 2000 *Georgia Legislature Capitol Insider: Penalties Hiked for Gun Crimes*, ATLANTA J. & CONST., Mar. 23, 2000, at C1.

2. See Pruitt, *supra* note 1.

3. See *id.*

4. See SB 466, as introduced, 2000 Ga. Gen. Assem.; Tanksley Interview, *supra* note 1.

5. See Tanksley Interview, *supra* note 1.

6. See Alan Judd, *NRA Backs Barnes' Gun Control Plan: Felon Found Trying to Purchase Firearm Would Face Penalty*, ATLANTA J. & CONST., Feb. 18, 2000, at D8.

7. *Id.*

the bill would not “reduce the availability of guns,” but “[i]t is a step against gun abuse.”⁸

SB 466

Consideration by the Senate Judiciary Committee

SB 466 was introduced on February 17, 2000, and was referred to the Senate Judiciary Committee.⁹ The Committee favorably reported a substituted version of the bill on March 3, 2000.¹⁰ The Senate Committee substitute decreased the penalty for furnishing a pistol or revolver to a minor from a fine of \$5000 and imprisonment for five years, as proposed in the bill as introduced, to a fine not to exceed \$5000 or imprisonment for not less than three nor more than five years, or both.¹¹ The substitute also decreased the penalty for carrying a concealed weapon from imprisonment for five years to not less than two years nor more than five years.¹²

The Senate Committee substitute reduced the penalty for carrying certain weapons into a school zone from a fine of \$10,000 and a ten year prison sentence, as proposed in the bill as introduced, to a fine of \$10,000 or imprisonment of not less than five nor more than ten years, or both.¹³ Additionally, the substitute added language to restrict the application of enhanced punishment to only those individuals who had been convicted of a forcible felony, and it established a felony offense for such individuals to attempt to possess a firearm.¹⁴ Finally, the substitute decreased the bill’s penalties for possession of a pistol or revolver by a person under the age of eighteen from a fine of \$5000 and imprisonment for three years to a fine of \$5000 or imprisonment for three years, or both.¹⁵

8. *Id.*

9. *See* State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

10. *See id.*

11. *Compare* SB 466, as introduced, 2000 Ga. Gen. Assem., *with* SB 466 (SCS), 2000 Ga. Gen. Assem.

12. *Compare* SB 466, as introduced, 2000 Ga. Gen. Assem., *with* SB 466 (SCS), 2000 Ga. Gen. Assem.

13. *Compare* SB 466, as introduced, 2000 Ga. Gen. Assem., *with* SB 466 (SCS), 2000 Ga. Gen. Assem.

14. *Compare* SB 466, as introduced, 2000 Ga. Gen. Assem., *with* SB 466 (SCS), 2000 Ga. Gen. Assem.

15. *Compare* SB 466, as introduced, 2000 Ga. Gen. Assem., *with* SB 466 (SCS), 2000 Ga.

From the Senate Judiciary Committee to the Senate Floor

The Senate considered the Judiciary Committee substitute on March 8, 2000.¹⁶ Senator David Scott of the 36th Senate District introduced a floor amendment to make it a crime to negligently allow a minor to obtain possession of a pistol or revolver; however, this amendment failed.¹⁷ The Senate adopted the Committee substitute and passed the bill on March 8, 2000.¹⁸

Consideration by the House Public Safety Committee

SB 466 was introduced on the House floor on March 8, 2000, and the House assigned the bill to its Public Safety Committee.¹⁹ The House Public Safety Committee changed the Senate version in two ways.²⁰ First, it made some grammatical changes to Section 5 of the Senate Committee substitute.²¹ Second, it defined the term 'forcible felony' as "any felony which involves the use or threat of physical force or violence against any person" and cited as examples a series of felonies such as murder, robbery, and kidnapping.²²

Gen. Assem.

16. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

17. See Failed Senate Floor Amendment to SB 466, introduced by Sen. David Scott, Mar. 8, 2000. Senator Tanksley commented that the floor amendment did not pass for several reasons. See Tanksley Interview, *supra* note 1. First, amending one of the bills in the Governor's legislative package is politically hard to accomplish. See *id.* Second, many Senators felt that the amendment was vague and potentially unconstitutional. See *id.* Finally, the situation addressed in the amendment could be prosecuted under the Georgia criminal negligence statute. See *id.*

18. See Georgia Senate Voting Record, SB 466 (Mar. 8, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

19. See State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

20. Compare SB 466 (SCS), 2000 Ga. Gen. Assem., with SB 466 (HCS), 2000 Ga. Gen. Assem.

21. Compare SB 466 (SCS), 2000 Ga. Gen. Assem., with SB 466 (HCS), 2000 Ga. Gen. Assem.

22. Compare SB 466 (SCS), 2000 Ga. Gen. Assem., with SB 466 (HCS), 2000 Ga. Gen. Assem.

From the House Public Safety Committee to Passage

After adopting the Committee substitute, the House passed SB 466 on March 20, 2000.²³ The Senate agreed to the House version on March 22, 2000,²⁴ and Governor Roy Barnes signed SB 466 into law on May 1, 2000.²⁵

The Act

The Act amends several sections of Chapter 11 of Title 16 of the Georgia Code.²⁶ The Act increases the penalties for furnishing a pistol or revolver to a person under eighteen years of age,²⁷ unlawfully possessing firearms or weapons,²⁸ carrying a concealed weapon,²⁹ carrying a weapon within a school safety zone,³⁰ and possessing a pistol or revolver as a minor (under eighteen years of age).³¹ Additionally, the Act makes it a felony for a person convicted of a forcible felony, or serving a first offender's probation for a forcible felony, to attempt to possess a firearm.³² The required punishment for this felony is imprisonment for not less than one nor more than five years.³³

Seth F. Kirby

23. See Georgia House of Representatives Voting Record, SB 466 (Mar. 20, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

24. See Georgia Senate Voting Record, SB 466 (Mar. 22, 2000); State of Georgia Final Composite Status Sheet, Mar. 22, 2000.

25. See 2000 Ga. Laws 1630, § 7, at 1641.

26. See 2000 Ga. Laws 1630, §§ 1-6, at 1631-41.

27. Compare 1994 Ga. Laws 1012, § 13, at 1031-32 (formerly found at O.C.G.A. § 16-11-101.1(d) (1999)), with O.C.G.A. § 16-11-101.1(d) (Supp. 2000).

28. Compare 1968 Ga. Laws 983, § 3, at 984 (formerly found at O.C.G.A. § 16-11-123 (1999)), with O.C.G.A. § 16-11-123 (Supp. 2000).

29. Compare 1996 Ga. Laws 108, § 1, at 108-10 (formerly found at O.C.G.A. § 16-11-126(b)(2) (1999)), with O.C.G.A. § 16-11-126(b)(2) (Supp. 2000).

30. Compare 1994 Ga. Laws 1012, § 4, at 1017-22 (formerly found at O.C.G.A. § 16-11-127.1(b) (1999)), with O.C.G.A. § 16-11-127.1(b) (Supp. 2000).

31. Compare 1994 Ga. Laws 1012, § 12, at 1028-31 (formerly found at O.C.G.A. § 16-11-132(b) (1999)), with O.C.G.A. § 16-11-132(b) (Supp. 2000).

32. Compare 1980 Ga. Laws 1509, § 1, at 1509 (formerly found at O.C.G.A. § 16-11-131 (1999)), with O.C.G.A. § 16-11-131(b.1) (Supp. 2000).

33. See O.C.G.A. § 16-11-131(b.1) (Supp. 2000).