

9-1-2002

## DOMESTIC RELATIONS Family Violence Intervention; Offender Rehabilitation; DHR Program Certification; Parole Conditions

Jacqueline Knapp

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

---

### Recommended Citation

Jacqueline Knapp, *DOMESTIC RELATIONS Family Violence Intervention; Offender Rehabilitation; DHR Program Certification; Parole Conditions*, 19 GA. ST. U. L. REV. (2002).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol19/iss1/16>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact [mbutler@gsu.edu](mailto:mbutler@gsu.edu).

## DOMESTIC RELATIONS

### *Family Violence Intervention; Offender Rehabilitation; DHR Program Certification; Parole Conditions*

CODE SECTIONS:	O.C.G.A. §§ 19-13-10 (new), -11 (new), -12 (new), -13 (new), -14 (new), -15 (new), -16 (new), -17 (new), -31 (amended), -34 (amended); 19-9-7 (amended); 42-8-35 (amended); 45-12-92 (amended); 50-4-3 (amended)
BILL NUMBER:	SB 467
ACT NUMBER:	989
GEORGIA LAWS:	2002 Ga. Laws 1435
SUMMARY:	The Act requires the perpetrator of family violence to undergo a “certified” family violence intervention program. These programs are charged a fee to be considered by the Department of Corrections for “certification” under the Act. Once approved, these programs may not solicit business and must agree in writing to satisfy the Act’s requirements. The Department of Corrections retains the authority to deny, suspend, or revoke a certificate for any program not complying with the Act’s requirements. The Act creates the State Commission on Family Violence to develop a comprehensive plan to end family violence.
EFFECTIVE DATE:	O.C.G.A. §§ 19-13-10, -11, -12, -13, -14, -15, -16, -17, July 1, 2002; <sup>1</sup> § 19-13-31, July 1, 2002; <sup>2</sup> § 19-13-34, July

---

1. 2002 Ga. Laws 1435, § 7, at 1440. The Act designates that these Code sections shall become effective on July 1, 2002 for the purposes of the development process by the Department of Corrections and the Georgia Commission on Family Violence for certification and collecting fees, and for all other purposes, the Act shall be effective on July 1, 2003.

2. *Id.* The Act designates that this Code section shall become effective on July 1, 2002.

1, 2002;<sup>3</sup> § 19-9-7, July 1, 2003;<sup>4</sup> § 42-8-35, July 1, 2003;<sup>5</sup> § 45-12-92, July 1, 2002;<sup>6</sup> § 50-4-3, July 1, 2002.<sup>7</sup>

### *History*

According to the Georgia Bureau of Investigation, in 1999, Georgia residents suffered nearly fifty thousand incidents of family violence.<sup>8</sup> Felonies and selected misdemeanors are considered family violence if they involve “past or present spouses; two people who have a child together; parents and children; or are within stepfamilies or foster families; or between people who presently or formerly lived in the same household.”<sup>9</sup> Most family violence cases are simple battery cases, which means there is an intentional contact with no visible injury.<sup>10</sup> On the other hand, battery involves some sort of visible injury, such as a black eye or swollen lip.<sup>11</sup>

In 2000, forty-seven fatalities were connected to family violence in Georgia.<sup>12</sup> In recent years, Georgia has toughened its family violence laws and provided stricter penalties for repeat offenders.<sup>13</sup> In Bibb County, Georgia, 1,082 incidents of family violence were reported out of the total 56,339 reported in Georgia in 2000.<sup>14</sup> For instance, only days after completing probation for a previous act of family violence, Garey Bernard Kinder of Bibb County allegedly ran over his former girlfriend and then shot her repeatedly as her children

3. *Id.* The Act designates that this Code section shall become effective on July 1, 2002.

4. *Id.* The Act designates that this Code section shall become effective on July 1, 2003.

5. *Id.* The Act designates that this Code section shall become effective on July 1, 2003 for sentences or conditional release revocations that occur on or after that date.

6. *Id.* The Act designates that this Code section shall become effective on July 1, 2002.

7. *Id.* The Act designates that this Code section shall become effective on July 1, 2002.

8. Sylvia Cooper, *Gov. Roy Barnes Speaks at the Augusta-Richmond County Law Enforcement Center on Legislation that Will Aid Officers When Handling Domestic Abuse Cases by Making Copies of Protective Orders Readily Available*, AUGUSTA CHRON., Mar. 3, 2001, at A1, available at 2001 WL 19112676.

9. O.C.G.A. § 19-13-1 (Supp. 2002); Debbie Rhyne, *Macon Homicide Highlights Domestic Violence Problem*, MACON TELEGRAPH, Mar. 14, 2002, available at 2002 WL 8369413 [hereinafter Rhyne].

10. *Id.* Simple battery can include “shoving, grabbing or even slapping.” *Id.*

11. Rhyne, *supra* note 9. Both types of battery carry a maximum sentence of twelve months and are misdemeanors. *Id.*

12. Rhyne, *supra* note 9.

13. Rhyne, *supra* note 9. The penalties get stricter if a perpetrator commits battery against the same victim. *Id.*

14. Rhyne, *supra* note 9.

watched.<sup>15</sup> This tragedy is one of many that the Georgia Commission on Family Violence, a group created to develop legislation by the General Assembly, strives to prevent.

In 1992, the Georgia Commission on Family Violence was legislatively created to provide “safety and justice to victims and accountability to batterers.”<sup>16</sup> With its focus on the victim’s safety, the Commission on Family Violence has worked for the past four years to develop the “certification” standards for this Act.<sup>17</sup> There are three questions regarding SB 467, which required discussion: in which branch should the Commission on Family Violence be placed; who decides the certification of a program; and, who determines the standards for certification.<sup>18</sup> The Act designates that the Department of Corrections (DOC) and the Georgia Commission on Family Violence choose the standards for certification, with the DOC deciding which programs receive certification.<sup>19</sup> The Commission was placed in the executive branch with a sunset provision requiring renewal of the Commission in 2006.<sup>20</sup>

## SB 467

### *Introduction*

Senators Steve Thompson, Connie Stokes, and Charlie Tanksley of the 33rd, 43rd, and 32nd Districts, respectively, sponsored SB 467.<sup>21</sup> Senator Thompson introduced the bill on the Senate floor on February 18, 2002.<sup>22</sup> The Senate assigned the bill to the Senate Corrections, Correctional Institutions and Property Committee, which favorably reported the bill on March 8, 2002.<sup>23</sup> On March 25, 2002,

---

15. *Id.*

16. Telephone Interview with Julianna Koob, Dir. of the Ga. Comm’n on Family Violence (May 28, 2002) [hereinafter Koob Interview]. Governor Roy Barnes decided to include SB 467 in his legislative package. *Id.*

17. Koob Interview, *supra* note 16.

18. *Id.*

19. *Id.*

20. *Id.* Because the Commission is not permanent and an executive agency must collect the fees, the DOC is there to take over should the Commission be abandoned. *Id.*

21. SB 467, as introduced, 2002 Ga. Gen. Assem.

22. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002; Audio Recording of Senate Proceedings, Feb. 18, 2002, at <http://www.state.ga.us/services/leg/audio/2002archive.html>.

23. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

a floor substitute was introduced and the Senate passed the bill unanimously.<sup>24</sup>

On March 26, 2002, Henrietta Turnquest of the 73rd District introduced the bill on the House floor.<sup>25</sup> The House assigned the bill to the Judiciary Committee, and the Committee offered a substitute to the bill on April 2, 2002.<sup>26</sup> On April 9, 2002, the House adopted the Committee substitute.<sup>27</sup> On April 12, 2002, the Senate agreed to the House substitute and passed the bill.<sup>28</sup> The Senate sent the bill to Governor Roy Barnes on April 29, 2002, and he signed SB 467 into law on May 16, 2002.<sup>29</sup>

*Consideration by the Senate Corrections, Correctional Institutions and Property Committee*

After introduction, the Senate assigned the bill to its Corrections, Correctional Institutes and Property Committee.<sup>30</sup> The Corrections Committee favorably reported the bill, as introduced, on March 8, 2002.<sup>31</sup> SB 467, as introduced, amended Code section 19-9-7 by requiring a perpetrator of family violence to complete a certified family violence intervention program to be qualified under Article 1A.<sup>32</sup> This version of SB 467 named the Department of Human Resources as the “department” in Code section 19-13-10 responsible for determining the application fees for interested programs and responsible for approving the certification of programs under Article 1A.<sup>33</sup> As introduced, SB 467 had an overall effective date of July 1, 2002.<sup>34</sup>

---

24. *Id.*

25. *Id.*; Audio Recording of House Proceedings, Mar. 26, 2002, at <http://www.state.ga.us/services/leg/audio/2002archive.html>.

26. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

27. Georgia House of Representatives Voting Record, SB 467 (Apr. 9, 2002).

28. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

29. 2002 Ga. Laws 1435, § 8, at 1440.

30. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

31. *Id.*

32. SB 467, as introduced, 2002 Ga. Gen. Assem.

33. *Id.*

34. *Id.*

### *Consideration by the Senate*

The Senate passed SB 467, as substituted by a floor substitute, on March 25, 2002.<sup>35</sup> The Senate floor substitute was presented by Senator Connie Stokes of the 43rd District, and was passed unanimously.<sup>36</sup> The floor substitute offered several substantial changes to SB 467 by redefining “department” in Code section 19-13-10 as the Department of Corrections (DOC), and not the Department of Human Resources (DHR).<sup>37</sup>

Another substantive change occurred in Code section 19-13-11, which made the Georgia Commission on Family Violence in charge of determining application fees, instead of the Department of Human Resources.<sup>38</sup> The floor substitute increased the duties of the Georgia Commission on Family Violence in Code section 19-13-14 by joining the Commission with the DOC as the parties responsible for establishing the standards and requirements for all certified programs.<sup>39</sup> Code section 19-13-16 was changed in the floor substitute to specifically require a perpetrator of family violence to participate in a certified family violence intervention program and absorb the cost of such program, unless the perpetrator was found to be indigent.<sup>40</sup>

The floor substitute added Code section 19-13-17 to address enforcement by the DOC.<sup>41</sup> Specifically, this section outlined the following: The maximum fine to be issued against a violator under this Act, the proper routing for funds collected, and appropriate venues to bring suit depending on the violator.<sup>42</sup> The floor substitute also changed the effective date of the Act to July 1, 2002 for Sections 1, 4, 5, and 8, and to July 1, 2003 for Sections 2, 3, and 6.<sup>43</sup>

---

35. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

36. Georgia Senate Voting Record, SB 467 (Mar. 23, 2002).

37. *Compare* SB 467, as introduced, 2002 Ga. Gen. Assem., *with* SB 467 (SFS), 2002 Ga. Gen. Assem.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.*

43. *Compare* SB 467, as introduced, 2002 Ga. Gen. Assem., *with* SB 467 (SFS), 2002 Ga. Gen. Assem.

*Consideration by the House Judiciary Committee*

After introduction, the House assigned the bill to its Judiciary Committee on March 26, 2002.<sup>44</sup> The Judiciary Committee offered a substitute on April 2, 2002, which was unanimously passed by the House on April 9, 2002.<sup>45</sup> The House substitute changed Code section 19-13-13 to allow the DOC to administer program certification and enforce the rules and regulations of the Act; whereas, the adopted Senate version placed this responsibility with the Department of Corrections.<sup>46</sup>

The House Committee also added language to Code section 19-13-14 exempting officials or employees, including spouses of the DOC or the State Board of Pardons or Paroles, from owning or operating a certified program under the Act.<sup>47</sup> This section was also changed to require the DOC to establish criteria for determining when a party is in non-compliance with the Act.<sup>48</sup>

On April 12, 2002, the Senate adopted the House substitute and sent the bill to the Governor on April 29, 2002.<sup>49</sup> Governor Roy Barnes signed the bill into law on May 16, 2002.<sup>50</sup>

*The Act*

The Act amends Title 19 of the Georgia Code, relating to domestic relations, by defining standards for family violence intervention programs, outlining the certification requirements for such programs, and providing penalties and fees for such programs.<sup>51</sup> The Act also amends Title 42 of the Georgia Code, relating to penal institutions, by repealing conflicting laws and by, providing for effective dates and applicability, so as to conform certain language relating to family violence intervention programs.<sup>52</sup>

---

44. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

45. *Id.*

46. Compare SB 467 (SFS), 2002 Ga. Gen. Assem., with SB 467 (HCS), 2002 Ga. Gen. Assem.

47. *Id.*

48. Compare SB 467 (SCSFS), 2002 Ga. Gen. Assem., with SB 467 (HCS), 2002 Ga. Gen. Assem.

49. State of Georgia Final Composite Status Sheet, SB 467, Apr. 12, 2002.

50. *Id.*

51. O.C.G.A. §§ 19-13-10, -11, -12, -13, -14, -15, -16, -17, -31, -34, 19-9-7 (Supp. 2002).

52. O.C.G.A. § 42-8-35 (Supp. 2002).

*Code Section 19-9-7*

The Act amends Code section 19-9-7, relating to parental visitation, by replacing the existing subsection with language ordering a perpetrator, as a condition of visitation, to attend and complete a certified family violence intervention program.<sup>53</sup> Specifically, this Act requires that all perpetrators complete a “family violence intervention program” that has undergone certification according to Article 1A of Chapter 13 in Title 19 of this Act.<sup>54</sup>

*Article 1A*

The Act amends Chapter 13 of Title 19 by adding new Code sections 19-13-10, -11, -12, -13, -14, -15, -16, and -17 found in Article 1A.<sup>55</sup> The new Code section 19-13-10 defines terms to be used in the Act, and specifically, this section defines “Commissioner” as the commissioner of corrections and “Department” as the Department of Corrections (DOC).<sup>56</sup> Next, the added Code section 19-13-11 establishes the DOC’s ability to charge a fee for reviewing family violence intervention program applications for certification, with the Georgia Commission on Family Violence determining the amount of this fee.<sup>57</sup>

The new Code section 19-13-13 identifies the DOC’s responsibility to approve certification of programs and their staff, while also training and monitoring these programs.<sup>58</sup> In addition, the DOC must enforce rules and regulations to adhere to the specific requirements for “prescribing the form of applications, visiting program facilities, and investigating complaints.”<sup>59</sup> In the added Code section 19-13-14, the “commission” and the “department” are responsible for establishing the standards for these family violence intervention programs; however, the DOC solely retains the authority

---

53. Compare 1995 Ga. Laws 863, § 7, at 869 (formerly found at O.C.G.A. § 19-9-7 (1995)), with O.C.G.A. § 19-9-7 (Supp. 2002).

54. Compare 1995 Ga. Laws 863, § 7, at 869 (formerly found at O.C.G.A. § 19-9-7 (1995)), with O.C.G.A. § 19-9-7 (Supp. 2002).

55. O.C.G.A. § 19-13-10, -11, -12, -13, -14, -15, -16, -17 (Supp. 2002).

56. *Id.* § 19-13-10 (Supp. 2002).

57. *Id.* § 19-13-11 (Supp. 2002).

58. *Id.* § 19-13-13 (Supp. 2002).

59. *Id.*



to deny, suspend, or revoke a certificate if noncompliance should occur.<sup>60</sup> Also, this section specifies that no official or employee of the DOC or State Board of Pardons and Paroles may own, operate, or teach a program unless such relationship would be allowed under the new Code section 19-13-15.<sup>61</sup> The DOC is required to provide a list of all certified programs to the public and courts.<sup>62</sup>

As previously mentioned, the new Code section 19-13-15 addresses the requirements for programs operated by the DOC or the State Board of Pardons and Paroles.<sup>63</sup> These programs can be accepted if they meet the requirements set forth by the DOC.<sup>64</sup>

Code section 19-13-16 adds that a court must require a perpetrator to participate in a family violence intervention program, unless the “court determines and states on the record why participation in such a program is not appropriate.”<sup>65</sup> This section requires the State Board of Pardons and Paroles to allow the conditional releasee to participate in the family violence intervention program, and unless the defendant is indigent, absorb the cost of such program.<sup>66</sup>

Code section 19-13-17 allows the “commissioner” to enforce the rules of this Act by allowing a fine up to \$1000 for each violation to be collected and remitted to the Office of Treasury and Fiscal Services.<sup>67</sup>

### *Code Section 19-13-31*

The Act amends Code section 19-13-31 by assigning the State Commission on Family Violence to the Department of Corrections for administrative purposes.<sup>68</sup>

---

60. *Id.* § 19-13-14 (Supp. 2002).

61. *Id.* § 19-13-14(c) (Supp. 2002).

62. *Id.* § 19-13-14(f) (Supp. 2002).

63. O.C.G.A. § 19-13-15 (Supp. 2002).

64. *Id.* § 19-13-15 (Supp. 2002).

65. *Id.* § 19-13-16(a).

66. *Id.* § 19-13-16(b)(c).

67. *Id.* § 19-13-17.

68. Compare 1997 Ga. Laws 1543, § 3, at 1544 (formerly found at O.C.G.A. § 19-13-31 (1997)), with O.C.G.A. § 19-13-31 (Supp. 2002).

*Code Section 19-13-34*

The Act amends Code section 19-13-34 by adding language to require the development of standards to be used by the DOC when evaluating the certification and regulation of family violence intervention programs.<sup>69</sup>

*Code Section 42-8-35.6*

The Act amends Code section 42-8-35.6 by requiring a defendant to participate in a family violence intervention program “certified” according to the added Article 1A, unless the court determines that such involvement is unnecessary.<sup>70</sup> If the court revokes the defendant’s probation for family violence or if the court is imposing a protective order, this section requires the defendant to participate in a family violence intervention program certified according to Article 1A.<sup>71</sup>

Similar to Code section 19-13-16, this section requires the State Board of Pardons and Paroles to allow the conditional releasee to participate in the family violence intervention program, and unless the defendant is indigent, absorb the cost of such program.<sup>72</sup>

*Jacqueline Knapp*

---

69. Compare 1992 Ga. Laws 1810, § 1, at 1814 (formerly found at O.C.G.A. § 19-13-34 (1992)), with O.C.G.A. § 19-13-34 (Supp. 2002).

70. Compare 1996 Ga. Laws 1113, § 2, at 1114 (formerly found at O.C.G.A. § 42-8-35.6 (1996)), with O.C.G.A. § 42-8-35.6 (Supp. 2002).

71. *Id.*

72. *Id.*