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## DOMESTIC RELATIONS Family Violence and Stalking Protective Order Registry Act: Create Centralized Registry for Temporary Protective Orders

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## DOMESTIC RELATIONS

### ***Family Violence and Stalking Protective Order Registry Act: Create Centralized Registry for Temporary Protective Orders***

**CODE SECTIONS:** O.C.G.A. §§ 19-13-50 to -56 (new)  
**BILL NUMBER:** SB 57  
**ACT NUMBER:** 24  
**GEORGIA LAWS:** 2001 Ga. Laws 101  
**SUMMARY:** The Act provides for the creation of a centralized database for Temporary Protective Orders (TPOs), to be maintained by the Georgia Crime Information Center (GCIC) in consultation with the Georgia Commission on Family Violence. The registry will be linked to the National Crime Information Center (NCIC) Network and made available to law enforcement officers and the courts. The Act provides for the creation of standardized forms to be promulgated in the Uniform Superior Court Rules and distributed by the Administrative Office of the Courts. Completed forms will be transmitted electronically to the GCIC and entered into the database. Expired or terminated orders will be removed from the database within twenty-four hours. Foreign protective orders, in any form, may be filed with the clerk of the superior court in any county and will also be entered into the registry. The Act establishes the penalty of a misdemeanor for persons who disseminate or disclose information from the registry. The Act also provides for immunity from civil liability for law enforcement officers or state officials who fail to file TPOs with the registry in a timely fashion or act in reliance upon information they find there.

EFFECTIVE DATE: July 1, 2001.<sup>1</sup>

### *History*

Almost 50,000 incidents of domestic violence were reported in Georgia during 1999.<sup>2</sup> People who obtained TPOs to try and protect themselves from violence were provided with a document from the court that they could show to law enforcement officers.<sup>3</sup> This system provided insufficient protection for victims, who had to remember to carry this piece of paper with them everywhere they went, and was burdensome and potentially dangerous for law enforcement officers who had to respond to calls without knowing of the existence of a TPO or its terms.<sup>4</sup>

About thirty-six other states have TPO registries, and the National Crime Information Center (NCIC) provides a database for TPOs nationwide.<sup>5</sup> These registries are not all automated, however, and may not always provide the most current information.<sup>6</sup> The courts maintain the data in some states, while in others the data is maintained by law enforcement.<sup>7</sup> In at least one state, the registry is maintained by a state domestic violence coalition.<sup>8</sup>

### *SB 57*

SB 57 was introduced in the Senate on January 24, 2001.<sup>9</sup> The bill was sponsored by Senators Steve Thompson of the 33rd District, Connie Stokes of the 43rd District, and Charlie Tanksley of the 32nd District.<sup>10</sup>

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1. See 2001 Ga. Laws 101, § 2, at 104. The registry itself becomes effective 180 days after the forms are promulgated. *See id.*

2. See Audio Recording of Senate Proceedings, Feb. 20, 2001 (remarks by Sen. Connie Stokes), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

3. *See id.*

4. *See id.*

5. *See id.*

6. See generally Susan Notar & Vicki Turetsky, *Models for Safe Child Support Enforcement*, 8 AM. U. J. GENDER SOC. POL'Y & L. 657 (2000); see also Cynthia Cook, *Triggered: Targetting Domestic Violence Offenders in California* 31 MCGEORGE L. REV. 328, 329-46 (2000) (describing California's registry).

7. See Notar & Turetsky, *supra* note 6, at 695-96.

8. *See id.*

9. See State of Georgia Final Composite Status Sheet, SB 57, Mar. 21, 2001.

10. See SB 57, as introduced, 2001 Ga. Gen. Assem.

Senators Greg Hecht of the 34th District and Doug Haines of the 46th District also signed onto the bill as it passed through the Senate.<sup>11</sup>

SB 57 was referred to the Senate Judiciary Committee, which favorably reported a Committee substitute to the floor of the Senate on February 15, 2001.<sup>12</sup> The Senate discussed the bill on February 20, 2001, amended it, and passed the bill by a unanimous vote.<sup>13</sup> Senators Stokes and Thompson handled the bill in the Senate.<sup>14</sup>

The bill was introduced the next day in the House, and the House referred it to its Human Relations and Aging Committee.<sup>15</sup> The House Committee created its own substitute, which was favorably reported to the House floor on March 1, 2001.<sup>16</sup> Representative Henrietta Turnquest of the 73rd District handled the bill in the House when it came up for discussion on March 15, 2001.<sup>17</sup> The House floor produced its own version of the bill by floor substitute,<sup>18</sup> which passed unanimously.<sup>19</sup> The Senate agreed to the final House version on March 21, 2001,<sup>20</sup> and the bill was signed by the Governor on March 30, 2001.<sup>21</sup>

### *The Act*

#### *Code Section 19-13-50*

The title of the Act is the “Family Violence and Stalking Protective Order Registry.”<sup>22</sup>

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11. See SB 57 (SCSFA), 2001 Ga. Gen. Assem.
  12. See State of Georgia Final Composite Status Sheet, SB 57, Mar. 21, 2001.
  13. See State of Georgia Final Composite Status Sheet, SB 57, Mar. 21, 2001; Georgia Senate Voting Record, SB 57 (Feb. 15, 2001), available at [http://www.legis.state.ga.us/Legis/2001\\_02/votes/sv0091.htm](http://www.legis.state.ga.us/Legis/2001_02/votes/sv0091.htm).
  14. See Senate Audio, *supra* note 2 (remarks by Sens. Steve Thompson and Connie Stokes).
  15. See State of Georgia Final Composite Status Sheet, SB 57, Mar. 21, 2001.
  16. See *id.*
  17. See Audio Recording of House Proceedings, Mar. 15, 2001 (remarks by Rep. Henrietta Turnquest), at <http://www.state.ga.us/services/leg/audio/2001archive.html>.
  18. See State of Georgia Final Composite Status Sheet, SB 57, Mar. 21, 2001.
  19. See Georgia House of Representatives Voting Record, SB 57 (Mar. 15, 2001), available at [http://www.legis.state.ga.us/Legis/2001\\_02/votes/sv0091.htm](http://www.legis.state.ga.us/Legis/2001_02/votes/sv0091.htm).
  20. See State of Georgia Final Composite Status Sheet, SB 57, Mar. 21, 2001.
  21. See 2001 Ga. Laws 101, § 3, at 104.
  22. See O.C.G.A. § 19-13-50 (Supp. 2001).

*Code Section 19-13-51*

Code section 19-13-51 provides for definitions.<sup>23</sup> The Senate Judiciary Committee broadened the definition of “court” to include persons acting as judge by designation.<sup>24</sup> The House Human Relations and Aging Committee broadened the definition of “law enforcement officer” to include probation officers and members and hearing officers of the State Board of Pardons and Paroles, in addition to police officers, sheriffs and deputy sheriffs, district attorneys, and 911 operators and dispatchers.<sup>25</sup> Finally, the House floor substitute changed the term “District attorney” to “Prosecuting attorney” so that it would be clear that the intent was to refer to assistant district attorneys, deputy district attorneys, and solicitors as well.<sup>26</sup>

*Code Section 19-13-52*

Code section 19-13-52(a) provides for legislative intent.<sup>27</sup> The purpose of the Act is to provide for a central database of Protective Orders that will be accessible to law enforcement officers, prosecuting attorneys, and the courts at all times.<sup>28</sup> The House floor changed the language in this section to refer to prosecuting attorneys rather than “District attorneys.”<sup>29</sup>

Code section 19-13-52(b) assigns database maintenance to the Georgia Crime Information Center (GCIC).<sup>30</sup> The bill as introduced provided that the database would be “administratively attached to and maintained by” the GCIC, but the Senate Judiciary Committee removed the “administrative attachment” language.<sup>31</sup> The House Committee on Human Relations and Aging added language providing that the Georgia Commission on Family Violence may consult with the GCIC regarding the effectiveness of the database.<sup>32</sup>

Code section 19-13-52(c) provides that the registry shall be “complete and systematic” and available to law enforcement officers and the

23. *See id.* § 19-13-51.

24. *Compare* SB 57, as introduced, 2001 Ga. Gen. Assem., with SB 57 (SCS), 2001 Ga. Gen. Assem.

25. *Compare* SB 57 (SCS), 2001 Ga. Gen. Assem., with SB 57 (HCS), 2001 Ga. Gen. Assem.

26. *Compare* SB 57 (HCS), 2001 Ga. Gen. Assem., with SB 57 (HFS), 2001 Ga. Gen. Assem.

27. *See* O.C.G.A. § 19-13-52(a) (Supp. 2001).

28. *See id.*

29. *Compare* SB 57 (HCS), 2001 Ga. Gen. Assem., with SB 57 (HFS), 2001 Ga. Gen. Assem.

30. *See* O.C.G.A. § 19-13-52(b) (Supp. 2001).

31. *Compare* SB 57, as introduced, 2001 Ga. Gen. Assem., with SB 57 (SCS), 2001 Ga. Gen. Assem.

32. *Compare* SB 57 (SCS), 2001 Ga. Gen. Assem., with SB 57 (HCS), 2001 Ga. Gen. Assem.

courts.<sup>33</sup> It also requires the GCIC to purge expired and dismissed orders on a daily basis and maintain them in a separate archive available only to the courts.<sup>34</sup> Some minor changes were made to the language in this subsection to reflect changes in the definitions section.<sup>35</sup>

Code section 19-13-52(d) provides for linkage to the NCIC and immediate transmittal to the national network.<sup>36</sup>

### *Code Section 19-13-53*

Code section 19-13-53(a) provides for the promulgation of forms.<sup>37</sup> The bill as introduced contained a set of forms for immediate use but anticipated the future promulgation of standardized forms by Uniform Superior Court Rule.<sup>38</sup> It also provided a deadline of July 1, 2002 for that promulgation.<sup>39</sup> The House, by floor substitute, removed the forms and amended this section to provide that the forms will be developed by the GCIC and the Georgia Superior Court Clerks' Cooperative Authority, and will contain information sufficient for both the registry and the NCIC.<sup>40</sup> The Act provides no deadline for the creation of these forms, and the registry will not become effective until 180 days after the forms are promulgated.<sup>41</sup>

Code section 19-13-53(b) provides for transmittal of protective orders and modifications to the GCIC by the end of the business day after they are filed by the clerk of the issuing court.<sup>42</sup> The GCIC may authorize alternative means of transmittal in cases of electronic failure.<sup>43</sup>

Code section 19-13-53(c) provides for timely entry and purging of data in the registry.<sup>44</sup> The fact that an order does not contain enough information to fill all of the data fields in the registry will not delay entry of what information is available.<sup>45</sup> The bill was amended on the

33. See O.C.G.A. § 19-13-52(c) (Supp. 2001).

34. See *id.*

35. Compare SB 57 (SCSFA), 2001 Ga. Gen. Assem., with SB 57 (HCS), 2001 Ga. Gen. Assem.

36. See O.C.G.A. § 19-13-52(d) (Supp. 2001).

37. See *id.* § 19-13-53.

38. See SB 57, as introduced, 2001 Ga. Gen. Assem.

39. See *id.*

40. Compare SB 57, as introduced, 2001 Ga. Gen. Assem., and SB 57 (HCS), 2001 Ga. Gen. Assem., with SB 57 (HFS), 2001 Ga. Gen. Assem.

41. See 2001 Ga. Laws 101, § 2, at 104.

42. See O.C.G.A. § 19-13-53(b) (Supp. 2001).

43. See *id.*

44. See *id.* § 19-13-53(c).

45. See *id.*

Senate floor to provide for purging as well as entry within twenty-four hours, of both orders and modifications.<sup>46</sup>

Code section 19-13-53(d) provides for enforcement of TPOs regardless of whether they are entered into the registry.<sup>47</sup>

#### *Code Section 19-13-54*

Code section 19-13-54 allows holders of valid foreign protective orders to have their orders entered into the registry by showing a certified copy to the clerk of court of any superior court.<sup>48</sup> The order does not have to be entered on the standardized form, and will be filed without cost in the same manner as otherwise provided in the Act.<sup>49</sup> Filing is voluntary and is not a prerequisite for enforcement of a foreign order in Georgia.<sup>50</sup>

#### *Code Section 19-13-55*

Code section 19-13-55 makes it a misdemeanor for any person, agency, or court to disseminate or disclose information obtained from the registry in any manner other than as provided by law.<sup>51</sup> The bill as introduced did not make it a misdemeanor to violate this section.<sup>52</sup> The Senate Judiciary Committee added the misdemeanor language,<sup>53</sup> and the Senate changed the language by floor amendment so that the section would cover not only those having access to the registry but also anyone who obtains information from the registry in any other way.<sup>54</sup>

#### *Code Section 19-13-56*

Code section 19-13-56 grants immunity from civil liability for law enforcement officers, court officers, and officers of the registry for failure or delay in the filing, transmittal, and entry of protective orders.<sup>55</sup>

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46. Compare SB 57 (SCS), 2001 Ga. Gen. Assem., with SB 57 (SCSFA), 2001 Ga. Gen. Assem.

47. See O.C.G.A. § 19-13-53(d) (Supp. 2001).

48. See *id.* § 19-13-54 (Supp. 2001).

49. See *id.*

50. See *id.*

51. See *id.* § 19-13-55 (Supp. 2001).

52. See SB 57, as introduced, 2001 Ga. Gen. Assem.

53. Compare SB 57, as introduced, 2001 Ga. Gen. Assem., with SB 57 (SCS), 2001 Ga. Gen. Assem.

54. Compare SB 57 (SCS), 2001 Ga. Gen. Assem., with SB 57 (SCSFA), 2001 Ga. Gen. Assem.

55. See O.C.G.A. § 19-13-56 (Supp. 2001).

**It also immunizes such officers and officials from liability for actions taken in reliance upon the registry.<sup>56</sup>**

*Paul Menair*

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**56. *See id.***