

9-1-1994

DOMESTIC RELATIONS Family Violence: Provide that a Hearing Shall Be Held Within Ten Days of the Filing of a Family Violence Petition or as Soon as Practical Thereafter, But in No Case Later Than Thirty Days After the Filing of a Family Violence Petition; Provide for the Conversion of Protective Orders to Permanent Orders

Elizabeth T. Baer

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

 Part of the [Law Commons](#)

Recommended Citation

Elizabeth T. Baer, *DOMESTIC RELATIONS Family Violence: Provide that a Hearing Shall Be Held Within Ten Days of the Filing of a Family Violence Petition or as Soon as Practical Thereafter, But in No Case Later Than Thirty Days After the Filing of a Family Violence Petition; Provide for the Conversion of Protective Orders to Permanent Orders*, 11 GA. ST. U. L. REV. (1994).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol11/iss1/20>

DOMESTIC RELATIONS

Family Violence: Provide that a Hearing Shall Be Held Within Ten Days of the Filing of a Family Violence Petition or as Soon as Practical Thereafter, But in No Case Later Than Thirty Days After the Filing of a Family Violence Petition; Provide for the Conversion of Protective Orders to Permanent Orders

CODE SECTIONS: O.C.G.A. §§ 19-13-3 to -4 (amended)
BILL NUMBER: SB 555
ACT NUMBER: 1186
SUMMARY: This portion of the Act, pertaining to petitions seeking relief from family violence, extends the length of time between the petition and the time of the hearing from ten to thirty days. Further, it gives the court discretion to convert a temporary order granting relief from family violence to a permanent order.
EFFECTIVE DATE: April 14, 1994

History

The former law required a judge issuing a family violence *ex parte* order to set a hearing date within ten days from the filing of a petition.¹ In rural counties, where judges serve a geographically large, multi-county district, often it was hard to schedule a hearing within the required time.² As a result, sometimes the *ex parte* order expired, leaving the victim unprotected.³ Furthermore, formerly a family violence petition automatically expired within six months.⁴ To extend the relief granted beyond that time period required the victim to file a new petition, thus incurring additional court costs, or risking loss of the victim's protection.⁵

-
1. 1981 Ga. Laws 880, 881 (codified at O.C.G.A. § 19-13-3 (1991)).
 2. Telephone Interview with Sen. Mary Margaret Oliver, Senate District No. 42 (Mar. 21, 1994) [hereinafter Oliver Interview].
 3. *Id.*
 4. 1981 Ga. Laws 880, 882 (codified at O.C.G.A. § 19-13-4(c) (1991)).
 5. Oliver Interview, *supra* note 2.

SB 555

Hearing Time Limit Extended to Thirty Days After Filing Family Violence Petition

This portion of the Act amends title 19 relating to domestic relations and, in particular, family violence matters.⁶ Previously, the law required that a hearing be held within ten days of the filing of a petition, at which the petitioner was required to show by a preponderance of the evidence why the *ex parte* order should remain in full force and effect.⁷ Under the Act, judges are less pressured to schedule hearings within the time allowed, and victims are not at risk that their *ex parte* orders will expire before a hearing can be scheduled.⁸ Senator Mary Margaret Oliver, Chairman of the Senate Judiciary Committee, originally introduced this portion of SB 555 as SB 467.⁹ The bill, as introduced, extended the maximum time period between the filing of a family violence petition and holding of a hearing from ten days to thirty days.¹⁰ This bill passed the Senate but stalled in the House after two readings¹¹ Rather, for legislative efficiency, the House Judiciary Committee added the Senate Committee substitute of SB 467 to the House Committee substitute of SB 465, also dealing with family violence petitions.¹² The full House never voted on the House Committee substitute of SB 465, although it was also read twice.¹³ Rather, by agreement between Senator Oliver and Representative Tom Cauthorn, Representative Cauthorn offered the House Committee substitute of SB 465 as a floor amendment to the Committee substitute of SB 555.¹⁴ SB 555 was a bill dealing with paternity and the right to a hearing before automatic income deduction may be ordered when

6. O.C.G.A. § 19-13-3(c) (Supp. 1994); *see infra* note 15.

7. 1981 Ga. Laws 880, 881 (codified at O.C.G.A. § 19-13-3(c) (1991)).

8. Oliver Interview, *supra* note 2.

9. *See* SB 467, as introduced, 1994 Ga. Gen. Assem.

10. *Id.*

11. Final Composite Status Sheet, Mar. 16, 1994.

12. Telephone Interview with Rep. Tom Cauthorn, House District No. 35 (Apr. 1, 1994) [hereinafter Cauthorn Interview]; *see* SB 465 (HCS), 1994 Ga. Gen. Assem.

13. *See* Final Composite Status Sheet, Mar. 16, 1994.

14. Cauthorn Interview, *supra* note 12.

child support is one month in arrears.¹⁵ It was this Committee substitute floor amendment of SB 555 which passed the House.¹⁶

Conversion of Protective Orders to Permanent Orders

Under the Act, upon a showing of good cause and upon motion by the victim and notice to the respondent, the court may, at its discretion, convert a temporary order to a permanent order.¹⁷ In contrast, under the previous law, the relief granted under a family violence petition automatically expired after six months.¹⁸

Senator Oliver originally introduced this portion of SB 555 as SB 465.¹⁹ The bill, as originally introduced, allowed the court, upon a showing of good cause, to extend the initial six-month protective order for a second six-month period.²⁰ In the alternative, upon motion by the victim and after a hearing, the court, in its discretion, could have converted a temporary order into a permanent order.²¹ The Senate Judiciary Committee deleted the six-month extension, eliminated the good cause showing, and gave the court discretion to convert a temporary order into a permanent order upon petitioner's motion, notice to the respondent, and a hearing.²² The Senate Judiciary substitute

15. SB 555 affects three separate titles of the Code: title 19, Domestic Relations; title 50, State Government; and title 17, Criminal Procedure. Furthermore, SB 555 affects three separate chapters in title 19. This *Peach Sheet* only addresses the changes made to title 19, chapter 13, Family Violence. See *Legislative Review*, 11 GA. ST. U. L. REV. 176 (1994) for legislation affecting title 19, Domestic Relations, chapter 6, Alimony and Child Support Generally and *Legislative Review*, 11 GA. ST. U. L. REV. 129 (1994) for legislation affecting title 17, Criminal Procedure, chapter 6, Bonds and Recognizances. No treatment is given to the rest of the Act, which affects the following Code sections: O.C.G.A. §§ 19-7-27, -40 (requiring hospital assistance in establishing paternity and providing for administrative hearings to establish paternity); § 19-11-14 (giving full faith and credit to foreign states' administrative tribunal decisions establishing paternity); and § 50-13-13 (empowering administrative agencies with the same procedural enforcement as judicial courts).

16. Final Composite Status Sheet, Mar. 16, 1994; SB 555 (HFACS), 1994 Ga. Gen. Assem. An identical version to SB 467 was introduced in the House as HB 1300. Compare HB 1300, as introduced, 1994 Ga. Gen. Assem. with SB 467, as introduced, 1994 Ga. Gen. Assem. HB 1300 passed the House on Feb. 1, 1994 and was read once in the Senate on Feb. 2, 1994, Final Composite Status Sheet, Mar. 16, 1994, where it died, since, by agreement between the sponsors of both bills, the texts of both were added to the Committee substitute to SB 555 by floor amendment. Cauthorn Interview, *supra* note 12; see *infra* notes 24-25 and accompanying text.

17. O.C.G.A. § 19-13-4(c) (Supp. 1994).

18. 1981 Ga. Laws 880, 882 (codified at O.C.G.A. § 19-13-4(c) (1991)).

19. See *infra* notes 24-25 and accompanying text; SB 465, as introduced, 1994 Ga. Gen. Assem.

20. SB 465, as introduced, 1994 Ga. Gen. Assem.

21. *Id.*

22. Compare SB 465 (SCS), 1994 Ga. Gen. Assem. with SB 465, as introduced, 1994 Ga. Gen. Assem.

passed the Senate, was read twice in the House, and referred to the House Rules Committee.²³ The House Rules Committee would not recommend this bill or several others sponsored by Senator Oliver, hoping to create leverage to force her to report other House bills out of the Senate Judiciary Committee, of which she is Chairman.²⁴ When a stalemate developed, Senator Oliver and Representative Cauthorn agreed that Representative Cauthorn would offer House Committee substitute of SB 465 as a floor amendment to the Committee substitute SB 555.²⁵ Although Senator Oliver, sponsor of the bill, stated the Act enjoyed wide support in both chambers, she also commented that Senator Skin Edge, minority Senate Whip, expressed concern over the extended length of time that respondents would be ordered out of their home by the protective order while waiting for a hearing.²⁶

Elizabeth T. Baer

23. Final Composite Status Sheet, Mar. 16, 1994; Oliver Interview, *supra* note 2.

24. Cauthorn Interview, *supra* note 12.

25. *Id.*

26. *Id.*