

# Georgia insight

Sue Ella Deadwyler  
[www.georgiainsight.org](http://www.georgiainsight.org)  
"She hath done what she could."  
Mark 14:8a  
"...and having done all ... stand."  
Ephesians 6:13c

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## Guns in Georgia: Questions & Answers<sup>1</sup>

### ***Can you have a loaded gun in your car in Georgia?***

Yes, any person who is not prohibited by law from possessing a handgun or long gun may have or carry it in his or her vehicle (owned or rented by you). In a vehicle you do not own, you must have the permission of the person who has legal control of the vehicle.

### ***Can you drink and carry a gun in Georgia?***

You may not discharge a firearm while under the influence. You may carry with a valid permit in restaurants that serve alcohol, unless posted (GA Code 16-11-134).

### ***Is Georgia a Stand Your Ground State?***

Yes. A person has no duty to retreat and is justified in threatening or using force against another when the person reasonably believes such threat or force is necessary to defend himself or herself or a third person against another's imminent use of unlawful force or to prevent death or great bodily injury. Force may also be used to prevent the commission of a forcible felony, such as rape, armed robbery or kidnapping (GA Code 16-3-21).

### ***Is Georgia an Open Carry State?***

No. You must have a Georgia Weapons Carry License (WCL) or a license from a state that Georgia honors. The minimum age to obtain a WCL is 21, and no training is required.

### ***Is it legal to keep a gun in your glove box in Georgia?***

Yes, Georgia allows anyone who is not prohibited from possessing firearms to have or carry a gun on his or her person inside a vehicle.

### ***Is there a Castle Law in Georgia?***

Yes, a person is justified in threatening or using force against another when he or she reasonably believes that such is necessary to prevent or stop unlawful entry into or attack upon a home. The use of deadly force is only justified if the entry is attempted or made for the purpose of assault or violence against any person in the house.

### ***Can you carry a gun into a bar in Georgia?***

Yes, a person with a Georgia Weapons Carry License or a license from a state Georgia honors may carry a concealed firearm in a place that's not off-limits (GA Code Ann. 16-11-127(b)).

## **Examples of Guns<sup>2</sup> Protecting Georgians**

**February 12, 2019 Jackson County, Georgia** homeowner used a gun to defend self and home.

**On February 14, 2019 in Evans, Georgia** a mother stopped an assault on her 15-year-old son by shooting and killing her boyfriend who was violently attacking him.

**On February 20, 2019 a 79-year-old Commerce, Georgia** homeowner reported a burglar breaking into her home through an upstairs window. When he ignored her warnings, she shot at him and he hid in a closet until police arrived.

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<sup>1</sup> Source: United States Concealed Carry Association (USCCA) <sup>2</sup> Source: Heritage Fdn, Senior Legal Policy Analyst Amy Swearer

## **“Red Flag” Bill Introduced in Georgia**

*“All law enforcement agencies shall develop policies and procedures regarding the acceptance, storage, and return of firearms, ammunition, or licenses required to be surrendered under this part.”*

– Georgia H.B. 435, Alive for the 2020 Legislative Session.

Five Democrat members of the State House of Representatives co-signed H.B. 435, introduced February 25, 2019 by Democrat Representative Matthew Wilson, House District 80.

The Georgia legislation was introduced five months before “red flag” law demands gained momentum following two massacres – one that killed 22 shoppers in an El Paso, Texas Wal-Mart on August 3<sup>rd</sup>, followed by the mass murder of nine individuals thirteen hours later in a Dayton, Ohio nightclub.

### **Provisions of Georgia’s Red Flag Legislation**

- It creates a new law entitled, “Georgia Red Flag Protective Order,” which adds 421 lines of new language to Title 16, Chapter 11, Article 4 of the Official Code of Georgia Annotated.
- A family or household member or others living/having lived together in the house could petition superior court for a “risk protection order” against a family or household member (“respondent”) who may “give rise to a reasonable fear of significant dangerous acts” to self or others. The judge may determine its longevity, but the order could not exceed 12 months.
- There would be no charge for filing a petition, serving the respondent with the petition or holding a hearing. The clerk of the court would provide for in-person serving of petitions.
- The petitioner would be required to identify all firearms and ammunition the respondent owns, possesses, has custody of or controls.
- Immediately, a law enforcement officer serving a risk protection order would take the respondent’s firearms, ammunition and weapons carry license or renewal license and may get a search warrant if there is probable cause to believe the respondent has other weapons.
- The respondent would receive a receipt for such property confiscated by law enforcement.
- The respondent could request a hearing to vacate the order and, if it’s denied, the court must give particular reasons for the denial. If the order is vacated, all confiscated firearms, ammunition and related licenses would be returned.
- If a respondent transfers ownership of weapons to another, they must be stored in a manner to prohibit access by the respondent. The recipient of the items must attest that they will not be transferred back to the respondent until the risk protection petition is vacated or ends.
- The Administrative Office of the Courts would develop, prepare and provide all printed materials necessary for the process, including a handbook for the court staff.

### **Other Family Violence Bills Alive<sup>1</sup> for the 2020 Legislative Session**

H.B. 20 Persons convicted of family violence offenses cannot possess or carry firearms.

H.B. 58 Convicted felons of family violence may not receive, possess or transport firearms.

H.B. 137 Persons convicted of family violence offenses cannot possess or carry firearms.

**ACTION for H.B. 20, 58, and 137 – Ask legislators to avoid restricting the Second Amendment.** Call Republican Public Safety & Homeland Security Committee Representatives Hitchens, Ch., 404 463-7855; J. Collins, V-Ch., 656-1803; Lott, Sec., 651-7737; Cooke, 656-0188; Gravley, 463-8143; Greene, 656-5105; Jasperse, 656-5943; Lumsden, 656-5087; Mathis, 656-0152; Petrea, 657-1803; Taylor, 656-0109; Werkheiser, 463-7857; Rick Williams, 656-0287

<sup>1</sup> Other gun bills alive for 2020: H.B. 2, 55, 122, 165, 238, 361, and 384 are in Rep. Hitchens’ House Public Safety & Homeland Security Com. Call 404 463-7855. Sen. Albers’ Public Safety Com. will have S.B. 33, 39, 50, 78, 84, 105, and 238. Call 404 463-8055.

## **Gun Bills Signed into Law by Governor Kemp**

### **H.B. 33 Time Extended for Discharged Service Members to Renew Carry License,**

introduced January 17, 2019 by House District 12 Representative Eddie Lumsden, passed the House 148-20 and the Senate 50-0 on March 20<sup>th</sup>. It adds three new paragraphs to current law.

(a) One new paragraph defines “service member” as an active duty member of the regular or reserve component of the Army, Navy, Marines, Coast Guard, Air Force, U.S. National Guard, Georgia Army National Guard or Georgia Air National Guard.

(b) The second new paragraph authorizes an additional six months carry-time for discharged military personnel whose weapons carry license or renewal license expired while they were on active duty outside the state. Such military personnel must possess and be able to produce proof of discharge and proof of the license that expired.

(c) Discharged service members whose carry license expired while on active out-of-state duty may apply for a renewal license, if application is made within six months of discharge from active duty or reassignment within Georgia. Corroboration of that requires a copy of the service member’s official military orders or written verification signed by the commanding officer.

**S.B. 25 When a Vehicles Need NOT Stop for a School Bus**, introduced January 17, 2019 by Senator Bill Heath of District 31, passed the House 171-0 on February 13<sup>th</sup> and the Senate 55-0 on February 7<sup>th</sup>. It became law when Governor Kemp signed it on February 15<sup>th</sup>. Now, traffic response toward a school bus is determined by the structure of the road or highway where the vehicle and the bus meet. S.B. 25 explains vehicle requirements in various locations as follows:

“The driver of a vehicle upon a highway with separate roadways that are separated by a grass median, unpaved area, or physical barrier need not stop upon meeting or passing a school bus which is on the separate roadway or upon a controlled access highway when the school bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.”

## **Guns are NOT Mentioned in School Safety Act**

**S.B. 15 Keeping Georgia’s Schools Safe Act**, introduced January 16<sup>th</sup> by Senator John Albers, District 56, passed the Senate 42-11 and the House 110-56 on April 2<sup>nd</sup>. It requires every public school to prepare a safety plan, revise requirements for the contents of the plan, designate coordinators, and work with the Georgia Information Sharing Analysis Center to track and share information concerning threats, warnings, and developing situations.

Smart phones or other digital devices will be used to communicate. The Georgia Bureau of Investigation will develop and distribute to every school a digital copy of information to be displayed about any APP that is, specifically, designed for reporting suspicious, unsafe, or unlawful activity. Such APP information displays must be posted in every school as a link for reporting pertinent safety information.

The GBI will have limited jurisdiction throughout Georgia for identifying and investigating school safety threats, warnings and developing situations. Also, the GBI will provide for powers, including subpoena power, and define roles and responsibilities for prevention, discovery, response and recovery from such school safety issues.

## **Proposal: Have Medicaid/PeachCare Pay for In-School Mental Health Service**

*“Of school-age children who receive mental health services, almost 80% receive them at school through school nurses, school counselors, school psychologists, and school social workers<sup>1</sup>. School nurses collaborate with school personnel, community health care professionals, students and families, in the assessment, identification, intervention, and referral of children in need of mental health services.”*

– Georgia House of Representatives Children’s Mental Health Study Committee, Final Report December 2015

The Georgia Department of Education has implemented several mental health programs in public schools. Also, 350 schools in 50 school systems have implemented Positive Behavioral Interventions and Supports (PBIS), which “is a framework for changing school climate<sup>2</sup> to be more positive, safe and secure.” In 2015, twenty-eight additional school districts had requested PBIS training. Possibly, the program has expanded further during the last four years.

The Children’s Mental Health Study Committee Report of 2015 listed school staff that provided in-school mental health services to Georgia students. At that time, 6,325 (likely expanded now) were employed to diagnose the mental health of Georgia school children and provide treatment. There were 1,555 school nurses (ratio 1:1,093); 3,400 school counselors (ratio 1:500); 750 school psychologists (ratio 1:2,475); and 620 school social workers (ratio 1:2,742).

**The report recommended action ASAP.** Following four public hearings in the Coverdell Legislative Office Building in Atlanta, the Committee issued a Final Report before December 1, 2015, as mandated by H.R. 641, which created the special study committee.

Number 2 of 16 recommendations requested a State combined mental health service group of psychiatrists, psychologists, clinical social workers, mental health counselors/therapists, *school nurses, school counselors, school psychologists, and school social workers.*

Number 5 would add *psychiatry training with a focus on child psychiatry* in medical school rotations. Number 6 would expand *mental health training of pediatric primary care physicians* to treat children’s mental health. Numbers 8 and 9 would expand PBIS to all grades, including K – 3. Number 11 would create grants for more social and emotional learning training to more schools and *include Pre-K*. Number 12 would extend mental health first-aid training.

**“Expanded Nursing Services for Local Education Agencies”** is the title of Georgia’s Department of Community Health (DCH) proposal<sup>3</sup> to expand the scope of school nursing services with Medicaid/PeachCare for Kids, and funnel reimbursement through the Children’s Intervention School Services (CISS) program.

If these recommendations are approved, DCH would reimburse Local Education Agencies (LEAs) for medical nursing services to school children ages 3 – 20. Such in-school services may be rendered via telemedicine and, for billing purposes, the LEA would be deemed a telemedicine originating site. Nursing services may be reimbursed through ACE<sup>4</sup>.

**ACTION – Contact Governor Kemp’s Office at 404 656-1776 and ask him to stop this program until legislation can pass in 2020 mandating parental consent before a minor receives in-school mental health diagnosis or treatment.**

<sup>1</sup> Atkins, M., Hoagwood, K.E., Kutash, K., & Seidman, E. (2010). Toward the Integration of education and mental health in schools, *Administration and Policy in Mental Health*.

<sup>2</sup> No definition of “climate” or the issues to be made “positive, safe and secure.”

<sup>3</sup> At this writing, the Centers for Medicare & Medicaid Services are considering the proposal.

<sup>4</sup> Administrative Claiming for Education (ACE) Programs <https://costreporting.pcgus.com/Default.aspx?ReutrnURI=%2fga>.