

House Bill 120

By: Representatives Byrd of the 20th and Kahaian of the 81st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-11-173 of the Official Code of Georgia Annotated, relating to
2 preemption of local regulation and lawsuits relative to firearms, ammunition, and other
3 weapons, so as to provide for a definition; to prohibit the enforcement of federal and other
4 extreme risk protection orders in this state; to prohibit the acceptance of federal funds
5 relating to extreme risk protection orders; to provide for applicability; to provide for cause
6 of action and venue; to provide for civil monetary penalty; to provide for hearings; to
7 authorize action by the Attorney General; to waive sovereign immunity; to provide for
8 related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Code Section 16-11-173 of the Official Code of Georgia Annotated, relating to preemption
12 of local regulation and lawsuits relative to firearms, ammunition, and other weapons, is
13 amended by adding a new subsection to read as follows:

- 14 “(b.1)(1) As used in this subsection, the term 'extreme risk protection order' means:
15 (A) Any gun control law, order, or measure that directs the temporary or permanent
16 seizure of any firearm, firearm accessory, or ammunition of an individual without the
17 adjudication of a contested court case; or
18 (B) Any federal or state statute, federal or state rule, federal or state executive order,
19 or any federal or state judicial order or finding that:
20 (i) Prohibits a Georgia citizen from owning, possessing, transporting, transferring,
21 or receiving any firearm, firearm accessory, or ammunition unless the individual has
22 been convicted of a violent felony crime or is otherwise prohibited by state law from
23 possessing a firearm; or
24 (ii) Orders the removal or requires the surrender of any firearm, firearm accessory,
25 or ammunition from a Georgia citizen unless the individual has been convicted of a
26 violent felony or is otherwise prohibited by state law from possessing a firearm.
27 (2) Any federal order of protection, other judicial order issued by a federal court, or
28 federal executive order that is an extreme risk protection order or otherwise directs the
29 confiscation of any firearm, firearm accessory, or ammunition from any law-abiding
30 citizen within the borders of this state shall not be enforced in this state by any state
31 agency, political subdivision, or state or local law enforcement agency.
32 (3) No state agency, political subdivision, or state or local law enforcement agency shall
33 receive any federal moneys for the purpose of enforcing any federal statute, federal rule,
34 federal executive order, or federal judicial order or findings for the purpose of enforcing
35 any state statute, state rule, state executive order, or state judicial order or findings that
36 would have the effect of enforcing an extreme risk protection order against a Georgia
37 citizen.
38 (4) No state entity or employee thereof, political subdivision or employee thereof, or
39 other entity or person shall have the authority to enforce or attempt to enforce an extreme

40 risk protection order regardless of the extreme risk protection order's origin or the
41 authority of the issuing entity.

42 (5) Nothing in this subsection shall apply to any agent of the federal government
43 enforcing a federal law or federal order or be construed to prohibit Georgia officials from
44 accepting aid from federal officials in an effort to enforce Georgia laws.

45 (6) A political subdivision or state or local law enforcement agency that employs a law
46 enforcement officer who knowingly acts to violate this subsection and enforce an extreme
47 risk protection order under the color of any federal or state statute, federal or state rule,
48 federal or state executive order, or federal or state judicial order or finding shall be liable
49 to the party against whom the extreme risk protection order was enforced in an action at
50 law, suit in equity, or other proper proceeding for redress and shall be subject to a civil
51 penalty of \$50,000.00 per occurrence.

52 (7) Any person injured under this subsection shall have standing to pursue an action for
53 injunctive relief in the superior court of the county in which the action allegedly occurred.
54 The Attorney General shall also have standing to bring an action to enforce the provisions
55 of this subsection.

56 (8) The court shall hold a hearing on any motion for a temporary restraining order or
57 preliminary injunction within 30 days of service of a petition for the same.

58 (9) In an action brought under this subsection by a party against whom an extreme risk
59 protection order was enforced, a court may order injunctive or other equitable relief,
60 recovery of damages, other legal remedies, and payment of reasonable attorney's fees,
61 costs, and expenses of the party. The relief and remedies set forth in this paragraph shall
62 not be deemed exclusive and shall be in addition to any other relief or remedies permitted
63 by law. The court may award the prevailing party, if not the state of Georgia or a
64 political subdivision thereof, reasonable attorney's fees and costs.

65 (10) Sovereign immunity shall not be an affirmative defense to any action brought under
66 this subsection."

67

SECTION 2.

68 All laws and parts of laws in conflict with this Act are repealed.