

To: TPO Judges

Re: HB 231 Updates the Domestic Violence Statute to include dating violence.

A new Dating Violence statute for TPOs has been passed.

Signed by the Governor: May 10, 2021

Effective Date: July 1, 2021

I. SHORT SUMMARY

- Dating violence is between two people when:
 - there is a current pregnancy; or
 - are currently in a dating relationship; or
 - have been in a dating relationship within the last **six months**.
- “Dating relationship” defined as:
 - “committed romantic relationship” with a “level of intimacy” that is more than friendship.
 - **does not** require sexual involvement.
- Court:
 - Same as the FV statute under O.C.G.A. § 19-13-3, “Petition seeking relief from family violence; temporary relief ex parte; hearing; dismissal of petition upon failure to hold hearing; procedural advice for victims; delays”
 - Hearing must be held within 10 days; petitioner must prove by a preponderance of the evidence; social services may assist in completing forms; if the court finds the Respondent is avoiding service court can delay dismissal for an additional 30 days.
- At the hearing, the court must confirm the existence of a dating relationship by determining and provide findings of fact on any of the following:
 - Whether there is a committed romantic relationship between the parties that is more than friendship/ordinary business/social/educational relationship;
 - Factors to corroborate the dating relationship;
 - The parties developing “interpersonal bonding” that go beyond friendship;
 - The length of the relationship;
 - The nature and frequency of interactions between the parties that would indicate that the parties intended to be in a dating relationship;

- They held themselves out to others as having a relationship; or
- Both parties acknowledged their dating relationship.

II. Highlights of New Statute: O.C.G.A. §19-13A-1, et seq. (direct quotations from statute is italicized):

- O.C.G.A. §19-13A-1:

(1) 'Dating relationship' means a committed romantic relationship characterized by a level of intimacy that is not associated with mere friendship or between persons in an ordinary business, social, or educational context; provided, however, that such term shall not require sexual involvement.

(2) 'Dating violence' means the occurrence of one or more of the following acts between persons through whom a current pregnancy has developed or persons currently, or within the last six months were, in a dating relationship:

(A) Any felony; or

(B) Commission of the offenses of simple battery, battery, simple assault, or stalking.

- Jurisdiction under O.C.G.A. §19-13A-2 is the same as that of FV under O.C.G.A. § 19-13-2
 - Jurisdiction is where Respondent resides, unless the Respondent is a nonresident, in which case, where the Petitioner resides or were the act/injury involving dating violence occurred.
- O.C.G.A. § 19-13-3 is repeated in the new O.C.G.A. §19-13A-3:
 - (a) *Upon the filing of a verified petition in which the petitioner alleges with specific facts that probable cause exists to establish that dating violence has occurred in the past and may occur in the future, the court may order such temporary relief ex parte as it deems necessary to protect the petitioner from dating violence. If the court issues an ex parte order, a copy of the order shall be immediately furnished to the petitioner and such order shall remain in effect until the court issues an order dismissing such order or a hearing as set forth in subsection (b) of this Code section occurs, whichever occurs first.*
 - (b) *Through (d): Hearing must be held within 10 days; petitioner must prove by a preponderance of the evidence; social services may assist in completing*

forms; if the court finds the Respondent is avoiding service court can delay dismissal for an additional 30 days.

- Court must find that there is a dating relationship under O.C.G.A. §19-13A-4(a).

(1) In order to determine if a protective order alleging dating violence shall be granted, the court shall provide findings of fact establishing that:

(A) There is a committed romantic relationship between the parties that is not associated with mere friendship or ordinary business, social, or educational fraternization;

(B) Factors exist which corroborate the dating relationship;

(C) The parties developed interpersonal bonding above a mere casual fraternization;

(D) The length of the relationship between the parties is indicative of a dating relationship;

(E) The nature and frequency of the parties' interactions, including communications, indicate the parties intended to be in a dating relationship;

(F) The parties by statement or conduct demonstrated an affirmation of their relationship to others; or

(G) Both parties have acknowledged the dating relationship.

(2) Nothing in this chapter shall be construed as preventing the filing or granting of a protective order otherwise provided for under law for persons who reside together.

- Similar to O.C.G.A § 19-13-4 is O.C.G.A. §19-13A-4 (b):

The court may grant the protective order or approve any consent agreement. The court shall not have the authority to issue or approve mutual protective orders concerning paragraph (1), (3), or (5) below, or any combination thereof, unless the respondent has filed a counter-petition no later than three days prior to the hearing.

The orders or agreements may:

(1) Direct the respondent to refrain from such acts;

(2) Provide for possession of personal property of the parties;

(3) Order the respondent to refrain from harassing or interfering with the petitioner;

(4) Award costs and attorney's fees to either party; and

(5) Order the respondent to receive appropriate psychiatric, psychological, or educational services as a further measure to prevent the recurrence of dating violence.

- The remainder of O.C.G.A. §19-13A-4 echoes O.C.G.A. § 19-13-4 (b) through (d):

The clerk will provide a copy of the TPO to the sheriff; the order will remain effective for one year; upon motion, notice, and hearing the court may convert the TPO to a 3 year or permanent order; the TPO will apply and be effective throughout the state.