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# Answering the Call from Victims of Dating Violence: Georgia's New Dating Violence Law

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## Answering the Call from Victims of Dating Violence: Georgia's New Dating Violence Law

### Cover Page Footnote

J.D. Candidate, 2024, University of Georgia School of Law, B.A. Political Science, 2021, University of Georgia. A special thank you to Representative Houston Gaines, Solicitor General Rebecca Grist, and Judge Wade Padgett for their efforts in educating me on the status and evolution of Georgia's Dating Violence law. Thanks also to my family for their love and support.

## **ANSWERING THE CALL FROM VICTIMS OF DATING VIOLENCE: GEORGIA'S NEW DATING VIOLENCE LAW**

*Sydney K. Parish\**

*Dating violence is a topic that has garnered increased awareness in recent days, both in the media and in the legal field. Many states have begun to pass legislation in attempt to address this issue and provide relief for victims of dating violence. In the summer of 2021, the state of Georgia passed House Bill 231, what later became known as Georgia's Dating Violence law. This Article first examines our nation's history of intimate partner violence to show why dating violence legislation was so desperately needed and how these legislative reforms have attempted to heal a system that for so long has excluded victims of dating relationships. Specifically, this Article examines the history of House Bill 231, which codified Georgia's dating violence law, and why it took Georgia so much longer than other states to enact such a statute. You will hear from Georgia State Representative Houston Gaines, the author and strong proponent of this bill on how difficult it was to get the bill passed, despite the good that it set out to do for the state's high rates of violence. Representative Gaines speaks to the culture of the General Assembly, as well as how and why the bill was written as a separate statute section. You will also hear from the Solicitor General of Bibb County, Rebecca Grist, on why she felt the law was needed and the process of working alongside the state legislature to create a bill that helped the largest number of people.*

*This Article also emphasizes the similarities and differences between Georgia's law and the laws of other states, specifically addressing the idea that Georgia codified dating violence as its own unique statute, unlike the majority of other states that just added a provision or section to their already codified domestic violence laws. Further, an argument is made about whether Georgia's method of*

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\* J.D. Candidate, 2024, University of Georgia School of Law, B.A. Political Science, 2021, University of Georgia. A special thank you to Representative Houston Gaines, Solicitor General Rebecca Grist, and Judge Wade Padgett for their efforts in educating me on the status and evolution of Georgia's Dating Violence law. Thanks also to my family for their love and support.

*adding a new code section for dating violence has proven to be greater than its counterparts or whether it has unintended results.*

*Lastly, this Article will look at the consequences of Georgia's dating violence law since its enactment in July 2021. First, the law itself will be broken down to its bare bones, explaining each section and its intended effect. This Article delves deeper into the discussion of the temporary protective order section as one of the main objectives of this legislation is to allow victims of relationship violence to achieve relief from their aggressor through a temporary protective order accessible through their local courts. While there has not been a large amount of statistical data collected given such a short time frame since the legislation's enactment, this Article includes a first-hand account from Superior Court Judge Wade Padgett of the Columbia Judicial Circuit on his experience working with this new law and seeing its results play out daily in his job. Judge Padgett teases out some of the benefits he has experienced since the law's enactment as they relate to the rates of partner violence. He also mentions some of the law's drawbacks and how it has resulted in numerous temporary protective orders being issued and dismissed a short while later.*

*After examining the history of dating violence in this country, whether it be teen dating violence, or simply intimate partner violence, this Article will attempt to make an argument as to whether Georgia's new dating violence statute has answered the desperate call from the many victims of relationship violence in the state, or if it has fallen short, and if so, some ways to alleviate the shortcomings of the law.*



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## I. INTRODUCTION

Imagine that it is the summer of 2021. You are traveling across the country in a van with who you thought was the love of your life. You are a 22-year-old young woman, a popular vlogger, sharing your breathtaking experiences and picture-perfect relationship with the world through YouTube videos, Instagram posts, and Snapchat stories.<sup>1</sup> However, things are not as perfect as they seem. You and your boyfriend have been getting into disagreements, one even resulting in the police being called by a concerned third party who witnessed what they believed to be a domestic disturbance.<sup>2</sup> After speaking with the two of you, the police left without issuing so much as a citation.<sup>3</sup> Just a few weeks later, you are brutally strangled to death by your boyfriend and left behind with the world and those closest to you reeling in shock. This is the story of Gabby Petito whose disappearance that shocked the country and sparked a nationwide search for answers.<sup>4</sup> One can only wonder whether Gabby's story would have ended the same way if there were legal remedies more readily available to assist her.

Gabby is just one of many victims of what is known as intimate partner violence. This type of violence can encapsulate family violence among members of the same household, violence among married partners, or violence among those in a dating relationship. Intimate partner violence does not discriminate based on age, economic status, ethnicity, race, religion, or gender. It has the potential to affect each and every one of us, causing lasting impacts. According to the Center for Disease Control and Prevention's National Intimate Partner and Sexual Violence Survey, "[a]bout 1 in 5 women and nearly 1 in 13 men have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner

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<sup>1</sup> Lauren Clark, *Gabby Petito's story shines a light on domestic violence. Could her death have been prevented?* CBS NEWS (Sep. 17, 2022, 6:11 PM), <https://www.cbsnews.com/news/gabby-petito-domestic-violence-could-her-death-have-been-prevented/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

during their lifetime . . .”.<sup>5</sup> Furthermore, “. . . about 1 in 5 homicide victims are killed by an intimate partner [and]. . . over half of female homicide victims in the U.S. are killed by a current or former male intimate partner.”<sup>6</sup> According to the National Intimate Partner and Sexual Violence Survey, “[t]he most common age when intimate partner violence is first experienced by women is age 18–24 (38.6%), following by age 11–17 (22.4%), age 35–44 (6.8%), and age 45+ (2.5%).”<sup>7</sup> However, “[f]or men the most common age is age 18–24 (47.1%), following by age 25–34 (30.6%), age 11–17 (15.0%), age 35–44 (10.3%) and age 45+ (5.5%).”<sup>8</sup> Intimate partner violence also has become a public health issue with economic, individual, and societal costs.<sup>9</sup> One thing is clear, something must be done to address this nationwide crisis, and something must be done quickly. Naturally, many Americans turned toward the legislature and the courts to help.

In 2021, Georgia passed a new dating violence law in response to this nationwide issue in addition to the already existing criminal laws that address crimes such as simple battery regardless of the type of relationship.<sup>10</sup> Previously, most believed that violence between partners could only occur within the household, or among those who have entered into marriage. However, with the nation’s growing awareness about horrific instances of dating violence, like the heartbreaking murder of Gabby Petito, we are beginning to see that intimate partner violence exists outside the traditionally expected avenues.

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<sup>5</sup>*Fast Facts: Preventing Intimate Partner Violence*, Center for Disease Control, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> (last visited Oct. 28, 2022).

<sup>6</sup> *Id.*

<sup>7</sup> NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY SUMMARY REPORT, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL, DIVISION OF VIOLENCE PREVENTION AND CONTROL OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION, 49 (2010).

<sup>8</sup> *Id.*

<sup>9</sup> See *supra* note 5.

<sup>10</sup> H.R. 231, 156th Gen. Assemb., Reg. Sess. (Ga. 2021).



## II. HISTORY OF DATING VIOLENCE IN THE UNITED STATES

Relationship violence is not a new concept, but it has only begun to get the attention it deserves. The spark was initially lit back in the early 1990s when “in hearings conducted [between] 1990 [and] 1994, Congress noted that violence against women was a problem of national scope and that the majority of crimes associated with domestic violence, sexual assault, and stalking were perpetrated against women.”<sup>11</sup> As a result of these hearings, Congress established the Violence Against Women Act, which allowed to fund grant programs meant to better aid victims of domestic violence by establishing emergency shelters, counseling programs, and legal services.<sup>12</sup> In 2000, language additions—providing grants for shelters, counseling, hotlines, and other community programs—to the Violence Against Women Act addressed the phenomenon known as dating violence and in 2006 language was first added to address younger victims of relationship violence.<sup>13</sup>

As government entities began to acknowledge relationship violence for the first time, the country also began to observe just how common it was for someone to be impacted by some type of intimate partner violence. Sadly, most of us can say that either we know someone or we ourselves have been the victim. According to the Yale Law Review, “[b]ecause of its prevalence, the response to domestic violence has been dramatic and widespread, especially in the last ten years when more pressure has been brought to bear on the issue.”<sup>14</sup> No longer are police turning a blind eye towards abusers and the public overall is more educated about the effects of

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<sup>11</sup> EILEEN LARENCE, DOMESTIC VIOLENCE, SEXUAL ASSAULT, DATING VIOLENCE AND STALKING: NATIONAL DATA COLLECTION EFFORTS UNDERWAY TO ADDRESS SOME INFORMATION GAPS 1, (2011) (describing a report by the Director of Homeland Security and Justice regarding the Violence Against Women Act and Congressional hearings and discussing the prevalence of domestic violence in the United States and how to combat this issue).

<sup>12</sup> See *id.* at 1 (describing Congress’s hope to reduce domestic violence crimes at a national level).

<sup>13</sup> See *id.* (summarizing the expansion of the VAWA to provide more resources and consider more issues where funding could be granted).

<sup>14</sup> Judith A. Smith, *Battered Non-Wives and Unequal Protection-Order Coverage: A Call for Reform*, 23 YALE L. & POL’Y REV. 93, 95 (2005) (detailing the need for protection order coverage for those who are not married and living together).

relationship violence through training programs and legislative initiatives.<sup>15</sup> Some states like Texas have even taken steps to address the problem early on by implementing a dating violence policy within the school systems through the creation of a statute within the Texas Education Code.<sup>16</sup>

However, many of the laws and programs these states have implemented in an attempt to combat this growing issue of partner violence have left out a rather large group of people—those who categorize themselves as being in a dating relationship. For example, the state of New York’s domestic violence law only grants civil orders of protection to victims who [are] “members of the abuser’s family or household [and] the abuser’s crime was among the state’s official family offenses.”<sup>17</sup> This law completely alienates those partners who are not married, living together, or share children. Not to mention, this law overlooks the fact that minors who are able to enter romantic relationships are unable to obtain civil protective orders.<sup>18</sup> So, the issue before our nation is how to address this large subsection of people who are the victims of relationship violence but who do not fit the traditional societal norms of being in a family or living together.

#### A. DATING VIOLENCE DEFINED

The first step to solving this issue is to define what it means to be a victim of dating violence. Dating violence is defined as “an act, or a threat of physical abuse in the context of any interaction involved in the courtship or mate selection process.”<sup>19</sup> This

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<sup>15</sup> See *id.* (“Police are more willing to arrest abusers, and the public is more educated about the effects of domestic violence on victims.”).

<sup>16</sup> See Jessica Ramos, Comment, *Defining Violence on the Blackboard: An Overview of the Texas Education Code’s Approach to Teen Dating Violence*, 13 *THE SCHOLAR* 105, 112 (2010) (explaining how Texas’s approach to teen dating violence is a step in the right direction and has potential to be a more adequate remedy).

<sup>17</sup> Smith, *supra* note 14 at 96.

<sup>18</sup> See *id.* (“As a result of this dual inquiry, a large number of victims are denied civil protection orders either because they do not share the requisite relationship with their abusers or because they were not victims of the ‘correct’ type of violent crime.”).

<sup>19</sup> Kathryn E. Suarez, *Teenage Dating Violence: The Need for Expanded Awareness and Legislation*, 82 *CALIF. L. REV.* 423, 426 (1994) (discussing the importance of legislation for teenagers who are victims of dating violence).

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definition does not specify an age, race, gender, or ethnicity because dating violence is an issue that impacts everyone. It can “refer to a single violent act or a pattern of ongoing victimization and mistreatment.”<sup>20</sup> Dating violence is often viewed as “a specific form of domestic violence [including] a similar cyclical pattern of ongoing victimization and mistreatment.”<sup>21</sup> As for what constitutes “dating,” the word itself is extremely difficult to define because it can have drastically different meanings for different people.

“The Center for Disease Control and Prevention includes physical, sexual, and emotional or psychological abuse, as well as stalking in its definition of dating violence.”<sup>22</sup> Researchers have debated over how broadly or narrowly this term should be treated. Some have sought to define dating violence as only physical violence while others stress the need to address emotional abuse in tandem with both physical and sexual abuse.<sup>23</sup> Many have given “[t]he task of clearly defining what constitutes a ‘dating relationship’ . . . to the courts.”<sup>24</sup> Typically, the general rule when courts construe the meanings of remedial statutes is to construe the statute as liberally as possible to allow the law to protect the largest amount of victims.<sup>25</sup>

Following this rule, New Jersey created six factors to consider when determining whether two people are in a dating relationship.<sup>26</sup> The factors are listed as follows:

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<sup>20</sup> Kristin Conder, *Stop the Abuse: Expand Kentucky’s Domestic Violence Statute to Protect Individuals in Dating Relationships*, 82 U. CIN. L. REV. 1225, 1227 (2014) (citing R. BARRI FLOWERS, COLLEGE CRIME: A STATISTICAL STUDY OF OFFENSES ON AMERICAN CAMPUSES 80–81(2009) (breaking down Kentucky’s Domestic Violence statute to better aid victims of dating violence).

<sup>21</sup> *Id.*

<sup>22</sup> See Conder, *supra* note 5–7.

<sup>23</sup> See *id.* at 1227–28 (trying to show how different definitions can have an impact on victims, but dating violence is where “the aggressor’s violence is meant to impose his ‘will on the object of the violence by releasing frustrations. . . and lashing out at the victim”).

<sup>24</sup> Deborah F. Buckman, *What Constitutes “Dating Relationship” for Purposes of Domestic Violence Laws*, 66 A.L.R.7th 5, 1 (2023).

<sup>25</sup> See *id.* at 2 (“[T]he principle of protection espoused in the various domestic violence statutes ‘would not be served by a cramped interpretation of what constitutes a dating relationship.’”).

<sup>26</sup> *Id.*

- 1) Was there a minimal social interpersonal bonding of the parties over and above a mere causal fraternization?
- 2) How long did the alleged dating activities continue prior to the acts of domestic violence alleged?
- 3) What were the nature and frequency of the parties' interactions?
- 4) What were the parties' ongoing expectations with respect to the relationship, either individually or jointly?
- 5) Did the parties demonstrate an affirmation of their relationship before others by statement or conduct?
- 6) Are there any other reasons unique to the case that support or detract from a finding that a 'dating relationship' exists?<sup>27</sup>

Despite these specifically tailored questions created by the state, one court notes that “[d]ating’ is a loose concept undoubtedly defined differently by members of different socio-economic groups and from one generation to the next. . .” meaning that none of the New Jersey factors are determinative of having a dating relationship.<sup>28</sup> New Jersey’s approach, however, can serve as a strong starting point for the courts in determining what requirements a couple must satisfy in order to fall under a state’s dating violence statute if one exists.

Furthermore, some courts have held that a dating relationship for the purpose of domestic violence exists when the “parties frequently met or were intimate with each other over a substantial period of time, relationships were short but intimate or romantic, . . . [or] the relationship was close but not sexual.”<sup>29</sup> in this chaotic blend of interpretation of what it means to be “dating,” how does a victim of dating violence obtain relief from their partner? Different states have sought to address this growing issue by passing legislation specifically for victims of dating violence where they also seek to define what it means to be dating or in an intimate relationship.

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<sup>27</sup> *Id.*

<sup>28</sup> See Buckman, *supra* note 24 at 2.

<sup>29</sup> *Id.*

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There are two general categories used by states when including the term “dating relationship” in domestic violence statutes.<sup>30</sup> The first category, the descriptive approach, attempts to describe what a dating relationship looks like by trying to exclude coverage for friendly or business-like relationships that do not differ from more typical relationships between individuals. “Overall, the descriptive approach is somewhat limited as the absence of one element from the definition renders the victim unable to obtain a protective order against the abuser.”<sup>31</sup>

The other approach is known as the factor approach, which is similar to the list of questions utilized in New Jersey.<sup>32</sup> It is important to note that not all the factors from the statute need to be met in order for an individual to qualify for relief under the dating violence statute.<sup>33</sup> This approach looks at the individual circumstances of each case and is likely better equipped to handle the large variety of relationships and issues that come before a court. Because of this, the majority of states have adopted some form of the factor approach in drafting the language of their dating violence statutes or subsections.<sup>34</sup>

## B. BUT WHAT ABOUT TEENAGERS?

Now that there has been some consensus about what it means to be dating, it should be simple for legislators to draft laws that combat the level of violence among dating relationships, right? Not so fast. There is one other very important subgroup that most, if not all, the country initially overlooked when trying to address the issue of relationship violence. That group is perhaps considered to be some of our nation's most vulnerable—our children, specifically teenagers.

According to the Center for Disease Control and Prevention's Youth Risk Behavior Survey, “. . . among U.S. high school students

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<sup>30</sup> Conder, *supra* note 20–22, at 1229.

<sup>31</sup> *Id.* at 1230.

<sup>32</sup> See *supra* note 26.

<sup>33</sup> *Id.*

<sup>34</sup> University of Georgia, *State Definitions of Dating or Sexual Relationship* (2022) (unpublished research table) (on file with author) (notating all 50 states' definitions of dating or dating violence if they had one within their statutory code).

who reported dating during the 12 months before the survey: about 1 in 12 experienced physical dating violence and about 1 in 12 experienced sexual dating violence.”<sup>35</sup> The consequences of allowing these instances of violence to continue are both short and long-term. For instance, the study found that “[y]outh who are victims of teen dating violence are more likely to: experience depression and anxiety symptoms, engage in unhealthy behaviors, like using tobacco, drugs, and alcohol, exhibit antisocial behaviors, like lying, theft, bullying, or hitting, and think about suicide.”<sup>36</sup> This does not even begin to address future harmful effects both on individuals in their relationships going into adulthood or on society as a whole leading to increased rates of domestic violence between adults. According to Suarez, “[i]f largely ignored by society and the legal system, a whole new generation’s acts of violence will be cultivated and condoned.”<sup>37</sup> It is also important to note that presently, most domestic violence statutes completely exclude minors due to requirements of cohabitation, marriage, or even through an age requirement.<sup>38</sup> This is another factor that is important to keep in mind when considering how to best combat the issue of dating violence.

### III. DATING VIOLENCE CODIFIED: HOW STATES COMPARE AND DIFFER IN THEIR APPROACH

Now that we have discussed what *dating* violence is and just how prevalent it is in our country among a variety of groups, the states, courts, and other government officials set out to conquer the mighty task of putting a stop to violence in relationships outside of the

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<sup>35</sup> FAST FACTS: PREVENTING TEEN DATING VIOLENCE, CENTER FOR DISEASE CONTROL VIOLENCE PREVENTION, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/teendatingviolence/fastfact.html> (last visited Sep. 30, 2022) (detailing what teen dating violence is, some effects of the violence, and how to prevent them).

<sup>36</sup> *Id.*

<sup>37</sup> Kathryn E. Suarez, *Teenage Dating Violence: The Need for Expanded Awareness and Legislation*, 82 CALIF. L. REV. 423, 424 (1994) (emphasizing the widespread issue of teen dating violence and how current state codes do not allow for teenage victims of dating violence to obtain relief and asking that states reform and expand their legislation to further protect this class of vulnerable people).

<sup>38</sup> *Id.*

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traditional marriage realm. After viewing a 50 state survey comparing each state's approach to dating violence and whether the majority of states such as Arkansas, Arizona, and Delaware take a factor approach in drafting their statutes by including factors such as "the length of the relationship, the type of relationship, or the frequency of interaction between the two individuals involved in the relationship."<sup>39</sup> On the other hand, some states, such as Oregon, Pennsylvania, South Carolina, and Tennessee, ignore teenagers entirely in domestic violence statutes by leaving out any reference to dating relations or violence between those involved in an intimate relationship.<sup>40</sup> It is also worth noting that some states saved themselves from the trouble of defining what it means to be in a dating relationship by simply including the language "persons in, or who have recently been in, a dating relationship" in the state's statute.<sup>41</sup>

The next important distinction between the states involves how dating violence legislation has been codified. Most states have taken the approach of simply adding a subsection mentioning dating violence and forms of relief to preexisting domestic violence, family violence, or civil protective orders for violence.<sup>42</sup> Many states like Louisiana and Kentucky, retrospectively roped the idea of dating relationships in with intimate partnerships into the statute sections that define what it means to be a family or member of a familial unit.<sup>43</sup> This seems to reaffirm the preconceived notions of society to adhere to the traditional normative of a nuclear familial unit as much as possible. Lastly, other states such as Georgia, have gone even further and have drafted its own separate statute for dating violence.<sup>44</sup>

One common similarity among these laws is the idea that a dating relationship constitutes more than just ". . . a casual acquaintanceship [or] ordinary fraternization between [two]

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<sup>39</sup> See *supra* note 34.

<sup>40</sup> *Id.*

<sup>41</sup> CONN. GEN. STAT. ANN. § 46b-38a (West) (2019).

<sup>42</sup> See *supra* note 34; see also ALA. CODE § 30-5-2; ALASKA STAT. ANN. § 18.66.990 (West 2017).

<sup>43</sup> See *supra* note 34; see also KY. REV. STAT. ANN. § 403.720 (West 2019); LA. STAT. ANN. § 46:2132 (West 2020).

<sup>44</sup> See *supra* note 10.

individuals in business or social contexts.”<sup>45</sup> This idea aligns with the factor approach and ideologies discussed previously in the historical section of this article, meaning that society is more likely to determine that a couple is dating for purposes of legal remedy when that couple is not operating in a business or typical friendship context. Furthermore, most states include language within dating statutes that references being sexually intimate, sexually active, or having a sexual connection with a partner.<sup>46</sup> This idea again emphasizes that society is more comfortable considering two partners being in a dating relationship if they exhibit traits commonly known to reflect intimate partnerships. The states emphasize repeatedly the need for dating relationships to be ‘substantial,’ though states vary in what this means. For instance, some states consider it to be the time the couple has been together while others look to how long ago the relationship ended.<sup>47</sup> This suggests that couples who have not been together for a long period of time are less likely to obtain legal relief under these states’ statutes.

It is also important to note that some states like New Jersey include language in their statutes that limits recovery only to victims of a certain age group.<sup>48</sup> This can be shown by the language in the statute below:

d. “[v]ictim of domestic violence” means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence . . .”<sup>49</sup>This statute excludes those who are under the age of 18 that enter into dating relationships who are not emancipated.

Once again, one must look to the issue of teen dating violence and how it is being addressed by the states’ current laws. A common approach to address the issue of teenage dating violence has tried

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<sup>45</sup> See DEL. CODE ANN. Tit. 10, § 1041 (West 2015).

<sup>46</sup> See *supra* note 34.

<sup>47</sup> See *supra* note 34.

<sup>48</sup> See *infra* note 49.

<sup>49</sup> See N.J. STAT. ANN. § 2C:25-19(d) (West 2016).



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to get to the root of the issue by implementing programs, resources, and legal relief at the school level. This was done to prevent the problem from continuing throughout these young adolescents' college and adult lives. The National Library of Medicine assessed how states have addressed the prevention of and response to teen dating violence within its school systems.<sup>50</sup> To accomplish this, a comprehensive database was created from state laws that addressed teen dating violence within school systems in all 50 states that were in effect as of September 30, 2020.<sup>51</sup> From there, the “components for each law were broken down into five categories: scope, prevention education, policy, response, and implementation.”<sup>52</sup>

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#### IV. GEORGIA'S DATING VIOLENCE LAW

##### A. LANGUAGE DETERMINATIONS AND PROVISIONS

While Gabby Petito was unknowingly traveling across the country with her killer, lawmakers in the state of Georgia were working to pass legislation that would allow for victims of dating violence to receive relief from the courts. Georgia was not immune from the effects of dating violence and became increasingly aware of its impact on the state and those who resided within it. According to Safe Shelter, in 2021, “35.1% of Georgia women and 39.9% of Georgia men experience[d] intimate partner physical violence, sexual violence and/or stalking.”<sup>53</sup> Georgia did not pass legislation related to dating violence until 2021, much later than that of its counterparts.<sup>54</sup> Perhaps one of the reasons why Georgia had not

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<sup>50</sup> Avanti Adhia, Melanie Kray, Deirdre Bowen, Mary A. Kernic, & Elizabeth Miller, *Assessment of Variation in US State Law Addressing the Prevention of and Response to Teen Dating Violence in Secondary Schools*, NAT'L LIBR. OF MED., (last visited Oct. 1, 2022), <https://pubmed.ncbi.nlm.nih.gov/35696154/> (discussing the consequences of teen dating violence and the response of each US state with their legislation).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Shelter Statistics – 2021*, SAFE SHELTER CENTER FOR DOMESTIC VIOLENCE SERVICES, <https://safeshelter.org/learn/statistics/#:~:text=Georgia%20Statistics,sexual%20violence%20and%2Ffor%20stalking> (last visited Oct. 9, 2022) (describing both national and Georgia state statistics related to intimate partner violence and domestic violence).

<sup>54</sup> *See supra* note 10.

addressed this issue before was that it did not understand just how different and disastrous dating violence is from its closely related neighbor, domestic violence.

It was not until an advocate group came forward and stressed this issue and the effects of it on the state's rates of violence as well as quality of life for its citizens, that the Georgia legislature decided it needed to do something to address this issue. After speaking with Rebecca Grist, a member of Georgia's Association of Solicitor Generals who served on the legislative committee that oversaw the drafting of House Bill 231, stated that "there was a whole group of people [who] experienced the same psychological effects as [those] in a family or domestic violence"<sup>55</sup> According to Rebecca, in her role as a Solicitor General she was consistently coming across victims who had no remedy available despite the fact that "all the dynamics are the same as a domestic violence relationship but [they] did not take the financial or family step of living together or getting married." One example that Rebecca gave to put this idea into perspective included high school kids who are dating and consider themselves to be in love and who may or may not be sexually intimate, but the dynamic of power and control still exists keeping a victim from leaving a relationship. Another example she has seen is two older people who have gotten divorced and who are dating and consider themselves to be in a serious committed relationship but do not want to get married or live together but the [dangerous] dynamics are still at play.<sup>56</sup>

In an interview with Georgia State Representative Houston Gaines, he stated that "[dating violence] was just not something that anyone had really brought to our attention before then."<sup>57</sup> Representative Gaines, the author and proponent of House Bill 231, the legislation which later became known as Georgia's Dating Violence Bill, shared that the issue of relationship violence was something that everyone—regardless of party lines— could agree needed a resolution.<sup>58</sup> The path to get to that resolution, however, was easier said than done. Some of the conflicts that were

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<sup>55</sup> Telephone Interview with Rebecca Grist, Solicitor General, Bibb County, (Oct. 10, 2022).

<sup>56</sup> *Id.*

<sup>57</sup> Telephone Interview with Representative Houston Gaines, 117th District, (Sept. 28, 2022).

<sup>58</sup> *Id.*

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previously mentioned arose as issues for Georgia legislators when they began to discuss how to draft legislation to alleviate the problems dating violence presented to the state. There were two things that legislators (regardless of party affiliation) knew they needed to get right when drafting this bill: the definition of dating and the age specification. According to Representative Gaines, “it was very challenging to get the language right.”<sup>59</sup>

The first problem that Representative Gaines mentioned had to do with the definition of dating.<sup>60</sup> Lawmakers looked to other states that had already passed legislation in this area and compared the successes and flaws of these laws when determining how to define what it means to be dating in terms of dating violence. Ultimately, lawmakers in Georgia settled on the factor approach to defining dating violence and the first section of their dating violence statute reads as follows: “As used in this chapter, the term: ‘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 . . . .”<sup>61</sup>

This language was intended to address the concerns many had regarding coverage for situations where two people have a relationship that is not physical in nature nor intimate to the point that society would consider them to be in a committed dating relationship.<sup>62</sup> An example of this would be where a neighbor develops a crush on the person next door and who misinterprets their kindness as signals of attraction. The person next door should still be able to obtain relief despite not having the criteria of what society views as a dating relationship and this language was the best way to obtain relief in situations like that one.<sup>63</sup> On the other hand, Ms. Grist stressed that legislators did not want to accidentally capture someone within the net of this statute that they did not intend to.<sup>64</sup> Therefore, the language was carefully

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<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *See supra* note 10.

<sup>62</sup> *See supra* note 62.

<sup>63</sup> *See supra* note 55.

<sup>64</sup> *Id.*

selected and revised over time to reflect a combination of these arguments, other state's provisions, and legal jargon to meet these goals.<sup>65</sup>

Later, as it pertains to the requirements for a court to issue a temporary protective order, the legislators again reference the factor approach that is shared by other states. This provision reads:

- (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 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 that 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.”<sup>66</sup>

Georgia legislators it allowed the courts to have broader discretion when it came to making determinations as to who fits under the category of this new law.<sup>67</sup> Legislators felt that this language would provide aid to the greatest amount of people possible, which fulfilled the goal of the legislation. An example of how this statute was written to maximize who was protected by it

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<sup>65</sup> *Id.*

<sup>66</sup> *See supra* note 10.

<sup>67</sup> *See supra* note 58.

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can be seen in the language at the end of § 1 stating “. . . that such terms shall not require sexual involvement.”<sup>68</sup> By including this language, it removes a barrier to many in a relationship who cannot take advantage of the resources this law is sought to provide. By drafting the section this way, the legislature is acknowledging that two people can be in a dating relationship without being sexually intimate. This language was also thought to be a window to providing relief for a larger age group which was another issue that legislators heavily debated when drafting Georgia’s dating violence law.<sup>69</sup>

Another hurdle for legislators to overcome was justifying why a separate statute is needed to address dating violence when there were already provisions to cover stalking and obtaining temporary protective orders.<sup>70</sup> As Ms. Grist explained it, the statutory language in the provision that allowed for a stalking temporary protective order “required a showing of a pattern of behavior that is harassing or intimidating towards a victim.”<sup>71</sup> By requiring there to be a pattern of behavior, those who had been harmed by their partner once or maybe even twice would not be protected. Under that rationale, a victim of relationship violence would theoretically need to be harmed not once, not twice, but many times by their perpetrator before they would be eligible. Ms. Grist gave the example of a high school girl who got beat up once by her boyfriend stating that “getting a protective order should not require someone to get beat up twice.”<sup>72</sup> Those who were in support of a dating violence law had made their point clear—this was a group of people who needed some relief that the courts and legislators could not provide under the current laws.

It is important to note that unlike many of the states that had already enacted legislation to address dating violence, Georgia elected to enact its own separate code section versus simply adding a provision or subsection to its already existing domestic violence legislation.<sup>73</sup> Representative Gaines indicated that “there was a

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<sup>68</sup> See *supra* note 10.

<sup>69</sup> See *supra* note 58.

<sup>70</sup> See *supra* note 55.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> See *supra* note 58.

desire to create a separate code section” after legislators looked at what other states did to better address some of the concerns surrounding the depth of the law and the interpretation of its language.<sup>74</sup> One of these concerns according to Ms. Grist involves a potential defendant or respondent to a temporary protective order.<sup>75</sup> There was a concern amongst some legislators that by simply adding language to an already existing statute, the law the law might be misused causing some respondents to be caught in the crossfire by having their circumstances used against them when the conduct did not warrant such an action. For example, if a partner got jealous or upset with their significant other and decided to get back at them by obtaining a temporary protective order, legislators thought that there should be a separate provision to make clear when the law is meant to apply to prevent frivolous uses. In addition, by creating a separate provision, it creates less room for interpretation by allowing the law to have the specificity that it needs in order to “target the sweet spot of people who needed this type of protection.”<sup>76</sup> This idea goes back to the earlier debate amongst lawmakers when it came to wanting to design a law that perfectly encapsulates those who it is intending to benefit, no more, no less.<sup>77</sup>

The other topic that accounted for a majority of debate amongst lawmakers and legislators was the question of the age that one must be to use this mechanism. Legislators debated back and forth on whether or not to specify an age limit within the language of the bill itself, but eventually settled on leaving out any age reference.<sup>78</sup> This was most likely done in order to address the phenomenon known as teen dating violence by allowing those under the age of eighteen to still have access to the benefits of this law as long as they are able to satisfy some or all of the other factors that were referenced. According to Ms. Grist, “there was a concern that a fifteen-year-old may not have the maturity to be capable of understanding the relationship and [legislators] did not want to scar young people and

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<sup>74</sup> *Id.*

<sup>75</sup> *See supra* note 55.

<sup>76</sup> *Id.*

<sup>77</sup> *See supra* note 58.

<sup>78</sup> *See supra* note 58.

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leave a mark on their record at such a young age.”<sup>79</sup> However, teen dating violence is a very real problem that cannot continue to be overlooked by lawmakers. Therefore, the Georgia legislature determined that while the dating violence law would not specifically limit relief to a certain age range, it would follow the standard of all civil proceedings by requiring that minors must have a representative to help them file in the civil arena for a temporary protective order under the new statute.<sup>80</sup> Therefore, a parent or guardian would have to be present to file for a temporary protective order or another form of relief under the dating violence law on behalf of the minor victim.<sup>81</sup>

Another idea that legislators incorporated into Georgia’s dating violence statute that was not necessarily included in those of other states, was a specific reference to proceedings involving a nonresident respondent.<sup>82</sup> According to Chapter 13A(2)(b):

[F]or proceedings under this chapter involving a nonresident respondent, the superior court where the petitioner resides or the superior court where an act or injury involving dating violence allegedly occurred shall have jurisdiction, where the act or injury involving dating violence meets the elements for personal jurisdiction provided for under paragraph (2) or (3) of Code Section 9-10-91.<sup>83</sup>

This language sought to protect victims whose perpetrators lived outside the county or state but who still need relief within their jurisdiction therefore thereby providing a protection to a wider range of Georgia residents.<sup>84</sup>

So, what exactly did House Bill 231 do for victims of dating violence? The primary goal of this bill was to allow those impacted by relationship violence to be able to obtain a court ordered form of

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<sup>79</sup> See *supra* note 55.

<sup>80</sup> *Id.*

<sup>81</sup> See *supra* note 10.

<sup>82</sup> See *supra* note 10.

<sup>83</sup> *Id.*

<sup>84</sup> See *supra* note 57.

protection from their aggressor.<sup>85</sup> This relief took the form of a civil temporary protective order that is to be issued by the superior courts if a judge determines that the victim and his or her aggressor meets the criteria laid out above.<sup>86</sup> According to the bill, a civil protective order 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.<sup>87</sup>

These forms of relief ranged from less severe to more severe depending on what the petitioner requested and, most importantly, remain in effect for 1 year unless the petitioner moves for an early termination.<sup>88</sup> In addition, “. . . the court in its discretion may convert a temporary order granted under this Code section to an order effective for not more than three years or to a permanent order.<sup>89</sup> This allows for those who are seeking more permanent forms of relief but whose circumstances may not necessarily rise to the level of criminal severity to obtain more relief than a temporary order. Lastly, in terms of remedial relief, the bill notes under section (A)(5), that the remedies listed are not exclusive nor exhaustive but are simply in addition to any other remedies the law already provides.<sup>90</sup> This could include remedies under domestic violence

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<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*



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statutes, family violence statutes, and any remedies provided through criminal and civil litigation.<sup>91</sup>

#### B. PROCEDURE AND CONSEQUENCES OF HB 231

The next important topics relating to Georgia's dating violence law are the procedural aspects and the consequences for violations of the provisions set forth within the code section. According to House Bill 231:

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,<sup>92</sup>

Once a victim files a petition including specific facts that establish there is probable cause that dating violence occurred and may occur again in the future, the court will hold a hearing where the petitioner bears the burden of proving beyond a preponderance of the evidence that the allegations in the petition are true.<sup>93</sup>

Once a temporary protective order has been granted, all violations of such an order “. . . may be punished by an action for contempt or criminally punished as provided in Article 7 of Chapter 5 of Title 16.”<sup>94</sup> According to O.C.G. A 16-5-95 (b):

a person commits the offense of violating. . . when such person knowingly and in a nonviolent manner violates the terms of such order issues against that person which:

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<sup>91</sup> *Id.*

<sup>92</sup> *See supra* note 10.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

- (1) Excludes, evicts, or excludes and evicts the person from a residence or household;
  - (2) Directs the person to stay away from a residence, workplace, or school;
  - (3) Restrains the person from approaching within a specified distance of another person; or
  - (4) Restricts the person from having any contact, direct or indirect, by telephone, pager, facsimile, e-mail, or any other means of communication with another person, except as specified in such order.
- (c) Any person convicted of a violation of subsection (b) of this Code section shall be guilty of a misdemeanor.
- (d) Nothing contained in this Code section shall prohibit a prosecution for the offense of stalking or aggravated stalking that arose out of the same course of conduct; provided, however, that for purposes of sentencing, a violation of this Code section shall be merged with a violation of any provision of Code Section 16-5-90 or 16-5-91 that arose out of the same course of conduct.<sup>95</sup>

One thing is clear: the penalties for violating these orders have the potential to be extremely severe and even life-altering. In addition, the fact that someone had any kind of temporary protective order taken out against them carries disastrous effects. One can only imagine the scenarios such as if this person attempts to obtain child custody in divorce proceedings, tries to get a particular job, or tries to obtain particular licenses and permits to carry and use weapons. With these scenarios in mind, some legislators in the House of Representatives held the law up in February 2021 with concerns that individuals—regardless of how much time had passed since being in a particular relationship—could take out a temporary protective order and potentially ruin their ex’s life.<sup>96</sup> The example that Ms. Grist shared was brought by Representative Setzler and other members was a fifty-year-old who

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<sup>95</sup> See O.C.G.A. § 16-5-95.

<sup>96</sup> See *supra* note 58.

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connected with his old high school girlfriend on Facebook who still had some animosity towards him.<sup>97</sup> Particularly, Representatives were concerned about this ex-girlfriend utilizing the procedure created by House Bill 231 to obtain a dating violence temporary protective order against this man who she has not had a relationship with in decades.

A less extreme hypothetical might involve two people who dated while in college but are now in their mid-30's and one partner contacts the other via social media despite the relationship ending poorly years before. Potential situations such as these drove legislators to include in the Bill a time specification for filing, akin to a statute of limitations. Both sides of the House ultimately agreed on a period of six months, meaning that in order to obtain a temporary protective order for dating violence, the relationship must have occurred within the prior six months.<sup>98</sup> As will be explored in the next section of this note, this time specification may not have been a wise calculation of those who needed to use this statute to obtain relief.<sup>99</sup>

On May 10, 2021, lawmakers passed what is known as House Bill 231, also known as Georgia's Dating Violence Law, demonstrating a bi-partisan effort to combat the growing issue of dating and relationship violence within the state.<sup>100</sup> As Rebecca Grist described it, there was a great bi-partisan effort to achieve the goals behind House Bill 231, with Republican Representative Houston Gaines and Democratic Representative Bee Nguyen working hand in hand to make this law a reality.<sup>101</sup> There was limited pushback to this law. The main controversy surrounded the debate about whether there was a need for new legislation when remedial relief via temporary protective orders for stalking already existed.<sup>102</sup> However, Ms. Grist explained that as soon as this misconception was cleared up, everyone was on board to make this law a success.<sup>103</sup>

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<sup>97</sup> *Id.*

<sup>98</sup> *See supra* note 10.

<sup>99</sup> *Id.*

<sup>100</sup> *See supra* note 10.

<sup>101</sup> *See supra* note 55.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

Now that a little over a two and half years have passed since the law's enactment, this article will seek to explore the effect the law has had on the state through its impact on the courts, judges, and victims of dating violence.

## V. GEORGIA'S DATING VIOLENCE LAW IN ACTION: TWO YEARS LATER

### A. LEGISLATIVE CHANGES IN 2022 SESSION

Now that Georgia finally has a law meant to address victims of dating violence, it must be examined to determine if these victims are obtaining the relief that the law sought to bring. Early on, some issues with this new law were brought to light by victims of dating violence. One of these issues resulted in a change to the law.<sup>104</sup> After a student at the University of Georgia was denied a temporary protective order under the new dating violence law due to the time requirement, she went to her representative, Houston Gaines, to shed light on this problem.<sup>105</sup> This student had been sexually intimidated by her former partner, but it took her over the six-month time requirement to come to grips with the fact that she had indeed been in an abusive relationship and the victim of dating violence.<sup>106</sup> Representative Gaines along with Rebecca Grist and others took this issue with them back to the drawing board in Atlanta and discovered that across the state people were falling through the cracks because the time requirement was too narrow.<sup>107</sup> As a result, legislators got together and in the 2022 legislative session, passed House Bill 1452.<sup>108</sup> This bill amended Chapter 13A of Title 19 as it related to dating violence protective orders.

The new language of the statute reads as follows:

“(2) ‘Dating violence’ means the occurrence of one or more of the following acts between persons through whom a current pregnancy has developed or who are currently, or within the last 12 months

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<sup>104</sup> See H.R 1452., 156th Gen. Assemb., Reg. Sess. (Ga. 2022).

<sup>105</sup> See *supra* note 58.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> See *supra* note 58.

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were, in a dating relationship. . .”<sup>109</sup> The main change in this new provision is that the time requirement was lengthened from 6 months to 12 months, thus allowing victims who previously slipped through the cracks under the original version of the law to obtain some relief.<sup>110</sup> Ms. Grist explained that a huge part of this law is that “you have to trust your judges” in how they chose to implement it within their jurisdictions, but that after addressing the concerns regarding how narrow the law was after the first year, she and her colleagues have not been hearing of any more issues with the law.<sup>111</sup>

#### B. FROM THE BENCH: A JUDICIAL PERSPECTIVE

This article next features the perspective of a Georgia Superior Court Judge about the new dating violence law and other tools for victims of domestic violence. According to Superior Court Judge Wade Padgett of the Columbia Judicial Circuit, “Georgia’s Dating Violence law was designed to address a potentially very small group of people who do not fit in the broader categories that family violence or stalking orders cover.”<sup>112</sup> Judge Padgett went on to say that since the law’s enactment, his circuit has only issued 2 dating violence temporary protective orders that have stuck despite the fact that during and post the COVID-19 pandemic, there was a huge increase in the overall number of people who were seeking some type of temporary protective order.<sup>113</sup> This, he argues, is a result of the way that the orders and statutes were written as they address a very specific fact pattern.<sup>114</sup> Rebecca Grist also revealed that in her circuit (Bibb County), a very small number of dating violence orders have been issued since the law was enacted.<sup>115</sup> In Athens-Clarke County, only about 2 orders have been issued since 2021 as

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<sup>109</sup> See *supra* note 10.

<sup>110</sup> See *supra* note 55.

<sup>111</sup> *Id.*

<sup>112</sup> Telephone Interview with Honorable Judge Wade Padgett, Superior Court Judge, Columbia Judicial Circuit, (Oct. 24, 2022).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> See *supra* note 55.

well.<sup>116</sup> Is the lack of courts issuing temporary protective orders for dating violence a result of bad law or is it due to some other fault?

According to Judge Padgett, there are two potential arguments as to why there are so few dating violence orders being filed in an era when there are so many family domestic violence temporary protective orders being issued. One argument is that the public does not know about this new law.<sup>117</sup> Another argument is that there is so much overlap between what the public views as a modern dating relationship with family violence statutes and family violence protective orders.<sup>118</sup> The first argument could be addressed by giving law enforcement proper training on how to inform the public about this new remedy that is available when they respond to calls or situations that they believe could potentially fit into this niche category of persons. However, officers must be careful with this because dating violence orders carry both short- and long-term consequences and should not be frivolously thrown around. Judge Padgett's main concern with the dating violence law is how broad the definition of dating violence is.<sup>119</sup> This is because it requires one who desires to obtain one of these orders to have to put all of their private information out there in the public record.<sup>120</sup>

Looking at the dating violence ex parte protective order, the court must make several factual findings in order to grant the petition including:

- a. there is a committed romantic relationship between the parties that is more intimate than what is 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

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<sup>116</sup> Interview with Christine Scartz, Professor and Clinical Director Family Justice Clinic, University of Georgia School of Law, (Sept. 8, 2022).

<sup>117</sup> *See supra* note 106.

<sup>118</sup> *See supra* note 106.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

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- 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
- g. both parties have acknowledged the dating relationship or
- h. a party to this action is currently pregnant with the other party's child<sup>121</sup>

In addition to these concrete requirements, the court has a place on the petition that requires a party to describe the exact nature of their relationship and why they believe that they meet the requirements for a dating relationship that warrants issuance of a temporary protective order.<sup>122</sup> This section, according to Judge Padgett, is where a party has to write personal and vulnerable information such as how often they are physically intimate (if at all) with their partner, how they spend their time with their partner, and how they interact with their partner among other items.<sup>123</sup>

Also, just as with family violence protective orders, the potential for abuse is significant. "More often than not what happens when we issue a [family violence] ex parte order is that it essentially immediately evicts someone from their home and establishes child custody until there is a final hearing within 30 days even though the defendant never had a chance to say a word."<sup>124</sup> When it comes time for the hearing, more often than not, the petitioner does not appear for the hearing or they file a dismissal form with the clerk's office prior to the hearing, often indicative of a change of heart.<sup>125</sup> Now although dating violence protective orders do not necessarily involve someone being evicted from their home or losing custody, the consequences still occur at the moment an order is issued.<sup>126</sup> One

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<sup>121</sup> See GA. SUP. CT. FORM SC-29.

<sup>122</sup> *Id.*

<sup>123</sup> See *supra* note 106.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

of these consequences is that while the ex parte order is pending, the defendant is barred from purchasing or possessing firearms despite not having an opportunity to ever say a word in their defense.<sup>127</sup> Judge Padgett believes this could be a due process problem.<sup>128</sup> In addition, anytime a temporary protective order is issued it must be reported to the state registry by the clerk of court. If the order is granted, dismissed, or expires, it is all indicated in the same registry.<sup>129</sup> This registry can be accessed by all classes of courts, probation offices, district attorney's offices, the department of corrections, and many other government entities.<sup>130</sup> Perhaps one of the most important consequences of the registry is that it is reported to the federal government which will then bar someone who has been issued a temporary protective order from having a handgun for their life which according to Judge Padgett is not an obvious penalty to petitioners and respondents at the time the order is sought and enacted.<sup>131</sup> Informing the public of the new law, the consequences it carries, and when it should be used, will potentially cause more orders to be issued and make it more likely that these orders are validly issued instead of being dismissed days or weeks later.

The second argument as to why dating violence protective orders are not being widely issued is that because of the overlap between dating violence and family violence statutes coupled with the fact that because it is easier to obtain a family violence order, victims are more likely to do that if they can. The same could also be said for stalking protective orders.<sup>132</sup> For example, if a person is being stalked online by an ex or by their current partner, it would be far easier to obtain a stalking temporary protective order than a dating violence order. This is because it is harder to prove that a dating relationship exists than having to prove that stalking is occurring.<sup>133</sup> It is important to note according to Judge Padgett, that because any kind of continuous harassment on social media is

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<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *See*

<sup>130</sup> *See supra* note 106.

<sup>131</sup> *Id.*

<sup>132</sup> *See supra* note 106.

<sup>133</sup> *Id.*



considered stalking, it is easier to obtain these orders than it is to approve the existence of a dating relationship.<sup>134</sup>

Judge Padgett revealed that the language of the dating violence statutes is in many respects identical to the language of family violence statutes.<sup>135</sup> For example, the language in the jurisdiction and venue provisions are almost identical.<sup>136</sup> For family violence statutes, the petitioner's burden to prove the allegations in the petition is far lower than it would be in a dating violence order. In addition, for family violence orders, there is no time limitation. This means that even if someone seeking a family violence order had not lived in the same household as their ex for over 5 years, they would still be able to take out an order.<sup>137</sup> Based on this, it must be asked why someone who ever previously lived with their significant other as whether as friends, roommates, or in an intimate relationship would ever try to meet the burden of the dating violence order when they already easily qualified for a family violence protective order. Because of this, Judge Padgett argues that the dating violence statute must "be read in conjunction with other available tools with fewer elements of proof and if someone met any of the other tools, there is little to no reason why they would seek a dating violence protective order."<sup>138</sup>

Judge Padgett goes on to emphasize the higher burden that is required in order to obtain a dating violence protective order by noting that there is a required finding that there is a likelihood of the alleged behavior continuing built into the analysis that judges must go into when determining whether or not to grant a petition.<sup>139</sup> Therefore, a one-time act of violence at a party somewhere would most likely not demonstrate a high likelihood of continued behavior if the two involved had not been in an intimate relationship recently.<sup>140</sup> However, under a family violence statute, the behavior only needs to occur once and it does not matter how recently the

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<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *See* Ga. Code Ann. § 19-13-12.

<sup>137</sup> *Id.*

<sup>138</sup> *See supra* note 106.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

behavior took place.<sup>141</sup> Under this statute, there does not necessarily need to be a demonstration of a pattern leading judges to determine that there is a high likelihood that the behavior would continue to grant the petition.<sup>142</sup> Perhaps these reasons are why there has been a lack of temporary protective orders issued under Georgia's new dating violence law.

Judge Padgett next briefly turned to the topic of dating violence among teenagers. He noted that this is a very niche group as most teens do not live with their significant other but still potentially face the same issues as two mature adults who reside together would.<sup>143</sup> Georgia's dating violence law was perhaps designed to address teen dating violence first and foremost.<sup>144</sup> However, it can also apply to adults who are dating and there is no need to limit its reach to just teenagers.<sup>145</sup> This law, as Judge Padgett notes, is simply a tool used to address violence within a very niche subset of society.<sup>146</sup> In summation of his interview, Judge Padgett stated that although the judicial system is more equipped to handle family violence orders because dating violence requires additional proof that family violence does not both in terms of time requirements and relationship details, Georgia was still in need of a dating violence statute to address these specific factual scenarios where other tools would not apply.<sup>147</sup>

## VI. CONCLUSION

In summation, although Georgia was later than other states in answering the call from victims of relationship violence, bi-partisan efforts allowed the creation of new law that makes these victims feel seen and heard. Though the process of creating a law that was neither too narrow nor too broad was a strenuous one, legislators were able to craft House Bill 231 which provides relief for victims of all ages who suffer from dating violence. As with any law there will

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<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> *Id.*

<sup>145</sup> *See supra* note 106.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

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be shortcomings at first, such as the backward-looking time requirement, but lawmakers have shown their dedication to this issue through their resilience and efforts to address concerns as they arise.

The great debate over whether to create an entirely separate statute section was one that has most certainly allowed for the greatest number of victims to benefit from this tool. Unlike other states who added provisions that either fell short of demonstrating who qualified for the relief or left open the door for those with ill intentions to take advantage of these provisions, Georgia used the right level of specificity to address the unique set of circumstances that those who are victims of dating violence face and to provide them with the proper form of relief. Many have acknowledged that dating violence did not fit into the already existing categories of family violence or stalking and thus a new statute was desired to address those whom these tools had forgotten.

Despite the lack of temporary protective orders that have been issued across the state, this law has been proven to help those who truly needed relief in this area. The lack of issuances is most likely attributable to the fact that this legislation was passed recently and the public is not aware of the availability of this tool for those who suffer from dating violence.<sup>148</sup> Over time the courts, law enforcement, and other state systems will continue to promote awareness of this new law and the benefits it poses for those who need it most. In addition, one cannot expect that there will be as many dating violence protective orders issued as those issued for family violence as the threshold is much higher for a dating violence order.<sup>149</sup> This burden was created to provide relief for the niche group of people the law intended to benefit and to prevent those with frivolous intentions from gaining access to the relief provided by this tool.<sup>150</sup>

One thing is for certain, dating violence is not going to go away overnight. It is something that not just Georgia, but the country as whole, will continue to be plagued by for years to come, especially with technological advancements such as social media. However, Georgia's dating violence law is a sizeable step towards not only

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<sup>148</sup> See *supra* note 106.

<sup>149</sup> See *supra* note 106 and accompanying text.

<sup>150</sup> See *supra* note 57 and accompanying text.

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bringing awareness to this growing issue, but also towards putting a stop to the suffering of its victims and should be viewed as an answer to the call to end dating violence.