

R20-2, Substitute Resolution Opposing Georgia’s Citizen Arrest Law

Proposed resolution for consideration by the 2020 Annual Council of the Episcopal Diocese of Atlanta.

It is:

Resolved that the Annual Council of the Episcopal Diocese of Atlanta, representing over 47,000 members in Middle and North Georgia, urges all Members of the Georgia legislature and the Governor of the State of Georgia to support the efforts to abolish citizen’s arrest in Georgia by repealing Article 4 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated (O.C.G.A. §§ 17-4-60 to 17-4-62).

Resolved that the Secretary of Council be directed to send—by any convenient means, including e-mail—a copy of this resolution to each Member of the Georgia General Assembly and to the Governor of the State of Georgia.

Submitted by the Council Committee on Community Ministries

Explanation:

Ahmaud Arbery was on a jog in the early afternoon of Sunday, February 23, 2020, and crossed over Highway 17 into the Satilla Shores neighborhood of Glynn County, Georgia. Members of the Satilla Shores citizen patrol, including recently retired law enforcement personnel, began pursuing Mr. Arbery with their pickup trucks and guns, including a gun issued by the Glynn County Police Department. Mr. Arbery was chased and terrorized throughout the neighborhood and ultimately shot to death in a public street.

Mr. Arbery was unarmed, wearing a t-shirt and jogging shorts. Glynn County Police Department officers came to the scene of the killing, but no arrests were made. For weeks thereafter, no arrests were made. Eventually, the State of Georgia prosecutor who was assigned to the matter reached back to Georgia’s 1863 citizen’s arrest law to determine because the citizen patrol’s killing of Mr. Arbery had been a justifiable homicide.

It was only when video (which had all along been in the possession of law enforcement, including the State prosecutor) came to light that this position was no longer tenable, and the State of Georgia was forced to reverse course and to charge the citizen patrol with murder. In a matter of a few days, the State of Georgia had swung wildly, from calling the shooting death of Mr. Arbery *a justifiable homicide* to asserting straight-up *murder charges*.

Georgia’s citizen’s arrest law (cited by the State prosecutor to justify the killing of Mr. Arbery by the Satilla Shores citizen patrol, before worldwide attention forced the State to reverse course) was first enacted in the slavery era, soon after President Lincoln had issued the final Emancipation Proclamation on January 1, 1863. Anticipating a wave of fugitives from slavery claiming the freedom promised by the Proclamation, Georgia’s 1863 citizen’s arrest law was apparently designed to shore up the authority of private slave patrols to make arrests.

It is well past time to put an end to this legal relic from Georgia’s slavery past. Fortunately, Georgia State House Representative Carl Wayne Gilliard (District 162) has stepped up to lead the legislative effort to abolish citizen’s arrest in Georgia.

[West's Code of Georgia Annotated](#)

[Title 17. Criminal Procedure \(Refs & Annos\)](#)

[Chapter 4. Arrest of Persons \(Refs & Annos\)](#)

[Article 4. Arrest by Private Persons \(Refs & Annos\)](#)

Ga. Code Ann., § 17-4-60

§ 17-4-60. Arrest by private person

[Currentness](#)

A private person may arrest an offender if the offense is committed in his presence or within his immediate knowledge. If the offense is a felony and the offender is escaping or attempting to escape, a private person may arrest him upon reasonable and probable grounds of suspicion.

Credits

Formerly Code 1863, § 4604; Code 1868, § 4627; Code 1873, § 4724; Code 1882, § 4724; Penal Code 1895, § 900; Penal Code 1910, § 921; Code 1933, § 27-211.

[Notes of Decisions \(72\)](#)

Ga. Code Ann., § 17-4-60, GA ST § 17-4-60

The statutes and Constitution are current through laws passed at the 2020 legislative sessions. Some statute sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

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[West's Code of Georgia Annotated](#)

[Title 17. Criminal Procedure \(Refs & Annos\)](#)

[Chapter 4. Arrest of Persons \(Refs & Annos\)](#)

[Article 4. Arrest by Private Persons \(Refs & Annos\)](#)

Ga. Code Ann., § 17-4-61

§ 17-4-61. Procedures subsequent to arrest by private person

[Currentness](#)

(a) A private person who makes an arrest pursuant to [Code Section 17-4-60](#) shall, without any unnecessary delay, take the person arrested before a judicial officer, as provided in [Code Section 17-4-62](#), or deliver the person and all effects removed from him to a peace officer of this state.

(b) A peace officer who takes custody of a person arrested by a private person shall immediately proceed in accordance with [Code Section 17-4-62](#).

(c) A peace officer who in good faith and within the scope of his authority takes custody of a person arrested by a private person pursuant to this Code section shall not be liable at law for false arrest or false imprisonment arising out of the arrest.

Credits

Laws 1977, p. 902, § 1.

Formerly Code 1933, § 27-211.1.

[Notes of Decisions \(3\)](#)

Ga. Code Ann., § 17-4-61, GA ST § 17-4-61

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[Title 17. Criminal Procedure \(Refs & Annos\)](#)

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Ga. Code Ann., § 17-4-62

§ 17-4-62. Duty of person arresting without warrant

[Currentness](#)

In every case of an arrest without a warrant, the person arresting shall, without delay, convey the offender before the most convenient judicial officer authorized to receive an affidavit and issue a warrant as provided for in [Code Section 17-4-40](#). No such imprisonment shall be legal beyond a reasonable time allowed for this purpose; and any person who is not brought before such judicial officer within 48 hours of arrest shall be released.

Credits

Laws 1956, p. 796, § 2.

Formerly Code 1863, § 4605; Code 1868, § 4628; Code 1873, § 4725; Code 1882, § 4725; Penal Code 1895, § 901; Penal Code 1910, § 922; Code 1933, § 27-212.

[Notes of Decisions \(50\)](#)

Ga. Code Ann., § 17-4-62, GA ST § 17-4-62

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