

House Bill 292 (COMMITTEE SUBSTITUTE)

By: Representatives Jasperse of the 11th, Meadows of the 5th, Powell of the 32nd, Ballinger of the 23rd, Jones of the 91st, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16, Code Section 35-3-34, and Chapter
 2 1 of Title 51 of the Official Code of Georgia Annotated, relating to carrying and possession
 3 of firearms, disclosure and dissemination of criminal records to private persons and
 4 businesses, resulting responsibility and liability of issuing center, and provision of certain
 5 information to the FBI in conjunction with the National Instant Criminal Background Check
 6 System, and general provisions regarding torts, respectively, so as to revise the requirements
 7 for the reciprocity of recognizing and giving effect to licenses to carry from other states; to
 8 require the Attorney General to maintain a certain public list; to provide for, revise, and
 9 clarify laws relating to the carrying of weapons and safety; to permit certain new residents
 10 to carry a weapon in this state for a limited time without a weapons carry license; to revise
 11 provisions relating to carrying weapons within school safety zones, at school functions, or
 12 on a bus or other transportation furnished by a school; to allow the judge of the probate court
 13 to provide for printed information on gun safety; to provide for the maintenance of gun safety
 14 information on the website of the Department of Natural Resources; to revise and clarify the
 15 determinations to be made and the procedures to be followed by law enforcement agencies
 16 and the judge of the probate court in the issuance of a weapons carry license; to provide for
 17 replacement weapons carry licenses for persons who have a legal name change or address
 18 change; to clarify that certain active and retired law enforcement officers shall be authorized
 19 to carry a handgun on or off duty anywhere within this state; to clarify the meaning of
 20 commercial service airport relative to the carrying of a weapon or long gun; to allow for the
 21 preservation of a person's involuntary hospitalization information received by the Georgia
 22 Crime Information Center; to provide for exceptions; to provide for a judicial procedure for
 23 purging a person's involuntary hospitalization information received by the Georgia Crime
 24 Information Center; to provide for civil immunity of firearm instructors; to provide for
 25 definitions; to provide for related matters; to provide for an effective date; to repeal
 26 conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 292 (SUB)

28 **SECTION 1.**

29 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
 30 relating to carrying and possession of firearms, is amended by revising subsections (e) and
 31 (f) of Code Section 16-11-126, relating to having or carrying handguns, long guns, or other
 32 weapons, license requirement, exceptions for homes, motor vehicles, private property, and
 33 other locations and conditions, as follows:

34 "(e)(1)(A) Any person licensed to carry a handgun or weapon in any other state whose
 35 laws recognize and give effect to a license issued pursuant to this part shall be
 36 authorized to carry a weapon in this state, but only while the licensee is not a resident
 37 of this state; provided, however, that such licensee:

38 (i) Such licensee licensed to carry a weapon in any other state shall carry the weapon
 39 in compliance with the laws of this state; and

40 (ii) No other state shall be required to recognize and give effect to a license issued
 41 pursuant to this part that is held by a person who is younger than 21 years of age.

42 (B) The Attorney General shall create and maintain on the Department of Law's
 43 website a list of states whose laws recognize and give effect to a license issued pursuant
 44 to this part.

45 (2) Any person who is not a weapons carry license holder in this state and who is
 46 licensed to carry a handgun or weapon in any other state whose laws recognize and give
 47 effect to a license issued pursuant to this part shall be authorized to carry a weapon in this
 48 state for 90 days after he or she becomes a resident of this state; provided, however, that
 49 such person shall carry the weapon in compliance with the laws of this state, shall as soon
 50 as practicable submit a weapons carry license application as provided for under Code
 51 Section 16-11-129, and shall remain licensed in such other state for the duration of time
 52 that he or she is a resident of this state but not a weapons carry license holder in this state.

53 (f)(1) Any person with a valid hunting or fishing license on his or her person, or any
 54 person not required by law to have a hunting or fishing license, who is engaged in legal
 55 hunting, fishing, or sport shooting when the person has the permission of the owner of
 56 the land on which the activities are being conducted may have or carry on his or her
 57 person a handgun weapon or long gun without a valid weapons carry license while
 58 hunting, fishing, or engaging in sport shooting.

59 (2) Any person with a valid hunting or fishing license on his or her person, or any person
 60 not required by law to have a hunting or fishing license, who is otherwise engaged in
 61 legal hunting, fishing, or sport shooting on recreational or wildlife management areas
 62 owned by this state may have or carry on his or her person a knife without a valid
 63 weapons carry license while engaging in such hunting, fishing, or sport shooting."

64 **SECTION 2.**

65 Said part is further amended by revising paragraph (5) of subsection (c) of Code Section
66 16-11-127.1, relating to carrying weapons within school safety zones, at school functions,
67 or on a bus or other transportation furnished by a school, as follows:

68 "(5) The following persons, when acting in the performance of their official duties or
69 when en route to or from their official duties:

70 (A) A peace officer as defined by Code Section 35-8-2;

71 (B) A law enforcement officer of the United States government;

72 (C) A prosecuting attorney of this state or of the United States;

73 (D) An employee of the Department of Corrections or a correctional facility operated
74 by a political subdivision of this state or the United States who is authorized by the
75 head of such department or correctional agency or facility to carry a firearm;

76 (E) An employee of the Department of Community Supervision who is authorized by
77 the commissioner of community supervision to carry a firearm;

78 (F) A person employed as a campus police officer or school security officer who is
79 authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

80 (G) Medical examiners, coroners, and their investigators who are employed by the state
81 or any political subdivision thereof;

82 provided, however, that this Code section shall not apply to any extent to persons who
83 are provided for under Code Section 16-11-130;"

84 **SECTION 3.**

85 Said part is further amended by adding a new subsection to, by revising paragraph (4) of
86 subsection (d) and paragraph (2) of subsection (e), and by adding a new paragraph to
87 subsection (e) of Code Section 16-11-129, relating to weapons carry license, temporary
88 renewal permit, mandamus, and verification of license, to read as follows:

89 "**(a.1) Gun safety information.**

90 (1) Upon receipt of an application for a weapons carry license or renewal license, the
91 judge of the probate court may provide applicants printed information on gun safety that
92 is produced by any person or organization that, in the discretion of the judge of the
93 probate court, offers practical advice for gun safety. The source of such printed
94 information shall be prominently displayed on such printed information.

95 (2) The Department of Natural Resources shall maintain on its principal, public website
96 information, or a hyperlink to information, which provides resources for information on
97 hunter education and classes and courses in this state that render instruction in gun safety.
98 No person shall be required to take such classes or courses for purposes of this Code

99 section where such information shall be provided solely for the convenience of the
100 citizens of this state.

101 (3) Neither the judge of the probate court nor the Department of Natural Resources shall
102 be liable to any person for personal injuries or damage to property arising from
103 conformance to this Code section."

104 "(4) The law enforcement agency shall report to the judge of the probate court within 30
105 20 days, by telephone and in writing, of any findings relating to the applicant which may
106 bear on his or her eligibility for a weapons carry license or renewal license under the
107 terms of this Code section. When no derogatory information is found on the applicant
108 bearing on his or her eligibility to obtain a license or renewal license, a report shall not
109 be required. The law enforcement agency shall return the application directly to the
110 judge of the probate court within such time period. Not later than ten days after the judge
111 of the probate court receives the report from the law enforcement agency concerning the
112 suitability of the applicant for a license, the judge of the probate court shall issue such
113 applicant a license or renewal license to carry any weapon unless facts establishing
114 ineligibility have been reported or unless the judge determines such applicant has not met
115 all the qualifications, is not of good moral character, or has failed to comply with any of
116 the requirements contained in this Code section. The judge of the probate court shall date
117 stamp the report from the law enforcement agency to show the date on which the report
118 was received by the judge of the probate court. The judge of the probate court shall not
119 suspend the processing of the application or extend, delay, or avoid any time
120 requirements provided for under this paragraph."

121 "(2) If a person is convicted of any crime or ~~involved in any matter~~ otherwise adjudicated
122 in a matter which would make the maintenance of a weapons carry license by such person
123 unlawful pursuant to subsection (b) of this Code section, the judge of the superior court
124 or state court hearing such case or presiding over such matter shall inquire whether such
125 person is the holder of a weapons carry license. If such person is the holder of a weapons
126 carry license, then the judge of the superior court or state court shall inquire of such
127 person the county of the probate court which issued such weapons carry license, or if
128 such person has ever had his or her weapons carry license renewed, then of the county
129 of the probate court which most recently issued such person a renewal license. The judge
130 of the superior court or state court shall notify the judge of the probate court of such
131 county of the matter which makes the maintenance of a weapons carry license by such
132 person to be unlawful pursuant to subsection (b) of this Code section. The Council of
133 Superior Court Judges of Georgia and The Council of State Court Judges of Georgia shall
134 provide by rule for the procedures which judges of the superior court and the judges of
135 the state courts, respectively, are to follow for the purposes of this paragraph."

136 "(4) Any person, upon petition to the judge of the probate court, who has a weapons carry
 137 license or renewal license with more than 90 days remaining before the expiration of such
 138 weapons carry license or renewal license and who has had a legal name change,
 139 including, but not limited to, on account of marriage or divorce, or an address change
 140 shall be issued a replacement weapons carry license for the same time period of the
 141 weapons carry license or renewal license being replaced. Upon issuance and receipt of
 142 such replacement weapons carry license, the license holder shall surrender the weapons
 143 carry license being replaced to the judge of the probate court and such judge shall take
 144 custody of and destroy the weapons carry license being replaced. The judge of the
 145 probate court shall provide for the updating of any records as necessary to account for the
 146 license holder's change of name or address. The judge of the probate court shall charge
 147 the fee specified in paragraph (13) of subsection (k) of Code Section 15-9-60 for services
 148 provided under this paragraph."

149

SECTION 4.

150 Said part is further amended in Code Section 16-11-130, relating to exemptions from Code
 151 Sections 16-11-126 through 16-11-127.2, by revising the introductory language of subsection
 152 (a), by revising subsections (b) and (c), and by adding a new subsection to read as follows:

153 "(a) Except to the extent provided for in subsection (c.1) of this Code section, Code
 154 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any of the following
 155 persons if such persons are employed in the offices listed below or when authorized by
 156 federal or state law, regulations, or order:"

157 "(b) Except to the extent provided for in subsection (c.1) of this Code section, Code
 158 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect persons who at the
 159 time of their retirement from service with the Department of Community Supervision were
 160 community supervision officers, when specifically designated and authorized in writing by
 161 the commissioner of community supervision.

162 (c) Except to the extent provided for in subsection (c.1) of this Code section, Code
 163 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any:

164 (1) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired sheriff
 165 or deputy sheriff is eligible to receive or is receiving benefits under the Peace Officers'
 166 Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs' Retirement
 167 Fund of Georgia provided under Chapter 16 of Title 47, or any other public retirement
 168 system established under the laws of this state for service as a law enforcement officer;
 169 (2) Member of the Georgia State Patrol, ~~or~~ agent of the Georgia Bureau of Investigation,
 170 ~~or~~ retired member of the Georgia State Patrol, or retired agent of the Georgia Bureau of

171 Investigation if such retired member or agent is receiving benefits under the Employees'
172 Retirement System;

173 (3) Full-time law enforcement chief executive engaging in the management of a county,
174 municipal, state, state authority, or federal law enforcement agency in the State of
175 Georgia, including any college or university law enforcement chief executive ~~that~~ who
176 is registered or certified by the Georgia Peace Officer Standards and Training Council;
177 or retired law enforcement chief executive ~~that~~ who formerly managed a county,
178 municipal, state, state authority, or federal law enforcement agency in the State of
179 Georgia, including any college or university law enforcement chief executive ~~that~~ who
180 was registered or certified at the time of his or her retirement by the Georgia Peace
181 Officer Standards and Training Council, if such retired law enforcement chief executive
182 is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under
183 Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county,
184 municipal, State of Georgia, state authority, or federal retirement system; ~~or~~

185 (4) Police officer of any county, municipal, state, state authority, or federal law
186 enforcement agency in the State of Georgia, including any college or university police
187 officer ~~that~~ who is registered or certified by the Georgia Peace Officer Standards and
188 Training Council, or retired police officer of any county, municipal, state, state authority,
189 or federal law enforcement agency in the State of Georgia, including any college or
190 university police officer ~~that~~ who was registered or certified at the time of his or her
191 retirement by the Georgia Peace Officer Standards and Training Council, if such retired
192 ~~employee~~ police officer is receiving benefits under the Peace Officers' Annuity and
193 Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and
194 receiving benefits from a county, municipal, State of Georgia, state authority, or federal
195 retirement system; or

196 (5) Person who is a citizen of this state and:

197 (A) Has retired with at least ten years of aggregate service as a law enforcement officer
198 with powers of arrest under the laws of any state of the United States or of the United
199 States;

200 (B) Separated from service in good standing, as determined by criteria established by
201 the Georgia Peace Officer Standards and Training Council, from employment with his
202 or her most recent law enforcement agency; and

203 (C) Possesses on his or her person an identification card for retired law enforcement
204 officers as issued by the Georgia Peace Officer Standards and Training Council;
205 provided, however, that such person meets the standards for the issuance of such card
206 as provided for by the council, including, but not limited to, maintenance of
207 qualification in firearms training.

208 In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member
 209 of the Georgia State Patrol, retired member of the Georgia State Patrol, agent of the
 210 Georgia Bureau of Investigation, retired agent of the Georgia Bureau of Investigation,
 211 active or retired law enforcement chief executive, person who is a retired law enforcement
 212 officer as provided for in paragraph (5) of this subsection, or other law enforcement officer
 213 referred to in this subsection shall be authorized to carry a handgun on or off duty
 214 anywhere within ~~the~~ this state, including, but not limited to, in a courthouse except to the
 215 extent provided for in subsection (c.1) of this Code section, and the provisions of Code
 216 Sections 16-11-126 through 16-11-127.2 shall not apply to the carrying of such firearms.

217 (c.1)(1) Pursuant to a comprehensive plan for the security of the county courthouse and
 218 any courthouse annex as provided for in subsection (a) of Code Section 15-16-10, the
 219 sheriff with jurisdiction over such county courthouse or courthouse annex may provide
 220 for facilities or the means for the holding of weapons carried by persons enumerated
 221 under this Code section; provided, however, that ingress to such courthouse or courthouse
 222 annex is actively restricted or screened by the sheriff or his or her deputy sheriffs, and
 223 such facilities or means are beyond and inside of the area which is restricted or screened
 224 by the sheriff or his or her deputy sheriffs.

225 (2) If the requirements of paragraph (1) of this subsection are met, the persons
 226 enumerated under this Code section shall, upon request of the sheriff, place their weapons
 227 in such holding with the sheriff pursuant to the comprehensive plan while such persons
 228 are within the restricted or screened area. Upon request of any person enumerated under
 229 this Code section, in preparation for his or her exit from the restricted or screened area,
 230 the sheriff shall immediately return the person's weapons which are in holding.

231 (3) As used in this subsection, the term 'weapon' shall have the same meaning as
 232 provided for in Code Section 16-11-125.1; provided, however, that such term shall
 233 additionally mean any firearm."

234 **SECTION 5.**

235 Said part is further amended by adding a new subsection to Code Section 16-11-130.2,
 236 relating to carrying a weapon or long gun at a commercial service airport, to read as follows:

237 "(a.1) As used in this Code section, the term:

238 (1) 'Commercial service airport' means an airport that receives scheduled passenger
 239 aircraft service from any major airline carrier.

240 (2) 'Major airline carrier' means an airline that has more than \$1 billion in annual
 241 operating revenue during a fiscal year."

242

SECTION 6.

243 Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to disclosure and
 244 dissemination of criminal records to private persons and businesses, resulting responsibility
 245 and liability of issuing center, and provision of certain information to the FBI in conjunction
 246 with the National Instant Criminal Background Check System, is amended by revising
 247 paragraph (2) of subsection (e) as follows:

248 "(2)(A) The records of the Georgia Crime Information Center shall include information
 249 as to whether a person has been involuntarily hospitalized. Notwithstanding any other
 250 provisions of law and in order to carry out the provisions of this Code section and Code
 251 Section 16-11-172, the Georgia Crime Information Center shall be provided such
 252 information and no other mental health information from the involuntary hospitalization
 253 records of the probate courts concerning persons involuntarily hospitalized after
 254 March 22, 1995, in a manner agreed upon by ~~the Probate Judges Training Council~~ The
 255 Council of Probate Court Judges of Georgia and the Georgia Bureau of Investigation
 256 to preserve the confidentiality of patients' rights in all other respects. Further,
 257 notwithstanding any other provisions of law and in order to carry out the provisions of
 258 this Code section and Code Section 16-11-172, the center shall be provided information
 259 as to whether a person has been adjudicated mentally incompetent to stand trial or not
 260 guilty by reason of insanity at the time of the crime, has been involuntarily hospitalized,
 261 or both from the records of the clerks of the superior courts concerning persons
 262 involuntarily hospitalized after March 22, 1995, in a manner agreed upon by The
 263 Council of Superior Court Clerks of Georgia and the Georgia Bureau of Investigation
 264 to preserve the confidentiality of patients' rights in all other respects. ~~After five years~~
 265 ~~have elapsed from the date that a person's involuntary hospitalization information has~~
 266 ~~been received by the Georgia Crime Information Center, the center shall purge its~~
 267 ~~records of such information as soon as practicable and in any event purge such records~~
 268 ~~within 30 days after the expiration of such five-year period~~ Pursuant to this Code
 269 section, such person may petition the court in which such hospitalization proceedings
 270 occurred for relief. A copy of such petition for relief shall be served as notice upon the
 271 opposing civil party or the prosecuting attorney for the state, as the case may be, or
 272 their successors, who appeared in the underlying case. Within 60 days of the receipt
 273 of such petition for relief by the interested parties, such court shall hold a hearing on
 274 such petition for relief; provided, however, that such time may be extended for good
 275 cause as determined by the court. Such prosecuting attorney for the state may represent
 276 the interests of the state at such hearing.
 277 (B) At the hearing provided for under subparagraph (A) of this paragraph, the court
 278 shall receive and consider evidence in a proceeding concerning:

279 (i) The circumstances which caused the person to be subject to such hospitalization;
280 (ii) The person's mental health and criminal history records, if any. The judge of
281 such court shall require any such person to sign a waiver authorizing the
282 superintendent or medical head of any mental hospital or treatment center to make to
283 the judge and the parties a recommendation regarding whether such person is a threat
284 to the safety of himself or herself or others;
285 (iii) The person's reputation, which shall be established through character witness
286 statements, testimony, or other character evidence; and
287 (iv) Changes in the person's condition or circumstances since such hospitalization.
288 (C)(i) The court shall issue a written order of its decision on the petition for relief
289 provided for under subparagraph (A) of this paragraph no later than 30 days after the
290 hearing.
291 (ii) The court shall grant the petition for relief if such court finds by a preponderance
292 of the evidence that the person will not likely act in a manner dangerous to himself
293 or herself or public safety and that granting the relief is otherwise consistent with the
294 standards for the issuance of a weapons carry license as provided for in
295 subsection (b.1) of Code Section 16-11-129. A record shall be kept of the hearing;
296 provided, however, that such record shall remain confidential and be disclosed only
297 to a court or to the parties in the event of an appeal. Any appeal of the court's ruling
298 on the petition shall be as provided for by laws governing the appeal of decisions
299 from such court.
300 (iii) If the court grants such person's petition for relief, the clerk of such court shall
301 report such order to the Georgia Crime Information Center immediately, but in no
302 case later than ten business days after the date of such order, and the center shall
303 purge such record that is the subject of the order as soon as practicable but not later
304 than 30 days after receipt of such order.
305 (D) A person may petition for relief under this paragraph not more than once every two
306 years. In the case of a person who has been hospitalized, such person shall not petition
307 for relief prior to being discharged from such hospitalization. A first petition for relief
308 may be made only after 12 months from the date on which a person's involuntary
309 hospitalization commenced.
310 (E) Information received by the prosecuting attorney for the state pursuant to this
311 paragraph shall not be used against the petitioner in any other case or context unless
312 such information is usable in such other case or context by other rules of evidence or
313 discovery."

314 **SECTION 7.**

315 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
316 provisions regarding torts, is amended by adding a new Code section to read as follows:

317 "51-1-55.

318 (a) As used in this Code section, the term:

319 (1) 'Dangerous weapon' shall have the same meaning as provided for under Code Section
320 16-11-121.

321 (2) 'Firearm' means any handgun, rifle, shotgun, or other weapon which will or can be
322 converted to expel a projectile by the action of an explosive or electrical charge and
323 which is not a dangerous weapon.

324 (b) Any instructor who lawfully instructs, educates, or trains a person in the safe, proper,
325 or technical use of a firearm shall be immune from civil liability for any injuries caused by
326 the failure of such person to use such firearm properly or lawfully."

327 **SECTION 8.**

328 This Act shall become effective upon its approval by the Governor or upon its becoming law
329 without such approval.

330 **SECTION 9.**

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