

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 640:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to revise various laws pertaining to firearms and the carrying and possession
3 of firearms and other weapons; to revise unauthorized locations for the carrying of weapons;
4 to revise weapons carry license application requirements; to provide for causes of action; to
5 provide for authorized carrying in the event of certain application delays; to provide for
6 online and by mail application processes; to revise data base prohibition; to provide for and
7 revise a definition; to amend Article 3 of Chapter 5 of Title 17 of the Official Code of
8 Georgia Annotated, relating to disposition of property seized, to revise requirements for the
9 disposition of firearms in custody of law enforcement agencies; to provide for causes of
10 action; to revise Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia
11 Annotated, relating to state tort claims, so as to waive sovereign immunity for certain claims;
12 to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
16 amended by revising paragraph (4) of subsection (b) of Code Section 16-11-127, relating to
17 carrying weapons in unauthorized locations, as follows:

18 ~~"(4) In a place of worship, unless the governing body or authority of the place of worship~~
19 ~~permits the carrying of weapons or long guns by license holders~~ Reserved;"

20 **SECTION 2.**

21 Said title is further amended by revising subparagraphs (a)(3)(A), by adding a new paragraph
22 to subsection (a), by revising subparagraph (b)(2)(I) and subsections (j) and (k) of Code
23 Section 16-11-129, relating to weapons carry license, gun safety information, temporary
24 renewal permit, mandamus, and verification of license, as follows:

25 "(3)(A)(i) Applicants shall submit the application for a weapons carry license or
26 renewal license to the judge of the probate court on forms prescribed and furnished
27 free of charge to persons wishing to apply for the license or renewal license. The
28 judge of the probate court shall accept applications for weapons carry licenses or
29 renewal licenses on a first come, first serve basis, for a minimum of seven hours daily
30 during normal business hours. A person aggrieved by a violation of this paragraph
31 may bring an action as provided for under subsection (j) of this Code section. Upon
32 notification of application of an applicant for a renewal of a weapons carry license or
33 an applicant for a new weapons carry license, after 22 days of said notification of
34 application, if there has been no notification of acceptance or denial of the applicant's
35 application for a weapons carry license, the applicant who would otherwise be eligible
36 for a weapons carry license shall be allowed to carry a weapon pursuant to this part
37 until notified via first class mail or email by the probate court of the denial of the
38 applicant's application for a weapons carry license or renewal license. An applicant
39 who is not eligible for a weapons carry license as provided for under paragraph (2)

40 of subsection (b) of this Code section shall not be allowed to carry under the
 41 provisions of this code section."

42 "(4) The probate court shall be authorized to implement online application processes for
 43 weapons carry licenses and renewal licenses. The probate court shall also be authorized
 44 to accept a weapons carry license or renewal license application by first class mail."

45 "(I) Any person who has been convicted of any misdemeanor involving the use or
 46 possession of a controlled substance and has not been free of all restraint or supervision
 47 in connection therewith or free of:

48 ~~(i) A second conviction of any misdemeanor involving the use or possession of a~~
 49 ~~controlled substance; or~~

50 ~~(ii) Any any conviction under subparagraphs (E) through (G) of this paragraph~~
 51 ~~for at least five years immediately preceding the date of the application;"~~

52 "(j) **Applicant may seek relief.**

53 (1) When an eligible applicant fails to receive a license, temporary renewal license, or
 54 renewal license within the time period required by this Code section and the application
 55 or request has been properly filed, the applicant may bring an action in mandamus or
 56 other legal proceeding in order to obtain a license, temporary renewal license, or renewal
 57 license. When an applicant is otherwise denied a license, temporary renewal license, or
 58 renewal license or is otherwise denied the ability to submit an application in conformance
 59 with subparagraph (a)(1)(A) of this Code section and contends that he or she is qualified
 60 to be issued a license, temporary renewal license, or renewal license, the applicant may
 61 bring an action in mandamus or other legal proceeding in order to obtain such license.
 62 Additionally, the applicant may request a hearing before the judge of the probate court
 63 relative to the applicant's fitness to be issued such license. Upon the issuance of a denial,
 64 the judge of the probate court shall inform the applicant of his or her rights pursuant to
 65 this subsection. If such applicant is the prevailing party, he or she shall be entitled to
 66 recover his or her costs in such action, including reasonable attorney's fees.

67 (2) In addition to any other relief, an eligible applicant or applicant who proves his or her
 68 eligibility under this Code section but fails to receive or is denied a license, temporary
 69 renewal license, or renewal license shall be entitled to general damages or \$100.00,
 70 whichever is greater.

71 **(k) Data base prohibition.**

72 (1) As used in this paragraph, the term 'multijurisdictional' means between or among
 73 more than one department, agency, or office.

74 (2) A person or entity shall not create or maintain a multijurisdictional data base of
 75 information regarding persons issued or who have applied for weapons carry licenses.

76 (3) Any person aggrieved by a violation of this subsection may bring an action for relief.
 77 Such person who proves by a preponderance of the evidence that he or she is or was
 78 included in such a multijurisdictional data base shall be entitled to obtain, in addition to
 79 appropriate declaratory or injunctive relief:

80 (A) One hundred dollars or general damages, whichever is greater; and

81 (B) Expenses of litigation, including costs and reasonable attorney's fees."

82 **SECTION 3.**

83 Article 3 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
 84 disposition of property seized, is amended by revising subsection (g) of Code Section
 85 17-5-54, relating to definitions and disposition of personal property in custody of law
 86 enforcement agency, as follows:

87 "(g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,
 88 or designee of such official certifies that a firearm is unsafe because of wear, damage,
 89 age, or modification or because any federal or state law prohibits the sale or distribution
 90 of such firearm, at the discretion of such official, it shall be transferred to the Division of
 91 Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law
 92 enforcement forensic laboratory for training or experimental purposes, or be destroyed.

93 (2) Otherwise, an unclaimed firearm:
94 (A) Possessed by a municipal corporation shall be disposed of as provided for in Code
95 Section 36-37-6; provided, however, that municipal corporations shall not have the
96 right to reject any bids or to cancel any proposed sale of such firearms, and all sales
97 ~~shall~~ may be to persons any person, but the transfer of such firearms shall only be to
98 persons, specified by the winning bidders, who are licensed as firearms collectors,
99 dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et
100 seq., and who are authorized to receive such firearms under the terms of such license.
101 The municipal corporation shall dispose of all such firearms at least once every 12
102 months during any time in which the municipal corporation has an inventory of five or
103 more firearms. If a municipal corporation does not dispose of such firearms as required
104 by this Code section, a person interested in acquiring any such firearms may bring an
105 action in mandamus or other legal proceeding to compel the disposition. A person who
106 has been unable to acquire a firearm because of the municipal corporation's failure to
107 dispose of the firearm pursuant to this Code section shall, in addition to any other relief
108 to which he or she is entitled, be entitled to general damages or \$100.00, whichever is
109 greater. A prevailing plaintiff in such an action shall be entitled to his or her costs,
110 including reasonable attorney's fees; or
111 (B) Possessed by the state or a political subdivision other than a municipal corporation,
112 shall be disposed of by sale at public auction. While any person may bid at auction, the
113 transfer of such firearms shall only be to persons, specified by the winning bidders, who
114 are licensed as firearms collectors, dealers, importers, or manufacturers under the
115 provisions of 18 U.S.C. Section 921, et seq., and who are authorized to receive such
116 firearms under the terms of such license. Auctions required by this subparagraph may
117 occur online on a rolling basis or at live events, but in no event shall such auctions
118 occur less frequently than once every 12 months during any time in which the political
119 subdivision or state custodial agency has an inventory of five or more saleable firearms.

120 If the state or a political subdivision other than a municipal corporation does not
121 dispose of such firearms as required by this Code section, a person interested in
122 acquiring any such firearms may bring an action in mandamus or other legal proceeding
123 to compel the disposition. A person who has been unable to acquire a firearm because
124 of the state or such political subdivision's failure to dispose of the firearm pursuant to
125 this Code section shall, in addition to any other relief to which he or she is entitled, be
126 entitled to general damages or \$100.00, whichever is greater. A prevailing plaintiff in
127 such an action shall be entitled to his or her costs, including reasonable attorney's fees.
128 (3) If no bids from eligible recipients are received within six months from when bidding
129 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the
130 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau
131 of Investigation, a municipal or county law enforcement forensic laboratory for training
132 or experimental purposes, or be destroyed."

133 **SECTION 4.**

134 Article 2 of Chapter 21 of Title 50 of the Official Code of Georgia Annotated, relating to
135 state tort claims, is amended by adding a new Code section to read as follows:

136 "50-21-38.

137 The defense of sovereign immunity is waived as to any claim, counterclaim, cross-claim,
138 or third-party claim brought in the courts of this state by an aggrieved person seeking a
139 declaratory judgment, injunctive relief, or reasonable attorney's fees against the state or any
140 political subdivision or municipality thereof under subparagraph (a)(3)(A) and subsections
141 (j) and (k) of Code Section 16-11-129 and subsection (g) of Code Section 17-5-54. This
142 Code section shall not be construed to alter or amend any other waiver of sovereign
143 immunity provided by law."

144

SECTION 5.

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