

House Bill 1428

By: Representatives Smith of the 19th, Birdsong of the 123rd, Johnson of the 35th, Bunn of the 74th, Hembree of the 98th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated,
2 relating to water supply, so as to require fingerprinting and criminal record checks of certain
3 persons employed in operation, maintenance, or repair of water treatment plants or water
4 supply systems owned or operated by local governments; to change certain provisions
5 relating to failure of local governments to collect and remit all amounts due to department
6 and others, notice, and withholding of state funds; to designate certain provisions of said
7 article; to provide an effective date; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 6 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to
11 water supply, is amended by designating Code Sections 12-5-470 and 12-5-471 as Part 1,
12 designating Code Sections 12-5-472 through 12-5-480 as Part 2, designating Code Sections
13 12-5-481 and 12-5-482 as Part 4, and by adding a new Part 3 to read as follows:

14 **"Part 3**

15 12-5-480.1.

16 After July 1, 2002, all personnel employed by a local government to perform operational,
17 maintenance, or repair duties at or for any water treatment plant or water distribution
18 system which is part of any public water supply system, whether or not such personnel
19 hold certificates from the State Board of Examiners for Certification of Water and
20 Wastewater Treatment Plant Operators and Laboratory Analysts, shall be fingerprinted and
21 shall have a criminal record check as required by this Code section. The local government
22 shall not employ in or transfer to a position of such capacity any person unless the local
23 government has received in writing a satisfactory determination for such person from the
24 Georgia Bureau of Investigation. For purposes of this subsection, 'satisfactory

1 determination' means that a criminal record check was performed for such person and he
2 or she was found to have no criminal record of conviction or plea of nolo contendere for
3 any offense of:

- 4 (1) Treason, under Code Section 16-11-1;
- 5 (2) Insurrection, under Code Section 16-11-2,
- 6 (3) Inciting to insurrection, under Code Section 16-11-3;
- 7 (4) Riot, under Code Section 16-11-30;
- 8 (5) Inciting to riot, under Code Section 16-11-31;
- 9 (6) Terroristic threats and acts, under Code Section 16-11-37;
- 10 (7) Dissemination of information relating to terroristic acts, under Code Section
11 16-11-37.1;
- 12 (8) Wearing a mask, hood, or device which conceals identity of wearer, under Code
13 Section 16-11-38;
- 14 (9) Any offense under Article 3 of Chapter 7 of Title 16, relating to arson and
15 explosives;
- 16 (10) Any offense under Article 4 of Chapter 7 of Title 16, relating to bombs, explosives,
17 and chemical and biological weapons;
- 18 (11) Any offense under Article 4 of Chapter 11 of Title 16, relating to dangerous
19 instrumentalities and practices;
- 20 (12) Hijacking an aircraft, under Code Section 16-5-44;
- 21 (13) Any offense under 18 U.S.C.A. Chapter 113B, relating to terrorism;
- 22 (14) Murder or felony murder, under Code Section 16-5-1;
- 23 (15) Armed robbery, under Code Section 16-8-41;
- 24 (16) Kidnapping, under Code Section 16-5-40;
- 25 (17) Rape, under Code Section 16-6-1;
- 26 (18) Aggravated child molestation, under Code Section 16-6-4;
- 27 (19) Aggravated sodomy, under Code Section 16-6-2;
- 28 (20) Aggravated sexual battery, under Code Section 16-6-22.2;
- 29 (21) Theft by receiving stolen property, under Code Section 16-8-7;
- 30 (22) Any offense under Chapter 13 of Title 16, relating to controlled substances;
- 31 (23) Burglary, under Code Section 16-7-1;
- 32 (24) Robbery, under Code Section 16-8-40;
- 33 (25) Theft by extortion, under Code Section 16-8-16;
- 34 (26) Criminal damage to property in the first degree, under Code Section 16-7-22;
- 35 (27) Criminal damage to property in the second degree, under Code Section 16-7-23;
- 36 (28) Interference with government property, under Code Section 16-7-24;

1 (29) Damaging, injuring, or interfering with property of public utility companies,
 2 municipalities, or political subdivisions, under Code Section 16-7-25;

3 (30) Conspiracy to commit any one or more of the foregoing offenses; or

4 (31) Any substantially similar offense under the laws of another jurisdiction;

5 provided, however, that persons employed in positions of such capacity on June 30, 2002,
 6 may be continued in such employment for a maximum of 30 days beyond such date in
 7 order to allow for the receipt of the results of the criminal record check.

8 (b) Fingerprints shall be in such form and of such quality as shall be acceptable for
 9 submission to the National Crime Information Center under standards adopted by the
 10 Federal Bureau of Investigation or the United States Department of Justice. It shall be the
 11 duty of each law enforcement agency in this state to fingerprint those persons required to
 12 be fingerprinted by this Code section; provided, however, that a fee may be charged to
 13 cover the cost of providing such service.

14 (c) Fees required for a criminal record check by the Georgia Crime Information Center,
 15 the National Crime Information Center, the Federal Bureau of Investigation, or the United
 16 States Department of Justice shall be paid by such employer or by the individual seeking
 17 employment or continued employment, as determined by such employer in its discretion.

18 (d) It shall be the duty of the board to submit this Code section to the Georgia Bureau of
 19 Investigation for submission to the Federal Bureau of Investigation and the United States
 20 Department of Justice for their consent to conduct criminal record checks through the
 21 National Crime Information Center as required by federal law, rules, or regulations. No
 22 criminal record checks through the National Crime Information Center shall be required
 23 by this Code section unless and until such consent is given.

24 (e) Information provided by the Georgia Crime Information Center or the National Crime
 25 Information Center shall be used only for the purposes allowed by Code Section 35-3-35
 26 or by applicable federal laws, rules, or regulations.

27 (f) The board is authorized to adopt rules and regulations necessary to carry out the
 28 provisions of this Code section."

29 SECTION 2.

30 Said article is further amended by striking subsection (a) of Code Section 12-5-482, relating
 31 to failure of local governments to collect and remit all amounts due to department and others,
 32 notice, and withholding of state funds, and inserting in lieu thereof the following:

33 "(a) In the event of a failure of any local government to collect and remit in full all
 34 amounts due to the department and all amounts due to others, which involve the credit or
 35 guarantee of the state, or in the event a local government employs or continues to employ
 36 any person in violation of Code Section 12-5-480.1, it shall be the duty of the department

1 to notify the director of the Office of Treasury and Fiscal Services who shall withhold all
2 funds of the state and all funds administered by the state, its agencies, boards, and
3 instrumentalities allotted to such local government until such local government has
4 collected and remitted in full all sums due and cured or remedied all defaults or has ceased
5 to be in violation of Code Section 12-5-480.1, whichever is applicable."

6 **SECTION 3.**

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

9 **SECTION 4.**

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