

House Bill 1032

By: Representatives Lunsford of the 110th, Ralston of the 7th, Forster of the 3rd, England of the 108th, Ehrhart of the 36th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to
2 license to carry a pistol or revolver and temporary renewal permit, so as to provide for certain
3 restrictions on the issuance of such permit; to provide for a background check for permit
4 renewals; to provide for a check of United States Immigration and Customs Enforcement
5 records for noncitizen applicants; to provide for an effective date; to repeal conflicting laws;
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to license to
10 carry a pistol or revolver and temporary renewal permit, is amended by striking in its entirety
11 subsection (b) and inserting in lieu thereof the following:

12 "(b) *Licensing exceptions.* No license shall be granted to:

13 (1) Any person under 21 years of age;

14 (2) Any person who is a fugitive from justice or against whom proceedings are pending
15 for any felony, forcible misdemeanor, or violation of Code Section 16-11-126,
16 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated;

17 (3) Any person who is under indictment for or has been convicted of a felony by a court
18 of this state or any other state; by a court of the United States including its territories,
19 possessions, and dominions; or by a court of any foreign nation and has not been
20 pardoned for such felony by the President of the United States, the State Board of
21 Pardons and Paroles, or the person or agency empowered to grant pardons under the
22 constitution or laws of such state or nation or any person who has been convicted of a
23 forcible misdemeanor and has not been free of all restraint or supervision in connection
24 therewith for at least five years or any person who has been convicted of a violation of
25 Code Section 16-11-126, 16-11-127, or 16-11-128 and has not been free of all restraint

1 or supervision in connection therewith for at least three years, immediately preceding the
2 date of the application;

3 (4) Any individual who has been hospitalized as an inpatient in any mental hospital or
4 alcohol or drug treatment center within five years of the date of his or her application.
5 The probate judge may require any applicant to sign a waiver authorizing any mental
6 hospital or treatment center to inform the judge whether or not the applicant has been an
7 inpatient in any such facility in the last five years and authorizing the superintendent of
8 such facility to make to the judge a recommendation regarding whether a license to carry
9 a pistol or revolver should be issued. When such a waiver is required by the probate
10 judge, the applicant shall pay to the probate judge a fee of \$3.00 for reimbursement of the
11 cost of making such a report by the mental health hospital, alcohol or drug treatment
12 center; or the Department of Human Resources, which the probate judge shall remit to
13 the hospital, center, or department. The judge shall keep any such hospitalization or
14 treatment information confidential. It shall be at the discretion of the probate judge,
15 considering the circumstances surrounding the hospitalization and the recommendation
16 of the superintendent of the hospital or treatment center where the individual was a
17 patient, to issue the license; ~~or~~

18 (5)(A) Any person, the provisions of paragraph (3) of this subsection notwithstanding,
19 who has been convicted of an offense arising out of the unlawful manufacture,
20 distribution, possession, or use of a controlled substance or other dangerous drug; or

21 (B) Any person who is an unlawful user of or addicted to any controlled substance.

22 ~~(B)~~(C) As used in this paragraph, the term:

23 (i) 'Controlled substance' means any drug, substance, or immediate precursor
24 included in the definition of controlled substances in paragraph (4) of Code Section
25 16-13-21.

26 (ii) 'Convicted' means a plea of guilty, a finding of guilt by a court of competent
27 jurisdiction, the acceptance of a plea of nolo contendere, or the affording of first
28 offender treatment by a court of competent jurisdiction irrespective of the pendency
29 or availability of an appeal or an application for collateral relief.

30 (iii) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71; ~~;~~

31 (6) Any person who available information shows has ever been adjudicated as a mental
32 defective or who has ever been committed to a mental institution;

33 (7) Any person who, being an alien:

34 (A) Is illegally or unlawfully in the United States; or

35 (B) Has been admitted to the United States under a nonimmigrant visa, as that term
36 is defined in paragraph 101(a)(26) of the federal Immigration and Nationality Act, 8
37 U.S.C. Section 1101(a)(26). The provisions of this subparagraph shall not apply to any

1 alien who has been lawfully admitted to the United States under a nonimmigrant visa,
 2 if that alien is:

3 (i) Admitted to the United States for lawful hunting or sporting purposes or is in
 4 possession of a hunting license or permit lawfully issued in the United States;
 5 (ii) An official representative of a foreign government who is accredited to the United
 6 States government or the government's mission to an international organization
 7 having its headquarters in the United States or is en route to or from another country
 8 to which that alien is accredited;
 9 (iii) An official of a foreign government or a distinguished foreign visitor who has
 10 been so designated by the United States Department of State; or
 11 (iv) A foreign law enforcement officer of a friendly foreign government entering the
 12 United States on official law enforcement business;

13 (8) Any person who has been discharged from the armed forces under dishonorable
 14 conditions;

15 (9) Any person who, having been a citizen of the United States, has renounced his or her
 16 citizenship;

17 (10) Any person who is subject to a court order that:

18 (A) Was issued after a hearing of which such person received actual notice and at
 19 which such person had an opportunity to participate;

20 (B) Restrains such person from harassing, stalking, or threatening an intimate partner
 21 of such person or child of such intimate partner or person, or engaging in other conduct
 22 that would place an intimate partner in reasonable fear of bodily injury to the partner
 23 or child; and

24 (C)(i) Includes a finding that such person represents a credible threat to the physical
 25 safety of such intimate partner or child; or

26 (ii) By its terms explicitly prohibits the use, attempted use, or threatened use of
 27 physical force against such intimate partner or child that would reasonably be
 28 expected to cause bodily injury; or

29 (11) Any person who has been convicted in any court of a misdemeanor crime of
 30 domestic violence and has not been free of all restraint or supervision in connection with
 31 such conviction for at least five years; provided, however, that at the end of such
 32 five-year period, such conviction shall be deemed to have been set aside for purposes of
 33 18 U.S.C. Section 921(a)(33)(B)(ii)."

34 SECTION 2.

35 Said Code section is further amended by striking in its entirety subsection (c) and inserting
 36 in lieu thereof the following:

1 *"(c) Fingerprinting.*

2 (1) Following completion of the application, the judge of the probate court shall require
 3 the applicant to proceed to an appropriate law enforcement agency in the county with the
 4 completed application. The appropriate local law enforcement agency in each county
 5 shall then make two sets of classifiable fingerprints of the applicant for a license to carry
 6 a pistol or revolver, place the fingerprint required by subsection (f) of this Code section
 7 on a blank license form which has been furnished to the law enforcement agency by the
 8 judge of the probate court, and place the name of the applicant on the blank license form.
 9 The law enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its
 10 services in connection with the application.

11 (2) In the case of each applicant who is applying for a license or renewal of a license
 12 under this Code section for the first time, the judge of the probate court shall direct the
 13 law enforcement agency to transmit one set of the applicant's fingerprints to the Georgia
 14 Crime Information Center for a search of the Federal Bureau of Investigation records and
 15 an appropriate report. ~~In such cases, the~~ The applicant shall submit an additional fee in
 16 an amount established by the Georgia Bureau of Investigation but not to exceed \$30.00
 17 for a search of records of the Federal Bureau of Investigation and an appropriate report,
 18 payable in such form as the judge may direct, to cover the cost of the records search.

19 (3) Applications for renewal of licenses issued under this Code section shall be made to
 20 the judge of the probate court of the county in which the applicant is domiciled or, if the
 21 applicant is a member of the United States armed forces, the county in which he or she
 22 resides or in which the military reservation on which the applicant resides is located in
 23 whole or in part at the time of making the renewal application. ~~In the case of an applicant~~
 24 ~~for a renewal of a license, the judge of the probate court may, in his or her discretion,~~
 25 ~~direct that the local county law enforcement agency request a search of the criminal~~
 26 ~~history file and wanted persons file of the Georgia Crime Information Center by~~
 27 ~~computer access from that county in lieu of transmitting the application and forms.~~

28 (4) When any person who is not a United States citizen applies for a license or renewal
 29 of a license under this Code section, the judge of the probate court shall direct the law
 30 enforcement agency to transmit one set of the applicant's fingerprints to the Georgia
 31 Crime Information Center for a search of the United States Immigration and Customs
 32 Enforcement records and an appropriate report."

33 **SECTION 3.**

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

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SECTION 4.

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