

House Bill 966

By: Representatives Day of the 163<sup>rd</sup>, Neal of the 1<sup>st</sup>, Horne of the 71<sup>st</sup>, and Smith of the 70<sup>th</sup>

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 a license to carry a pistol or revolver and temporary renewal permits, so as to require a  
3 license or renewal license to be issued more quickly under certain circumstances; to provide  
4 legislative findings; to provide for a cause of action and civil remedies where a license or  
5 renewal license is not timely issued; to provide for related matters; to provide an effective  
6 date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds that the right of the people to bear arms as guaranteed by the  
10 Second Amendment to the United States Constitution and Article I, Section I, Paragraph VIII  
11 of the Georgia Constitution is crucial to protecting individual freedom and safeguarding the  
12 many liberties which are the cornerstones of this great nation. In preserving this right, it is  
13 essential that licenses to carry weapons be timely issued to law abiding citizens who are  
14 seeking to exercise their constitutional right in accordance with the laws of this state. It is  
15 the intent of this legislation to prevent unnecessary delays and hardships placed by local  
16 governments which infringe upon the exercise of the people's right to bear arms. It is further  
17 the finding of this body that lawful United States citizens are entitled to obtain a license to  
18 carry a pistol or revolver in a timely manner.

19 **SECTION 2.**

20 Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to a license to  
21 carry a pistol or revolver and temporary renewal permits, is amended by revising subsection  
22 (d) as follows:

23 *"(d) Investigation of applicant; issuance of license; renewal.*

24 (1) For both license applications and requests for license renewals, the judge of the  
25 probate court shall, within two business days following the receipt of the application or

1 request, direct the law enforcement agency to request a fingerprint based criminal history  
 2 records check from the Georgia Crime Information Center and Federal Bureau of  
 3 Investigation for purposes of determining the suitability of the applicant and return an  
 4 appropriate report to the judge of the probate court. Fingerprints shall be in such form  
 5 and of such quality as prescribed by the Georgia Crime Information Center and under  
 6 standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of  
 7 Investigation may charge such fee as is necessary to cover the cost of the records search.

8 (2) For both license applications and requests for license renewals, the judge of the  
 9 probate court shall within two business days following the receipt of the application or  
 10 request, also direct the law enforcement agency to conduct a background check using the  
 11 Federal Bureau of Investigation's National Instant Criminal Background Check System  
 12 and return an appropriate report to the probate judge within 30 days.

13 (3) When a person who is not a United States citizen applies for a license or renewal of  
 14 a license under this Code section, the judge of the probate court shall direct the law  
 15 enforcement agency to conduct a search of the records maintained by the United States  
 16 Bureau of Immigration and Customs Enforcement. As a condition to the issuance of a  
 17 license or the renewal of a license, an applicant who is in nonimmigrant status shall  
 18 provide proof of his or her qualifications for an exception to the federal firearm  
 19 prohibition pursuant to 18 U.S.C. Section 922(y).

20 (4) The law enforcement agency shall ~~notify~~ report to the judge of the probate court  
 21 within ~~50~~ 30 days, by telephone and in writing, of any findings relating to the applicant  
 22 which may bear on his or her eligibility for a license or renewal license under the terms  
 23 of this Code section. When no derogatory information is found on the applicant bearing  
 24 on his or her eligibility to obtain a license or renewal license, a report shall not be  
 25 required. When the law enforcement agency fails to report to the probate judge within  
 26 30 days as required by this Code section, there shall be a rebuttable presumption that no  
 27 derogatory information is found. The law enforcement agency shall return the  
 28 application and the blank license form with the fingerprint thereon directly to the judge  
 29 of the probate court within such time period. Not later than ~~60~~ 45 days after the date of  
 30 the application the judge of the probate court shall issue the applicant a license or renewal  
 31 license to carry any pistol or revolver ~~if no~~ unless facts establishing ineligibility have  
 32 been reported ~~and if~~ or unless the judge determines the applicant has not met all the  
 33 qualifications, is not of good moral character, ~~and or~~ has ~~complied~~ failed to comply  
 34 with any of the requirements contained in this Code section."

### 35 SECTION 3.

36 Said Code section is further amended by adding a new subsection (j) to read as follows:

1 "(j) When an eligible applicant who is a United States citizen fails to receive a license,  
2 temporary permit, or renewal license within the time period required by this Code section  
3 and the application or request has been properly filed, the applicant may bring an action in  
4 mandamus or other legal proceeding in order to obtain a license, temporary license, or  
5 renewal license and such applicant shall be entitled to recover his or her costs in such  
6 action, including reasonable attorney's fees."

7 **SECTION 4.**

8 This Act shall become effective on July 1, 2008.

9 **SECTION 5.**

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