

House Bill 1103 (COMMITTEE SUBSTITUTE)

By: Representatives Maxwell of the 17th, Coleman of the 97th, Dickson of the 6th, Kaiser of the 59th, Smith of the 129th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to provide for clearance certificates issued by the
3 Professional Standards Commission relating to fingerprint and criminal background checks;
4 to provide for definitions; to provide for criminal background checks for noneducators; to
5 provide for procedures; to provide for fees for clearance certificates; to provide that certain
6 provisions relating to fingerprint and criminal background checks may not be waived; to
7 revise a definition relative to the "Georgia Professional Standards Act"; to provide for related
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
12 secondary education, is amended by revising subsection (e) of Code Section 20-2-211,
13 relating to annual contracts for certificated personnel in elementary and secondary education,
14 as follows:

15 "(e)(1) All personnel employed by a local unit of administration after July 1, 2000,
16 whether or not such personnel hold certificates from the Professional Standards
17 Commission, shall be fingerprinted and have a criminal record check made as required
18 by this subsection. The local unit of administration shall have the authority to employ a
19 person holding such a certificate under a provisional or temporary contract for a
20 maximum of 200 days and to employ a person who does not hold such a certificate for
21 a maximum of 200 days, in order to allow for the receipt of the results of the criminal
22 record check. Teachers, principals, and other certificated personnel whose employment
23 in a local unit of administration is renewed pursuant to this subpart after July 1, 2000,
24 shall have a criminal record check made as required by this subsection upon any
25 certificate renewal application to the Professional Standards Commission. The local unit
26 of administration shall adopt policies to provide for the subsequent criminal record

27 checks of noncertificated personnel continued in employment in the local unit of
28 administration.

29 (2) Fingerprints shall be in such form and of such quality as shall be acceptable for
30 submission to the National Crime Information Center under standards adopted by the
31 Federal Bureau of Investigation or the United States Department of Justice. It shall be
32 the duty of each law enforcement agency in this state to fingerprint those persons required
33 to be fingerprinted by this subsection.

34 (3) At the discretion of local units of administration, fees required for a criminal record
35 check by the Georgia Crime Information Center, the National Crime Information Center,
36 the Federal Bureau of Investigation, or the United States Department of Justice shall be
37 paid by the local unit of administration or by the individual seeking employment or
38 making application to the Professional Standards Commission.

39 (4) It shall be the duty of the State Board of Education to submit this subsection to the
40 Georgia Bureau of Investigation for submission to the Federal Bureau of Investigation
41 and the United States Department of Justice for their consent to conduct criminal record
42 checks through the National Crime Information Center as required by federal law, rules,
43 or regulations. No criminal record checks through the National Crime Information
44 Center shall be required by this subsection unless and until such consent is given.

45 (5) Information provided by the Georgia Crime Information Center or the National
46 Crime Information Center shall be used only for the purposes allowed by Code Section
47 35-3-35 or by applicable federal laws, rules, or regulations.

48 (6) The State Board of Education is authorized to adopt rules and regulations necessary
49 to carry out the provisions of this subsection.

50 (7) This subsection shall be repealed on January 1, 2011.

51 **SECTION 2.**

52 Said chapter is further amended by adding a new Code section to read as follows:

53 "20-2-211.1.

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

55 (1) 'Clearance certificate' means a certificate issued by the Professional Standards
56 Commission that verifies that an educator has completed fingerprint and criminal
57 background check requirements as specified in this Code section and that the individual
58 does not have a certificate that is currently revoked or suspended in Georgia or any other
59 state; provided, however, that additional fingerprinting shall not be required for renewal
60 of a clearance certificate or for educators who possess a professional educator certificate
61 as of January 1, 2011. A clearance certificate shall be a renewable certificate valid for

62 five years. Clearance certificates shall be subject to fees in accordance with subsection
63 (e) of Code Section 20-2-200.

64 (2) 'Educator' means a teacher, school or school system administrator, or other education
65 personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of
66 this chapter or an increased flexibility contract under Article 4 of this chapter, be required
67 to hold a professional educator certificate, license, or permit issued by the Professional
68 Standards Commission and persons who have applied for but have not yet received such
69 a certificate, license, or permit.

70 (3) 'Local unit of administration' shall have the same meaning as in Code Section
71 20-2-242 and shall also include state chartered special schools and commission charter
72 schools.

73 (4) 'Professional educator certificate' means a certificate, license, or permit issued by the
74 Professional Standards Commission that is based upon academic, technical, and
75 professional training, experience, and competency of such personnel as provided for
76 under Code Section 20-2-200.

77 (b)(1) On and after January 1, 2011, all educators employed by a local unit of
78 administration shall hold a valid clearance certificate; provided, however, that an
79 educator who possesses a professional educator certificate as of January 1, 2011, shall not
80 be required to obtain a clearance certificate until his or her professional educator
81 certificate is up for renewal. A local unit of administration may employ an educator who
82 does not already hold a valid clearance certificate, provided the individual has applied for
83 a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the
84 results of the criminal record check and issuance of the clearance certificate. The
85 requirements of this Code section shall be in addition to professional educator certificate
86 requirements unless such educator is employed by a school which is exempt from teacher
87 certification requirements pursuant to a charter under Article 31 or 31A of this chapter
88 or an increased flexibility contract under Article 4 of this chapter.

89 (2) Any other Code sections to the contrary notwithstanding, educators holding a valid
90 clearance certificate shall be subject to the code of ethics for educators as established
91 pursuant to Code Section 20-2-984.1 and shall be subject to Code Sections 20-2-984,
92 20-2-984.2, 20-2-984.3, 20-2-984.4, and 20-2-984.5.

93 (c) A local unit of administration shall ensure that all noneducator personnel employed by
94 such local unit of administration after January 1, 2011, shall be fingerprinted and have a
95 criminal record check performed. The local unit of administration shall have the authority
96 to employ such person for a maximum of 20 days in order to allow for the receipt of the
97 results of the criminal record check. The local unit of administration shall adopt policies

98 to provide for the subsequent criminal record checks of noneducator personnel continued
 99 in employment in the local unit of administration.
 100 (d) Fingerprints shall be in such form and of such quality as shall be acceptable for
 101 submission to the National Crime Information Center under standards adopted by the
 102 Federal Bureau of Investigation or the United States Department of Justice. It shall be the
 103 duty of each law enforcement agency in this state to fingerprint those persons required to
 104 be fingerprinted by this Code section.
 105 (e) At the discretion of local units of administration, fees required for a criminal record
 106 check by the Georgia Crime Information Center, the National Crime Information Center,
 107 the Federal Bureau of Investigation, or the United States Department of Justice shall be
 108 paid by the local unit of administration or by the individual seeking employment or making
 109 application to the Professional Standards Commission.
 110 (f) It shall be the duty of the State Board of Education to submit this Code section to the
 111 Georgia Bureau of Investigation for submission to the Federal Bureau of Investigation and
 112 the United States Department of Justice for their consent to conduct criminal record checks
 113 through the National Crime Information Center as required by federal law, rules, or
 114 regulations. No criminal record checks through the National Crime Information Center
 115 shall be required by this Code section unless and until such consent is given.
 116 (g) Information provided by the Georgia Crime Information Center or the National Crime
 117 Information Center shall be used only for the purposes allowed by Code Section 35-3-35
 118 or by applicable federal laws, rules, or regulations.
 119 (h) The State Board of Education is authorized to adopt rules and regulations necessary
 120 to carry out the provisions of this Code section."

121 **SECTION 3.**

122 Said chapter is further amended by revising subsection (e) of Code Section 20-2-82, relating
 123 to contract terms for local school systems requesting flexibility, as follows:

124 "(e) The state board shall be authorized to approve a waiver or variance request of
 125 specifically identified state rules, regulations, policies, and procedures or provisions of this
 126 chapter upon the inclusion of such request in the local school system's proposed contract
 127 and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver
 128 and variance shall be improvement of student performance. The state board shall not be
 129 authorized to waive or approve variances on any federal, state, and local rules, regulations,
 130 court orders, and statutes relating to civil rights; insurance; the protection of the physical
 131 health and safety of school students, employees, and visitors; conflicting interest
 132 transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in
 133 or near a public school; ~~or~~ any reporting requirements pursuant to Code Section 20-2-320

134 or Chapter 14 of this title; or the requirements of Code Section 20-2-211.1. A local school
 135 system that has received a waiver or variance shall remain subject to the provisions of Part
 136 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or
 137 fees to its students except as may be authorized for local boards by Code Section 20-2-133,
 138 and shall remain open to enrollment in the same manner as before the waiver request."

139 **SECTION 4.**

140 Said chapter is further amended by revising paragraph (1) of subsection (e) of Code Section
 141 20-2-200, relating to regulation of certificated professional personnel by the Professional
 142 Standards Commission, as follows:

143 "(e)(1) The Professional Standards Commission shall charge the following fees to
 144 persons who file applications with the commission under its regulations adopted pursuant
 145 to the authority of this Code section:

- 146 (A) For an applicant for initial certification who is not currently employed
 147 in Georgia public or private schools \$ 20.00
- 148 (B) For an applicant for initial certification who is not a graduate of an
 149 accredited education program from a Georgia college or university 20.00
- 150 (C) For an applicant for a higher certificate when the applicant then holds
 151 a Georgia certificate but who is not currently employed in Georgia public or
 152 private schools 20.00
- 153 (D) For an applicant for a certificate which adds a field or which endorses
 154 a certificate but who is not currently employed in Georgia public or private
 155 schools 20.00
- 156 (E) For an applicant for a conditional certificate 20.00
- 157 (F) For an applicant for the renewal of any certificate if the applicant is not
 158 currently employed by a public or private school in Georgia 20.00
- 159 (G) For evaluating transcripts where certificates are not issued and for
 160 issuing duplicate copies of certificates 20.00
- 161 (H) For an applicant for a clearance certificate pursuant to Code Section
 162 20-2-211.1 who is not currently employed in Georgia public or private
 163 schools or who is not a graduate of an accredited education program from a
 164 Georgia college or university 20.00"

165 **SECTION 5.**

166 Said chapter is further amended by revising subsection (b) of Code Section 20-2-244, relating
 167 to waivers to improve student performance, as follows:

168 "(b) The State Board of Education is not authorized to waive any federal, state, and local
 169 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
 170 of the physical health and safety of school students, employees, and visitors; conflicting
 171 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
 172 conduct in or near a public school; ~~or~~ any reporting requirements pursuant to Code Section
 173 20-2-320 or Chapter 14 of this title; or the requirements of Code Section 20-2-211.1. A
 174 school or school system that has received a waiver shall remain subject to the provisions
 175 of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge
 176 tuition or fees to its students except as may be authorized for local boards by Code Section
 177 20-2-133, and shall remain open to enrollment in the same manner as before the waiver
 178 request."

179 **SECTION 6.**

180 Said chapter is further amended by revising paragraph (2) of Code Section 20-2-982.1,
 181 relating to definitions relative to the "Georgia Professional Standards Act," as follows:

182 "(2) 'Educator' means teachers and school or school system administrators and other
 183 education personnel of this state who hold certificates, permits, or other certification
 184 documents, including clearance certificates, issued by the Professional Standards
 185 Commission and persons who have applied for but have not yet received or have been
 186 denied such certificates, permits, or other certification documents from the Professional
 187 Standards Commission."

188 **SECTION 7.**

189 Said chapter is further amended by revising subsection (b) of Code Section 20-2-2065,
 190 relating to waiver of provisions of Title 20 for charter schools, as follows:

191 "(b) In determining whether to approve a charter petition or renew an existing charter, the
 192 local board and state board shall ensure that a charter school, or for charter systems, each
 193 school within the system, shall be:

194 (1) A public, nonsectarian, nonreligious, nonprofit school that is not home based,
 195 provided that a charter school's nonprofit status shall not prevent the school from
 196 contracting for the services of a for profit entity and that nothing in this Code section
 197 shall preclude the use of computer and Internet based instruction for students in a virtual
 198 or remote setting;

199 (2) Subject to the control and management of the local board of the local school system
 200 in which the charter school is located, as provided in the charter and in a manner
 201 consistent with the Constitution, if a local charter school;

- 202 (3) Subject to the supervision of the state board, as provided in the charter and in a
 203 manner consistent with the Constitution, if a state chartered special school;
- 204 (4) Organized and operated as a nonprofit corporation under the laws of this state;
 205 provided, however, that this paragraph shall not apply to any charter petitioner that is a
 206 local school, local school system, or state or local public entity;
- 207 (5) Subject to all federal, state, and local rules, regulations, court orders, and statutes
 208 relating to civil rights; insurance; the protection of the physical health and safety of
 209 school students, employees, and visitors; conflicting interest transactions; and the
 210 prevention of unlawful conduct;
- 211 (6) Subject to all laws relating to unlawful conduct in or near a public school;
- 212 (7) Subject to an annual financial audit conducted by the state auditor or, if specified in
 213 the charter, by an independent certified public accountant licensed in this state;
- 214 (8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such
 215 provisions shall apply with respect to charter schools whose charters are granted or
 216 renewed on or after July 1, 2000;
- 217 (9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of
 218 Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;
- 219 (10) Subject to the requirement that it shall not charge tuition or fees to its students
 220 except as may be authorized for local boards by Code Section 20-2-133; ~~and~~
- 221 (11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of
 222 quiet reflection; and
- 223 (12) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and
 224 criminal background checks."

225 **SECTION 8.**

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