

House Bill 1103

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

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

96 (d) Fingerprints shall be in such form and of such quality as shall be acceptable for
97 submission to the National Crime Information Center under standards adopted by the
98 Federal Bureau of Investigation or the United States Department of Justice. It shall be the

99 duty of each law enforcement agency in this state to fingerprint those persons required to
 100 be fingerprinted by this Code section.

101 (e) At the discretion of local units of administration, fees required for a criminal record
 102 check by the Georgia Crime Information Center, the National Crime Information Center,
 103 the Federal Bureau of Investigation, or the United States Department of Justice shall be
 104 paid by the local unit of administration or by the individual seeking employment or making
 105 application to the Professional Standards Commission.

106 (f) It shall be the duty of the State Board of Education to submit this Code section to the
 107 Georgia Bureau of Investigation for submission to the Federal Bureau of Investigation and
 108 the United States Department of Justice for their consent to conduct criminal record checks
 109 through the National Crime Information Center as required by federal law, rules, or
 110 regulations. No criminal record checks through the National Crime Information Center
 111 shall be required by this Code section unless and until such consent is given.

112 (g) Information provided by the Georgia Crime Information Center or the National Crime
 113 Information Center shall be used only for the purposes allowed by Code Section 35-3-35
 114 or by applicable federal laws, rules, or regulations.

115 (h) The State Board of Education is authorized to adopt rules and regulations necessary
 116 to carry out the provisions of this Code section."

117 **SECTION 3.**

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

120 "(e) The state board shall be authorized to approve a waiver or variance request of
 121 specifically identified state rules, regulations, policies, and procedures or provisions of this
 122 chapter upon the inclusion of such request in the local school system's proposed contract
 123 and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver
 124 and variance shall be improvement of student performance. The state board shall not be
 125 authorized to waive or approve variances on any federal, state, and local rules, regulations,
 126 court orders, and statutes relating to civil rights; insurance; the protection of the physical
 127 health and safety of school students, employees, and visitors; conflicting interest
 128 transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in
 129 or near a public school; ~~or~~ any reporting requirements pursuant to Code Section 20-2-320
 130 or Chapter 14 of this title; or the requirements of Code Section 20-2-211.1. A local school
 131 system that has received a waiver or variance shall remain subject to the provisions of Part
 132 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or
 133 fees to its students except as may be authorized for local boards by Code Section 20-2-133,
 134 and shall remain open to enrollment in the same manner as before the waiver request."

SECTION 4.

135

136 Said chapter is further amended by revising paragraph (1) of subsection (e) of Code Section
137 20-2-200, relating to regulation of certificated professional personnel by the Professional
138 Standards Commission, as follows:

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

142 (A) For an applicant for initial certification who is not currently employed
143 in Georgia public or private schools \$ 20.00

144 (B) For an applicant for initial certification who is not a graduate of an
145 accredited education program from a Georgia college or university 20.00

146 (C) For an applicant for a higher certificate when the applicant then holds
147 a Georgia certificate but who is not currently employed in Georgia public or
148 private schools 20.00

149 (D) For an applicant for a certificate which adds a field or which endorses
150 a certificate but who is not currently employed in Georgia public or private
151 schools 20.00

152 (E) For an applicant for a conditional certificate 20.00

153 (F) For an applicant for the renewal of any certificate if the applicant is not
154 currently employed by a public or private school in Georgia 20.00

155 (G) For evaluating transcripts where certificates are not issued and for
156 issuing duplicate copies of certificates 20.00

157 (H) For an applicant for a clearance certificate pursuant to Code Section
158 20-2-211.1 who is not currently employed in Georgia public or private
159 schools or who is not a graduate of an accredited education program from a
160 Georgia college or university 20.00"

SECTION 5.

161

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

164 "(b) The State Board of Education is not authorized to waive any federal, state, and local
165 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
166 of the physical health and safety of school students, employees, and visitors; conflicting
167 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
168 conduct in or near a public school; ~~or~~ any reporting requirements pursuant to Code Section
169 20-2-320 or Chapter 14 of this title; or the requirements of Code Section 20-2-211.1. A

170 school or school system that has received a waiver shall remain subject to the provisions
 171 of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge
 172 tuition or fees to its students except as may be authorized for local boards by Code Section
 173 20-2-133, and shall remain open to enrollment in the same manner as before the waiver
 174 request."

175 **SECTION 6.**

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

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

184 **SECTION 7.**

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

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

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

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

198 (3) Subject to the supervision of the state board, as provided in the charter and in a
 199 manner consistent with the Constitution, if a state chartered special school;

200 (4) Organized and operated as a nonprofit corporation under the laws of this state;
 201 provided, however, that this paragraph shall not apply to any charter petitioner that is a
 202 local school, local school system, or state or local public entity;

203 (5) Subject to all federal, state, and local rules, regulations, court orders, and statutes
 204 relating to civil rights; insurance; the protection of the physical health and safety of

205 school students, employees, and visitors; conflicting interest transactions; and the
206 prevention of unlawful conduct;

207 (6) Subject to all laws relating to unlawful conduct in or near a public school;

208 (7) Subject to an annual financial audit conducted by the state auditor or, if specified in
209 the charter, by an independent certified public accountant licensed in this state;

210 (8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such
211 provisions shall apply with respect to charter schools whose charters are granted or
212 renewed on or after July 1, 2000;

213 (9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of
214 Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

215 (10) Subject to the requirement that it shall not charge tuition or fees to its students
216 except as may be authorized for local boards by Code Section 20-2-133; ~~and~~

217 (11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of
218 quiet reflection; and

219 (12) Subject to requirements relating to fingerprint and criminal background checks
220 under Code Section 20-2-211.1."

221 **SECTION 8.**

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