

The Senate Public Safety Committee offered the following substitute to SB 291:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia  
2 Annotated, relating to carrying and possession of firearms, so as to revise comprehensively  
3 the laws concerning the carrying of concealed weapons; to revise the method by which  
4 licenses to carry weapons are issued; to prohibit the carrying of certain items in certain  
5 buildings; to provide exceptions; to provide a penalty; to prohibit the seizure or registration  
6 of firearms during official states of emergency; to prohibit any additional limitations on  
7 carrying firearms during states of emergency; to provide civil remedies for violations; to  
8 provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

11 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
12 relating to carrying and possession of firearms, is amended by revising subsection (e) of  
13 Code Section 16-11-127, relating to carrying deadly weapons to or at public gatherings, as  
14 follows:  
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16 "(e) A person licensed or permitted to carry a firearm by this part shall be permitted to  
17 carry such firearm, subject to the limitations of this part, in all parks, historic sites, and  
18 recreational areas, including all publicly owned buildings located in such parks, historic  
19 sites, and recreational areas and in wildlife management areas, notwithstanding Code  
20 Section 12-3-10, in wildlife management areas notwithstanding Code Section 27-3-1.1 and  
21 27-3-6, and in public transportation notwithstanding Code Sections 16-12-122 through  
22 16-12-127; provided, however, that a person shall not carry a firearm into a place  
23 prohibited by federal law. A person licensed or permitted to carry a firearm by this part  
24 shall also be permitted to carry such firearm, subject to the limitations of this part, in his  
25 or her vehicle while dropping off and picking up passengers at airports and airport  
26 facilities."

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**SECTION 2.**

Said part is further amended by revising Code Section 16-11-129, relating to license to carry pistol or revolver, as follows:

"16-11-129.

(a)(1) *Application for license or renewal license; term.* The judge of the probate court of each county may, on application under oath and on payment of a fee of \$15.00, issue a license ~~or renewal license~~ valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application, which license ~~or renewal license~~ shall authorize that person to carry any pistol or revolver in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a license ~~or renewal license~~ to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license ~~or renewal license~~. An applicant who is not a United States citizen shall provide sufficient personal identifying data, including without limitation his or her place of birth and United States issued alien or admission number, as the Georgia Bureau of Investigation may prescribe by rule or regulation. An applicant who is in nonimmigrant status shall provide proof of his or her qualifications for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). Forms shall be designed to elicit information from the applicant pertinent to his or her eligibility under this Code section, including citizenship, but shall not require data which is nonpertinent or irrelevant, such as serial numbers or other identification capable of being used as a de facto registration of firearms owned by the applicant. The Department of Public Safety shall furnish application forms and license forms required by this Code section. The forms shall be furnished to each judge of each probate court within the state at no cost.

(2) At least 90 days before the expiration of a license issued under this subsection, the judge of the probate court shall notify the license holder in writing at the license holder's last known address that such license is expiring and provide forms for renewing such license. If the license holder desires to renew the license, the license holder shall submit the forms for renewal to the judge of the probate court of his or her county of domicile or residence, as applicable, in this state not less than 45 days prior to the expiration of such license along with a fee of \$15.00. The forms for renewal shall be completed fully by the applicant, shall affirm under oath that the license holder still meets the qualifications for eligibility for the license, and shall contain sufficient information to allow the judge of the probate court to cause a criminal history records check to be

64 performed on the license holder to verify such eligibility for a license. Within two  
65 business days after receiving the forms for license renewal with the required fees, the  
66 judge of the probate court shall cause a criminal history records check from the Georgia  
67 Crime Information Center and the Federal Bureau of Investigation to be conducted for  
68 purposes of determining the eligibility of the license holder for a renewal license, and an  
69 appropriate report shall be returned to the judge of the probate court with the results of  
70 such check. Such check shall be conducted and the report returned to the judge of the  
71 probate court within 30 days. After receiving the results of the criminal history check,  
72 the judge of the probate court shall verify the eligibility of the license holder for a  
73 renewal license within ten days after receiving such report. The judge of the probate  
74 court shall date stamp the report to show the date on which the report was received by the  
75 judge of the probate court. Upon verifying the license holder's eligibility, the judge of  
76 the probate court shall issue the license holder a renewal license which shall be valid for  
77 a period of five years. The Georgia Bureau of Investigation may charge such fee as is  
78 necessary to cover the cost of the records search which shall be added to the fee for the  
79 license renewal and shall be paid at the time of making the application for license  
80 renewal. When a person who is not a United States citizen applies for renewal of a  
81 license under this paragraph, the judge of the probate court shall cause a search to be  
82 made of the records maintained by United States Immigration and Customs Enforcement  
83 to verify the eligibility of the license holder for renewal of such license. As a condition  
84 to the issuance of a renewal of a license, a license holder who is in nonimmigrant status  
85 shall provide proof of his or her qualifications for an exception to the federal firearm  
86 prohibition pursuant to 18 U.S.C. Section 922(y). If the judge of the probate court finds  
87 that the person is not eligible for a license under this Code section, the judge of the  
88 probate court shall deny the license renewal and shall notify the license holder in writing  
89 of the reasons for such denial. The Department of Public Safety shall furnish license  
90 renewal forms required by this paragraph. The forms shall be furnished to each judge of  
91 each probate court within the state at no cost.

92 (b) *Licensing exceptions.* No license or renewal license shall be granted to:

93 (1) Any person who is prohibited from possessing firearms pursuant to 18 U.S.C. Section  
94 922;

95 (1.1) Any person under 21 years of age;

96 (2) Any person who is a fugitive from justice or against whom proceedings are pending  
97 for any felony, forcible misdemeanor, or violation of Code Section 16-11-126,  
98 16-11-127, or 16-11-128 until such time as the proceedings are adjudicated;

99 (3) Any person who has been convicted of a felony by a court of this state or any other  
100 state; by a court of the United States including its territories, possessions, and dominions;

101 or by a court of any foreign nation and has not been pardoned for such felony by the  
 102 President of the United States, the State Board of Pardons and Paroles, or the person or  
 103 agency empowered to grant pardons under the constitution or laws of such state or nation  
 104 or any person who has been convicted of a forcible misdemeanor and has not been free  
 105 of all restraint or supervision in connection therewith for at least ~~five~~ seven years ~~or any~~  
 106 ~~person who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or~~  
 107 ~~16-11-128 and has not been free of all restraint or supervision in connection therewith for~~  
 108 ~~at least three years, immediately preceding the date of the application;~~

109 (4) Any individual who has been hospitalized as an inpatient in any mental hospital or  
 110 alcohol or drug treatment center within five years of the date of his or her application.  
 111 The probate judge may require any applicant to sign a waiver authorizing any mental  
 112 hospital or treatment center to inform the judge whether or not the applicant has been an  
 113 inpatient in any such facility in the last five years and authorizing the superintendent of  
 114 such facility to make to the judge a recommendation regarding whether a license to carry  
 115 a pistol or revolver should be issued. When such a waiver is required by the probate  
 116 judge, the applicant shall pay to the probate judge a fee of \$3.00 for reimbursement of the  
 117 cost of making such a report by the mental health hospital, alcohol or drug treatment  
 118 center, or the Department of Human Resources, which the probate judge shall remit to  
 119 the hospital, center, or department. The judge shall keep any such hospitalization or  
 120 treatment information confidential. It shall be at the discretion of the probate judge,  
 121 considering the circumstances surrounding the hospitalization and the recommendation  
 122 of the superintendent of the hospital or treatment center where the individual was a  
 123 patient, to issue the license or renewal license;

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

125 ~~(i) 'Controlled substance' means any drug, substance, or immediate precursor~~  
 126 ~~included in the definition of controlled substances in paragraph (4) of Code Section~~  
 127 ~~16-13-21.~~

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

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

133 (5) Any person not lawfully present in the United States.

134 (c) *Fingerprinting.*

135 Following completion of the application for a license ~~or the renewal of a license~~, the  
 136 judge of the probate court shall require the applicant to proceed to an appropriate law  
 137 enforcement agency in the county with the completed application. The appropriate local

138 law enforcement agency in each county shall then capture the fingerprints of the applicant  
 139 for a license ~~or renewal license~~ to carry a pistol or revolver, ~~place the fingerprint required~~  
 140 ~~by subsection (f) of this Code section on a blank license form which has been furnished~~  
 141 ~~to the law enforcement agency by the judge of the probate court, and place the name of~~  
 142 ~~the applicant on the blank license form.~~ The law enforcement agency shall be entitled to  
 143 a fee of \$5.00 from the applicant for its services in connection with the application.

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

145 (1) For ~~both~~ license applications ~~and requests for license renewals~~, the judge of the  
 146 probate court shall within two business days following the receipt of the application ~~or~~  
 147 ~~request~~ direct the law enforcement agency to request a fingerprint based criminal history  
 148 records check from the Georgia Crime Information Center and Federal Bureau of  
 149 Investigation for purposes of determining the suitability of the applicant and return an  
 150 appropriate report to the judge of the probate court. Fingerprints shall be in such form  
 151 and of such quality as prescribed by the Georgia Crime Information Center and under  
 152 standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of  
 153 Investigation may charge such fee as is necessary to cover the cost of the records search.

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

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

166 (4) The law enforcement agency shall report to the judge of the probate court within 30  
 167 days, by telephone and in writing, of any findings relating to the applicant which may  
 168 bear on his or her eligibility for a license ~~or renewal license~~ under the terms of this Code  
 169 section. When no derogatory information is found on the applicant bearing on his or her  
 170 eligibility to obtain a license or renewal license, a report shall not be required. The law  
 171 enforcement agency shall return the application and the blank license form with the  
 172 fingerprint thereon directly to the judge of the probate court within such time period. Not  
 173 later than ten days after the judge of the probate court receives the report from the law  
 174 enforcement agency concerning the suitability of the applicant for a firearms license, the

175 judge of the probate court shall issue such applicant a license ~~or renewal license~~ to carry  
 176 any pistol or revolver unless facts establishing ineligibility have been reported or unless  
 177 the judge determines such applicant has not met all the qualifications, is not of good  
 178 moral character, or has failed to comply with any of the requirements contained in this  
 179 Code section. The judge of the probate court shall date stamp the report from the law  
 180 enforcement agency to show the date on which the report was received by the judge of  
 181 the probate court.

182 (e) *Revocation, loss, or damage to license.* If, at any time during the period for which the  
 183 license was issued, the judge of the probate court of the county in which the license was  
 184 issued shall learn or have brought to his or her attention in any manner any reasonable  
 185 ground to believe the licensee is not eligible to retain the license, the judge may, after  
 186 notice and hearing, revoke the license of the person upon adjudication of falsification of  
 187 application, mental incompetency, chronic alcohol or narcotic usage, conviction of any  
 188 felony or forcible misdemeanor, or for violation of Code Section 16-11-126, 16-11-127,  
 189 or 16-11-128. It shall be unlawful for any person to possess a license which has been  
 190 revoked, and any person found in possession of any such revoked license, except in the  
 191 performance of his or her official duties, shall be guilty of a misdemeanor. It shall be  
 192 required that any license holder under this Code section have in his or her possession his  
 193 or her valid license whenever he or she is carrying a pistol or revolver under the authority  
 194 granted by this Code section, and his or her failure to do so shall be prima-facie evidence  
 195 of a violation of Code Section 16-11-128. Loss of any license issued in accordance with  
 196 this Code section or damage to the license in any manner which shall render it illegible  
 197 shall be reported to the judge of the probate court of the county in which it was issued  
 198 within 48 hours of the time the loss or damage becomes known to the license holder. The  
 199 judge of the probate court shall thereupon issue a replacement for and shall take custody  
 200 of and destroy a damaged license; and in any case in which a license has been lost, he or  
 201 she shall issue a cancellation order and notify by telephone and in writing each of the law  
 202 enforcement agencies whose records were checked before issuance of the original license.  
 203 The judge shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such  
 204 services.

205 (f) *License specifications.* Licenses issued as prescribed in this Code section shall be  
 206 printed on durable but lightweight card stock, and the completed card shall be laminated  
 207 in plastic to improve its wearing qualities and to inhibit alterations. Measurements shall  
 208 be 3 1/4 inches long; and 2 1/4 inches wide. Each shall be serially numbered within the  
 209 county of issuance and shall bear the full name, residential address, birth date, weight,  
 210 height, color of eyes, ~~sex, and a clear print of the right index finger~~ and gender of the  
 211 licensee. ~~If the right index fingerprint cannot be secured for any reason, the print of~~

212 ~~another finger may be used but such print shall be marked to identify the finger from which~~  
 213 ~~the print is taken.~~ The license shall show the date of issuance, the expiration date, and the  
 214 probate court in which issued and shall be signed by the licensee and bear the signature or  
 215 facsimile thereof of the judge. The seal of the court shall be placed on the face before the  
 216 license is laminated. The reverse side of the license shall have imprinted thereon in its  
 217 entirety Code Section 16-11-127.

218 (g) *Alteration or counterfeiting of license; penalty.* A person who deliberately alters or  
 219 counterfeits such a license card commits a felony and, upon conviction thereof, shall be  
 220 punished by imprisonment for a period of not less than one nor more than five years.

221 (h) *Licenses for former law enforcement officers.* Except as otherwise provided in Code  
 222 Section 16-11-130, any person who has served as a law enforcement officer for at least ten  
 223 of the 12 years immediately preceding the retirement of such person as a law enforcement  
 224 officer shall be entitled to be issued a license as provided for in this Code section without  
 225 the payment of any of the fees provided for in this Code section. Such person ~~must~~ shall  
 226 comply with all the other provisions of this Code section relative to the issuance of such  
 227 licenses. As used in this subsection, the term 'law enforcement officer' means any peace  
 228 officer who is employed by the United States government or by the State of Georgia or any  
 229 political subdivision thereof and who is required by the terms of his or her employment,  
 230 whether by election or appointment, to give his or her full time to the preservation of public  
 231 order or the protection of life and property or the prevention of crime. Such term shall  
 232 include conservation rangers. Licenses issued to such former law enforcement officers  
 233 shall be distinctive in design by the use of color or style or other means from other licenses  
 234 issued under this Code section.

235 (i) *Temporary renewal licenses.*

236 (1) Any person who holds a license under this Code section to carry a pistol or revolver  
 237 may, at the time he or she applies for a renewal of the license, also apply for a temporary  
 238 renewal license if less than ~~90~~ 45 days remain before expiration of the license he or she  
 239 then holds or if his or her previous license has expired within the last 30 days.

240 (2) Unless the judge of the probate court knows or is made aware of any fact which  
 241 would make the applicant ineligible for a five-year renewal license, the judge shall at the  
 242 time of application issue a temporary renewal license to the applicant.

243 (3) Such a temporary renewal license shall be in the form of a paper receipt indicating  
 244 the date on which the court received the renewal application and shall show the name,  
 245 address, ~~sex~~ gender, age, and race of the applicant and that the temporary renewal license  
 246 expires 90 days from the date of issue.

247 (4) During its period of validity, the temporary renewal permit, if carried on or about the  
 248 holder's person together with the holder's previous license, shall be valid in the same  
 249 manner and for the same purposes as a five-year license.

250 (5) A \$1.00 fee shall be charged by the probate court for issuance of a temporary renewal  
 251 license.

252 (6) A temporary renewal license may be revoked in the same manner as a five-year  
 253 license.

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

260 **SECTION 3.**

261 Said part is further amended by adding a new Code section to read as follows:

262 "16-11-136.

263 (a) No officer or employee of the state or any political subdivision thereof, member of the  
 264 National Guard in the service of the state, or any person operating pursuant to or under  
 265 color of state law, receiving state funds, under control of any official of the state or political  
 266 subdivision thereof, or providing services to such officer, employee, or other person, while  
 267 acting during a declared official state of emergency, shall:

268 (1) Temporarily or permanently seize, or authorize seizure of, any firearm the possession  
 269 of which is not prohibited under Article 4 of Chapter 11 of this title, other than as  
 270 evidence in a criminal investigation;

271 (2) Require registration of any firearm for which registration is not required by Article 4  
 272 of Chapter 11 of this title;

273 (3) Prohibit possession of any firearm, or promulgate any rule, regulation, or order  
 274 prohibiting possession of any firearm, in any place or by any person where such  
 275 possession is not otherwise prohibited by Article 4 of Chapter 11 of this title; or

276 (4) Prohibit the carrying of firearms by any person otherwise authorized to carry firearms  
 277 under Article 4 of Chapter 11 of this title, solely because such person is operating under  
 278 the direction, control, or supervision of an agency of the state or political subdivision  
 279 thereof during a declared official state of emergency.

280 (b) Any individual aggrieved by a violation of this Code section may seek in the courts of  
 281 this state relief in an action at law or in equity or other proper proceeding for redress  
 282 against any person who subjects such individual, or causes such individual to be subjected,

283 to the deprivation of any of the rights, privileges, or immunities provided by this Code  
284 section.  
285 (c) In addition to any other remedy at law or in equity, an individual aggrieved by the  
286 seizure or confiscation of a firearm in violation of this Code section may bring an action  
287 for return of such firearm in the superior court of the county in which that individual  
288 resides or in which such firearm is located. In any action or proceeding to enforce this  
289 Code section, the court shall award the prevailing party, other than the state or political  
290 subdivision thereof, reasonable attorney fees."

291 **SECTION 4.**

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

294 **SECTION 5.**

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