

House Bill 285

By: Representatives Coleman of the 97th, Maxwell of the 17th, and Casas of the 103rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Subpart 2 of Part 6 of Article 6 of Chapter 2 of Title 20 of the Official Code of
2 Georgia Annotated, relating to conditions of employment under the "Quality Basic Education
3 Act", so as to revise provisions relating to criminal background checks on school employees;
4 to provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Subpart 2 of Part 6 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia
8 Annotated, relating to conditions of employment under the "Quality Basic Education Act",
9 is amended in Code Section 20-2-211.1, relating to clearance certificates issued by the
10 Professional Standards Commission relating to fingerprint and criminal background checks,
11 as follows:

12 "20-2-211.1.

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

14 (1) 'Clearance certificate' means a certificate issued by the Professional Standards
15 Commission that verifies that an educator has completed fingerprint and criminal
16 background check requirements as specified in this Code section and that the individual
17 does not have a certificate that is currently revoked or suspended in Georgia or any other
18 state; provided, however, that additional fingerprinting shall not be required for renewal
19 of a clearance certificate or for educators who possess a professional educator certificate
20 as of January 1, 2011. A clearance certificate shall be a renewable certificate valid for
21 five years. Clearance certificates shall be subject to fees in accordance with subsection
22 (e) of Code Section 20-2-200.

23 (2) 'Educator' means a teacher, school or school system administrator, or other education
24 personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of
25 this chapter or an increased flexibility contract under Article 4 of this chapter, be required
26 to hold a professional educator certificate, license, or permit issued by the Professional

27 Standards Commission and persons who have applied for but have not yet received such
28 a certificate, license, or permit.

29 (3) 'Local unit of administration' shall have the same meaning as in Code Section
30 20-2-242 and shall also include state chartered special schools and commission charter
31 schools.

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

36 (b)(1) On and after January 1, 2011, all educators employed by a local unit of
37 administration shall hold a valid clearance certificate; provided, however, that an
38 educator who possesses a professional educator certificate as of January 1, 2011, shall not
39 be required to obtain a clearance certificate until his or her professional educator
40 certificate is up for renewal. A local unit of administration may employ an educator who
41 does not already hold a valid clearance certificate, provided the individual has applied for
42 a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the
43 results of the criminal record check and issuance of the clearance certificate. The
44 requirements of this Code section shall be in addition to professional educator certificate
45 requirements unless such educator is employed by a school which is exempt from teacher
46 certification requirements pursuant to a charter under Article 31 or 31A of this chapter
47 or an increased flexibility contract under Article 4 of this chapter.

48 (2) Any other Code sections to the contrary notwithstanding, educators holding a valid
49 clearance certificate shall be subject to the code of ethics for educators as established
50 pursuant to Code Section 20-2-984.1 and shall be subject to Code Sections 20-2-984,
51 20-2-984.2, 20-2-984.3, 20-2-984.4, and 20-2-984.5.

52 (c) A local unit of administration shall ensure that all ~~noneducator~~ personnel employed by
53 such local unit of administration after January 1, 2011, shall be fingerprinted and have a
54 criminal record check performed. The local unit of administration shall have the authority
55 to employ such person for a maximum of 20 days in order to allow for the receipt of the
56 results of the criminal record check. The local unit of administration shall adopt policies
57 to provide for the subsequent criminal record checks of ~~noneducator~~ personnel continued
58 in employment in the local unit of administration.

59 (d)(1) Local units of administration shall have the authority and responsibility to order
60 criminal record checks pursuant to this Code section through the Georgia Crime
61 Information Center and the Federal Bureau of Investigation and shall have the authority
62 to receive the results of such criminal record checks. Local units of administration shall
63 also have the authority to forward the results of criminal record checks to the Professional

64 Standards Commission as necessary regarding potential violations of the code of ethics
 65 for educators. The Professional Standards Commission shall also have the authority to
 66 order criminal record checks pursuant to this Code section through the Georgia Crime
 67 Information Center and the Federal Bureau of Investigation and shall have the authority
 68 to receive the results of such criminal record checks.

69 (2) Fingerprints shall be in such form and of such quality as shall be acceptable for
 70 submission to the ~~National Crime Information Center under standards adopted by the~~
 71 ~~Federal Bureau of Investigation or the United States Department of Justice~~ Georgia
 72 Crime Information Center and the Federal Bureau of Investigation. It shall be the duty
 73 of each law enforcement agency in this state to fingerprint those persons required to be
 74 fingerprinted by this Code section.

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

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

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

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

91 (f) The Professional Standards Commission is authorized to adopt rules and regulations
 92 necessary to carry out the provisions of this Code section."

93 **SECTION 2.**

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