

House Bill 1060

By: Representatives Jasperse of the 11<sup>th</sup>, Meadows of the 5<sup>th</sup>, Powell of the 32<sup>nd</sup>, Ballinger of the 23<sup>rd</sup>, Hightower of the 68<sup>th</sup>, and others

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 confirm that the right of  
 3 the people to keep and bear arms shall not be infringed; to provide for legislative findings;  
 4 to permit certain new residents to carry a weapon in this state for a limited time without a  
 5 weapons carry license; to provide for definitions; to clarify the meaning of private property  
 6 relative to the carrying of a weapon or long gun; to provide an exception for a license holder  
 7 carrying in a place of worship; to revise provisions relating to carrying weapons within  
 8 school safety zones, at school functions, or on a bus or other transportation furnished by a  
 9 school; to allow the judge of the probate court to provide for printed information on gun  
 10 safety; to provide for the maintenance of gun safety information on the website of the  
 11 Department of Natural Resources; to revise and clarify the determinations to be made and  
 12 the procedures to be followed by law enforcement agencies and the judge of the probate  
 13 court in the issuance of a weapons carry license; to provide for replacement weapons carry  
 14 licenses for persons who have a legal name change or address change; to clarify that certain  
 15 active and retired law enforcement officers shall be authorized to carry a handgun on or off  
 16 duty anywhere within this state; to authorize certain retired law enforcement officers to carry  
 17 a handgun anywhere within this state; to clarify the meaning of commercial service airport  
 18 relative to the carrying of a weapon or long gun; to amend Article 3 of Chapter 5 of Title 17  
 19 of the Official Code of Georgia Annotated, relating to disposition of property seized, so as  
 20 to revise procedures for the disposition of certain firearms in custody of law enforcement  
 21 agencies; to provide for a private right of action and injunctive relief against certain sheriffs'  
 22 offices, political subdivisions, and municipal corporations; to amend Code Section 35-3-34  
 23 of the Official Code of Georgia Annotated, relating to disclosure and dissemination of  
 24 criminal records to private persons and businesses, resulting responsibility and liability of  
 25 issuing center, and provision of certain information to the FBI in conjunction with the  
 26 National Instant Criminal Background Check System, so as to allow for the preservation of  
 27 a person's involuntary hospitalization information received by the Georgia Crime Information  
 28 Center; to provide for exceptions; to provide for a judicial procedure for purging a person's

29 involuntary hospitalization information received by the Georgia Crime Information Center  
 30 and restoration of abilities to legally carry and possess a firearm; to amend Chapter 1 of Title  
 31 51 of the Official Code of Georgia Annotated, relating to general provisions regarding torts,  
 32 so as to provide for civil immunity of firearm instructors; to provide for related matters; to  
 33 repeal conflicting laws; and for other purposes.

34 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

35 **SECTION 1.**

36 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
 37 relating to carrying and possession of firearms, is amended by adding a new Code section to  
 38 read as follows:

39 "16-11-125.2.

40 (a) Pursuant to Article I, Section I, Paragraph VIII of the Constitution of this state, the  
 41 General Assembly finds that the right of the people to keep and bear arms shall not be  
 42 infringed.

43 (b) No law shall be enacted or enforced in violation of the finding provided for in  
 44 subsection (a) of this Code section."

45 **SECTION 2.**

46 Said part is further amended by revising subsections (e) and (f) of Code Section 16-11-126,  
 47 relating to having or carrying handguns, long guns, or other weapons, license requirement,  
 48 exceptions for homes, motor vehicles, private property, and other locations and conditions,  
 49 as follows:

50 "(e)(1) Any person licensed to carry a handgun or weapon in any other state whose laws  
 51 recognize and give effect to a license issued pursuant to this part shall be authorized to  
 52 carry a weapon in this state, but only while the licensee is not a resident of this state;  
 53 provided, however, that such licensee shall carry the weapon in compliance with the laws  
 54 of this state.

55 (2) Any person who is not a weapons carry license holder in this state and who is  
 56 licensed to carry a handgun or weapon in any other state whose laws recognize and give  
 57 effect to a license issued pursuant to this part shall be authorized to carry a weapon in this  
 58 state for 90 days after he or she becomes a resident of this state; provided, however, that  
 59 such person shall carry the weapon in compliance with the laws of this state, shall as soon  
 60 as practicable submit a weapons carry license application as provided for under Code  
 61 Section 16-11-129, and shall remain licensed in such other state for the duration of time  
 62 that he or she is a resident of this state but not a weapons carry license holder in this state.

63 (f)(1) Any person with a valid hunting or fishing license on his or her person, or any  
 64 person not required by law to have a hunting or fishing license, who is engaged in legal  
 65 hunting, fishing, or sport shooting when the person has the permission of the owner of  
 66 the land on which the activities are being conducted may have or carry on his or her  
 67 person a ~~handgun~~ weapon or long gun without a valid weapons carry license while  
 68 hunting, fishing, or engaging in sport shooting.

69 (2) Any person with a valid hunting or fishing license on his or her person, or any person  
 70 not required by law to have a hunting or fishing license, who is otherwise engaged in  
 71 legal hunting, fishing, or sport shooting on recreational or wildlife management areas  
 72 owned by this state may have or carry on his or her person a knife without a valid  
 73 weapons carry license while engaging in such hunting, fishing, or sport shooting."

74

### SECTION 3.

75 Said part is further amended by adding two new paragraphs to subsection (a), by revising  
 76 subsection (c), and by revising paragraph (2) of subsection (e) of Code Section 16-11-127,  
 77 relating to carrying weapons in unauthorized locations, as follows:

78 "(3.1) 'Leased government property' means real property that is owned by a government  
 79 entity but of which an individual or entity which is not a government entity is the lessee,  
 80 licensee, or renter."

81 "(5) 'Private property' means real property that is not owned or controlled by any  
 82 government entity; provided, however, that such term shall not mean leased government  
 83 property."

84 "(c) A license holder or person recognized under subsection (e) of Code Section 16-11-126  
 85 shall be authorized to carry a weapon as provided in Code Section 16-11-135 and in every  
 86 location in this state not listed in subsection (b) or prohibited by subsection (e) of this Code  
 87 section; provided, however, that ~~private property owners~~ the owners or persons in legal  
 88 control of private property through a lease, rental agreement, licensing agreement, contract,  
 89 or any other agreement to control access to such private property shall have the right to  
 90 exclude or eject a person who is in possession of a weapon or long gun on ~~their~~ such  
 91 private property in accordance with paragraph (3) of subsection (b) of Code Section  
 92 16-7-21, except as provided in subsection (e) of this Code section and Code Section  
 93 16-11-135. A violation of subsection (b) of this Code section shall not create or give rise  
 94 to a civil action for damages."

95 "(2) Any license holder who violates subsection (b) of this Code section in a place of  
 96 worship shall not be arrested but shall be fined not more than \$100.00; provided,  
 97 however, that a license holder shall not be in violation of subsection (b) or (c) of this  
 98 Code section if such license holder immediately leaves such place of worship while

99 carrying a weapon or long gun upon personal notification by such place of worship that  
 100 he or she is carrying a weapon or long gun in a place of worship which does not permit  
 101 the carrying of a weapon or long gun. Any person who is not a license holder who  
 102 violates subsection (b) of this Code section in a place of worship shall be punished as for  
 103 a misdemeanor."

104 **SECTION 4.**

105 Said part is further amended by revising paragraph (5) of subsection (c) of Code Section  
 106 16-11-127.1, relating to carrying weapons within school safety zones, at school functions,  
 107 or on a bus or other transportation furnished by a school, as follows:

108 "(5) The following persons, when acting in the performance of their official duties or  
 109 when en route to or from their official duties:

110 (A) A peace officer as defined by Code Section 35-8-2;

111 (B) A law enforcement officer of the United States government;

112 (C) A prosecuting attorney of this state or of the United States;

113 (D) An employee of the Department of Corrections or a correctional facility operated  
 114 by a political subdivision of this state or the United States who is authorized by the  
 115 head of such department or correctional agency or facility to carry a firearm;

116 (E) An employee of the Department of Community Supervision who is authorized by  
 117 the commissioner of community supervision to carry a firearm;

118 (F) A person employed as a campus police officer or school security officer who is  
 119 authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

120 (G) Medical examiners, coroners, and their investigators who are employed by the state  
 121 or any political subdivision thereof;

122 provided, however, that this Code section shall not apply to any extent to persons who  
 123 are provided for under Code Section 16-11-130;"

124 **SECTION 5.**

125 Said part is further amended by adding a new subsection to, by revising paragraph (4) of  
 126 subsection (d) and paragraph (2) of subsection (e) of, and by adding a new paragraph to  
 127 subsection (e) of Code Section 16-11-129, relating to weapons carry permit, temporary  
 128 renewal permit, and terms, to read as follows:

129 "(a.1)(1) Upon receipt of an application for a weapons carry license or renewal license,  
 130 the judge of the probate court may provide applicants printed information on gun safety  
 131 that is produced by any person or organization that, in the discretion of the judge of the  
 132 probate court, offers practical advice for gun safety. The source of such printed  
 133 information shall be prominently displayed on such printed information.

134 (2) The Department of Natural Resources shall maintain on its principal, public website  
135 information, or a hyperlink to information, which provides resources for information on  
136 gun safety and classes and courses in this state that render instruction in gun safety. No  
137 person shall be required to take such classes or courses for purposes of this Code section  
138 where such information shall be provided solely for the convenience of the citizens of this  
139 state.

140 (3) Neither the judge of the probate court nor the Department of Natural Resources shall  
141 be liable to any person for personal injuries or damage to property arising from  
142 conformance to this Code section."

143 "(4) The law enforcement agency shall report to the judge of the probate court within 30  
144 ten days, by telephone and in writing, of any findings relating to the applicant which may  
145 bear on his or her eligibility for a weapons carry license or renewal license under the  
146 terms of this Code section. When no derogatory information is found on the applicant  
147 bearing on his or her eligibility to obtain a license or renewal license, a report shall not  
148 be required. The law enforcement agency shall return the application directly to the  
149 judge of the probate court within such time period. Not later than ten days after the judge  
150 of the probate court receives the report from the law enforcement agency concerning the  
151 suitability of the applicant for a license, the judge of the probate court shall issue such  
152 applicant a license or renewal license to carry any weapon unless facts establishing  
153 ineligibility have been reported or unless the judge determines such applicant has not met  
154 all the qualifications, is not of good moral character, or has failed to comply with any of  
155 the requirements contained in this Code section. The judge of the probate court shall date  
156 stamp the report from the law enforcement agency to show the date on which the report  
157 was received by the judge of the probate court. The judge of the probate court shall not  
158 suspend the processing of the application or extend, delay, or avoid any time  
159 requirements provided for under this paragraph."

160 "(2) If a person is convicted of any crime or ~~involved in any matter~~ subject to an  
161 adjudication which would make the maintenance of a weapons carry license by such  
162 person unlawful pursuant to subsection (b) of this Code section, the judge of the superior  
163 court or state court hearing such case or presiding over such matter shall inquire whether  
164 such person is the holder of a weapons carry license. If such person is the holder of a  
165 weapons carry license, then the judge of the superior court or state court shall inquire of  
166 such person the county of the probate court which issued such weapons carry license, or  
167 if such person has ever had his or her weapons carry license renewed, then of the county  
168 of the probate court which most recently issued such person a renewal license. The judge  
169 of the superior court or state court shall notify the judge of the probate court of such  
170 county of the matter which makes the maintenance of a weapons carry license by such

171 person to be unlawful pursuant to subsection (b) of this Code section. The Council of  
 172 Superior Court Judges of Georgia and The Council of State Court Judges of Georgia shall  
 173 provide by rule for the procedures which judges of the superior court and the judges of  
 174 the state courts, respectively, are to follow for the purposes of this paragraph."

175 "(4) Any person, upon petition to the judge of the probate court, who has a weapons carry  
 176 license or renewal license with more than 90 days remaining before the expiration of such  
 177 weapons carry license or renewal license and who has had a legal name change,  
 178 including, but not limited to, on account of marriage or divorce, or an address change  
 179 shall be issued a replacement weapons carry license for the same time period of the  
 180 weapons carry license or renewal license being replaced. Upon issuance and receipt of  
 181 such replacement weapons carry license, the license holder shall surrender the weapons  
 182 carry license being replaced to the judge of the probate court and such judge shall take  
 183 custody of and destroy the weapons carry license being replaced. The judge of the  
 184 probate court shall provide for the updating of any records as necessary to account for the  
 185 license holder's change of name or address. The judge of the probate court shall charge  
 186 the fee specified in paragraph (13) of subsection (k) of Code Section 15-9-60 for services  
 187 provided under this paragraph."

188 **SECTION 6.**

189 Said part is further amended by revising subsection (c) of Code Section 16-11-130, relating  
 190 to exemptions from Code Sections 16-11-126 through 16-11-127.2, as follows:

191 "(c) Code Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any:

192 (1) Sheriff, retired sheriff, deputy sheriff, or retired deputy sheriff if such retired sheriff  
 193 or deputy sheriff is eligible to receive or is receiving benefits under the Peace Officers'  
 194 Annuity and Benefit Fund provided under Chapter 17 of Title 47, the Sheriffs' Retirement  
 195 Fund of Georgia provided under Chapter 16 of Title 47, or any other public retirement  
 196 system established under the laws of this state for service as a law enforcement officer;

197 (2) Member of the Georgia State Patrol, ~~or~~ agent of the Georgia Bureau of Investigation,  
 198 ~~or~~ retired member of the Georgia State Patrol, or retired agent of the Georgia Bureau of  
 199 Investigation if such retired member or agent is receiving benefits under the Employees'  
 200 Retirement System;

201 (3) Full-time law enforcement chief executive engaging in the management of a county,  
 202 municipal, state, state authority, or federal law enforcement agency in the State of  
 203 Georgia, including any college or university law enforcement chief executive ~~that~~ who  
 204 is registered or certified by the Georgia Peace Officer Standards and Training Council;  
 205 or retired law enforcement chief executive ~~that~~ who formerly managed a county,  
 206 municipal, state, state authority, or federal law enforcement agency in the State of

207 Georgia, including any college or university law enforcement chief executive ~~that~~ who  
 208 was registered or certified at the time of his or her retirement by the Georgia Peace  
 209 Officer Standards and Training Council, if such retired law enforcement chief executive  
 210 is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under  
 211 Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county,  
 212 municipal, State of Georgia, state authority, or federal retirement system; ~~or~~

213 (4) Police officer of any county, municipal, state, state authority, or federal law  
 214 enforcement agency in the State of Georgia, including any college or university police  
 215 officer ~~that~~ who is registered or certified by the Georgia Peace Officer Standards and  
 216 Training Council, or retired police officer of any county, municipal, state, state authority,  
 217 or federal law enforcement agency in the State of Georgia, including any college or  
 218 university police officer ~~that~~ who was registered or certified at the time of his or her  
 219 retirement by the Georgia Peace Officer Standards and Training Council, if such retired  
 220 ~~employee~~ police officer is receiving benefits under the Peace Officers' Annuity and  
 221 Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and  
 222 receiving benefits from a county, municipal, State of Georgia, state authority, or federal  
 223 retirement system; or

224 (5) Person who is a citizen of this state and:

225 (A) Has retired with at least ten years of aggregate service as a law enforcement officer  
 226 with powers of arrest under the laws of any state of the United States or of the United  
 227 States;

228 (B) Separated from service in good standing, as determined by criteria established by  
 229 the Georgia Peace Officer Standards and Training Council, from employment with his  
 230 or her most recent law enforcement agency; and

231 (C) Possesses on his or her person an identification card for retired law enforcement  
 232 officers as issued by the Georgia Peace Officer Standards and Training Council;  
 233 provided, however, that such person meets the standards for the issuance of such card  
 234 as provided for by the council, including, but not limited to, maintenance of  
 235 qualification in firearms training.

236 In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member  
 237 of the Georgia State Patrol, retired member of the Georgia State Patrol, agent of the  
 238 Georgia Bureau of Investigation, retired agent of the Georgia Bureau of Investigation,  
 239 active or retired law enforcement chief executive, person who is a retired law enforcement  
 240 officer as provided for in paragraph (5) of this subsection, or other law enforcement officer  
 241 referred to in this subsection shall be authorized to carry a handgun on or off duty  
 242 anywhere within ~~the~~ this state, including, but not limited to, in a courthouse, and the

243 provisions of Code Sections 16-11-126 through 16-11-127.2 shall not apply to the carrying  
244 of such firearms."

245 **SECTION 7.**

246 Said part is further amended by adding a new subsection to Code Section 16-11-130.2,  
247 relating to carrying a weapon or long gun at a commercial service airport, to read as follows:

248 "(a.1) As used in this Code section, the term:

249 (1) 'Commercial service airport' means an airport that receives scheduled passenger  
250 aircraft service from any major airline carrier.

251 (2) 'Major airline carrier' means an airline that has more than \$1 billion in annual  
252 operating revenue during a fiscal year."

253 **SECTION 8.**

254 Code Section 17-5-54, relating to definitions and disposition of personal property in custody  
255 of law enforcement agency, is amended by revising subsections (a), (g), and (j) as follows:

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

257 (1) 'Civil forfeiture proceeding' shall have the same meaning as set forth in Code Section  
258 9-16-2.

259 (2) 'Firearm' means any handgun, rifle, shotgun, or similar device or weapon which will  
260 or can be converted to expel a projectile by the action of an explosive or electrical charge,  
261 including, but not limited to, any firearm, antique firearm, and unserviceable firearm as  
262 provided for under the National Firearms Act, 26 U.S.C. 5845.

263 (3) 'Law enforcement agency' means a sheriff's office; a law enforcement agency of this  
264 the state, including, but not limited to, the Department of Community Supervision, the  
265 Department of Corrections, the Department of Public Safety, the Department of Natural  
266 Resources, and the Georgia Bureau of Investigation; a law enforcement agency of a  
267 municipal corporation of this state; or a law enforcement agency of a political subdivision  
268 of this state, including the Department of Natural Resources.

269 (3.1) 'Political subdivision' means a county, school system, authority, agency, or other  
270 political subdivision of this state.

271 (4) 'Rightful owner' means a person claiming ownership of property which is the subject  
272 of a crime or has been abandoned."

273 ~~"(g)(1) With respect to unclaimed firearms, if the sheriff, chief of police, agency director,~~  
274 ~~or designee of such official certifies that a firearm is unsafe because of wear, damage,~~  
275 ~~age, or modification or because any federal or state law prohibits the sale or distribution~~  
276 ~~of such firearm, at the discretion of such official, it shall be transferred to the Division of~~  
277 ~~Forensic Sciences of the Georgia Bureau of Investigation, a municipal or county law~~

278 ~~enforcement forensic laboratory for training or experimental purposes, or be destroyed~~  
 279 ~~every law enforcement agency shall sell all unclaimed firearms as provided for in~~  
 280 ~~paragraph (2) of this subsection.~~

281 (2) ~~Otherwise, an unclaimed firearm~~ Unclaimed firearms:

282 (A) Possessed by a municipal corporation or a law enforcement agency thereof shall  
 283 be disposed of as provided for in Code Section 36-37-6; provided, however, that  
 284 municipal corporations shall not have the right to reject any bids or to cancel any  
 285 proposed sale of such firearms, and all sales shall be to persons ~~who are licensed as~~  
 286 ~~firearms collectors, dealers, importers, or manufacturers under the provisions of 18~~  
 287 ~~U.S.C. Section 921, et seq., and who are authorized to purchase, receive, or possess~~  
 288 such firearms under the ~~terms of such license law~~; or

289 (B) Possessed by the state ~~or~~, a political subdivision, or a law enforcement agency,  
 290 excluding a law enforcement agency of a municipal corporation of this state other than  
 291 ~~a municipal corporation,~~ shall be disposed of by sale at public auction to persons who  
 292 are ~~licensed as firearms collectors, dealers, importers, or manufacturers under the~~  
 293 ~~provisions of 18 U.S.C. Section 921, et seq., and who are authorized to purchase,~~  
 294 ~~receive, or possess~~ such firearms under the ~~terms of such license law~~. Auctions  
 295 required by this subparagraph may occur online on a rolling basis or at live events, but  
 296 in no event shall such auctions occur less frequently than once every 12 months during  
 297 any time in which the ~~political subdivision or state,~~ a political subdivision, a law  
 298 enforcement agency, excluding a law enforcement agency of a municipal corporation  
 299 of this state, or a custodial agency thereof has an inventory of five or more saleable  
 300 firearms.

301 (3) If no bids from eligible recipients are received within six months from when bidding  
 302 opened on a firearm offered for sale pursuant to paragraph (2) of this subsection, the  
 303 firearm shall be transferred to the Division of Forensic Sciences of the Georgia Bureau  
 304 of Investigation, a municipal or county law enforcement forensic laboratory for training  
 305 or experimental purposes, or be destroyed.

306 (4) A municipal corporation, this state, a political subdivision, or a law enforcement  
 307 agency may employ, or partner with, persons who are licensed as firearms collectors,  
 308 dealers, importers, or manufacturers under the provisions of 18 U.S.C. Section 921, et  
 309 seq., and who are authorized to receive such firearms under the terms of such license, to  
 310 facilitate the sale of firearms as provided for under this subsection.

311 (5) Beginning on December 15, 2016, and on July 15 and December 15 of each  
 312 subsequent year, every municipal corporation, political subdivision, and law enforcement  
 313 agency, excluding a law enforcement agency of the state, shall file with the Georgia  
 314 Bureau of Investigation an inventory of all unclaimed firearms in its possession. Such

315 filing shall be filed in the form as provided for by rules and regulations of the director of  
 316 the Georgia Bureau of Investigation; provided, however, that each firearm within such  
 317 filing shall be individually identifiable and indicate the date upon which such municipal  
 318 corporation, political subdivision, or law enforcement agency received such firearm as  
 319 provided for in Code Section 17-5-52. The filing as provided for in this paragraph shall  
 320 be a public record.

321 (6) Any person aggrieved as a result of a violation of this Code section by a municipal  
 322 corporation, political subdivision, or law enforcement agency, excluding a law  
 323 enforcement agency of the state, in being precluded from offering a bid upon firearms as  
 324 contemplated for by this Code section shall have a private right of action and may bring  
 325 an action against such municipal corporation, political subdivision, or law enforcement  
 326 agency. The aggrieved person shall be entitled to reasonable attorney's fees and expenses  
 327 of litigation and may recover or obtain against such municipal corporation, political  
 328 subdivision, or law enforcement agency any of the following:

329 (A) Actual damages or up to \$100.00 per firearm that such person has been precluded  
 330 from offering a bid upon, whichever is greater;

331 (B) Equitable relief; or

332 (C) Any other relief which the court deems proper."

333 "(j) Neither the state ~~nor, any municipal corporation,~~ any political subdivision ~~of the state,~~  
 334 any law enforcement agency, nor any of its officers, agents, or employees shall be liable  
 335 to any person, including the purchaser of a firearm, for personal injuries or damage to  
 336 property arising from the sale of a firearm under subsection (g) of this Code section unless  
 337 the state ~~or, municipal corporation,~~ political subdivision, or law enforcement agency acted  
 338 with gross negligence or willful or wanton misconduct."

### 339 **SECTION 9.**

340 Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to disclosure and  
 341 dissemination of criminal records to private persons and businesses, resulting responsibility  
 342 and liability of issuing center, and provision of certain information to the FBI in conjunction  
 343 with the National Instant Criminal Background Check System, is amended by revising  
 344 paragraph (2) of subsection (e) as follows:

345 "(2)(A) The records of the Georgia Crime Information Center shall include information  
 346 as to whether a person has been involuntarily hospitalized. Notwithstanding any other  
 347 provisions of law and in order to carry out the provisions of this Code section and Code  
 348 Section 16-11-172, the Georgia Crime Information Center shall be provided such  
 349 information and no other mental health information from the involuntary hospitalization  
 350 records of the probate courts concerning persons involuntarily hospitalized after

351 March 22, 1995, in a manner agreed upon by the Probate Judges Training Council and  
352 the Georgia Bureau of Investigation to preserve the confidentiality of patients' rights  
353 in all other respects. Further, notwithstanding any other provisions of law and in order  
354 to carry out the provisions of this Code section and Code Section 16-11-172, the center  
355 shall be provided information as to whether a person has been adjudicated mentally  
356 incompetent to stand trial or not guilty by reason of insanity at the time of the crime,  
357 has been involuntarily hospitalized, or both from the records of the clerks of the  
358 superior courts concerning persons involuntarily hospitalized after March 22, 1995, in  
359 a manner agreed upon by The Council of Superior Court Clerks of Georgia and the  
360 Georgia Bureau of Investigation to preserve the confidentiality of patients' rights in all  
361 other respects.

362 (B)(i) After five years have elapsed from the date that a person's of a person's  
363 discharge from involuntary hospitalization information has been received by the  
364 Georgia Crime Information Center, the center shall purge its records of such  
365 information as soon as practicable and in any event purge such records within 30 days  
366 after the expiration of such five-year period, such person may petition the superior  
367 court in the county of his or her residence for relief from all legal disabilities  
368 preventing the possession or carrying of a firearm acquired as a result of such  
369 involuntary hospitalization; provided, however, that if such person is a nonresident,  
370 he or she shall petition the superior court in the county in which any proceedings for  
371 the involuntary hospitalization occurred.

372 (ii) The petitioner shall serve a copy of the petition for relief as notice upon any  
373 facility that received or detained the petitioner, any physician that certified the  
374 petitioner's need for involuntary hospitalization, and any person that filed an  
375 application for a court ordered evaluation of the petitioner as provided for under  
376 Article 3 of Chapter 7 of Title 37. The petitioner shall serve a copy of such petition  
377 for relief upon the district attorney of the circuit of the petitioner's residence. Proof  
378 of service shall be by affidavit filed with such petition for relief reciting that a copy  
379 of such petition for relief has been served as required by this division and reciting  
380 service by registered or certified mail or statutory overnight delivery. In preparing his  
381 or her response to the petition, the district attorney may give notice of the received  
382 petition to any other party in the underlying case that resulted in the petitioner's  
383 involuntary hospitalization who the district attorney believes, based on evidence  
384 obtained by the district attorney, would have an interest in such petition; provided,  
385 however, that the district attorney shall serve upon the petitioner, by first class mail,  
386 notice of the names and addresses of such persons noticed by the district attorney. If  
387 any physician or person upon whom the petitioner is otherwise required to serve

388 notice is deceased or not able to be located, or if such facility upon which the  
389 petitioner is otherwise required to serve notice has ceased operations, the petitioner  
390 shall instead recite such circumstances in his or her petition for relief and include any  
391 last known address or other contact information of such physician, person, or facility  
392 or former owner or operator of such facility.

393 (iii) Within 30 days of the receipt of the petition for relief, the court shall hold a  
394 hearing on such petition for relief. The district attorney shall represent the interests  
395 of the state at such hearing.

396 (iv) The petition for relief shall be accompanied by a waiver executed by the  
397 petitioner authorizing any mental hospital or treatment center, and their employees  
398 and agents, to respond to inquiries of the district attorney regarding the petitioner's  
399 treatment and any recommendations regarding whether the petitioner is a threat to the  
400 safety of himself or herself or public safety. Information received by the district  
401 attorney pursuant to this subparagraph shall not be used against the petitioner in any  
402 other case or context unless such information is useable in such other case or context  
403 by other rules of evidence or discovery.

404 (C) At the hearing provided for under subparagraph (B) of this paragraph, the court  
405 shall receive and consider evidence in a closed proceeding concerning:

406 (i) The circumstances which caused the person to be subject to hospitalization or  
407 adjudication;

408 (ii) The person's mental health and any criminal history records;

409 (iii) The person's reputation, which shall be established through character witness  
410 statements, testimony, or other character evidence; and

411 (iv) Changes in the person's condition or circumstances since such hospitalization.

412 (D) Except as provided for under this paragraph, the hearing of the petition for relief  
413 shall follow the rules and regulations relating to pleading, practice, and procedure  
414 regarding civil petitions made to the superior court.

415 (E) The judge shall issue an order of his or her decision on the petition for relief  
416 provided for under subparagraph (B) of this paragraph no later than 30 days after the  
417 hearing.

418 (F) The court shall grant the petition for relief if such court finds by a preponderance  
419 of the evidence that the person will not likely act in a manner dangerous to himself or  
420 herself or public safety and that granting the relief will not be contrary to the public  
421 interest. A record shall be kept of the hearing; provided, however, that such record  
422 shall remain confidential and be disclosed only to a court, the petitioning party, and the  
423 district attorney for the state, or their successors, who appeared in the underlying case

424 in the event of an appeal. Any appeal of the court's ruling on the petition for relief shall  
 425 be de novo review.

426 (G) If the court grants the person's petition for relief, the clerk of the superior court  
 427 shall report such order to the Georgia Crime Information Center immediately, but in no  
 428 case later than ten business days after the date of such order, and the center shall purge  
 429 such record that is the subject of the order as soon as practicable but not later than 30  
 430 days after receipt of such order, and all legal disabilities preventing the petitioner from  
 431 possessing or carrying a firearm acquired as a result of such involuntary hospitalization  
 432 shall be extinguished.

433 (H) A person may petition for relief under this paragraph not more than once every two  
 434 years."

#### 435 **SECTION 10.**

436 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general  
 437 provisions regarding torts, is amended by adding a new Code section to read as follows:

438 "51-1-55.

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

440 (1) 'Dangerous weapon' shall have the same meaning as provided for under Code Section  
 441 16-11-121.

442 (2) 'Firearm' means any handgun, rifle, shotgun, or other weapon which will or can be  
 443 converted to expel a projectile by the action of an explosive or electrical charge and  
 444 which is not a dangerous weapon.

445 (b) Any instructor who lawfully instructs, educates, or trains a person in the safe, proper,  
 446 or technical use of a firearm shall be immune from civil liability for any injuries caused by  
 447 the failure of such person to use such firearm properly or lawfully."

#### 448 **SECTION 11.**

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