

## House Bill 292

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>, Jones of the 91<sup>st</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 3 of Article 4 of Chapter 11 of Title 16, Code Section 35-3-34, and Chapter  
2 1 of Title 51 of the Official Code of Georgia Annotated, relating to carrying and possession  
3 of firearms, disclosure and dissemination of criminal records to private persons and  
4 businesses, resulting responsibility and liability of issuing center, and provision of certain  
5 information to the FBI in conjunction with the National Instant Criminal Background Check  
6 System, and general provisions regarding torts, respectively, so as to provide for, revise, and  
7 clarify laws relating to the carrying of weapons and safety; to permit certain new residents  
8 to carry a weapon in this state for a limited time without a weapons carry license; to revise  
9 provisions relating to carrying weapons within school safety zones, at school functions, or  
10 on a bus or other transportation furnished by a school; to allow the judge of the probate court  
11 to provide for printed information on gun safety; to provide for the maintenance of gun safety  
12 information on the website of the Department of Natural Resources; to revise and clarify the  
13 determinations to be made and the procedures to be followed by law enforcement agencies  
14 and the judge of the probate court in the issuance of a weapons carry license; to provide for  
15 replacement weapons carry licenses for persons who have a legal name change or address  
16 change; to clarify that certain active and retired law enforcement officers shall be authorized  
17 to carry a handgun on or off duty anywhere within this state; to clarify the meaning of  
18 commercial service airport relative to the carrying of a weapon or long gun; to allow for the  
19 preservation of a person's involuntary hospitalization information received by the Georgia  
20 Crime Information Center; to provide for exceptions; to provide for a judicial procedure for  
21 purging a person's involuntary hospitalization information received by the Georgia Crime  
22 Information Center; to provide for civil immunity of firearm instructors; to provide for  
23 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25

**SECTION 1.**

26 Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
 27 relating to carrying and possession of firearms, is amended by revising subsections (e) and  
 28 (f) of Code Section 16-11-126, relating to having or carrying handguns, long guns, or other  
 29 weapons, license requirement, exceptions for homes, motor vehicles, private property, and  
 30 other locations and conditions, as follows:

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

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

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

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

55

**SECTION 2.**

56 Said part is further amended by revising paragraph (5) of subsection (c) of Code Section  
 57 16-11-127.1, relating to carrying weapons within school safety zones, at school functions,  
 58 or on a bus or other transportation furnished by a school, as follows:

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

- 61 (A) A peace officer as defined by Code Section 35-8-2;  
 62 (B) A law enforcement officer of the United States government;  
 63 (C) A prosecuting attorney of this state or of the United States;  
 64 (D) An employee of the Department of Corrections or a correctional facility operated  
 65 by a political subdivision of this state or the United States who is authorized by the  
 66 head of such department or correctional agency or facility to carry a firearm;  
 67 (E) An employee of the Department of Community Supervision who is authorized by  
 68 the commissioner of community supervision to carry a firearm;  
 69 (F) A person employed as a campus police officer or school security officer who is  
 70 authorized to carry a weapon in accordance with Chapter 8 of Title 20; and  
 71 (G) Medical examiners, coroners, and their investigators who are employed by the state  
 72 or any political subdivision thereof;  
 73 provided, however, that this Code section shall not apply to any extent to persons who  
 74 are provided for under Code Section 16-11-130;"

### 75 SECTION 3.

76 Said part is further amended by adding a new subsection to, by revising paragraph (4) of  
 77 subsection (d) and paragraph (2) of subsection (e), and by adding a new paragraph to  
 78 subsection (e) of Code Section 16-11-129, relating to weapons carry license, temporary  
 79 renewal permit, mandamus, and verification of license, to read as follows:

80 "(a.1) **Gun safety information.**

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

86 (2) The Department of Natural Resources shall maintain on its principal, public website  
 87 information, or a hyperlink to information, which provides resources for information on  
 88 hunter education and classes and courses in this state that render instruction in gun safety.  
 89 No person shall be required to take such classes or courses for purposes of this Code  
 90 section where such information shall be provided solely for the convenience of the  
 91 citizens of this state.

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

95 "(4) The law enforcement agency shall report to the judge of the probate court within 30  
 96 ten days, by telephone and in writing, of any findings relating to the applicant which may

97 bear on his or her eligibility for a weapons carry license or renewal license under the  
 98 terms of this Code section. When no derogatory information is found on the applicant  
 99 bearing on his or her eligibility to obtain a license or renewal license, a report shall not  
 100 be required. The law enforcement agency shall return the application directly to the  
 101 judge of the probate court within such time period. Not later than ten days after the judge  
 102 of the probate court receives the report from the law enforcement agency concerning the  
 103 suitability of the applicant for a license, the judge of the probate court shall issue such  
 104 applicant a license or renewal license to carry any weapon unless facts establishing  
 105 ineligibility have been reported or unless the judge determines such applicant has not met  
 106 all the qualifications, is not of good moral character, or has failed to comply with any of  
 107 the requirements contained in this Code section. The judge of the probate court shall date  
 108 stamp the report from the law enforcement agency to show the date on which the report  
 109 was received by the judge of the probate court. The judge of the probate court shall not  
 110 suspend the processing of the application or extend, delay, or avoid any time  
 111 requirements provided for under this paragraph."

112 "(2) If a person is convicted of any crime or ~~involved in any matter~~ otherwise adjudicated  
 113 in a matter which would make the maintenance of a weapons carry license by such person  
 114 unlawful pursuant to subsection (b) of this Code section, the judge of the superior court  
 115 or state court hearing such case or presiding over such matter shall inquire whether such  
 116 person is the holder of a weapons carry license. If such person is the holder of a weapons  
 117 carry license, then the judge of the superior court or state court shall inquire of such  
 118 person the county of the probate court which issued such weapons carry license, or if  
 119 such person has ever had his or her weapons carry license renewed, then of the county  
 120 of the probate court which most recently issued such person a renewal license. The judge  
 121 of the superior court or state court shall notify the judge of the probate court of such  
 122 county of the matter which makes the maintenance of a weapons carry license by such  
 123 person to be unlawful pursuant to subsection (b) of this Code section. The Council of  
 124 Superior Court Judges of Georgia and The Council of State Court Judges of Georgia shall  
 125 provide by rule for the procedures which judges of the superior court and the judges of  
 126 the state courts, respectively, are to follow for the purposes of this paragraph."

127 "(4) Any person, upon petition to the judge of the probate court, who has a weapons carry  
 128 license or renewal license with more than 90 days remaining before the expiration of such  
 129 weapons carry license or renewal license and who has had a legal name change,  
 130 including, but not limited to, on account of marriage or divorce, or an address change  
 131 shall be issued a replacement weapons carry license for the same time period of the  
 132 weapons carry license or renewal license being replaced. Upon issuance and receipt of  
 133 such replacement weapons carry license, the license holder shall surrender the weapons

134 carry license being replaced to the judge of the probate court and such judge shall take  
 135 custody of and destroy the weapons carry license being replaced. The judge of the  
 136 probate court shall provide for the updating of any records as necessary to account for the  
 137 license holder's change of name or address. The judge of the probate court shall charge  
 138 the fee specified in paragraph (13) of subsection (k) of Code Section 15-9-60 for services  
 139 provided under this paragraph."

140 **SECTION 4.**

141 Said part is further amended in Code Section 16-11-130, relating to exemptions from Code  
 142 Sections 16-11-126 through 16-11-127.2, by revising the introductory language of subsection  
 143 (a), by revising subsections (b) and (c), and by adding a new subsection to read as follows:

144 "(a) Except to the extent provided for in subsection (c.1) of this Code section, Code  
 145 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any of the following  
 146 persons if such persons are employed in the offices listed below or when authorized by  
 147 federal or state law, regulations, or order:"

148 "(b) Except to the extent provided for in subsection (c.1) of this Code section, Code  
 149 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect persons who at the  
 150 time of their retirement from service with the Department of Community Supervision were  
 151 community supervision officers, when specifically designated and authorized in writing by  
 152 the commissioner of community supervision.

153 (c) Except to the extent provided for in subsection (c.1) of this Code section, Code  
 154 Sections 16-11-126 through 16-11-127.2 shall not apply to or affect any:

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

160 (2) Member of the Georgia State Patrol, ~~or~~ agent of the Georgia Bureau of Investigation,  
 161 ~~or~~ retired member of the Georgia State Patrol, or retired agent of the Georgia Bureau of  
 162 Investigation if such retired member or agent is receiving benefits under the Employees'  
 163 Retirement System;

164 (3) Full-time law enforcement chief executive engaging in the management of a county,  
 165 municipal, state, state authority, or federal law enforcement agency in the State of  
 166 Georgia, including any college or university law enforcement chief executive ~~that~~ who  
 167 is registered or certified by the Georgia Peace Officer Standards and Training Council;  
 168 or retired law enforcement chief executive ~~that~~ who formerly managed a county,  
 169 municipal, state, state authority, or federal law enforcement agency in the State of

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

176 (4) Police officer of any county, municipal, state, state authority, or federal law  
 177 enforcement agency in the State of Georgia, including any college or university police  
 178 officer ~~that~~ who is registered or certified by the Georgia Peace Officer Standards and  
 179 Training Council, or retired police officer of any county, municipal, state, state authority,  
 180 or federal law enforcement agency in the State of Georgia, including any college or  
 181 university police officer ~~that~~ who was registered or certified at the time of his or her  
 182 retirement by the Georgia Peace Officer Standards and Training Council, if such retired  
 183 ~~employee~~ police officer is receiving benefits under the Peace Officers' Annuity and  
 184 Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and  
 185 receiving benefits from a county, municipal, State of Georgia, state authority, or federal  
 186 retirement system; or

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

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

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

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

199 In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member  
 200 of the Georgia State Patrol, retired member of the Georgia State Patrol, agent of the  
 201 Georgia Bureau of Investigation, retired agent of the Georgia Bureau of Investigation,  
 202 active or retired law enforcement chief executive, person who is a retired law enforcement  
 203 officer as provided for in paragraph (5) of this subsection, or other law enforcement officer  
 204 referred to in this subsection shall be authorized to carry a handgun on or off duty  
 205 anywhere within ~~the~~ this state, including, but not limited to, in a courthouse except to the

206 extent provided for in subsection (c.1) of this Code section, and the provisions of Code  
 207 Sections 16-11-126 through 16-11-127.2 shall not apply to the carrying of such firearms.  
 208 (c.1)(1) Pursuant to a comprehensive plan for the security of the county courthouse and  
 209 any courthouse annex as provided for in subsection (a) of Code Section 15-16-10, the  
 210 sheriff with jurisdiction over such county courthouse or courthouse annex may provide  
 211 for facilities or the means for the holding of weapons carried by persons enumerated  
 212 under this Code section; provided, however, that ingress to such courthouse or courthouse  
 213 annex is actively restricted or screened by the sheriff or his or her deputy sheriffs, and  
 214 such facilities or means are beyond and inside of the area which is restricted or screened  
 215 by the sheriff or his or her deputy sheriffs.  
 216 (2) If the requirements of paragraph (1) of this subsection are met, the persons  
 217 enumerated under this Code section shall, upon request of the sheriff, place their weapons  
 218 in such holding with the sheriff pursuant to the comprehensive plan while such persons  
 219 are within the restricted or screened area. Upon request of any person enumerated under  
 220 this Code section, in preparation for his or her exit from the restricted or screened area,  
 221 the sheriff shall immediately return the person's weapons which are in holding.  
 222 (3) As used in this subsection, the term 'weapon' shall have the same meaning as  
 223 provided for in Code Section 16-11-125.1; provided, however, that such term shall  
 224 additionally mean any firearm."

225 **SECTION 5.**

226 Said part is further amended by adding a new subsection to Code Section 16-11-130.2,  
 227 relating to carrying a weapon or long gun at a commercial service airport, to read as follows:  
 228 "(a.1) As used in this Code section, the term:  
 229 (1) 'Commercial service airport' means an airport that receives scheduled passenger  
 230 aircraft service from any major airline carrier.  
 231 (2) 'Major airline carrier' means an airline that has more than \$1 billion in annual  
 232 operating revenue during a fiscal year."

233 **SECTION 6.**

234 Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to disclosure and  
 235 dissemination of criminal records to private persons and businesses, resulting responsibility  
 236 and liability of issuing center, and provision of certain information to the FBI in conjunction  
 237 with the National Instant Criminal Background Check System, is amended by revising  
 238 paragraph (2) of subsection (e) as follows:  
 239 "(2)(A) The records of the Georgia Crime Information Center shall include information  
 240 as to whether a person has been involuntarily hospitalized. Notwithstanding any other

241 provisions of law and in order to carry out the provisions of this Code section and Code  
 242 Section 16-11-172, the Georgia Crime Information Center shall be provided such  
 243 information and no other mental health information from the involuntary hospitalization  
 244 records of the probate courts concerning persons involuntarily hospitalized after  
 245 March 22, 1995, in a manner agreed upon by ~~the Probate Judges Training Council~~ The  
 246 Council of Probate Court Judges of Georgia and the Georgia Bureau of Investigation  
 247 to preserve the confidentiality of patients' rights in all other respects. Further,  
 248 notwithstanding any other provisions of law and in order to carry out the provisions of  
 249 this Code section and Code Section 16-11-172, the center shall be provided information  
 250 as to whether a person has been adjudicated mentally incompetent to stand trial or not  
 251 guilty by reason of insanity at the time of the crime, has been involuntarily hospitalized,  
 252 or both from the records of the clerks of the superior courts concerning persons  
 253 involuntarily hospitalized after March 22, 1995, in a manner agreed upon by The  
 254 Council of Superior Court Clerks of Georgia and the Georgia Bureau of Investigation  
 255 to preserve the confidentiality of patients' rights in all other respects. ~~After five years~~  
 256 ~~have elapsed from the date that a person's involuntary hospitalization information has~~  
 257 ~~been received by the Georgia Crime Information Center, the center shall purge its~~  
 258 ~~records of such information as soon as practicable and in any event purge such records~~  
 259 ~~within 30 days after the expiration of such five-year period~~ Pursuant to this Code  
 260 section, such person may petition the court in which such hospitalization proceedings  
 261 occurred for relief. A copy of such petition for relief shall be served as notice upon the  
 262 opposing civil party or the prosecuting attorney for the state, as the case may be, or  
 263 their successors, who appeared in the underlying case. Within 60 days of the receipt  
 264 of such petition for relief by the interested parties, such court shall hold a hearing on  
 265 such petition for relief; provided, however, that such time may be extended for good  
 266 cause as determined by the court. Such prosecuting attorney for the state may represent  
 267 the interests of the state at such hearing.

268 (B) At the hearing provided for under subparagraph (A) of this paragraph, the court  
 269 shall receive and consider evidence in a proceeding concerning:

270 (i) The circumstances which caused the person to be subject to such hospitalization;  
 271 (ii) The person's mental health and criminal history records, if any. The judge of  
 272 such court shall require any such person to sign a waiver authorizing the  
 273 superintendent or medical head of any mental hospital or treatment center to make to  
 274 the judge and the parties a recommendation regarding whether such person is a threat  
 275 to the safety of himself or herself or others;  
 276 (iii) The person's reputation, which shall be established through character witness  
 277 statements, testimony, or other character evidence; and

278 (iv) Changes in the person's condition or circumstances since such hospitalization.  
 279 (C)(i) The court shall issue a written order of its decision on the petition for relief  
 280 provided for under subparagraph (A) of this paragraph no later than 30 days after the  
 281 hearing.

282 (ii) The court shall grant the petition for relief if such court finds by a preponderance  
 283 of the evidence that the person will not likely act in a manner dangerous to himself  
 284 or herself or public safety and that granting the relief is otherwise consistent with the  
 285 standards for the issuance of a weapons carry license as provided for in  
 286 subsection (b.1) of Code Section 16-11-129. A record shall be kept of the hearing;  
 287 provided, however, that such record shall remain confidential and be disclosed only  
 288 to a court or to the parties in the event of an appeal. Any appeal of the court's ruling  
 289 on the petition shall be as provided for by laws governing the appeal of decisions  
 290 from such court.

291 (iii) If the court grants such person's petition for relief, the clerk of such court shall  
 292 report such order to the Georgia Crime Information Center immediately, but in no  
 293 case later than ten business days after the date of such order, and the center shall  
 294 purge such record that is the subject of the order as soon as practicable but not later  
 295 than 30 days after receipt of such order.

296 (D) A person may petition for relief under this paragraph not more than once every two  
 297 years. In the case of a person who has been hospitalized, such person shall not petition  
 298 for relief prior to being discharged from such hospitalization. A first petition for relief  
 299 may be made only after 12 months from the date on which a person's involuntary  
 300 hospitalization commenced.

301 (E) Information received by the prosecuting attorney for the state pursuant to this  
 302 paragraph shall not be used against the petitioner in any other case or context unless  
 303 such information is usable in such other case or context by other rules of evidence or  
 304 discovery."

305 **SECTION 7.**

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

308 "51-1-55.

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

310 (1) 'Dangerous weapon' shall have the same meaning as provided for under Code Section  
 311 16-11-121.

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

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

318 **SECTION 8.**

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