

## House Bill 292 (COMMITTEE SUBSTITUTE)

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 revise the requirements  
7 for the reciprocity of recognizing and giving effect to licenses to carry from other states; to  
8 require the Attorney General to maintain a certain public list; to provide for, revise, and  
9 clarify laws relating to the carrying of weapons and safety; to permit certain new residents  
10 to carry a weapon in this state for a limited time without a weapons carry license; to revise  
11 provisions relating to carrying weapons within school safety zones, at school functions, or  
12 on a bus or other transportation furnished by a school; to allow the judge of the probate court  
13 to provide for printed information on gun safety; to provide for the maintenance of gun safety  
14 information on the website of the Department of Natural Resources; to revise and clarify the  
15 determinations to be made and the procedures to be followed by law enforcement agencies  
16 and the judge of the probate court in the issuance of a weapons carry license; to provide for  
17 replacement weapons carry licenses for persons who have a legal name change or address  
18 change; to clarify that certain active and retired law enforcement officers shall be authorized  
19 to carry a handgun on or off duty anywhere within this state; to clarify the meaning of  
20 commercial service airport relative to the carrying of a weapon or long gun; to allow for the  
21 preservation of a person's involuntary hospitalization information received by the Georgia  
22 Crime Information Center; to provide for exceptions; to provide for a judicial procedure for  
23 purging a person's involuntary hospitalization information received by the Georgia Crime  
24 Information Center; to provide for civil immunity of firearm instructors; to provide for  
25 definitions; to provide for related matters; to provide for an effective date; to repeal  
26 conflicting laws; and for other purposes.

28

**SECTION 1.**

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

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

38     (i) Such licensee licensed to carry a weapon in any other state shall carry the weapon  
39 in compliance with the laws of this state; and

40     (ii) No other state shall be required to recognize and give effect to a license issued  
41 pursuant to this part that is held by a person who is younger than 21 years of age.

42     (B) The Attorney General shall create and maintain on the Department of Law's  
43 website a list of states whose laws recognize and give effect to a license issued pursuant  
44 to this part.

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

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

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

64

**SECTION 2.**

65 Said part is further amended by revising paragraph (5) of subsection (c) of Code Section  
66 16-11-127.1, relating to carrying weapons within school safety zones, at school functions,  
67 or on a bus or other transportation furnished by a school, as follows:

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

- 70 (A) A peace officer as defined by Code Section 35-8-2;
- 71 (B) A law enforcement officer of the United States government;
- 72 (C) A prosecuting attorney of this state or of the United States;
- 73 (D) An employee of the Department of Corrections or a correctional facility operated  
74 by a political subdivision of this state or the United States who is authorized by the  
75 head of such department or correctional agency or facility to carry a firearm;
- 76 (E) An employee of the Department of Community Supervision who is authorized by  
77 the commissioner of community supervision to carry a firearm;
- 78 (F) A person employed as a campus police officer or school security officer who is  
79 authorized to carry a weapon in accordance with Chapter 8 of Title 20; and
- 80 (G) Medical examiners, coroners, and their investigators who are employed by the state  
81 or any political subdivision thereof;

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

84

**SECTION 3.**

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

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

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

95 (2) The Department of Natural Resources shall maintain on its principal, public website  
96 information, or a hyperlink to information, which provides resources for information on  
97 hunter education and classes and courses in this state that render instruction in gun safety.  
98 No person shall be required to take such classes or courses for purposes of this Code

99       section where such information shall be provided solely for the convenience of the  
100      citizens of this state.

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

104      "(4) The law enforcement agency shall report to the judge of the probate court within 30  
105      20 days, by telephone and in writing, of any findings relating to the applicant which may  
106      bear on his or her eligibility for a weapons carry license or renewal license under the  
107      terms of this Code section. When no derogatory information is found on the applicant  
108      bearing on his or her eligibility to obtain a license or renewal license, a report shall not  
109      be required. The law enforcement agency shall return the application directly to the  
110      judge of the probate court within such time period. Not later than ten days after the judge  
111      of the probate court receives the report from the law enforcement agency concerning the  
112      suitability of the applicant for a license, the judge of the probate court shall issue such  
113      applicant a license or renewal license to carry any weapon unless facts establishing  
114      ineligibility have been reported or unless the judge determines such applicant has not met  
115      all the qualifications, is not of good moral character, or has failed to comply with any of  
116      the requirements contained in this Code section. The judge of the probate court shall date  
117      stamp the report from the law enforcement agency to show the date on which the report  
118      was received by the judge of the probate court. The judge of the probate court shall not  
119      suspend the processing of the application or extend, delay, or avoid any time  
120      requirements provided for under this paragraph."

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

136 "(4) Any person, upon petition to the judge of the probate court, who has a weapons carry  
137 license or renewal license with more than 90 days remaining before the expiration of such  
138 weapons carry license or renewal license and who has had a legal name change,  
139 including, but not limited to, on account of marriage or divorce, or an address change  
140 shall be issued a replacement weapons carry license for the same time period of the  
141 weapons carry license or renewal license being replaced. Upon issuance and receipt of  
142 such replacement weapons carry license, the license holder shall surrender the weapons  
143 carry license being replaced to the judge of the probate court and such judge shall take  
144 custody of and destroy the weapons carry license being replaced. The judge of the  
145 probate court shall provide for the updating of any records as necessary to account for the  
146 license holder's change of name or address. The judge of the probate court shall charge  
147 the fee specified in paragraph (13) of subsection (k) of Code Section 15-9-60 for services  
148 provided under this paragraph."

## SECTION 4.

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

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

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

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

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

(2) Member of the Georgia State Patrol, or agent of the Georgia Bureau of Investigation, or retired member of the Georgia State Patrol, or retired agent of the Georgia Bureau of

171      Investigation if such retired member or agent is receiving benefits under the Employees'  
172      Retirement System;

173      (3) Full-time law enforcement chief executive engaging in the management of a county,  
174      municipal, state, state authority, or federal law enforcement agency in the State of  
175      Georgia, including any college or university law enforcement chief executive ~~that who~~ is registered or certified by the Georgia Peace Officer Standards and Training Council;  
176      or retired law enforcement chief executive ~~that who~~ formerly managed a county,  
177      municipal, state, state authority, or federal law enforcement agency in the State of  
178      Georgia, including any college or university law enforcement chief executive ~~that who~~ was registered or certified at the time of his or her retirement by the Georgia Peace  
179      Officer Standards and Training Council, if such retired law enforcement chief executive  
180      is receiving benefits under the Peace Officers' Annuity and Benefit Fund provided under  
181      Chapter 17 of Title 47 or is retired in good standing and receiving benefits from a county,  
182      municipal, State of Georgia, state authority, or federal retirement system; **or**

185      (4) Police officer of any county, municipal, state, state authority, or federal law  
186      enforcement agency in the State of Georgia, including any college or university police  
187      officer ~~that who~~ is registered or certified by the Georgia Peace Officer Standards and  
188      Training Council, or retired police officer of any county, municipal, state, state authority,  
189      or federal law enforcement agency in the State of Georgia, including any college or  
190      university police officer ~~that who~~ was registered or certified at the time of his or her  
191      retirement by the Georgia Peace Officer Standards and Training Council, if such retired  
192      ~~employee~~ police officer is receiving benefits under the Peace Officers' Annuity and  
193      Benefit Fund provided under Chapter 17 of Title 47 or is retired in good standing and  
194      receiving benefits from a county, municipal, State of Georgia, state authority, or federal  
195      retirement system; **or**

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

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

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

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

208 In addition, any such sheriff, retired sheriff, deputy sheriff, retired deputy sheriff, member  
209 of the Georgia State Patrol, retired member of the Georgia State Patrol, agent of the  
210 Georgia Bureau of Investigation, retired agent of the Georgia Bureau of Investigation,  
211 active or retired law enforcement chief executive, person who is a retired law enforcement  
212 officer as provided for in paragraph (5) of this subsection, or other law enforcement officer  
213 referred to in this subsection shall be authorized to carry a handgun on or off duty  
214 anywhere within the this state, including, but not limited to, in a courthouse except to the  
215 extent provided for in subsection (c.1) of this Code section, and the provisions of Code  
216 Sections 16-11-126 through 16-11-127.2 shall not apply to the carrying of such firearms.

217 (c.1)(1) Pursuant to a comprehensive plan for the security of the county courthouse and  
218 any courthouse annex as provided for in subsection (a) of Code Section 15-16-10, the  
219 sheriff with jurisdiction over such county courthouse or courthouse annex may provide  
220 for facilities or the means for the holding of weapons carried by persons enumerated  
221 under this Code section; provided, however, that ingress to such courthouse or courthouse  
222 annex is actively restricted or screened by the sheriff or his or her deputy sheriffs, and  
223 such facilities or means are beyond and inside of the area which is restricted or screened  
224 by the sheriff or his or her deputy sheriffs.

225 (2) If the requirements of paragraph (1) of this subsection are met, the persons  
226 enumerated under this Code section shall, upon request of the sheriff, place their weapons  
227 in such holding with the sheriff pursuant to the comprehensive plan while such persons  
228 are within the restricted or screened area. Upon request of any person enumerated under  
229 this Code section, in preparation for his or her exit from the restricted or screened area,  
230 the sheriff shall immediately return the person's weapons which are in holding.

231 (3) As used in this subsection, the term 'weapon' shall have the same meaning as  
232 provided for in Code Section 16-11-125.1; provided, however, that such term shall  
233 additionally mean any firearm."

## 234 SECTION 5.

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

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

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

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

242

**SECTION 6.**

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

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

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

279       (i) The circumstances which caused the person to be subject to such hospitalization;  
280       (ii) The person's mental health and criminal history records, if any. The judge of  
281       such court shall require any such person to sign a waiver authorizing the  
282       superintendent or medical head of any mental hospital or treatment center to make to  
283       the judge and the parties a recommendation regarding whether such person is a threat  
284       to the safety of himself or herself or others;  
285       (iii) The person's reputation, which shall be established through character witness  
286       statements, testimony, or other character evidence; and  
287       (iv) Changes in the person's condition or circumstances since such hospitalization.  
288       (C)(i) The court shall issue a written order of its decision on the petition for relief  
289       provided for under subparagraph (A) of this paragraph no later than 30 days after the  
290       hearing.  
291       (ii) The court shall grant the petition for relief if such court finds by a preponderance  
292       of the evidence that the person will not likely act in a manner dangerous to himself  
293       or herself or public safety and that granting the relief is otherwise consistent with the  
294       standards for the issuance of a weapons carry license as provided for in  
295       subsection (b.1) of Code Section 16-11-129. A record shall be kept of the hearing;  
296       provided, however, that such record shall remain confidential and be disclosed only  
297       to a court or to the parties in the event of an appeal. Any appeal of the court's ruling  
298       on the petition shall be as provided for by laws governing the appeal of decisions  
299       from such court.  
300       (iii) If the court grants such person's petition for relief, the clerk of such court shall  
301       report such order to the Georgia Crime Information Center immediately, but in no  
302       case later than ten business days after the date of such order, and the center shall  
303       purge such record that is the subject of the order as soon as practicable but not later  
304       than 30 days after receipt of such order.  
305       (D) A person may petition for relief under this paragraph not more than once every two  
306       years. In the case of a person who has been hospitalized, such person shall not petition  
307       for relief prior to being discharged from such hospitalization. A first petition for relief  
308       may be made only after 12 months from the date on which a person's involuntary  
309       hospitalization commenced.  
310       (E) Information received by the prosecuting attorney for the state pursuant to this  
311       paragraph shall not be used against the petitioner in any other case or context unless  
312       such information is usable in such other case or context by other rules of evidence or  
313       discovery."

314

**SECTION 7.**

315 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general  
316 provisions regarding torts, is amended by adding a new Code section to read as follows:  
317 "51-1-55.

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

319 (1) 'Dangerous weapon' shall have the same meaning as provided for under Code Section  
320 16-11-121.

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

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

327

**SECTION 8.**

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

330

**SECTION 9.**

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