

House Bill 165

By: Representatives Trammell of the 132nd, Frye of the 118th, Wilensky of the 79th, Robichaux of the 48th, Hutchinson of the 107th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to
2 weapons carry license, gun safety information, temporary renewal permit, mandamus, and
3 verification of license, so as to revise the investigative and fingerprint based criminal history
4 check requirements of persons submitting weapons carry license and renewal license
5 applications; to require a fingerprint based criminal history records check from the Georgia
6 Crime Information Center and Federal Bureau of Investigation for weapons carry license and
7 renewal license applicants; to authorize the Georgia Bureau of Investigation and Federal
8 Bureau of Investigation to retain fingerprints from weapons carry license and renewal license
9 applicants for participation in a federal program that allows for an ongoing and continuing
10 review of such applicants' criminal histories; to amend Code Section 35-3-33 of the Official
11 Code of Georgia Annotated, relating to powers and duties of the Georgia Crime Information
12 Center generally, so as to remove an exemption and to allow for the filing and retention of
13 fingerprints submitted for the purpose of obtaining and renewing a weapons carry license;
14 to provide for related matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

17 Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to weapons
18 carry license, gun safety information, temporary renewal permit, mandamus, and verification
19 of license, is amended by revising subsection (d) as follows:

20 **"(d) Investigation of applicant; issuance of weapons carry license; renewal.**

21 (1)~~(A)~~ For weapons carry license and renewal license applications, the judge of the
22 probate court shall within five business days following the receipt of the application or
23 request direct the law enforcement agency to request a fingerprint based criminal history
24 records check from the Georgia Crime Information Center and Federal Bureau of
25 Investigation for purposes of determining the suitability of the applicant and return an
26 appropriate report to the judge of the probate court. Fingerprints shall be in such form

27 and of such quality as prescribed by the Georgia Crime Information Center and under
 28 standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of
 29 Investigation may charge such fee as is necessary to cover the cost of the records search.
 30 For purposes of the program described in subparagraph (a)(1)(F) of Code Section
 31 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of Investigation
 32 shall be authorized to retain fingerprints obtained pursuant to this subsection for such
 33 program, and the judge of the probate court shall notify the applicant of the parameters
 34 of such retention.

35 ~~(B) For requests for license renewals, the presentation of a weapons carry license~~
 36 ~~issued by any probate judge in this state shall be evidence to the judge of the probate~~
 37 ~~court to whom a request for license renewal is made that the fingerprints of the weapons~~
 38 ~~carry license holder are on file with the judge of the probate court who issued the~~
 39 ~~weapons carry license, and the judge of the probate court to whom a request for license~~
 40 ~~renewal is made shall, within five business days following the receipt of the request,~~
 41 ~~direct the law enforcement agency to request a nonfingerprint based criminal history~~
 42 ~~records check from the Georgia Crime Information Center and Federal Bureau of~~
 43 ~~Investigation for purposes of determining the suitability of the applicant and return an~~
 44 ~~appropriate report to the judge of the probate court to whom a request for license~~
 45 ~~renewal is made.~~

46 (2) For both weapons carry license and renewal license applications ~~and requests for~~
 47 ~~license renewals~~, the judge of the probate court shall within five business days following
 48 the receipt of the application ~~or request~~ also direct the law enforcement agency, ~~in the~~
 49 ~~same manner as provided for in subparagraph (B) of paragraph (1) of this subsection~~, to
 50 conduct a background check using the Federal Bureau of Investigation's National Instant
 51 Criminal Background Check System and return an appropriate report to the probate
 52 judge.

53 (3) When a person who is not a United States citizen applies for a weapons carry license
 54 or renewal of a license under this Code section, the judge of the probate court shall direct
 55 the law enforcement agency to conduct a search of the records maintained by United
 56 States Immigration and Customs Enforcement and return an appropriate report to the
 57 probate judge. As a condition to the issuance of a license or the renewal of a license, an
 58 applicant who is in nonimmigrant status shall provide proof of his or her qualifications
 59 for an exception to the federal firearm prohibition pursuant to 18 U.S.C. Section 922(y).

60 (4) The law enforcement agency shall report to the judge of the probate court within 20
 61 days, by telephone and in writing, of any findings relating to the applicant which may
 62 bear on his or her eligibility for a weapons carry license or renewal license under the
 63 terms of this Code section. ~~When no derogatory information is found on the applicant~~

64 ~~bearing on his or her eligibility to obtain a license or renewal license, a report shall not~~
 65 ~~be required.~~ The law enforcement agency shall return the application directly to the
 66 judge of the probate court within such time period. Not later than ten days after the judge
 67 of the probate court receives the report from the law enforcement agency concerning the
 68 suitability of the applicant for a license, the judge of the probate court shall issue such
 69 applicant a license or renewal license to carry any weapon unless facts establishing
 70 ineligibility have been reported or unless the judge determines such applicant has not met
 71 all the qualifications, is not of good moral character, or has failed to comply with any of
 72 the requirements contained in this Code section. The judge of the probate court shall date
 73 stamp the report from the law enforcement agency to show the date on which the report
 74 was received by the judge of the probate court. The judge of the probate court shall not
 75 suspend the processing of the application or extend, delay, or avoid any time
 76 requirements provided for under this paragraph."

77 **SECTION 2.**

78 Code Section 35-3-33 of the Official Code of Georgia Annotated, relating to powers and
 79 duties of the Georgia Crime Information Center generally, is amended by revising
 80 subparagraph (a)(1)(F) as follows:

81 "(F) Are individuals for whom fingerprint based criminal history checks are authorized
 82 by this state's or federal law for the purpose of determining suitability or fitness for
 83 employment, placement, registration, a permit, or a license for an agency or qualified
 84 entity which is participating in the federal program that allows an ongoing and
 85 continuing review of such individual's criminal history; provided, however, that such
 86 fingerprints shall be retained and maintained securely and separately from records
 87 relating to the identification of criminals, ~~and provided, further, that the center shall not~~
 88 ~~file or retain fingerprints submitted for the purpose of obtaining or renewing a weapons~~
 89 ~~carry license, as such term is defined in Code Section 16-11-125.1;"~~

90 **SECTION 3.**

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