

House Bill 926

By: Representatives Reeves of the 99th, Mainor of the 56th, Greene of the 154th, Hilton of the 48th, Vance of the 133rd, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to provide for issuance of certificates by a court for purposes of demonstrating
3 rehabilitation and good moral character; to provide for conditions, procedures, and
4 limitations for issuance of such certificates; to revise procedure for arrest by citation for
5 violations of motor vehicle related laws or ordinances; to provide for contents of uniform
6 traffic citations; to revise consequences upon an individual's driver's license for failure to
7 respond to a uniform traffic citation; to amend Code Section 24-4-419 of the Official Code
8 of Georgia Annotated, relating to admissibility of criminal history record information of an
9 employee or former employee, so as to provide for inadmissability of criminal history record
10 for individuals issued a certificate of good standing; to amend Chapter 5 of Title 40 of the
11 Official Code of Georgia Annotated, relating to drivers' licenses, so as to provide for the
12 waiver of a driver's license reinstatement fee for individuals submitting pauper affidavits; to
13 revise periods of suspension of license or driving privilege for failure to respond to a uniform
14 traffic citation; to amend Code Section 44-5-150 of the Official Code of Georgia Annotated,
15 relating to search and notification for information identifying anatomical gift donor status,
16 so as to provide for conforming changes; to amend Code Section 51-1-54 of the Official
17 Code of Georgia Annotated, relating to presumption of due care in hiring of person pardoned
18 or who has obtained a Program and Treatment Completion Certificate, so as to extend the

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19 presumption of due care in hiring to individuals issued certificates of good standing; to
20 provide a short title; to provide for related matters; to provide for an effective date; to repeal
21 conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 This Act shall be known and may be cited as the "Second Chance Workforce Act."

25 **SECTION 2.**

26 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
27 amended by adding a new Code section to read as follows:

28 "17-1-5.

29 (a) For purposes of this Code section, the term:

30 (1) 'Certificate of good standing' means a finding that an eligible individual has been
31 rehabilitated and is of good moral character.

32 (2) 'Eligible individual' means any individual convicted of a criminal offense other than
33 one which requires registration on the National Sex Offender Registry or the state sexual
34 offender registry and who has completed the terms of his or her sentence and has no
35 pending criminal charges.

36 (b) An eligible individual who has not been convicted of any crime in any jurisdiction for
37 at least six months from the completion of his or her sentence may petition the superior
38 court in the county wherein he or she resides for issuance of a certificate of good standing.
39 Such petition shall be submitted on a form promulgated by the Attorney General for such
40 purpose and include a copy of his or her criminal history background check report
41 conducted by the Georgia Crime Information Center that has been completed no more than
42 three business days prior to the filing of the petition. Such court shall maintain jurisdiction

43 over the case for this limited purpose and duration. A hearing on the issue shall be held
44 within 90 days of the filing of the petition. The court shall hear evidence and shall issue
45 a certificate of good standing if it determines, by a preponderance of the evidence, that the
46 eligible individual is law-abiding and fully rehabilitated and granting a certificate of good
47 standing would be consistent with the eligible individual's rehabilitation and the interest
48 of the public.

49 (c) No eligible individual with an outstanding warrant issued by a jurisdiction in this state
50 or any other state or by the United States shall file a petition provided for in this Code
51 section.

52 (d) A certificate of good standing shall have the force and effect of final judgment and may
53 be used by an eligible individual as evidence of good moral character for purposes of
54 employment, housing, and occupational licensing. Issuance of a certificate of good
55 standing shall not prevent any judicial or administrative proceeding, any licensing
56 authority, or any other body, board, employer, or authority from accessing or considering
57 the eligible individual's criminal history record information.

58 (e) Upon notice to an eligible individual, a certificate of good standing may be revoked by
59 the court of issuance upon indictment for a subsequent offense.

60 (f) If a petition under this Code section has been denied, an eligible individual may file a
61 subsequent petition after the expiration of two years from the date of the final order from
62 the previous petition."

63 **SECTION 3.**

64 Said title is further amended by revising Code Section 17-4-23, relating to procedure for
65 arrests by citation for motor vehicle violations, issuance of warrants for arrest for failure of
66 persons charged to appear in court, and bond, as follows:

67 "17-4-23.

68 (a)(1) A law enforcement officer may arrest a person accused of violating ~~any law or~~
69 ~~ordinance enacted by local law governing the operation, licensing, registration,~~
70 ~~maintenance, or inspection of motor vehicles or violating~~ paragraph (2), (3), or (5) of
71 subsection (a) of Code Section 3-3-23 by the issuance of a citation, provided that such
72 offense is committed in his or her presence or information constituting a basis for such
73 arrest was received by the arresting officer from a law enforcement officer observing
74 such offense being committed, ~~except that, when such offense results in an accident, an~~
75 ~~investigating officer may issue citations regardless of whether the offense occurred in the~~
76 ~~presence of a law enforcement officer.~~

77 (2) A law enforcement officer may arrest a person accused of any misdemeanor violation
78 of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by the issuance of a citation,
79 provided that such offense is committed in his or her presence or information constituting
80 a basis for such arrest was received by the arresting officer or an investigating officer
81 from another law enforcement officer or other individual observing or aware of such
82 offense being committed. When an arrest is made for such offense, prior to releasing the
83 accused on citation, the arresting law enforcement officer shall review the accused's
84 criminal record as such is on file with the Federal Bureau of Investigation and the
85 Georgia Crime Information Center within the Georgia Bureau of Investigation and ensure
86 that the accused's fingerprints are obtained.

87 (3) The arresting officer shall issue a citation to the accused which shall enumerate the
88 specific charges and the date upon which he or she is to appear and answer the charges
89 or a notation that he or she will be later notified of the date upon which he or she is to
90 appear and answer the charges. ~~When an arresting officer makes an arrest concerning the~~
91 ~~operation of a motor vehicle based on information received from another law~~
92 ~~enforcement officer who observed the offense being committed, the citation shall list the~~

93 ~~name of each officer and each officer must be present when the charges against the~~
 94 ~~accused are heard.~~

95 (b)(1) When an accused is issued a citation pursuant to paragraph (1) of subsection (a)
 96 of this Code section, and If the accused fails to appear as specified in the citation, the
 97 judicial officer having jurisdiction of the offense may issue a warrant ordering the
 98 apprehension of the accused and commanding that he or she be brought before the court
 99 to answer the charge contained within the citation and the charge of his or her failure to
 100 appear as required. The accused shall then be allowed to make a reasonable bond to
 101 appear on a given date before the court.

102 ~~(c)(2) When an accused is issued a citation pursuant to paragraph (2) of subsection (a)~~
 103 ~~of this Code section~~ Notwithstanding ~~subsection (b) of this Code section, when an~~
 104 ~~accused was issued a citation for a violation of Code Section 16-7-21, 16-8-14, 16-8-14.1,~~
 105 ~~or 16-13-30,~~ and the accused fails to appear as specified in the citation, the judicial
 106 officer having jurisdiction of the offense, absent a finding of sufficient excuse to appear
 107 at the time and place specified in the citation, shall issue a warrant ordering the
 108 apprehension of the accused and commanding that he or she be brought before the court
 109 to answer the charge contained within the citation and the charge of his or her failure to
 110 appear as required. The accused shall then be allowed to make a reasonable bond to
 111 appear on a given date before the court."

112 SECTION 4.

113 Said title is further amended by revising Code Section 17-6-11, relating to display of driver's
 114 license for violation of certain traffic related laws, notice of failure to appear, suspension of
 115 license, arrest, and seizure of license, as follows:

116 "17-6-11.

117 (a)(1) When an individual is apprehended by an officer for the violation of the laws of this
 118 state or ordinances relating to the offenses listed in paragraph (2) of this subsection, he or

119 she may display his or her driver's license and be issued a uniform traffic citation in lieu
120 of being:

121 (A) Brought before the proper magistrate or other judicial officer;

122 (B) Incarcerated;

123 (C) Ordered to post a bond; or

124 (D) Ordered a recognizance for his or her appearance for trial.

125 (2) This subsection shall apply to any violation:

126 (A) Of Title 40 except any offense:

127 (i) For which a driver's license may be suspended for a first offense by the
128 commissioner of driver services;

129 (ii) Covered under Code Section 40-5-54; or

130 (iii) Covered under Article 15 of Chapter 6 of Title 40;

131 (B) Involving the width, height, and length of vehicles and loads;

132 (C) Involving motor common carriers and motor contract carriers;

133 (D) Involving hazardous materials transportation; or

134 (E) Involving road taxes on motor carriers as provided in Article 2 of Chapter 9 of
135 Title 48.

136 (3) The apprehending officer shall include the individual's driver's license number on the
137 uniform traffic citation. When an apprehending officer issues a citation based on
138 information received from another law enforcement officer who observed the offense
139 being committed, the citation shall list the name of each officer, and both officers shall
140 be present when the charges against the accused are heard. The uniform traffic citation,
141 duly served as provided in this Code section, shall give the judicial officer jurisdiction
142 to dispose of the matter.

143 (4) Upon display of the driver's license, the apprehending officer shall release the
144 individual so charged for his or her further appearance before the proper judicial officer
145 as required by the uniform traffic citation.

146 (b)(1) When a uniform traffic citation is issued and if the accused fails to appear for
147 court or otherwise dispose of his or her charges before his or her scheduled court
148 appearance as stated on the uniform traffic citation, prior to the court issuing a bench
149 warrant, the clerk of court shall notify the accused by first-class mail or by postcard at the
150 address listed on the uniform traffic citation of his or her failure to appear. Such notice
151 shall be dated and allow the accused 30 days from such date to dispose of his or her
152 charges or waive arraignment and plead not guilty. If after the expiration of such 30 day
153 period the accused fails to dispose of his or her charges or waive arraignment and plead
154 not guilty, the clerk of court in which the charges are lodged shall, within five days of
155 such date, forward to the Department of Driver Services the accused's driver's license
156 number unless otherwise ordered by the court. The commissioner of driver services shall,
157 upon receipt of such driver's license number, suspend such accused's driver's license and
158 driving privilege until notified by the clerk of court that the accused has scheduled a new
159 date to appear before the court, made an appearance in court, or waived arraignment, the
160 charge against the accused has been finally adjudicated, or the court has otherwise
161 ordered such accused driver's license to be reinstated. The clerk of court shall notify the
162 Department of Driver Services when the accused has scheduled a new date to appear
163 before the court, appeared in court for a hearing or arraignment, or waived arraignment,
164 the charge against the accused has been finally adjudicated, or the court has otherwise
165 ordered such accused driver's license reinstated. Such accused's driver's license shall be
166 reinstated when the Department of Driver Services receives notice that the accused has
167 scheduled a new date to appear before the court, notice that such person has made an
168 appearance in court, notice that such person has waived arraignment, proof of the final
169 adjudication or order of reinstatement by the court ~~and the accused individual pays to the~~
170 ~~Department of Driver Services the applicable restoration fee as set forth in Code Section~~
171 ~~40-5-56, unless such fee is waived by the court or otherwise as provided by law.~~

172 (2)(A) The scheduling of a new date to appear before the court for disposition of a
173 uniform traffic citation shall not be conditioned upon payment of any fee for a previous
174 failure to appear.

175 (B) After the clerk court has notified the Department of Driver Services of a newly
176 scheduled date for an accused to appear before the court pursuant to paragraph (1) of
177 this subsection, when the accused requests, for a second or subsequent time, a new date
178 for disposition of the same uniform traffic citation, the court may forward to the
179 Department of Driver Services the accused's driver's license number. The
180 commissioner of driver services shall, upon receipt of such driver's license number,
181 suspend such accused's driver's license and driving privilege until notified by the clerk
182 of court that the accused has appeared in court, the charge against the accused has been
183 finally adjudicated, or the court has otherwise ordered such accused driver's license to
184 be reinstated.

185 (C) After the clerk court has notified the Department of Driver Services of a newly
186 scheduled date for an accused to appear before the court pursuant to paragraph (1) of
187 this subsection, when the accused fails, for a second or subsequent time, to appear for
188 court or otherwise dispose of his or her charges before his or her newly scheduled court
189 appearance for disposition of the same uniform traffic citation, the court may forward
190 to the Department of Driver Services the accused's driver's license number. The
191 commissioner of driver services shall, upon receipt of such driver's license number,
192 suspend such accused's driver's license and driving privilege until notified by the clerk
193 of court that the accused has appeared in court, the charge against the accused has been
194 finally adjudicated, or the court has otherwise ordered such accused driver's license to
195 be reinstated. Nothing in this subsection shall require a clerk of court to notify the
196 Department of Driver Services of the scheduling of a new date to appear before the
197 court for disposition of the same uniform traffic citation after an accused fails to appear
198 for court pursuant to this subparagraph.

199 (D) Nothing in this subsection shall prevent a court from establishing a policy or
 200 practice, by standing order or otherwise, to notify the Department of Driver Services
 201 of newly scheduled hearings subsequent to the accused's first newly scheduled hearing.

202 (3) This subsection shall not apply to any violation of Title 40:

203 (A) For which a driver's license may be suspended for a first offense by the
 204 commissioner of driver services;

205 (B) Covered under Code Section 40-5-54; or

206 (C) Covered under Article 15 of Chapter 6 of Title 40.

207 ~~(b.1)(c)~~ (c) A ~~It shall be the duty of~~ a law enforcement officer or emergency medical
 208 technician responding to the scene of any motor vehicle accident or other accident
 209 involving a fatal injury ~~to examine~~ shall immediately examine the driver's license of the
 210 victim to determine the victim's wishes concerning organ donation. If the victim has
 211 indicated that he or she wishes to be an organ donor, ~~it shall be the duty of~~ such law
 212 enforcement officer or emergency medical technician ~~to~~ shall take appropriate action to
 213 ensure, if possible, that the victim's organs ~~shall not be~~ are not imperiled by delay in
 214 verification by the donor's next of kin.

215 ~~(e)(d)~~ (d) Nothing in this Code section ~~bars~~ shall prohibit any law enforcement officer from
 216 arresting or from seizing the driver's license of any individual possessing a fraudulent
 217 license or a suspended license or operating a motor vehicle while his or her license is
 218 suspended, outside the scope of a driving permit, or without a license.

219 ~~(d)(e)~~ (e) The commissioner of driver services shall be authorized to promulgate reasonable
 220 rules and regulations to carry out the purposes of this Code section and to establish
 221 agreements with other states whereby a valid license from that state may be accepted for
 222 purposes of this Code section."

223 **SECTION 5.**

224 Said title is further amended by revising Code Section 17-7-90, relating to issuance of bench
225 warrant, execution, and receiving bail, fixing bond, and approving sureties, as follows:

226 "17-7-90.

227 (a) A bench warrant may be issued by a judge for the arrest of a person:

228 (1) Accused of a crime by a grand jury;

229 (2) Except as otherwise provided in Code Section 17-6-11, charged with a crime who has
230 failed to appear in court after:

231 (A) Actual notice of the time and place to appear to the person in open court;

232 (B) Notice of the time and place to appear to the person by mailing a notice to such
233 person's last known address; or

234 (C) The person has otherwise been notified of the time and place to appear personally,
235 in writing, by a court official or officer of the court;

236 (3) Charged with a crime upon the filing by the prosecutor of an accusation supported
237 by affidavit; or

238 (4) Who failed to dispose of his or her charges, schedule a new date to appear before the
239 court, make an appearance in court, or waive arraignment and plead not guilty after the
240 expiration of the 30 day period set forth in subsection (b) of Code Section 17-6-11.

241 (b) Every officer is bound to execute a bench warrant within his or her jurisdiction, and
242 every person so arrested shall be committed to jail until bail is tendered. Any judicial
243 officer or the sheriff of the county where the charge was returned may receive the bail, fix
244 the amount of the bond, and approve the sureties unless it is a case that is bailable only
245 before some particular judicial officer."

246 **SECTION 6.**

247 Code Section 24-4-419 of the Official Code of Georgia Annotated, relating to admissibility
248 of criminal history record information of an employee or former employee, is amended by
249 revising subsection (b) as follows:

250 "(b) In a civil proceeding against an employer, its employees, or its agents based on the
251 conduct of an employee or former employee, criminal history record information shall not
252 be admissible if:

253 (1) The nature of such criminal history record information is not relevant to the facts
254 underlying such proceeding or the veracity of the witness;

255 (2) Prior to the act giving rise to such proceedings, criminal history record information
256 was restricted or sealed as provided in Code Section 35-3-37, ~~or~~ a pardon for such
257 conduct was granted, or a certificate of good standing was issued pursuant to Code
258 Section 17-1-5; or

259 (3) Such criminal history information is for an arrest or charge that did not result in a
260 conviction."

261 **SECTION 7.**

262 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,
263 is amended in Code Section 40-5-9, relating to pauper's affidavit for a partial waiver of
264 driver's license reinstatement and restoration fees, by revising subsection (b) as follows:

265 "(b) Upon the submission of a pauper's affidavit, the driver's license reinstatement or
266 restoration fee shall be ~~50 percent of the fee required by law~~ waived."

267 **SECTION 8.**

268 Said chapter is further amended by revising Code Section 40-5-56, relating to cancellation,
269 suspension, and revocation of licenses, as follows:

270 "40-5-56.

271 (a) Notwithstanding any other provisions of this chapter or any other law to the contrary
272 and unless otherwise ordered by the court, the department shall suspend the driver's license
273 or privilege to operate a motor vehicle in this state of any person who has failed to respond
274 to a citation to appear before a court of competent jurisdiction in this state or in any other
275 state for a traffic violation other than a parking violation. The department shall include
276 language in the uniform traffic citation stating that failure to appear and respond to such
277 citation may result in the suspension of the violator's driver's license or nonresident driving
278 privilege. The language reflected on a uniform traffic citation issued in this state shall be
279 sufficient notice of said suspension to support a conviction for a violation of Code Section
280 40-5-121 if such person drives subsequent to the imposition of such a suspension following
281 his or her failure to appear; provided, however, that the department shall send notice of any
282 suspension imposed pursuant to this Code section via certified mail or certificate of mailing
283 to the address reflected on its records as the person's mailing address. For purposes of this
284 subsection, the term 'certificate of mailing' means a delivery method utilized by the United
285 States Postal Service which provides evidence that an item has been sent and the date such
286 item was accepted.

287 (b) The suspension provided for in this Code section shall be for an indefinite period until
288 such person ~~shall respond and pay any fines and penalties imposed~~ has scheduled a new
289 date to appear before the court pursuant to subsection (b) of Code Section 17-6-11, made
290 an appearance in court through hearing or arraignment, or waived arraignment, the charge
291 against the accused has been finally adjudicated, or the court otherwise orders such person's
292 driver's license be reinstated. Such person's license shall be reinstated when the department
293 receives proof of payment of any fines and penalties, notice that the accused has scheduled
294 a new date to appear before the court pursuant to subsection (b) of Code Section 17-6-11,
295 notice that such person has made an appearance in court, notice that such person has
296 waived arraignment, proof of the final adjudication, or order of reinstatement by the court

297 or order of reinstatement by the court ~~and the person pays the applicable restoration fee of~~
298 ~~\$100.00 or \$90.00 when such reinstatement is processed by mail to the department, unless~~
299 ~~such fee is waived by the court or otherwise as provided by law.~~ Such suspension shall be
300 in addition to any other suspension or revocation provided for in this chapter."

301 **SECTION 9.**

302 Code Section 44-5-150 of the Official Code of Georgia Annotated, relating to search and
303 notification for information identifying anatomical gift donor status, is amended by revising
304 paragraph (1) of subsection (a) as follows:

305 "(1) A law enforcement officer, firefighter, paramedic, emergency medical technician,
306 or other first responder finding the individual, in accordance with subsection ~~(b-1)~~ (c) of
307 Code Section 17-6-11; and"

308 **SECTION 10.**

309 Code Section 51-1-54 of the Official Code of Georgia Annotated, relating to presumption of
310 due care in hiring of person pardoned or who has obtained a Program and Treatment
311 Completion Certificate, is amended by revising subsection (b) as follows:

312 "(b) Issuance of a Program and Treatment Completion Certificate by the Board of
313 Corrections or the Board of Community Supervision, the granting of a certificate of good
314 standing pursuant to Code Section 17-1-5, or the granting of a pardon from the State Board
315 of Pardons and Paroles as provided in the Constitution and Code Section 42-9-42 shall
316 create a presumption of due care in hiring, retaining, licensing, leasing to, admitting to a
317 school or program, or otherwise engaging in activity with the individual to whom the
318 Program and Treatment Completion Certificate or certificate of good standing was issued
319 or the pardon was granted. Such presumption may be rebutted by relevant evidence which
320 extends beyond the scope of the Program and Treatment Completion Certificate, certificate

321 of good standing, or pardon and which was known or should have been known by the
322 person against whom negligence is asserted."

323 **SECTION 11.**

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

326 **SECTION 12.**

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