

House Bill 247 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Neal of the 1st, Bearden of the 68th, Talton of the 145th, Parrish of the 156th, Howard of the 121st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 4 of Title 25 of the Official Code of Georgia Annotated,
2 relating to general provisions for firefighter standards and training, so as to provide for the
3 automatic termination of the certification of a firefighter convicted of a felony; to provide for
4 disciplinary authority for the Georgia Firefighter Standards and Training Council; to provide
5 for due process procedures; to amend Article 3 of Chapter 11 of Title 31 of the Official Code
6 of Georgia Annotated, relating to emergency medical services personnel, so as to authorize
7 the Department of Community Health to provide for an exemption from background checks
8 of applicants for licensure to be emergency medical services personnel when the applicants
9 are currently certified firefighters employed with a fire department; to provide for related
10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Article 1 of Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to
14 general provisions for firefighter standards and training, is amended by adding new Code
15 sections to read as follows:

16 "25-4-13.

17 (a) The council shall have authority to refuse to grant a certificate to an applicant or to
18 discipline a certified firefighter upon a determination by the council that the applicant or
19 certified firefighter has:

20 (1) Failed to demonstrate the qualifications or standards for a certificate provided in this
21 chapter or in the rules and regulations of the council;

22 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
23 practice of being a firefighter or in any document connected therewith or practiced fraud
24 or deceit or intentionally made any false statement in obtaining a certificate to practice
25 as a firefighter;

26 (3) Been convicted of a felony in the courts of this state or any other state, territory,
 27 country, or of the United States, as provided in subsection (b) of Code Section 25-4-8;
 28 provided, further, that any person convicted of a felony while being certified as a
 29 firefighter shall have his or her certification revoked;

30 (4) Committed a crime involving moral turpitude, without regard to criminal conviction.
 31 The conviction of a crime involving moral turpitude shall be conclusive of the
 32 commission of such crime;

33 (5) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
 34 practice harmful to the public, which conduct or practice need not have resulted in actual
 35 injury to any person. As used in this paragraph, the term 'unprofessional conduct' shall
 36 include any departure from, or failure to conform to, the minimal standards of acceptable
 37 and prevailing practice of a firefighter;

38 (6) Violated or attempted to violate a law, rule, or regulation of this state, any other state,
 39 the council, the United States, or any other lawful authority without regard to whether the
 40 violation is criminally punishable, which law, rule, or regulation relates to or in part
 41 regulates the practice of firefighters;

42 (7) Committed any act or omission which is indicative of bad moral character or
 43 untrustworthiness;

44 (8) Been adjudged mentally incompetent by a court of competent jurisdiction, within or
 45 outside this state; or

46 (9) Become unable to perform as a firefighter with reasonable skill and safety to citizens
 47 by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of
 48 material or as a result of any mental or physical condition.

49 (b)(1) Except as provided in paragraph (3) of this subsection, when the council finds that
 50 any person is unqualified to be granted a certificate or finds that any firefighter should
 51 be disciplined pursuant to subsection (a) of this Code section, the council may take any
 52 one or more of the following actions:

53 (A) Refuse to grant a certificate to an applicant;

54 (B) Administer a public reprimand;

55 (C) Suspend any certificate for a definite period;

56 (D) Limit or restrict any certificate;

57 (E) Revoke any certificate; or

58 (F) Condition the penalty, or withhold formal disposition, upon the firefighter
 59 completing such care, counseling, or treatment, as directed by the council.

60 (2) In addition to and in conjunction with the foregoing actions, the council may make
 61 a finding adverse to the applicant or firefighter but withhold imposition of judgment and
 62 penalty or it may impose the judgment and penalty but suspend enforcement thereof and

63 place the firefighter on probation, which probation may be vacated upon noncompliance
 64 with such reasonable terms as the council may impose.

65 (3) Any certified firefighter convicted of a felony shall have his or her certification
 66 revoked.

67 (c) In its discretion, the council may restore and reissue a certificate issued under this
 68 chapter and, as a condition thereof, may impose any disciplinary or corrective measure
 69 provided in this chapter; provided, however, that a certified firefighter convicted of a
 70 felony shall not be eligible for consideration of restoration or reissuance prior to the
 71 passage of five years from the date of conviction as provided in Code Section 25-4-8.

72 (d) Upon arrest or indictment of a firefighter for any crime which is punishable as a felony,
 73 the chairperson of the council shall order the emergency suspension of such firefighter's
 74 certification upon the chairperson's determination that the suspension is in the best interest
 75 of the health, safety, or welfare of the public. The order of emergency suspension shall be
 76 made in writing and shall specify the basis for the chairperson's determination. Following
 77 the issuance of an emergency suspension order, proceedings of the council in the exercise
 78 of its authority to discipline any firefighter shall be promptly scheduled. The emergency
 79 suspension order of the chairperson shall continue in effect until issuance of the final
 80 decision of the council or such order is withdrawn by the chairperson.

81 25-4-14.

82 (a) Except as otherwise provided in subsection (b) of this Code section, proceedings of the
 83 council in the exercise of its authority to issue any certificate or discipline any firefighter
 84 under the terms of this chapter shall be conducted in accordance with Chapter 13 of Title
 85 50, the 'Georgia Administrative Procedure Act.' In all such proceedings the council shall
 86 have authority to compel the attendance of witnesses and the production of any book,
 87 writing, or document upon the issuance of a subpoena therefor. In any hearing in which
 88 the fitness of a firefighter or applicant is in question, the council may exclude all persons
 89 from its deliberation of the appropriate action and may, when it deems necessary, speak to
 90 the firefighter or applicant in private. All final determinations, findings, and conclusions
 91 of the council under this chapter are final and conclusive decisions of the matters involved.

92 (b) Proceedings may be conducted before the members of the council or the council's
 93 appointed representative. Proceedings for review of a final decision of the council shall
 94 be instituted by filing a petition within 30 days after the service of the final decision of the
 95 council or, if a rehearing is requested, within 30 days after the decision thereon. The
 96 petition shall be filed in the superior court of the county of residence of the petitioner."

SECTION 2.

97
98 Article 3 of Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to
99 emergency medical services personnel, is amended by revising Code Section 31-11-51,
100 relating to certification and recertification of emergency medical technicians, as follows:

101 "31-11-51.

102 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
103 verdict of guilty or plea of guilty or plea of nolo contendere with regard to any crime,
104 regardless of whether an appeal of the conviction has been sought.

105 (b) The board shall, by regulation, authorize the department to establish procedures and
106 standards for the licensing of emergency medical services personnel. The department shall
107 succeed to all rules and regulations, policies, procedures, and administrative orders of the
108 composite board which were in effect on December 31, 2001, and which relate to the
109 functions transferred to the department by this chapter. Such rules, regulations, policies,
110 procedures, and administrative orders shall remain in effect until amended, repealed,
111 superseded, or nullified by proper authority or as otherwise provided by law.

112 (c) In reviewing applicants for initial licensure of emergency medical services personnel,
113 the department shall be authorized pursuant to this Code section to obtain conviction data
114 with respect to such applicants for the purposes of determining the suitability of the
115 applicant for licensure.

116 (d) The department shall by rule or regulation establish a procedure for requesting a
117 fingerprint based criminal history records check from the center and the Federal Bureau of
118 Investigation. Fingerprints shall be in such form and of such quality as prescribed by the
119 center and under standards adopted by the Federal Bureau of Investigation. Fees may be
120 charged as necessary to cover the cost of the records search. Upon receipt thereof, the
121 center shall promptly cause such criminal records search to be conducted. The center shall
122 notify the department in writing of any finding of disqualifying information, including, but
123 not limited to, any conviction data regarding the fingerprint records check, or if there is no
124 such finding.

125 (e) Firefighters certified by the Georgia Firefighter Standards and Training Council who
126 are employed with a local fire department and who have, as a condition of certification or
127 employment, obtained a criminal history records check from the center and the Federal
128 Bureau of Investigation within the last five years shall not be required to obtain an
129 additional criminal history records check in order to be licensed as emergency medical
130 services personnel. The department, however, may require that, as a part of the application
131 process, the chief of the employing local fire department submit a letter or other document

132 verifying that the applicant is employed with the local fire department and has obtained a
133 criminal history records check from the center and the Federal Bureau of Investigation.
134 ~~(e)~~(f) Conviction data received by the department shall be privileged and shall not be a
135 public record or disclosed to any person. Conviction data shall be maintained by the
136 department pursuant to laws regarding such records and the rules and regulations of the
137 center and the Federal Bureau of Investigation. Penalties for the unauthorized release or
138 disclosure of conviction data shall be as prescribed by law or rule or regulation of the
139 center or Federal Bureau of Investigation.
140 ~~(f)~~(g) The center, the department, or any law enforcement agency, or the employees of any
141 such entities, shall neither be responsible for the accuracy of information provided pursuant
142 to this Code section nor be liable for defamation, invasion of privacy, negligence, or any
143 other claim relating to or arising from the dissemination of information pursuant to this
144 Code section."

145 **SECTION 3.**

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