

House Bill 492 (AS PASSED HOUSE AND SENATE)

By: Representatives Jasperse of the 11th, Powell of the 32nd, Meadows of the 5th, Hightower of the 68th, Ballinger of the 23rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to
2 definitions for juvenile proceedings under the Juvenile Code, so as to provide that minor
3 violations of weapons in school safety zones are not considered Class B designated felonies;
4 to restore certain provisions to their prior form due to the conflict between the enactment of
5 2014 House Bill 60 and House Bill 826; to amend Chapter 11 of Title 16 of the Official Code
6 of Georgia Annotated, relating to offenses against public order and safety, so as to revise
7 provisions regarding carrying in unauthorized locations; to clarify exemptions from weapons
8 carry laws; to provide for a renewal period; to provide for and revise definitions; to revise
9 persons to whom no weapons carry license shall be issued; to revise procedures in the
10 renewal of a license; to revise procedures regarding the revocation, loss, or damage to a
11 license; to clarify criteria for the verification of a weapons carry license; to authorize
12 employees to enter and access the parking lots of employers with ammunition in the
13 employee's personal vehicle under certain circumstances; to revise provisions regarding
14 preemption of local regulation and lawsuits; to amend Code Section 17-5-52.1 of the Official
15 Code of Georgia Annotated, relating to disposal of forfeited or abandoned firearms, so as to
16 correct a cross-reference; to amend Code Section 20-2-1184 of the Official Code of Georgia
17 Annotated, relating to reporting of students committing prohibited acts, so as to limit the
18 reporting of certain acts; to amend Part 1 of Article 11 of Chapter 2 of Title 21 of the Official
19 Code of Georgia Annotated, relating to general provisions regarding elections, so as to
20 clarify provisions regarding the carrying of firearms within 150 feet of any polling place; to
21 amend Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating
22 to inspection of public records, so as to provide for the disclosure of records relating to
23 licensing and possession of firearms between the judges of the probate court; to provide for
24 related matters; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **SECTION 1.**

27 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions for
 28 juvenile proceedings, is amended by revising subparagraph (N) of paragraph (13) as follows:

29 "(N)(i) An act which constitutes a violation of Code Section 16-11-127.1 involving
 30 a:

31 (I) Firearm, as defined in Code Section 16-11-131;

32 (II) Dangerous weapon or machine gun, as defined in Code Section 16-11-121; or

33 (III) Weapon, as defined in Code Section 16-11-127.1, together with an assault; or

34 (ii) An act which constitutes a second or subsequent adjudication of delinquency
 35 based on a violation of Code Section 16-11-127.1; or"

36 **SECTION 2.**

37 Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
 38 public order and safety, is amended in Code Section 16-11-126, relating to having or carrying
 39 handguns, long guns, or other weapons, license requirements, and exceptions for homes,
 40 motor vehicles, private property, and other locations and conditions, by adding a new
 41 subsection to read as follows:

42 "(j) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 43 or limit the exemptions provided for under Code Section 16-11-130."

44 **SECTION 3.**

45 Said chapter is further amended in Code Section 16-11-127, relating to carrying weapons in
 46 unauthorized locations, by revising paragraphs (1) and (7) of subsection (b) and by adding
 47 a new subsection to read as follows:

48 "(1) In a government building as a nonlicense holder;"

49 "(7) Within 150 feet of any polling place when elections are being conducted and such
 50 polling place is being used as a polling place as provided for in paragraph (27) of Code
 51 Section 21-2-2, except as provided in subsection (i) of Code Section 21-2-413."

52 "(f) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 53 or limit the exemptions provided for under Code Section 16-11-130."

54 **SECTION 4.**

55 Said chapter is further amended in Code Section 16-11-127.1, relating to carrying weapons
 56 within school safety zones, at school functions, or on a bus or other transportation furnished
 57 by a school, by adding a new subsection to read as follows:

58 "(h) Nothing in this Code section shall in any way operate or be construed to affect, repeal,
 59 or limit the exemptions provided for under Code Section 16-11-130."

96 section. The forms shall be furnished to each judge of each probate court within this state
 97 at no cost."

98 "(1) As used in this subsection, the term:

99 (A) 'Armed forces' means active duty or a reserve component of the United States
 100 Army, United States Navy, United States Marine Corps, United States Coast Guard,
 101 United States Air Force, United States National Guard, Georgia Army National Guard,
 102 or Georgia Air National Guard.

103 ~~(A)~~(B) 'Controlled substance' means any drug, substance, or immediate precursor
 104 included in the definition of controlled substances in paragraph (4) of Code Section
 105 16-13-21.

106 ~~(B)~~(C) 'Convicted' means an adjudication of guilt. Such term shall not include an order
 107 of discharge and exoneration pursuant to Article 3 of Chapter 8 of Title 42.

108 ~~(C)~~(D) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71."

109 ~~"(1)(A)~~ (A) For both weapons carry license applications and requests for license renewals,
 110 the judge of the probate court shall within five business days following the receipt of
 111 the application or request direct the law enforcement agency to request a fingerprint
 112 based criminal history records check from the Georgia Crime Information Center and
 113 Federal Bureau of Investigation for purposes of determining the suitability of the
 114 applicant and return an appropriate report to the judge of the probate court.
 115 Fingerprints shall be in such form and of such quality as prescribed by the Georgia
 116 Crime Information Center and under standards adopted by the Federal Bureau of
 117 Investigation. The Georgia Bureau of Investigation may charge such fee as is necessary
 118 to cover the cost of the records search.

119 (B) For requests for license renewals, the presentation of a weapons carry license
 120 issued by any probate judge in this state shall be evidence to the judge of the probate
 121 court to whom a request for license renewal is made that the fingerprints of the weapons
 122 carry license holder are on file with the judge of the probate court who issued the
 123 weapons carry license, and the judge of the probate court to whom a request for license
 124 renewal is made shall, within five business days following the receipt of the request,
 125 direct the law enforcement agency to request a nonfingerprint based criminal history
 126 records check from the Georgia Crime Information Center and Federal Bureau of
 127 Investigation for purposes of determining the suitability of the applicant and return an
 128 appropriate report to the judge of the probate court to whom a request for license
 129 renewal is made.

130 (2) For both weapons carry license applications and requests for license renewals, the
 131 judge of the probate court shall within five business days following the receipt of the
 132 application or request also direct the law enforcement agency, in the same manner as

133 provided for in subparagraph (d)(1)(B) of this subsection, to conduct a background check
134 using the Federal Bureau of Investigation's National Instant Criminal Background Check
135 System and return an appropriate report to the probate judge."

136 "(e) **Revocation, loss, or damage to license.**

137 (1) If, at any time during the period for which the weapons carry license was issued, the
138 judge of the probate court of the county in which the license was issued shall learn or
139 have brought to his or her attention in any manner any reasonable ground to believe the
140 licensee is not eligible to retain the license, the judge may, after notice and hearing,
141 revoke the license of the person upon a finding that such person is not eligible for a
142 weapons carry license pursuant to subsection (b) of this Code section or an adjudication
143 of falsification of application, mental incompetency, or chronic alcohol or narcotic usage.
144 The judge of the probate court shall report such revocation to the Georgia Crime
145 Information Center immediately but in no case later than ten days after such revocation.
146 It shall be unlawful for any person to possess a license which has been revoked pursuant
147 to this paragraph, and any person found in possession of any such revoked license, except
148 in the performance of his or her official duties, shall be guilty of a misdemeanor.

149 (2) If a person is convicted of any crime or involved in any matter which would make
150 the maintenance of a weapons carry license by such person unlawful pursuant to
151 subsection (b) of this Code section, the judge of the superior court or state court hearing
152 such case or presiding over such matter shall inquire whether such person is the holder
153 of a weapons carry license. If such person is the holder of a weapons carry license, then
154 the judge of the superior court or state court shall inquire of such person the county of the
155 probate court which issued such weapons carry license, or if such person has ever had his
156 or her weapons carry license renewed, then of the county of the probate court which most
157 recently issued such person a renewal license. The judge of the superior court or state
158 court shall notify the judge of the probate court of such county of the matter which makes
159 the maintenance of a weapons carry license by such person to be unlawful pursuant to
160 subsection (b) of this Code section. The Council of Superior Court Judges of Georgia
161 and The Council of State Court Judges of Georgia shall provide by rule for the
162 procedures which judges of the superior court and the judges of the state courts,
163 respectively, are to follow for the purposes of this paragraph.

164 (3) Loss of any license issued in accordance with this Code section or damage to the
165 license in any manner which shall render it illegible shall be reported to the judge of the
166 probate court of the county in which it was issued within 48 hours of the time the loss or
167 damage becomes known to the license holder. The judge of the probate court shall
168 thereupon issue a replacement for and shall take custody of and destroy a damaged
169 license; and in any case in which a license has been lost, he or she shall issue a

170 cancellation order ~~and notify by telephone and in writing each of the law enforcement~~
 171 ~~agencies whose records were checked before issuance of the original license.~~ The judge
 172 shall charge the fee specified in subsection (k) of Code Section 15-9-60 for such
 173 services."

174 "(l) **Verification of license.** The judge of a probate court or his or her designee shall be
 175 authorized to verify the legitimacy and validity of a weapons carry license ~~to~~ of a license
 176 holder; pursuant to a subpoena or court order, ~~or~~ for public safety purposes, ~~but~~ to law
 177 enforcement agencies pursuant to paragraph (40) of subsection (a) of Code Section
 178 50-18-72, and for licensing to a judge of a probate court or his or her designee pursuant to
 179 paragraph (40) of subsection (a) of Code Section 50-18-72; provided, however, that the
 180 judge of a probate court or his or her designee shall not be authorized to provide any further
 181 information regarding license holders."

182 SECTION 7.

183 Said chapter is further amended in Code Section 16-11-135, relating to public or private
 184 employer's parking lots, right of privacy in vehicles in employer's parking lot or invited
 185 guests on lot, severability, and rights of action, by revising subsection (b) as follows:

186 "(b) Except as provided in this Code section, no private or public employer, including the
 187 state and its political subdivisions, shall condition employment upon any agreement by a
 188 prospective employee that prohibits an employee from entering the parking lot and access
 189 thereto when the employee's privately owned motor vehicle contains a firearm or
 190 ammunition, or both, that is locked out of sight within the trunk, glove box, or other
 191 enclosed compartment or area within such privately owned motor vehicle, provided that
 192 any applicable employees possess a Georgia weapons carry license."

193 SECTION 8.

194 Said chapter is further amended in Code Section 16-11-171, relating to definitions for Brady
 195 Law Regulations, by revising paragraph (2) as follows:

196 "(2) 'Dealer' means any person licensed as a dealer pursuant to 18 U.S.C. Section 921,
 197 et seq., ~~or Chapter 16 of Title 43.~~"

198 SECTION 9.

199 Said chapter is further amended in Code Section 16-11-173, relating to legislative findings
 200 and preemption of local regulation and lawsuits, by revising the introductory language of
 201 paragraph (1) of subsection (b), paragraph (1) of subsection (c), and subsection (f) as follows:

202 "(b)(1) Except as provided in subsection (c) of this Code section, no county or municipal
 203 corporation, by zoning, ~~or~~ by ordinance or resolution, or by any other means, nor any

204 agency, board, department, commission, political subdivision, school district, or authority
 205 of this state, other than the General Assembly, by rule or regulation or by any other
 206 means shall regulate in any manner:"

207 "(c)(1) A county or municipal corporation may regulate the transport, carrying, or
 208 possession of firearms by employees of the local unit of government, or by unpaid
 209 volunteers of such local unit of government, in the course of their employment or
 210 volunteer functions with such local unit of government; provided, however, that the
 211 sheriff or chief of police shall be solely responsible for regulating and determining the
 212 possession, carrying, and transportation of firearms and other weapons by employees
 213 under his or her respective supervision so long as such regulations comport with state and
 214 federal law."

215 "(f) As used in this Code section, the term 'weapon' ~~shall have the same meaning as set~~
 216 ~~forth in Code Section 16-11-127.1~~ means any device designed or intended to be used, or
 217 capable of being used, for offense or defense, including but not limited to firearms, bladed
 218 devices, clubs, electric stun devices, and defense sprays."

219 **SECTION 10.**

220 Code Section 17-5-52.1 of the Official Code of Georgia Annotated, relating to disposal of
 221 forfeited or abandoned firearms, is amended by revising subsection (d) as follows:

222 "(d) If an innocent owner of a firearm cannot be located or after proper notification he or
 223 she fails to pay for the return of his or her firearm, if the political subdivision is:

224 (1) A municipal corporation, it shall dispose of its firearms as provided for in Code
 225 Section 36-37-6; provided, however, that municipal corporations shall not have the right
 226 to reject any and all bids or to cancel any proposed sale of such firearms, and all sales
 227 shall be to persons who are licensed as firearms collectors, dealers, importers, or
 228 manufacturers under the provisions of 18 U.S.C. Section 921, et seq., ~~and Chapter 16 of~~
 229 ~~Title 43~~ and who are authorized to receive such firearms under the terms of such license.
 230 Any political subdivision which disposes of firearms shall use proceeds from the sale of
 231 a firearm as are necessary to cover the costs of administering this Code section, with any
 232 surplus to be transferred to the general fund of the political subdivision; or

233 (2) Not a municipal corporation, the state custodial agency or the political subdivision
 234 shall dispose of its firearms by sale at public auction to persons who are licensed as
 235 firearms collectors, dealers, importers, or manufacturers under the provisions of 18
 236 U.S.C. Section 921, et seq., ~~and Chapter 16 of Title 43~~ and who are authorized to receive
 237 such firearms under the terms of such license. A state custodial agency shall retain only
 238 such proceeds as are necessary to cover the costs of administering this Code section, with
 239 any surplus to be transferred to the general fund of ~~the~~ this state, provided that a state

240 custodial agency may be reimbursed for any firearms formerly in use by the state
 241 custodial agency that are sold under this Code section."

242 **SECTION 11.**

243 Code Section 20-2-1184 of the Official Code of Georgia Annotated, relating to reporting of
 244 students committing prohibited acts, is amended by revising subsection (a) as follows:

245 "(a) Any teacher or other person employed at any public or private elementary or
 246 secondary school or any dean or public safety officer employed by a college or university
 247 who has reasonable cause to believe that a student at that school has committed any act
 248 upon school property or at any school function, which act is prohibited by Code Section
 249 16-5-21 or 16-5-24, Chapter 6 of Title 16, and Code Section 16-11-127, 16-11-127.1,
 250 16-11-132, or 16-13-30, shall immediately report the act and the name of the student to the
 251 principal or president of that school or the principal's or president's designee; provided,
 252 however, that an act which is prohibited by Code Section 16-11-127.1 shall be reported
 253 only when it involves a:

- 254 (1) Firearm, as defined in Code Section 16-11-131;
 255 (2) Dangerous weapon or machine gun, as defined in Code Section 16-11-121; or
 256 (3) Weapon, as defined in Code Section 16-11-127.1, together with an assault."

257 **SECTION 12.**

258 Part 1 of Article 11 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated,
 259 relating to general provisions regarding elections, is amended in Code Section 21-2-413,
 260 relating to the conduct of voters, campaigners, and others at polling places generally, by
 261 revising subsection (i) as follows:

262 "(i) No person except peace officers regularly employed by the federal, state, county, or
 263 municipal government or certified security guards shall be permitted to carry firearms
 264 within 150 feet of any polling place as provided for in subsection (b) of Code Section
 265 16-11-127."

266 **SECTION 13.**

267 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
 268 inspection of public records, is amended in Code Section 50-18-72, relating to when public
 269 disclosure not required, by revising paragraph (40) of subsection (a) as follows:

270 "(40) Any permanent records maintained by a judge of the probate court pursuant to
 271 Code Section 16-11-129, relating to weapons carry licenses, or pursuant to any other
 272 requirement for maintaining records relative to the possession of firearms, except to the

273 extent that such records relating to licensing and possession of firearms are sought by law
274 enforcement agencies or a judge of the probate court as provided by law;"

275 **SECTION 14.**

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