

HOUSE BILL 122¹: FIREARMS; LICENSE HOLDERS CARRYING AND POSSESSION OF WEAPONS IN BUILDINGS OR REAL PROPERTY OWNED OR LEASED TO PUBLIC INSTITUTIONS OF POSTSECONDARY EDUCATION; REVOKE AUTHORIZATION IN CERTAIN MATTERS; REQUIRE

Amending O.C.G.A. § 16-11-127.1; repealing conflicting laws

First signature: Representative Robert Trammell (132nd)

Co-Sponsors: Representative Mary Robichaux (48th), Representative Spencer Frye (118th), Representative Demetrius Douglas (78th), Representative Mike Wilensky (79th), and Representative Betsy Holland (54th)

Summary: “A BILL to be entitled an Act to amend Code Section 16-11-127.1 of the Official Code of Georgia Annotated, relating to carrying weapons within school safety zones, at school functions, or on a bus or other transportation furnished by a school, so as to revoke the authorization for the carrying and possession of handguns in certain manners by weapons carry license holders in certain buildings or on real property owned by or leased to public institutions of postsecondary education; to provide for related matters; to repeal conflicting laws; and for other purposes.”²

Status: House Second Readers on February 7, 2019.³

TEXT OF HOUSE BILL 122⁴

SECTION 1.

Code Section 16-11-127.1 of the Official Code of Georgia Annotated, relating to carrying weapons within school safety zones, at school functions, or on a bus or other transportation furnished by a school, is amended by revising paragraph (2) of subsection (b) and paragraphs (18) through (20) of subsection (c) as follows:

“(2) ~~Except as provided for in paragraph (20) of subsection (c) of this Code section, any~~
Any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a felony

¹ H.B. 122 (Committee Substitute), 156th Gen. Assemb., 1st Reg. Sess. (Ga. 2019), available at <http://www.legis.ga.gov/Legislation/20192020/180272.pdf> (last visited Oct. 4, 2019).

² *Id.*

³ 2019-2020 Regular Session-HB 122, *Firearms; License Holders Carrying and Possession of Weapons in Buildings or Real Property Owned or Leased to Public Institutions of Postsecondary Education; Revoke Authorization in Certain Matters; Require*, GA. GEN. ASSEMB., <https://www.legis.ga.gov/legislation/54517> (last visited Oct. 4, 2019) [hereinafter H.B. 122 Status Sheet].

⁴ H.B. 122.

and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both.”

“(18) Constables of any county of this state; or

(19) Any person who is 18 years of age or older or currently enrolled in classes on the campus in question and carrying, possessing, or having under such person's control an electroshock weapon while in or on any building or real property owned by or leased to such public technical school, vocational school, college or university or other public institution of postsecondary education; provided, however, that, if such person makes use of such electroshock weapon, such use shall be in defense of self or others. The exemption under this paragraph shall apply only to such person in regard to such electroshock weapon. As used in this paragraph, the term ‘ electroshock weapon’ means any commercially available device that is powered by electrical charging units and designed exclusively to be capable of incapacitating a person by electrical charge, including, but not limited to, a stun gun or taser as defined in subsection (a) of Code Section 16-11-106; ~~or~~

~~(20)(A) Any weapons carry license holder when he or she is in any building or on real property owned by or leased to any public technical school, vocational school, college, or university, or other public institution of postsecondary education; provided, however, that such exception shall:~~

~~(i) Not apply to buildings or property used for athletic sporting events or student housing, including, but not limited to, fraternity and sorority houses;~~

~~(ii) Not apply to any preschool or childcare space located within such buildings or real property;~~

~~(iii) Not apply to any room or space being used for classes related to a college and career academy or other specialized school as provided for under Code Section 40-20-4-37;~~

~~(iv) Not apply to any room or space being used for classes in which high school students are enrolled through a dual enrollment program, including, but not limited to, classes related to the ‘ Move on When Ready Act’ as provided for under Code Section 20-2-161.3;~~

~~(v) Not apply to faculty, staff, or administrative offices or rooms where disciplinary proceedings are conducted;~~

~~(vi) Only apply to the carrying of handguns which a licensee is licensed to carry pursuant to subsection (e) of Code Section 16-11-126 and pursuant to Code Section 16-11-129; and~~

~~(vii) Only apply to the carrying of handguns which are concealed.~~

~~(B) Any weapons carry license holder who carries a handgun in a manner or in a building, property, room, or space in violation of this paragraph shall be guilty of a misdemeanor; provided, however, that for a conviction of a first offense, such weapons carry license holder shall be punished by a fine of \$25.00 and not be sentenced to serve any term of confinement.~~

~~(C) As used in this paragraph, the term:~~

~~(i) ‘ Concealed’ means carried in such a fashion that does not actively solicit the attention of others and is not prominently, openly, and intentionally displayed except for purposes of defense of self or others. Such term shall include, but not be limited to, carrying on one's person while such handgun is substantially, but not necessarily completely, covered by an article of clothing which is worn by such person, carrying within a bag of a nondescript nature which is being carried about by such person, or carrying in any other fashion as to not be clearly discernible by the passive observation of others.~~

~~(ii) ‘ Preschool or childcare space’ means any room or continuous collection of rooms or any enclosed outdoor facilities which are separated from other spaces by an electronic mechanism or human-staffed point of controlled access and designated for the provision of preschool or childcare services, including, but not limited to, preschool or childcare services licensed or regulated under Article 1 of Chapter 1A of Title 20.”~~

SECTION 2.

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

Representative Robert Trammell sponsors House Bill 122 to repeal the “Campus Carry” law.⁵ Trammell presented this bill to the Georgia House of Representatives in February 2019, in an attempt to put Georgia back where it was before the Campus Carry law went into effect in July 2017.⁶ In support of this bill, Trammell states that the Campus Carry law allowing licensed gun owners to bring guns onto Georgia’s public college campuses “was a miscalculation of the Georgia State government that overturned two centuries of protection afforded to higher education in Georgia.”⁷ Such protection was given at the 1824 meeting of the Board of Visitors of Virginia when James Madison stated “no student shall, within the precincts of the University, introduce...keep or use weapons or arms of any kind.”⁸ Additionally, Trammell cited Justice Antonin Scalia’s opinion in the 2008 case of *District of Columbia v. Heller* in which the Supreme Court held the Second Amendment protection did not extend to sensitive places.⁹

The argument that “those carrying concealed weapons [on college campuses] could help bring a mass shooting incident to an end more quickly” is a political reality caused by a shift in opinion that the way to protect people is to arm them.¹⁰ However, according to one study, “a higher number of firearm laws in a state are associated with a lower rate of firearm fatalities in the state.”¹¹ Further, it is unlawful for an officer to randomly ask anyone if they have a weapons carry license, rendering it difficult to distinguish unlicensed gun owners from legal gun owners on college campuses.¹² Trammell states that guns in the classroom are a fundamental intrusion to learning and may also dissuade students and faculty from choosing to attend a college campus that permits guns.¹³

Trammell believes that Georgia’s public colleges should have their autonomy restored in making their campuses safer places.¹⁴ Furthermore, according to Trammell, the fact that the Campus Carry law went into effect is a testament to the power of the gun issue among Republicans in Georgia—making this law, in his eyes, more political than substantive.¹⁵ In 2016, former Georgia Governor Nathan Deal stated that colleges were “sanctuaries” which would require

⁵ Telephone Interview with Robert Trammell, Georgia Representative 132nd District (Oct. 5, 2019) [hereinafter Trammell Interview].

⁶ *Id.*

⁷ *Id.*

⁸ University of Virginia Board of Visitors Minutes 6 (Oct. 4-5, 1824), in THOMAS JEFFERSON PAPERS, https://www.encyclopediavirginia.org/University_of_Virginia_Board_of_Visitors_Minutes_October_4-5_1824 (last modified Feb. 2, 2016).

⁹ *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

¹⁰ LaMont Jones and Monica Levitan, *Guns on College Campuses Debate Ushers in New School Year*, DIVERSE (Sept. 4, 2018), available at <https://diverseeducation.com/article/125146/> (last visited Mar. 20, 2020).

¹¹ Eric W. Fleegler, et al., *Firearm Legislation and Firearm-Related Fatalities in the United States*, 173 JAMA INTERNAL MEDICINE 732-40 (2013).

¹² Austin Davis, *I Was Just Pulled Over; How Do I Tell Police I Have a Gun?*, LEGAL DEFENSE FOR SELF DEFENSE (May 9, 2018), available at <https://www.uslawshield.com/how-to-tell-a-police-officer-im-carrying-during-a-traffic-stop-colorado/> (last visited Mar. 20, 2021).

¹³ Trammell Interview, *supra* note 5.

¹⁴ *Id.*

¹⁵ *Id.*

“overwhelming justification” to allow guns on campuses.¹⁶ One year later, however, Governor Deal signed legislation that permitted guns into these sanctuaries.¹⁷ Representative Trammell feels as though there is a subtle proposition that Georgia is pro-gun and pro-second amendment as shown by this current bill being “piled up” in committee, and that the ideological bend towards gun rights in Georgia will be hard to change.¹⁸ As a 1996 University of Georgia alumnus, Trammell’s final thought on the issue was that “if guns made people safe, then the law would allow them to carry weapons into Sanford Stadium.”¹⁹

OPPOSITION’S RATIONALE

The National Rifle Association Institute for Legislative Action (NRA-ILA) states that “[p]eople have a fundamental, constitutional right to defend themselves.”²⁰ Luke Crawford, state director for Georgia Students for Concealed Carry on Campus, contends that nobody will know if someone is carrying on campus because the weapon is only permitted if it is concealed.²¹ Further, Students for Campus Carry reason that if there are guns on campus then there is a greater opportunity to quickly end a mass shooting.²²

The National Rifle Association and the Students for Campus Carry point out that “the eleven U.S. colleges and universities that currently allow concealed carry on campus have not seen any resulting incidents of gun violence.”²³ Those in favor of campus carry made the point that allowing students to carry would allow them to protect themselves and others.²⁴

Republican member of the Georgia House of Representatives, Mandi Ballinger, has indicated that the right to carry a gun on campus should outweigh any fears students may have of guns on campus.²⁵ Representative Ballinger believes that “[p]hysically, [women are] ... smaller,

¹⁶ Joshua S. Weitz, *An Invitation to Repeal Georgia’s Campus Carry Bill; Letters to the Editor*, TECHNIQUE (Aug. 25, 2017), available at <https://nique.net/author/joshua-s-weitz/>.

¹⁷ State of Georgia Final Composite Status Sheet, HB 280, May 11, 2017; accord GA. CODE ANN. § 1-3-4(a)(1) (2020).

¹⁸ Trammell Interview, *supra* note 5.

¹⁹ *Id.*

²⁰ Chris W. Cox, *Political Report: On Campus Carry, We’ve Only Begun to Fight*, NRA-ILA INSTITUTE FOR LEGISLATIVE ACTION (July 30, 2015), available at <https://www.nraila.org/articles/20150730/political-report-on-campus-carry-we-ve-only-begun-to-fight> (last visited Mar. 20, 2021).

²¹ Jill Nolin, *Concealed Guns Now Allowed on Campuses*, VALDOSTA DAILY TIMES (July 1, 2017), available at https://www.valdostadailytimes.com/news/local_news/concealed-guns-now-allowed-on-campuses/article_a93c36e1-a0d2-5373-8fa5-af186c77806e.html (last visited Mar. 20, 2021).

²² Maura Ewing, *Campus Carry: The Movement to Allow Guns on College Grounds, Explained*, THE TRACE (Aug. 25, 2019), available at <https://www.thetrace.org/2017/04/campus-carry-movement/> (last visited Mar. 20, 2021).

²³ Jenna A. Robinson, *Evidence, Not Emotion, Should Guide the Campus Concealed Carry Debate*, THE JAMES G. MARTIN CENTER FOR ACADEMIC RENEWAL (Mar. 13, 2017), available at <https://www.jamesgmartin.center/2017/03/evidence-not-emotion-guide-campus-concealed-carry-debate/> (last visited Mar. 20, 2021).

²⁴ *Campus Carry in the United States*, available at https://en.wikipedia.org/w/index.php?title=Campus_carry_in_the_United_States&oldid=1009768694 (last visited Mar. 20, 2021).

²⁵ Taylor Morgan Koshak and Nicholas J. Roger, *CRIMES AND OFFENSES: Offenses Against Public Order and Safety*, 34 Ga. St. U.L. Rev. 37 (2017).

and it's very empowering for most women to be able to have a firearm; it's an equalizer."²⁶ Additionally, Representative Ballinger believes that the Campus Carry law expands the ability to lawfully carry in Georgia which proponents believe fulfills citizens' Second Amendment rights.²⁷

IMPLICATIONS IN GEORGIA

The implication of this bill being enacted into law is that it will return the rights of public colleges to self-govern their campus carry gun laws by restoring the exception to the Second Amendment as held by Justice Scalia.²⁸ Repealing the current Campus Carry law would prevent those with concealed carry permits to be able to carry on public college campuses.²⁹ Essentially, higher education would return to being a sensitive place where guns would no longer be permitted.³⁰

LEGISLATIVE GENEALOGY

This bill was first filed for introduction as House hopper on February 5, 2019.³¹ It then went to the House first readers on February 6, 2019.³² The House read the bill for the second time on February 7, 2019 and was committed to the House Public Safety and Homeland Security Committee.³³

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²⁶ Johnny Kauffman, *Ga. Lawmakers Push Guns as Campus Sexual Assault Prevention*, WABE (Mar. 7, 2016), available at <https://www.wabe.org/ga-lawmakers-push-guns-campus-sexual-assault-prevention/> (last visited Mar. 20, 2021).

²⁷ *Id.*

²⁸ *Heller*, 554 U.S. 570 at 626.

²⁹ Trammell Interview, *supra* note 5.

³⁰ *Id.*

³¹ H.B. 122 Status Sheet, *supra* note 3.

³² *Id.*

³³ *Id.*