

## **WEAPONS CARRY LICENSE**

### **Brief Description of Federal and Georgia Prohibitors**

**NOTE:** Probate Court personnel is prohibited from giving advisory opinions on whether an individual will qualify for a weapons carry license or whether a specific charge would be a prohibitor. Court personnel is not authorized to interpret the law for customers. If you have any questions whether any of the following prohibitors applies to your charges, situation or circumstances, please consult an attorney.

The following is a brief description of the federal and state prohibitors, which require that the Probate Court not issue a firearms license to anyone meeting the criteria for a prohibitor. This is a brief description only; for the full context of the federal and/or state laws, please refer to the actual, official statutes and any regulations issued thereunder.

#### **Federal Prohibitors [18 U.S.C. §§ 921 - 922]:**

- (g)(1) Persons convicted of a crime with a maximum sentence of more than one year imprisonment whose civil rights have not been restored.
- (g)(2) Persons who are fugitives from justice.
- (g)(3) Persons who are unlawful users of or addicted to any controlled substance.
- (g)(4) Persons who have been adjudicated as mental defectives or involuntarily committed to any mental institution.
- (g)(5) Persons who are aliens and are illegally or unlawfully in the United States and Legal aliens having a nonimmigrant status not covered by an exception; exceptions can be found in 18 U.S.C. § 922(y)(2).
- (g)(6) Persons who have been dishonorably discharged from the U. S. Armed Forces.
- (g)(7) Persons who have renounced their U. S. citizenship.
- (g)(8) Persons who are subject to current restraining order involving an intimate partner or the child of an intimate partner.
- (g)(9) Persons who have been convicted of a misdemeanor crime of domestic violence.
- (n) Persons under current indictment for a crime punishable by a term of imprisonment in excess of one year.

#### **Georgia Prohibitors [O.C.G.A. §16-11-129]**

(b) *Licensing exceptions.*

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

(A) “Controlled substance” means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

(B) “Convicted” means an adjudication of guilt.

(C) “Dangerous drug” means any drug defined as such in Code Section 16-13-71.

(2) No weapons carry license shall be issued to:

(A) Any person younger than 21 years of age unless he or she:

- (i) Is at least 18 years of age;
- (ii) Provides proof that he or she has completed basic training in the armed forces of the United States; and
- (iii) Provides proof that he or she is actively serving in the armed forces of the United States or has been honorably discharged from such service;

(B) Any person who has been convicted of a felony by a court of this state or any other state; by a court of the United States including its territories, possessions, and dominions; or by a court of any foreign nation and has not been pardoned

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for such felony by the President of the United States, the State Board of Pardons and Paroles, or the person or agency empowered to grant pardons under the constitution or laws of such state or nation;

(C) Any person against whom proceedings are pending for any felony;

(D) Any person who is a fugitive from justice;

(E) Any person who is prohibited from possessing or shipping a firearm in interstate commerce pursuant to subsections (g) and (n) of 18 U.S.C. § 922;

(F) Any person who has been convicted of an offense arising out of the unlawful manufacture or distribution of a controlled substance or other dangerous drug;

(G) Any person who has had his or her weapons carry license revoked pursuant to subsection (e) of this Code section within three years of the date of his or her application;

(H) Any person who has been convicted of any of the following:

(i) Carrying a weapon without a weapons carry license in violation of Code Section 16-11-126; or

(ii) Carrying a weapon or long gun in an unauthorized location in violation of Code Section 16-11-127

and has not been free of all restraint or supervision in connection therewith and free of any other conviction for at least five years immediately preceding the date of the application;

(I) Any person who has been convicted of any misdemeanor involving the use or possession of a controlled substance and has not been free of all restraint or supervision in connection therewith or free of:

(i) A second conviction of any misdemeanor involving the use or possession of a controlled substance; or

(ii) Any conviction under subparagraphs (E) through (G) of this paragraph

for at least five years immediately preceding the date of the application;

(J) Except as provided for in subsection (b.1) of this Code section, any person who has been hospitalized as an inpatient in any mental hospital or alcohol or drug treatment center within the five years immediately preceding the application. The judge of the probate court may require any applicant to sign a waiver authorizing any mental hospital or treatment center to inform the judge whether or not the applicant has been an inpatient in any such facility in the last five years and authorizing the superintendent of such facility to make to the judge a recommendation regarding whether the applicant is a threat to the safety of others and whether a license to carry a weapon should be issued. When such a waiver is required by the judge, the applicant shall pay a fee of \$3.00 for reimbursement of the cost of making such a report by the mental health hospital, alcohol or drug treatment center, or the Department of Behavioral Health and Developmental Disabilities, which the judge shall remit to the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the weapons carry license or renewal license;

(K) Except as provided for in subsection (b.1) of this Code section, any person who has been adjudicated mentally incompetent to stand trial; or

(L) Except as provided for in subsection (b.1) of this Code section, any person who has been adjudicated not guilty by reason of insanity at the time of the crime pursuant to Part 2 of Article 6 of Chapter 7 of Title 17.

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