

House Bill 438

By: Representatives Kendrick of the 93rd, Beverly of the 143rd, Neal of the 74th, McLaurin of the 51st, Boddie of the 62nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 35 of the Official Code of Georgia Annotated, relating to
2 employment and training of peace officers, so as to prohibit any officer with an emergency
3 suspension order against them from exercising the powers of a law enforcement officer; to
4 provide for effect of a delay in proceedings related to an underlying arrest or indictment upon
5 proceedings for an emergency suspension order; to provide for effect of a final decision of
6 the council during pendency of review of a final decision of the council; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 8 of Title 35 of the Official Code of Georgia Annotated, relating to employment and
11 training of peace officers, is amended in Code Section 35-8-7.1, relating to authority of
12 council to refuse certificate to applicant or to discipline council certified officer or exempt
13 officer, grounds, restoration of certificate, emergency suspension of certification, notice of
14 investigation, and retention of records, by revising subsection (d) as follows:

15 "(d) Upon arrest or indictment of an officer for any crime which is punishable as a felony,
16 the executive director of the council shall order the emergency suspension of such officer's

17 certification upon the executive director's determination that the suspension is in the best
18 interest of the health, safety, or welfare of the public. The order of emergency suspension
19 shall be made in writing and shall specify the basis for the executive director's
20 determination. Following the issuance of an emergency suspension order, proceedings of
21 the council in the exercise of its authority to discipline any officer shall be promptly
22 scheduled as provided for in Code Section 35-8-7.2. The emergency suspension order of
23 the executive director shall continue in effect until issuance of the final decision of the
24 council or such order is withdrawn by the executive director. Any officer with an
25 emergency suspension order against him or her shall not be authorized to exercise the
26 powers of a law enforcement officer. Any delay in the adjudication of the arrest or
27 indictment upon which an emergency suspension order has been based shall not stay the
28 proceedings of the council in the exercise of its disciplinary authority. For purposes of this
29 subsection, the powers of a law enforcement officer shall include those set forth in Code
30 Sections 15-16-10, 15-16-13, 17-4-20, 17-4-25, 17-5-24, 35-2-101, 35-2-122, 35-3-8,
31 35-8-8, and 35-9-9."

32 **SECTION 2.**

33 Said chapter is further amended in Code Section 35-8-7.2, relating to administrative
34 procedure, hearings, and review, is amended by revising subsection (b) as follows:

35 "(b) Proceedings for review of a final decision of the council shall be instituted by filing
36 a petition within 30 days after the service of the final decision of the council or, if a
37 rehearing is requested, within 30 days after the decision thereon. The petition shall be filed
38 in the superior court of the county of residence of the petitioner. The final decision of the
39 council shall continue in effect until a final ruling on the petition provided for in this
40 subsection has been issued."

41

SECTION 3.

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