

## SENATE SUBSTITUTE TO HB 263:

AS PASSED SENATE

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 14 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,  
 2 relating to nursing homes employee records checks, so as to change certain definitions; to  
 3 define additional terms; to change the provisions relating to request for a criminal record  
 4 check with respect to an applicant for employment in a nursing home; to provide that a  
 5 nursing home shall make a written determination for each applicant for whom a criminal  
 6 record check is performed; to provide that a nursing home shall not employ a person with an  
 7 unsatisfactory determination; to provide that a nursing home that hires an applicant for  
 8 employment with a criminal record shall be subject to civil penalties; to provide for the  
 9 amount of civil penalties and conditions for the assessment of such penalties; to amend Code  
 10 Section 31-39-4 of the Official Code of Georgia Annotated, relating to persons authorized  
 11 to issue order not to resuscitate, so as to provide that certain persons may issue such orders;  
 12 to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

14 Article 14 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to  
 15 nursing homes employee records checks, is amended by striking in its entirety Code Section  
 16 31-7-350, relating to definitions applicable under said article, and inserting in lieu thereof a  
 17 new Code Section 31-7-350 to read as follows:  
 18

19 "31-7-350.

20 As used in this article, the term:

21 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
 22 whether an appeal of the conviction has been sought.

23 (2) 'Crime' means commission of an offense which constitutes a felony with respect to  
 24 the following:

25 (A) A a violation of Code Section 16-5-21, relating to aggravated assault;

26 (B) A a violation of Code Section 16-5-24, relating to aggravated battery;

- 1        (C) A a violation of Code Section 16-6-1, relating to rape;
- 2        (D) A a ~~felony~~ violation of Code Section 16-8-2, relating to theft by taking;
- 3        (E) A a ~~felony~~ violation of Code Section 16-8-3, relating to theft by deception;
- 4        (F) A a ~~felony~~ violation of Code Section 16-8-4, relating to theft by conversion;
- 5        (G) A a violation of Code Section 16-5-1, relating to murder and felony murder;
- 6        (H) A a violation of Code Section 16-4-1, ~~involving attempted murder~~, relating to
- 7        criminal attempt as it concerns attempted murder;
- 8        (I) A a violation of Code Section 16-8-40, relating to robbery;
- 9        (J) A a violation of Code Section 16-8-41, relating to armed robbery;
- 10       (K) A violation of Code Section 16-9-1, relating to forgery in the first degree; a
- 11       violation of Code Section 16-9-2, relating to forgery in the second degree;
- 12       (L) A a ~~felony~~ violation of Chapter 13 of Title 16, relating to controlled substances; or
- 13       (M) Any any other offense committed in another jurisdiction which, if committed in
- 14       this state, would be deemed to be such a crime without regard to its designation
- 15       elsewhere.

16       (3) 'Criminal record' means any of the following which have reached final disposition

17       within ten years of the date the criminal record check is conducted:

- 18       (A) Conviction of a crime;
- 19       (B) Arrest, charge, and sentencing for a crime where:
- 20       (i) A plea of nolo contendere was entered to the charge;
- 21       (ii) First offender treatment without adjudication of guilt pursuant to the charge was
- 22       granted; or
- 23       (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
- 24       or
- 25       (C) Arrest and charges for a crime if the charge is pending, unless the time for
- 26       prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

27       (4) 'Employment applicant' means any person seeking employment by a nursing home.

28       This term shall not include persons employed by the nursing home prior to July 1, 1995.

29       (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of

30       Chapter 3 of Title 35.

31       (6) 'Nursing home' or 'home' means a home required to be licensed or permitted as a

32       nursing home under the provisions of this chapter.

33       (7) 'Satisfactory determination' means a written determination by a nursing home that

34       a person for whom a record check was performed was found to have no criminal record.

35       (8) 'Unsatisfactory determination' means a written determination by a nursing home that

36       a person for whom a record check was performed was found to have a criminal record."

**SECTION 2.**

Said article is further amended by striking in its entirety subsection (a) of Code Section 31-7-351, relating to request for criminal record check with respect to an applicant for employment in a nursing home, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Prior to hiring an employment applicant, each nursing home shall request a criminal record check from GCIC to determine whether the applicant has a criminal record. A nursing home shall make a written determination for each applicant for whom a criminal record check is performed. ~~No nursing home will be precluded from employing any person with a criminal record.~~ A nursing home shall not employ a person with an unsatisfactory determination."

**SECTION 3.**

Said article is further amended by adding at the end thereof a new Code Section 31-7-353 to read as follows:

"31-7-353.

A nursing home that hires an applicant for employment with a criminal record shall be liable for a civil monetary penalty in the amount of the lesser of \$2500.00 or \$500.00 for each day that a violation of subsection (a) of Code Section 31-7-351 occurs. The daily civil monetary penalty shall be imposed only from the time the nursing home administrator knew or should have known that the nursing home has in its employ an individual with a criminal record and until the date such individual is terminated."

**SECTION 3A.**

Code Section 31-39-4 of the Official Code of Georgia Annotated, relating to persons authorized to issue order not to resuscitate, is amended by striking in its entirety subsection (a) and inserting in lieu thereof the following:

"(a) It shall be lawful for the attending physician to issue an order not to resuscitate pursuant to the requirements of this chapter. Any written order issued by the attending physician using the term 'do not resuscitate,' 'DNR,' 'order not to resuscitate,' 'no code,' or substantially similar language in the patient's chart shall constitute a legally sufficient order and shall authorize a physician, health care professional, staff member of an assisted living facility or a personal care home, or emergency medical technician to withhold or withdraw cardiopulmonary resuscitation. Such an order shall remain effective, whether or not the patient is receiving treatment from or is a resident of a health care facility, until the order is canceled as provided in Code Section 31-39-5 or until consent for such order is revoked as provided in Code Section 31-39-6, whichever

1 occurs earlier. An attending physician who has issued such an order and who transfers  
2 care of the patient to another physician shall inform the receiving physician and the  
3 health care facility, if applicable, of the order."

4 **SECTION 4.**

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