

Senate Bill 22

By: Senators Butler of the 55th, Squires of the 5th, Reed of the 35th, Adelman of the 42nd and Brown of the 26th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 35 and Chapter 8 of Title 42 of the Official Code of Georgia
2 Annotated, relating, respectively, to the Georgia Bureau of Investigation and probation, so
3 as to authorize the Georgia Crime Information Center to provide records related to
4 prosecution of first offenders if the person who is the subject of the inquiry has applied for
5 employment caring for minor children or elderly persons and was prosecuted for one of a list
6 of specified offenses; to provide that a person discharged without adjudication of guilt after
7 probation or confinement may be denied employment caring for minor children or elderly
8 persons if prosecuted for one of a list of specified offenses; to provide for related matters; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
13 Bureau of Investigation, is amended in Code Section 35-3-34, relating to disclosure of
14 criminal records to private persons and businesses by the Georgia Crime Information Center,
15 by striking subparagraph (a)(1)(B) and inserting in lieu thereof the following:

16 "(B) The center may not provide records of arrests, charges, and sentences for crimes
17 relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where
18 offenders have been exonerated and discharged without court adjudications of guilt,
19 except as specifically authorized by Code Section 35-3-34.1 or other law; and".

20 **SECTION 2.**

21 Said chapter is further amended in Code Section 35-3-35, relating to disclosure of criminal
22 records to public agencies or political subdivisions by the Georgia Crime Information Center,
23 by striking subparagraph (a)(1)(B) and inserting in lieu thereof the following:

24 "(B) The center may not provide records of arrests, charges, or sentences for crimes
25 relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where

1 offenders have been exonerated and discharged without court adjudications of guilt,
 2 except as specifically authorized by Code Section 35-3-34.1 or other law; and”.

3 SECTION 3.

4 Said chapter is further amended by inserting a new Code section to be designated Code
 5 Section 35-3-34.1 to read as follows:

6 “35-3-34.1.

7 The center is authorized to provide records of arrests, charges, or sentences for crimes
 8 relating to first offenders pursuant to Article 3 of Chapter 8 of Title 42 in cases where
 9 offenders have been exonerated and discharged without court adjudications of guilt if:

10 (1) The request for information is an inquiry about a person who has applied for
 11 employment with a public school, private school, or a person or entity that provides day
 12 care for minor children or after school care for minor children and the person who is the
 13 subject of the inquiry to the center was prosecuted for the offense of child molestation,
 14 sexual battery, enticing a child for indecent purposes, sexual exploitation of a child,
 15 pimping, pandering, or incest; or

16 (2) The request for information is an inquiry about a person who has applied for
 17 employment with a nursing home, personal care home, or a person or entity that offers
 18 day care for elderly persons and the person who is the subject of the inquiry to the center
 19 was prosecuted for the offense of sexual battery, incest, pimping, pandering, or a
 20 violation of Code Section 30-5-8.”

21 SECTION 4.

22 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is
 23 amended in Code Section 42-8-62, relating to discharge without adjudication of guilt for
 24 certain offenders confined or placed on probation as first offenders, by striking subsection
 25 (a) and inserting in lieu thereof the following:

26 “(a) Upon fulfillment of the terms of probation, upon release by the court prior to the
 27 termination of the period thereof, or upon release from confinement, the defendant shall
 28 be discharged without court adjudication of guilt. Except for the registration requirements
 29 under the state sexual offender registry and except as otherwise provided in Code Section
 30 42-8-63.1, the discharge shall completely exonerate the defendant of any criminal purpose
 31 and shall not affect any of his or her civil rights or liberties; and the defendant shall not be
 32 considered to have a criminal conviction. It shall be the duty of the clerk of court to enter
 33 on the criminal docket and all other records of the court pertaining thereto the following:

34 'Discharge filed completely exonerates the defendant of any criminal purpose and shall
 35 not affect any of his or her civil rights or liberties, except for registration requirements

1 under the state sexual offender registry and except with regard to employment providing
 2 care for minor children or elderly persons if the defendant was prosecuted for an offense
 3 specified in Code Section 42-8-63.1; and the defendant shall not be considered to have
 4 a criminal conviction. O.C.G.A. 42-8-62.'

5 Such entry shall be written or stamped in red ink, dated, and signed by the person making
 6 such entry or, if the docket or record is maintained using computer print-outs, microfilm,
 7 or similar means, such entry shall be underscored, boldface, or made in a similar
 8 conspicuous manner and shall be dated and include the name of the person making such
 9 entry. The criminal file, docket books, criminal minutes and final record, and all other
 10 records of the court relating to the offense of a defendant who has been discharged without
 11 court adjudication of guilt pursuant to this subsection shall not be altered as a result of that
 12 discharge, except for the entry of discharge thereon required by this subsection, nor shall
 13 the contents thereof be expunged or destroyed as a result of that discharge."

14 **SECTION 5.**

15 Said chapter is further amended by inserting a new Code section to read as follows:

16 "42-8-63.1.

17 A discharge under this article may be used to disqualify a person for employment if:

18 (1) The employment is with a public school, private school, or a person or entity that
 19 provides day care for minor children or after school care for minor children and the
 20 defendant was discharged under this article after prosecution for the offense of child
 21 molestation, sexual battery, enticing a child for indecent purposes, sexual exploitation of
 22 a child, pimping, pandering, or incest; or

23 (2) The employment is with a nursing home, personal care home, or a person or entity
 24 that offers day care for elderly persons and the defendant was discharged under this
 25 article after prosecution for the offense of sexual battery, incest, pimping, pandering, or
 26 a violation of Code Section 30-5-8."

27 **SECTION 6.**

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