

House Bill 316

By: Representatives Stoner of the 34th, Post 1, Teilhet of the 34th, Post 2, Ralston of the 6th, Hill of the 81st and Coleman of the 118th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated,
2 relating to records checks for persons supervising children, so as to provide that an employer
3 may conduct criminal background checks from the National Crime Information Center of the
4 Federal Bureau of Investigation on employees or volunteers supervising children; to provide
5 for definitions; to provide for a criminal penalty for any person who knowingly and under
6 false pretenses obtains, communicates, or uses, or attempts to obtain, communicate, or use
7 NCIC information obtained under this article; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 5 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to
12 records checks for persons supervising children, is amended by striking Code Section
13 49-5-110, relating to definitions regarding records checks; Code Section 49-5-111, relating
14 to employers authorized to make records checks and procedure; and Code Section 49-5-112,
15 relating to cooperation of law enforcement agencies and penalty for false information, and
16 inserting in their places the following:

17 "49-5-110.

18 As used in this article, the term:

19 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty.

20 (2) 'Crime' means a violation of Code Section 16-5-23, relating to simple battery, when
21 the victim is a minor; a violation of Code Section 16-5-24, relating to aggravated battery,
22 when the victim is a minor; a violation of Code Section 16-5-70, relating to cruelty to
23 children; a violation of Code Section 16-12-1, relating to contributing to the delinquency
24 of a minor; a violation of Chapter 6 of Title 16, relating to sexual offenses, excluding the
25 offenses of bigamy or marrying a bigamist; a felony violation of Chapter 13 of Title 16,
26 relating to controlled substances; a violation of Code Section 16-5-1, relating to murder

1 and felony murder; a violation of Code Section 16-4-1, relating to criminal attempt as it
 2 concerns attempted murder; or any other offense committed in another jurisdiction which,
 3 if committed in this state, would be deemed to be one of the enumerated crimes listed in
 4 this paragraph.

5 (3) 'Criminal record' means:

6 (A) Conviction of a crime;

7 (B) Arrest, charge, and sentencing for a crime where adjudication or sentence was
 8 otherwise withheld or not entered on the charge; provided, however, that this
 9 subparagraph shall not apply to a violation of Chapter 13 of Title 16, relating to
 10 controlled substances, or any other offense committed in another jurisdiction which, if
 11 it were committed in this state, would be a violation of Chapter 13 of Title 16 if such
 12 violation or offense constituted only simple possession; or

13 (C) Arrest and being charged for a crime if the charge is pending, unless the time for
 14 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

15 (4) 'Employer' means any person, organization, corporation, or political subdivision
 16 which employs or uses the services of paid employees or volunteers in positions in which
 17 the employee or volunteer has supervisory or disciplinary power over a child or children.

18 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
 19 Chapter 3 of Title 35.

20 (6) 'GCIC information' means criminal history record information as defined in Code
 21 Section 35-3-30.

22 (6.1) 'NCIC' means the National Crime Information Center of the Federal Bureau of
 23 Investigation.

24 (6.2) 'NCIC information' means criminal history record information from the National
 25 Crime Information Center of the Federal Bureau of Investigation.

26 (7) 'Records check' means a records check comparison of GCIC information, NCIC
 27 information, or both GCIC information and NCIC information.

28 (8) 'Records check application' means information as may be required by the GCIC or
 29 the NCIC including a set sets of classifiable fingerprints, a records search fee such fees
 30 in an amount to be determined as may be set by the Georgia Bureau of Investigation and
 31 the Federal Bureau of Investigation to cover the reasonable cost of such records check;
 32 under this article payable in such form as the GCIC may direct ~~to cover the cost of a~~
 33 ~~records check under this article~~, and an affidavit by the applicant consenting to a records
 34 check and disclosing the nature and date of any arrest, charge, or conviction of the
 35 applicant for the violation of any law, except for motor vehicle parking violations,
 36 whether or not the violation occurred in this state.

1 49-5-111.

2 (a) ~~On and after July 1, 1986, an~~ An employer may require that a new or current employee
3 or volunteer submit to a records check for GCIC information, NCIC information, or both
4 GCIC information and NCIC information for the purpose of determining whether such
5 person has ever been convicted of a crime or has a criminal record.

6 (b) An employer seeking a records check on an employee or volunteer shall submit a
7 records check application to the GCIC. Upon receipt thereof, the GCIC shall promptly
8 conduct a search of its records and records to which it has access. If the employer seeks to
9 obtain NCIC information on the employee or volunteer, the GCIC shall promptly transmit
10 one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records
11 and an appropriate report. Within a reasonable time after receiving the application, the
12 GCIC shall notify the employer in writing of any criminal record finding from the GCIC
13 or the NCIC or of the fact of no such finding.

14 49-5-112.

15 (a) The GCIC and law enforcement agencies which have access to GCIC information shall
16 cooperate with employers who are authorized to obtain records checks on their employees
17 in performing such checks and shall provide such information for such records checks
18 notwithstanding any other law to the contrary and may charge reasonable fees therefor.

19 (b) Any person who knowingly and under false pretenses requests, obtains, or attempts to
20 obtain GCIC information or NCIC information otherwise authorized to be obtained
21 pursuant to this article, or who knowingly communicates or attempts to communicate such
22 information obtained pursuant to this article to any person or entity except in accordance
23 with this article, or who knowingly uses or attempts to use such information obtained
24 pursuant to this article for any purpose other than as authorized by this article shall be fined
25 not more than \$5,000.00, imprisoned for not more than two years, or both."

26 **SECTION 2.**

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