

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

AS PASSED SENATE

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 certain first offenders if the person who is the subject of the inquiry has
5 applied for employment caring for minor children or elderly persons and was prosecuted for
6 one of a list of specified offenses; to provide that certain persons discharged without
7 adjudication of guilt after probation or confinement may be denied employment caring for
8 minor children or elderly persons if prosecuted for one of a list of specified offenses; to
9 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

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

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

21 **SECTION 2.**

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

1 and shall not affect any of his or her civil rights or liberties; and the defendant shall not be
 2 considered to have a criminal conviction. It shall be the duty of the clerk of court to enter
 3 on the criminal docket and all other records of the court pertaining thereto the following:

4 'Discharge filed completely exonerates the defendant of any criminal purpose and shall
 5 not affect any of his or her civil rights or liberties, except for registration requirements
 6 under the state sexual offender registry and except with regard to employment providing
 7 care for minor children or elderly persons as specified in Code Section 42-8-63.1; and the
 8 defendant shall not be considered to have a criminal conviction. O.C.G.A. 42-8-62.'

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

18 **SECTION 5.**

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

20 "42-8-63.1.

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

- 22 (1) The offender was discharged under this article on or after July 1, 2004; and either
 23 (2) The employment is with a public school, private school, child welfare agency, or a
 24 person or entity that provides day care for minor children or after school care for minor
 25 children and the defendant was discharged under this article after prosecution for the
 26 offense of child molestation, sexual battery, enticing a child for indecent purposes, sexual
 27 exploitation of a child, pimping, pandering, or incest; or
 28 (3) The employment is with a nursing home, personal care home, or a person or entity
 29 that offers day care for elderly persons and the defendant was discharged under this
 30 article after prosecution for the offense of sexual battery, incest, pimping, pandering, or
 31 a violation of Code Section 30-5-8."

32 **SECTION 6.**

1 This Act shall become effective upon funds being appropriated by the General Assembly or
2 upon the Georgia Bureau of Investigation obtaining funding or grant monies for
3 implementation of this Act.

4 **SECTION 7.**

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