

The House Committee on Special Judiciary offered the following substitute to SB 22:

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, mentally ill, or mentally  
6 retarded persons and was prosecuted for one of a list of specified offenses; to provide that  
7 certain persons discharged without adjudication of guilt after probation or confinement may  
8 be denied employment caring for minor children or elderly, mentally ill, or mentally retarded  
9 persons if prosecuted for one of a list of specified offenses; to provide for related matters; to  
10 provide for an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**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 style="text-align:center">**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 "(a) Upon fulfillment of the terms of probation, upon release by the court prior to the  
 2 termination of the period thereof, or upon release from confinement, the defendant shall  
 3 be discharged without court adjudication of guilt. Except for the registration requirements  
 4 under the state sexual offender registry and except as otherwise provided in Code Section  
 5 42-8-63.1, the discharge shall completely exonerate the defendant of any criminal purpose  
 6 and shall not affect any of his or her civil rights or liberties; and the defendant shall not be  
 7 considered to have a criminal conviction. It shall be the duty of the clerk of court to enter  
 8 on the criminal docket and all other records of the court pertaining thereto the following:

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

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

## 23 SECTION 5.

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

25 "42-8-63.1.

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

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

1 (4) The request for information is an inquiry about a person who has applied for  
2 employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides  
3 services to persons who are mentally ill as defined in Code Section 37-3-1 or mentally  
4 retarded as defined in Code Section 37-4-2, and the person who is the subject of the  
5 inquiry to the center was prosecuted for the offense of sexual battery, incest, pimping, or  
6 pandering."

7 **SECTION 6.**

8 This Act shall become effective on July 1, 2004.

9 **SECTION 7.**

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