

The House Committee on Public Safety offers the following substitute to SB 198:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated,  
2 relating to the Georgia Crime Information Center, so as to authorize the exchange of national  
3 criminal history background checks on providers of care to children, the elderly, and persons  
4 with disabilities, including, but not limited to, volunteers with youth sports organizations and  
5 other youth activities; to define terms; to provide for conformity with federal law; to provide  
6 for rules and regulations; to provide for fees; to provide for related matters; to provide for an  
7 effective date; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the  
11 Georgia Crime Information Center, is amended by adding a new Code Section 35-3-34.1 to  
12 read as follows:

13 "35-3-34.1.

14 (a) It is the purpose of this Code section to authorize and facilitate, but not require, the  
15 exchange of national criminal history background checks with authorized agencies on  
16 behalf of qualified entities as authorized under federal law.

17 (b) As used in this Code section, the term:

18 (1) 'Authorized agency' means any local government agency designated to report,  
19 receive, or disseminate information under the NCPA and the VCA.

20 (2) 'Care' means the provision of care, treatment, education, training, instruction,  
21 supervision, or recreation to children, the elderly, or individuals with disabilities.

22 (3) 'FBI' means the Federal Bureau of Investigation.

23 (4) 'National criminal history background check' means a fingerprint based check of state  
24 and national criminal history files based on submission of a set of classifiable fingerprints  
25 and records fee.

- 1 (5) 'NCPA' means the 'National Child Protection Act of 1993' (Pub. L. 103-209), as  
2 amended.
- 3 (6) 'ORI' means an originating agency identifier.
- 4 (7) 'Provider' means:
- 5 (A) A person who:
- 6 (i) Is employed by or volunteers with a qualified entity;
- 7 (ii) Owns or operates a qualified entity; or
- 8 (iii) Has or may have unsupervised access to a person to whom the qualified entity  
9 provides care; and
- 10 (B) A person who:
- 11 (i) Seeks to be employed by or volunteer with a qualified entity;
- 12 (ii) Seeks to own or operate a qualified entity; or
- 13 (iii) Seeks to have or may have unsupervised access to a person to whom the  
14 qualified entity provides care.
- 15 (8) 'Qualified entity' means a business or organization, whether public, private, for profit,  
16 not for profit, or voluntary, that provides care or care placement services, including a  
17 business or organization that licenses or certifies others to provide care or care placement  
18 services.
- 19 (9) 'VCA' means the 'Volunteers for Children Act' (Pub. L. 105-251).
- 20 (c) An authorized agency is responsible for the designation of qualified entities within its  
21 local jurisdiction and for the submission of national criminal history background checks  
22 as authorized under the NCPA and the VCA.
- 23 (d) An authorized agency, other than a criminal justice agency as defined in Code Section  
24 35-3-30, must request an ORI from the FBI for the express purpose of submitting national  
25 criminal history background checks under this Code section. Requests shall be made in  
26 writing to the FBI through the center.
- 27 (e) National criminal history background checks shall be submitted directly to the center  
28 for a state records check; fingerprint cards shall then be forwarded to the FBI for a national  
29 check. The responses from both the state and national criminal history background checks  
30 shall be returned to the authorized agency.
- 31 (f) The authorized agency may provide directly to the qualified entity the state criminal  
32 history record provided as part of the national criminal history background check.
- 33 (g) An authorized agency shall be responsible for review of the national criminal history  
34 record provided as part of the national criminal history background check to determine  
35 whether the provider has been convicted of or is under indictment for a crime that bears  
36 upon the provider's fitness to have responsibility for the safety and well-being of children,

1 the elderly, or individuals with disabilities and to convey that determination to the qualified  
2 entity.

3 (h) The qualified entity must obtain the fingerprints of the provider, communicate the  
4 fitness determination of the authorized agency to the provider, and notify the provider of  
5 his or her right to challenge the accuracy and completeness of any information contained  
6 in the national criminal history background check.

7 (i) Fees charged for a national criminal history background check shall be determined  
8 based on reasonable costs as allowed under federal law.

9 (j) The provisions of this Code section shall be supplementary to and not in place of any  
10 other law of this state which authorizes or requires background checks."

11 **SECTION 2.**

12 This Act shall become effective upon its approval by the Governor or upon its becoming law  
13 without such approval.

14 **SECTION 3.**

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