

House Bill 1288

By: Representatives O`Neal of the 117<sup>th</sup>, Coleman of the 65<sup>th</sup>, Burkhalter of the 36<sup>th</sup>, and Golick of the 34<sup>th</sup>, Post 3

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to the  
2 Office of School Readiness, so as to change the name of the Office of School Readiness to  
3 Bright From The Start: Georgia's Office of Early Care and Education; to make the office a  
4 separate budget unit; to revise definitions; to change certain provisions relating to the director  
5 of the office; to add certain powers and duties of the office; to revise certain references for  
6 conformity purposes; to provide for the transfer of the regulation and licensure of early care  
7 and education programs from the Department of Human Resources to Bright From The Start:  
8 Georgia's Office of Early Care and Education; to provide for the transfer of certain functions  
9 of the Georgia Child Care Council to Bright From The Start: Georgia's Office of Early Care  
10 and Education; to provide for the succession of all applicable rules and regulations of the  
11 Department of Human Resources and the Georgia Child Care Council to Bright From The  
12 Start: Georgia's Office of Early Care and Education; to amend Code Section 25-2-13 of the  
13 Official Code of Georgia Annotated, relating to buildings presenting special hazards to  
14 persons or property, so as to change references to the Department of Human Resources to  
15 Bright From The Start: Georgia's Office of Early Care and Education; to amend Code  
16 Section 42-1-12 of the Official Code of Georgia Annotated, relating to registration of  
17 sexually violent predators, so as to provide for notice to day-care and group day-care  
18 programs by Bright From The Start: Georgia's Office of Early Care and Education; to amend  
19 Code Section 48-7-40.6 of the Official Code of Georgia Annotated, relating to tax credits for  
20 employers providing child care, so as to include Bright From The Start: Georgia's Office of  
21 Early Care and Education as a licensing entity; to amend Chapter 5 of Title 49 of the Official  
22 Code of Georgia Annotated, relating to programs and protection for children and youth, so  
23 as to revise definitions; to provide that other state agencies coordinate and assist Bright From  
24 The Start: Georgia's Office of Early Care and Education and its director in its duties; to  
25 change certain provisions relating to the powers and duties of the Department of Human  
26 Resources; to change certain provisions relating to licensing of child welfare agencies and  
27 child care facilities; to provide that Bright From The Start: Georgia's Office of Early Care  
28 and Education will have the duty to regulate and license early care and education programs;

1 to delineate and establish the powers and duties of the Department of Human Resources and  
2 Bright From The Start: Georgia's Office of Early Care and Education with respect to  
3 child-caring institutions, child-placing agencies, maternity homes, day-care centers, family  
4 day-care homes, group day-care homes, and child care learning centers; to provide that  
5 interference with Bright From The Start: Georgia's Office of Early Care and Education in  
6 regulating early care and education programs shall be subject to penalty; to authorize Bright  
7 From The Start: Georgia's Office of Early Care and Education to take certain actions against  
8 applicants and licensees of early care and education programs; to revise a definition relating  
9 to employees' records checks by the Department of Human Resources; to change certain  
10 provisions relating to the requirement of a separate license and separate director for each  
11 facility; to repeal provisions relating to employment of persons who have entered pleas of  
12 guilty or nolo contendere; to change certain provisions relating to fingerprint records check  
13 application for directors of existing facilities; to change certain provisions relating to  
14 employment requirements and suspension or revocation of license or criminal penalty for  
15 violation; to provide that Bright From The Start: Georgia's Office of Early Care and  
16 Education will conduct employees' records checks for early care and education programs and  
17 establish procedures therefor; to revise definitions relating to the emergency protection of  
18 children in certain institutions; to provide that Bright From The Start: Georgia's Office of  
19 Early Care and Education may place a monitor or monitors in an early care and education  
20 program; to revise definitions relating to the Georgia Child Care Council; to change certain  
21 provisions relating to membership appointments to the Georgia Child Care Council; to  
22 change certain provisions relating to officers and meetings of the Georgia Child Care  
23 Council; to remove provisions for a director of the Georgia Child Care Council; to provide  
24 that the Georgia Child Care Council will advise and make recommendations to the director  
25 of Bright From The Start: Georgia's Office of Early Care and Education; to provide that the  
26 Department of Human Resources and Bright From The Start: Georgia's Office of Early Care  
27 and Education will perform certain functions formerly conducted by the Georgia Child Care  
28 Council; to change references to the Office of School Readiness to Bright From The Start:  
29 Georgia's Office of Early Care and Education wherever they occur in Titles 20 and 49 of the  
30 Official Code of Georgia Annotated; to change references to Code Section 49-5-12 to 49-5-3  
31 in certain Code sections in Titles 19 and 31 of the Official Code of Georgia Annotated; to  
32 provide for related matters; to repeal conflicting laws; and for other purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by striking Chapter 1A, relating to the Office of School Readiness, in its entirety and inserting in lieu thereof the following:

**"CHAPTER 1A**

20-1A-1.

~~The Office of School Readiness~~ Bright From The Start: Georgia's Office of Early Care and Education is created as a department of the executive branch of state government, and said office shall have the duties, responsibilities, functions, powers, and authority set forth in this chapter and otherwise provided by law. ~~The Office of School Readiness shall be assigned for administrative purposes only, as that term is defined in Code Section 50-4-3, to the Department of Education~~ Bright From The Start: Georgia's Office of Early Care and Education shall be a separate budget unit.

20-1A-2.

As used in this chapter, the term:

(1) 'Director' means the director of ~~the Office of School Readiness~~ Bright From The Start: Georgia's Office of Early Care and Education.

(2) 'Early care and education program' shall have the same meaning as set out in Code Section 49-5-3.

~~(2)(3)~~ (3) 'Office' means ~~the Office of School Readiness~~ Bright From The Start: Georgia's Office of Early Care and Education.

20-1A-3.

(a) The chief administrative and executive officer of the office shall be the director, who shall be appointed by and serve at the pleasure of the Governor. The director shall be responsible for the performance and exercise of the duties, responsibilities, functions, powers, and authority imposed upon the director and the office by law. The director shall be in the unclassified service of the state merit system and shall receive a salary to be determined by the Governor.

(b) The director shall have the authority to employ all personnel of the office, subject to the provisions of this chapter and all applicable provisions of other laws governing public employment.

(c) The director shall ~~promulgate rules and regulations and~~ establish procedures to carry out the provisions of this chapter.

1 (d) The Georgia Child Care Council shall advise and make recommendations to the  
2 director as provided for under Article 11 of Chapter 5 of Title 49.

3 20-1A-4.

4 The ~~Office of School Readiness~~ office shall have the following powers and duties:

5 (1) To administer such programs and services as may be necessary for the operation and  
6 management of voluntary pre-kindergarten, which shall be known as 'Georgia's Pre-K  
7 Program';

8 (2) To administer such programs and services as may be necessary for the operation and  
9 management of preschool and child development programs, such as Even Start and child  
10 care regulation and food programs;

11 (3) To act as the agent of the federal government in conformity with this chapter and the  
12 administration of any federal funds granted to the state to aid in the furtherance of any  
13 functions of the office; and

14 (4) To assist local units of administration in this state so as to assure the proliferation of  
15 services under this chapter;

16 (5) To regulate early care and education programs pursuant to Chapter 5 of Title 49;

17 (6) To perform the functions included in subsection (b) of Code Section 49-5-244,  
18 relating to improvement of the quality, availability, and affordability of child care in this  
19 state;

20 (7) To serve as the Head Start state collaboration office; and

21 (8) To perform any other functions as agreed upon between the office and the  
22 Department of Human Resources, pursuant to Code Section 20-1A-8.

23 20-1A-5.

24 (a) Effective April 15, 1996, the ~~Office of School Readiness~~ office shall carry out all of  
25 the functions and exercise all of the powers formerly held by the Department of Education  
26 for the operation and management of the pre-kindergarten, Even Start, and child care food  
27 programs. Subject to subsection (c) of this Code section, all persons employed by and  
28 positions authorized for the Department of Education to perform these functions on April  
29 14, 1996, shall, on April 15, 1996, be transferred to the ~~Office of School Readiness~~ office.  
30 All office equipment, furniture, and other assets in possession of the Department of  
31 Education which are used or held exclusively or principally by personnel transferred under  
32 this subsection shall be transferred to the ~~Office of School Readiness~~ office on April 15,  
33 1996.

34 (b) Effective April 15, 1996, the ~~Office of School Readiness~~ office shall carry out all of  
35 the functions and exercise all of the powers formerly held by the Department of Human

1 Resources for the operation and management of child care regulation services. Subject to  
2 subsection (c) of this Code section, all persons employed by and positions authorized for  
3 the Department of Human Resources to perform functions relating to the licensure and  
4 certification of pre-kindergarten programs on April 14, 1996, shall, on April 15, 1996, be  
5 transferred to the ~~Office of School Readiness~~ office. All office equipment, furniture, and  
6 other assets in possession of the Department of Human Resources which are used or held  
7 exclusively or principally by personnel transferred under this subsection shall be  
8 transferred to the ~~Office of School Readiness~~ office on April 15, 1996.

9 (c) All transfers of employees and assets provided for in subsections (a) and (b) of this  
10 Code section shall be subject to the approval of the director, and such personnel or assets  
11 shall not be transferred if the director determines that a specific employee or asset should  
12 remain with the transferring agency.

13 (d) Employees of the office shall serve in the unclassified service of the state merit system  
14 as defined by Code Section 45-20-6. Persons who have transferred to the office pursuant  
15 to subsection (a) or (b) of this Code section who are in the classified service of the state  
16 merit system at the time of the transfer may elect to remain in such classified service and  
17 be governed by the provisions thereof; provided, however, that if any such person accepts  
18 a promotion or transfers to another position, that person shall become an employee in the  
19 unclassified service.

20 (e) All employees of the ~~Office of School Readiness~~ office who are employed after April  
21 15, 1996, shall become members of the Employees' Retirement System of Georgia  
22 consistent with the provisions of Code Section 47-2-70.1.

23 (f) Persons who are transferred to the ~~Office of School Readiness~~ office pursuant to  
24 subsection (a) or (b) of this Code section who are members of the Employees' Retirement  
25 System of Georgia created in Chapter 2 of Title 47 or the Teachers Retirement System of  
26 Georgia created in Chapter 3 of Title 47 can elect to continue membership in the same  
27 retirement system in which such person already is a member in accordance with applicable  
28 laws, rules, and regulations. All rights, credits, and funds in any such retirement system  
29 which are possessed by state personnel transferred by provisions of this chapter to the  
30 ~~Office of School Readiness~~ office, or otherwise held by persons at the time of employment  
31 with the ~~Office of School Readiness~~ office, are continued and preserved, it being the  
32 intention of the General Assembly that such persons shall not lose any rights, credits, or  
33 funds to which they may be entitled prior to becoming employees of the ~~Office of School~~  
34 ~~Readiness~~ office, unless such persons fail to elect to continue membership in the same  
35 retirement system in which such persons already are members. Once such election is made  
36 by such personnel, the election is irrevocable during the tenure of employment with the  
37 ~~Office of School Readiness~~ office. Except as provided in this subsection, no employment

benefit of any employee transferring to the ~~Office of School Readiness~~ office shall be impaired.

(g) Funding for functions and positions transferred to the ~~Office of School Readiness~~ office under this chapter shall be transferred as provided in Code Section 45-12-90.

20-1A-6.

The ~~Office of School Readiness~~ office shall succeed to all rules, regulations, policies, procedures, and administrative orders of the Department of Education or Department of Human Resources, where applicable, which are in effect on April 15, 1996, and which relate to the functions transferred to the department. Such rules, regulations, policies, and procedures shall remain in effect until amended, repealed, superseded, or nullified by the director.

20-1A-7.

On and after July 1, 2002, each newly printed publication, poster, banner, or sign created for the pre-kindergarten program by the ~~Office of School Readiness~~ office or a provider of pre-kindergarten services shall refer to the program as 'Georgia's Pre-K Program.'

20-1A-8.

(a) Effective October 1, 2004, the office shall carry out all of the functions and exercise all of the powers formerly held by the Department of Human Resources for the regulation and licensure of early care and education programs and any other functions as agreed upon by the office and the Department of Human Resources. Subject to subsection (c) of this Code section, all persons employed by and positions authorized for the Department of Human Resources to perform functions relating to the licensure and certification of early care and education programs and any other functions as agreed upon by the office and the Department of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to the office. All office equipment, furniture, and other assets in possession of the Department of Human Resources which are used or held exclusively or principally by personnel transferred under this subsection shall be transferred to the office on October 1, 2004.

(b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child Care Council included in Code Section 49-5-243, the office shall carry out the functions and exercise the powers as enumerated in subsection (b) of Code Section 49-5-244 as formerly held by the Georgia Child Care Council under Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section, all persons employed by and positions authorized for the Georgia Child Care Council to perform functions relating to the

1 recommendation of measures to improve the quality, availability, and affordability of child  
2 care in this state on September 30, 2004, shall on October 1, 2004, be transferred to the  
3 office. All office equipment, furniture, and other assets in possession of the Georgia Child  
4 Care Council or the Department of Human Resources which are used or held exclusively  
5 or principally by personnel transferred under this subsection shall be transferred to the  
6 office on October 1, 2004.

7 (c) All transfers of employees and assets provided for in subsections (a) and (b) of this  
8 Code section shall be subject to the approval of the director, and such personnel or assets  
9 shall not be transferred if the director determines that a specific employee or asset should  
10 remain with the transferring agency.

11 (d) Employees of the office shall serve in the unclassified service of the state merit system  
12 as defined by Code Section 45-20-6. Persons who have transferred to the office pursuant  
13 to subsections (a) and (b) of this Code section who are in the classified service of the state  
14 merit system at the time of the transfer may elect to remain in such classified service and  
15 be governed by the provisions thereof; provided, however, that if any such person accepts  
16 a promotion or transfers to another position, that person shall become an employee in the  
17 unclassified service.

18 (e) All employees of the office who are employed after October 1, 2004, shall become  
19 members of the Employees' Retirement System of Georgia consistent with the provisions  
20 of Code Section 47-2-70.1.

21 (f) All rights, credits, and funds in the Employees' Retirement System of Georgia created  
22 in Chapter 2 of Title 47 which are possessed by state personnel transferred by provisions  
23 of this Code section to the office, or otherwise held by persons at the time of employment  
24 with the office, are continued and preserved, it being the intention of the General Assembly  
25 that such persons shall not lose any rights, credits, or funds to which they may be entitled  
26 prior to becoming employees of the office. No employment benefit of any employee  
27 transferring to the office shall be impaired.

28 (g) Funding for functions and positions transferred to the office under this Code section  
29 shall be transferred as provided in Code Section 45-12-90.

30 20-1A-9.

31 The office shall succeed to all rights and responsibilities relating to licensure and regulation  
32 of day-care centers, group day-care homes, and family day-care homes, including such  
33 rules, regulations, policies, procedures, and pending and finalized administrative orders of  
34 the Department of Human Resources, the Georgia Child Care Council, and the Office of  
35 State Administrative Hearings, where applicable, which are in effect on October 1, 2004,  
36 and which relate to the functions transferred to the office pursuant to Code Section

1 20-1A-8. Such rights, responsibilities, licenses issued pursuant to Code Section 49-5-12,  
2 rules, regulations, policies, procedures, and orders shall remain in effect until amended,  
3 repealed, superseded, or nullified by the director."

## 4 SECTION 2.

5 Code Section 25-2-13 of the Official Code of Georgia Annotated, relating to buildings  
6 presenting special hazards to persons or property, is amended by striking subparagraph  
7 (b)(1)(I) in its entirety and inserting in lieu thereof the following:

8 "(I) Group day-care homes and day-care centers required to be licensed or  
9 commissioned as such by ~~the Department of Human Resources~~ Bright From The Start:  
10 Georgia's Office of Early Care and Education and in which at least seven children  
11 receive care. As used in this subparagraph, the term 'group day-care home' means a  
12 day-care facility subject to licensure by ~~the Department of Human Resources~~ Bright  
13 From The Start: Georgia's Office of Early Care and Education where at least seven but  
14 not more than 12 children receive care; and the term 'day-care center' means a day-care  
15 facility subject to licensure or issuance of a commission by ~~the Department of Human~~  
16 ~~Resources~~ Bright From The Start: Georgia's Office of Early Care and Education where  
17 more than 12 children receive care. Fire safety standards adopted by rules of the  
18 Commissioner pursuant to Code Section 25-2-4 which are applicable to group day-care  
19 homes and day-care centers shall not require staff-to-child ratios; and".

## 20 SECTION 3.

21 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to registration of  
22 sexually violent predators, is amended by striking paragraph (3) of subsection (c.1) in its  
23 entirety and inserting in lieu thereof the following:

24 "(3) The Department of Human Resources shall provide, on a one-time basis, information  
25 to all ~~day care and group day care~~ day-care and group day-care programs regulated  
26 pursuant to Code Section 49-5-12 on how to access and retrieve from the Georgia Bureau  
27 of Investigation's Internet website a list of the names and addresses of all registered  
28 sexual offenders. On and after October 1, 2004, Bright From The Start: Georgia's Office  
29 of Early Care and Education and shall include, on a continuing basis, such information  
30 with each application for licensure."

## 31 SECTION 4.

32 Code Section 48-7-40.6 of the Official Code of Georgia Annotated, relating to tax credits for  
33 employers providing child care, is amended by striking subparagraph (a)(6)(A) in its entirety  
34 and inserting in lieu thereof the following:



“(A) The facility is licensed or commissioned by the Department of Human Resources or Bright From The Start: Georgia’s Office of Early Care and Education pursuant to Code Section 49-5-12;”.

## SECTION 5.

Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and protection for children and youth, is amended in Code Section 49-5-3, relating to definitions, by striking paragraphs (1), (6), and (7) in their entirety and inserting in lieu thereof the following:

“(1) 'Child-caring institution' means any institution, society, agency, or facility, whether incorporated or not, which either primarily or incidentally provides full-time care for children under ~~17~~ 18 years of age outside of their own homes, subject to such exceptions as may be provided in rules and regulations of the board.”

~~"(6) Reserved. 'Director' means the director of Bright From The Start: Georgia's Office of Early Care and Education.~~

(7) **Reserved.** 'Early care and education program' means any family day-care home, group day-care home, day-care center, or child care learning center."

## SECTION 6.

Said chapter is further amended in Code Section 49-5-3, relating to definitions, by adding the following new paragraphs to read as follows:

"(2.1) 'Child services agency' means any child-caring institution, child-placing agency, or maternity home.

(2.2) 'Child welfare agency' means any child services agency or early care and education program."

"(14.1) 'Office' means Bright From The Start: Georgia's Office of Early Care and Education."

## SECTION 7.

Said chapter is further amended by striking Code Section 49-5-4, relating to other state departments, agencies, officers, and employees, in its entirety and inserting in lieu thereof the following:

"49-5-4.

It shall be the duty of all other state departments, agencies, officers, and employees to assure the most effective coordination and use of state resources, personnel, and facilities for the benefit of children and youths and to assist the Department of Human Resources and Bright From The Start: Georgia's Office of Early Care and Education in effectuating

1 the purposes of this article by making available to the department and the office, upon  
2 request of the board, ~~or the commissioner, or director~~, and to the extent permissible by law,  
3 the services, resources, personnel, and facilities of their respective departments and  
4 agencies."

### 5 SECTION 8.

6 Said chapter is further amended by striking Code Section 49-5-8, relating to powers and  
7 duties of the department, in its entirety and inserting in lieu thereof the following:

8 "49-5-8.

9 (a) The Department of Human Resources is authorized and empowered, through its own  
10 programs and the programs of county or district departments of family and children  
11 services, to establish, maintain, extend, and improve throughout the state, within the limits  
12 of funds appropriated therefor, programs that will provide:

13 (1) Preventive services as follows:

14 (A) Collecting and disseminating information about the problems of children and  
15 youths and providing consultative assistance to groups, public and private, interested  
16 in developing programs and services for the prevention, control, and treatment of  
17 dependency, deprivation, and delinquency among the children of this state; and

18 (B) Research and demonstration projects designed to add to the store of information  
19 about the social and emotional problems of children and youths and improve the  
20 methods for dealing with these problems;

21 (2) Child welfare services as follows:

22 (A) Casework services for children and youths and for mothers bearing children out  
23 of wedlock, whether living in their own homes or elsewhere, to help overcome  
24 problems that result in dependency, deprivation, or delinquency;

25 (B) Protective services that will investigate complaints of deprivation, abuse, or  
26 abandonment of children and youths by parents, guardians, custodians, or persons  
27 serving in loco parentis and, on the basis of the findings of such investigation, offer  
28 social services to such parents, guardians, custodians, or persons serving in loco  
29 parentis in relation to the problem or bring the situation to the attention of a law  
30 enforcement agency, an appropriate court, or another community agency;

31 (C) Supervising and providing required services and care involved in the interstate  
32 placement of children;

33 (D) Homemaker service, or payment of the cost of such service, when needed due to  
34 the absence or incapacity of the mother;

(E) Boarding care, or payment of maintenance costs, in foster family homes or in group-care facilities for children and youths who cannot be adequately cared for in their own homes;

(F) Boarding care or payment of maintenance costs for mothers bearing children out of wedlock prior to, during, and for a reasonable period after childbirth; and

(G) Day-care services for the care and protection of children whose parents are absent from the home or unable for other reasons to provide parental supervision;

(3) Services to courts, upon their request, as follows:

(A) Accepting for casework services and care all children and youths whose legal custody is vested in the department by the court;

(B) Providing shelter or custodial care for children prior to examination and study or pending court hearing;

(C) Making social studies and reports to the court with respect to children and youths as to whom petitions have been filed; and

(D) Providing casework services and care or payment of maintenance costs for children and youths who have run away from their home communities within this state, or from their home communities in this state to another state, or from their home communities in another state to this state; paying the costs of returning such runaway children and youths to their home communities; and providing such services, care, or costs for runaway children and youths as may be required under Chapter 3 of Title 39;

(4) Regional group-care facilities for the purpose of:

(A) Providing local authorities an alternative to placing any child in a common jail;

(B) Shelter care prior to examination and study or pending a hearing before juvenile court;

(C) Detention prior to examination and study or pending a hearing before juvenile court; and

(D) Study and diagnosis pending determination of treatment or a hearing before juvenile court;

(5) Facilities designed to afford specialized and diversified programs, such as forestry camps, ranches, and group residences, for the care, treatment, and training of children and youths of different ages and different emotional, mental, and physical conditions;

(6) Regulation of ~~child-placing and child-caring agencies~~ child services agencies by:

(A) ~~Setting standards~~ Establishing rules and regulations for and providing consultation and making recommendations concerning establishment and incorporation of all such agencies on such rules and regulations for all such agencies; and

(B) Licensing and inspecting ~~regularly~~ periodically all such agencies to ensure their adherence to established ~~standards~~ rules and regulations as prescribed by the department;

(7) Adoption services, as follows:

~~(A) Supervising the work of all child-placing agencies;~~

~~(B)~~(A) Providing services to parents desiring to surrender children for adoption as provided for in adoption statutes;

~~(C)~~(B) Providing care or payment of maintenance costs for mothers bearing children out of wedlock and children being considered for adoption;

~~(D)~~(C) Inquiring into the character and reputation of persons making application for the adoption of children;

~~(E)~~(D) Placing children for adoption;

~~(F)~~(E) Providing financial assistance after the consummation of a legal adoption to families adopting children who would otherwise remain in foster care at state expense. Financial assistance may only be granted for hard-to-place children with physical, mental, or emotional disabilities or with other problems for whom it is difficult to find a permanent home. Financial assistance may not exceed 100 percent of the amount paid for boarding such child and for special services such as medical care not available through insurance or public facilities. Such supplements shall only be available to families who could not provide for the child adequately without continued financial assistance. The department may review the supplements paid at any time but shall review them at least annually to determine the need for continued assistance;

~~(G)~~(F) Providing payment to a licensed child-placing agency which places a child with special needs who is under the jurisdiction of the department for adoption. Payment may not exceed \$5,000.00 for each such adoption arranged by an agency. The board shall define the special needs child. One-half of such payment shall be made at the time of placement and the remaining amount shall be paid when the adoption is finalized. If the adoption disrupts prior to finalization, the state shall be reimbursed by the child-placing agency in an amount calculated on a prorated basis based on length of time the child was in the home and the services provided; and

~~(H)~~(G) Providing payment to an agency which recruits, educates, or trains potential adoptive or foster parents for preparation in anticipation of adopting or fostering a special needs child. The board shall define the special needs child and set the payment amount by rule and regulation. Upon appropriate documentation of these preplacement services in a timely manner, payments as set by the board shall be made upon enrollment of each potential adoptive or foster parent for such services;

(8) Staff development and recruitment programs through in-service training and educational scholarships for personnel as may be necessary to assure efficient and effective administration of the services and care for children and youths authorized in this article. The department is authorized to disburse state funds to match federal funds in order to provide qualified employees with graduate or postgraduate educational scholarships in accordance with rules and regulations adopted by the board pursuant to Article VIII, Section VII, Paragraph I of the Constitution of Georgia; and

(9) Miscellaneous services, such as providing all medical, hospital, psychiatric, surgical, or dental services or payment of the costs of such services as may be considered appropriate and necessary by competent medical authority to those children subject to the supervision and control of the department without securing prior consent of parents or legal guardians.

(a.1) Bright From The Start: Georgia's Office of Early Care and Education is authorized and empowered to establish, maintain, extend, and improve throughout the state, within the limits of funds appropriated therefor, programs that will provide regulation of early care and education programs by:

(1) Establishing rules and regulations for and providing consultation and making recommendations concerning establishment and incorporation of all such programs; and

(2) Licensing and inspecting periodically all such programs to ensure their adherence to established rules and regulations as prescribed by the office.

(b) The department and the office are ~~is~~ authorized to perform such other duties as may be required under related statutes.

(c)(1) As used in paragraph (2) of this subsection, the term 'state' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or any territory or possession of or territory or possession administered by the United States.

(2) The Department of Human Resources is authorized to enter into interstate compacts, on behalf of this state, with other states to provide for the reciprocal provision of adoption assistance services.

(3) The purpose of paragraphs (1) and (2) of this subsection is to comply with the requirements of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) and Part E of Title IV of the Social Security Act and to assure that recipients of adoption assistance in Georgia who change their residences to other states receive adoption assistance services, other than adoption assistance payments, from their new states of residence."

**SECTION 9.**

Said chapter is further amended by striking Code Section 49-5-12, relating to licensing of child welfare agencies and child care facilities, in its entirety and inserting in lieu thereof the following:

"49-5-12.

(a) ~~'Child welfare agency' means any child-caring institution, child-placing agency, maternity home, family day-care home, group day-care home, or day-care center.~~

~~(b)~~(1) Day-care centers and child care learning centers operated as part of a local church ministry or a religious nonprofit school or a nonprofit religious charitable organization shall notify the department office annually and be commissioned in lieu of being licensed. Commissioned day-care centers and child care learning centers shall operate in accordance with the same procedures, standards, rules, and regulations which are established by the board office for the operation of licensed day-care centers and child care learning centers. Any day-care center or child care learning center operated as part of a local church ministry or a religious nonprofit school or a nonprofit religious charitable organization may voluntarily elect to apply for a license as provided for in paragraph (2) of this subsection.

(2) All child ~~welfare~~ services agencies, as defined in subsection (a) of this Code section, shall be licensed or commissioned ~~annually~~ periodically by the department in accordance with procedures, standards, rules, and regulations to be established by the board; ~~provided, however, that the department may require persons who operate family day-care homes to register with the department.~~ The board shall develop and publish standards rules and regulations for licensing or commissioning of child ~~welfare~~ services agencies. Child services agencies electing to be commissioned rather than licensed shall operate in accordance with the same procedures, standards, rules, and regulations for licensing of child services agencies. A license issued to a child-placing agency shall be deemed approval of all foster family homes approved, supervised, and used by the licensed child-placing agency as a part of its work, subject to this article and rules and regulations of the board.

(3) All early care and education programs, as defined in subsection (a) of this Code section, shall be licensed or commissioned annually by the office in accordance with procedures, standards, rules, and regulations to be established by the office; provided, however, that the office may require persons who operate family day-care homes to register with the office. The office shall develop and publish rules and regulations for licensing or commissioning of early care and education programs.

~~(3)~~(4) The department office shall have the responsibility to review existing day-care regulations to determine which regulations are necessary to safeguard and protect the

1 well-being and general welfare of children and youth, which regulations could more  
2 appropriately be issued as guidelines for quality day care, and which regulations  
3 unnecessarily restrict the delivery of day-care services. ~~A list of proposed rule changes~~  
4 ~~shall be submitted to the Board of Human Resources no later than November 1, 1982.~~  
5 ~~Copies of the proposed changes shall be submitted to the Lieutenant Governor, the~~  
6 ~~Speaker of the House of Representatives, and the chairmen of the Senate Youth, Aging,~~  
7 ~~and Human Ecology Committee and the House Health and Ecology Committee.~~

8 (4) ~~No later than December 31, 1982, the department shall publish and make available~~  
9 ~~to day-care centers and interested persons a list of guidelines for quality child care.~~

10 (5) ~~After a family day-care home, group day-care home, or day-care center~~ an early care  
11 and education program has been licensed, commissioned, or registered by the ~~department~~  
12 office as provided in this article, the facility shall not be required to have a permit to  
13 operate a food service establishment as required in Code Section 26-2-371, provided that  
14 ~~standards~~ rules and regulations for food service have been incorporated in the regulations  
15 for licensing, commissioning, or registering such agencies.

16 (6) The ~~department~~ office shall not be authorized to prescribe, question, or regulate the  
17 specific content of educational curriculum taught or specify what play and program  
18 materials ~~a group day-care home or day-care center~~ an early care and education program  
19 shall use, except for programs operating Georgia's Pre-K program or any other voluntary  
20 educational program administered by the office.

21 (7) Persons who operate ~~group day-care homes and day-care centers~~ early care and  
22 education programs shall be required to post in a conspicuous place next to any telephone  
23 in a ~~group day-care home or day-care center~~ such program the telephone numbers of the  
24 nearest or applicable providers of emergency medical, police, and fire services.

25 (7.1) Persons who operate ~~day-care centers, group day-care homes, or family day-care~~  
26 ~~homes~~ early care and education programs shall post signs prohibiting smoking to carry  
27 out the purposes of paragraph (4) of subsection (a) of Code Section 16-12-2.

28 (8) Group day-care homes, ~~and day-care centers,~~ and child care learning centers shall  
29 provide a minimum of 35 square feet of usable space consisting of indoor play areas, rest  
30 areas, and dining facilities for each child present in the facility. Day-care centers and  
31 child care learning centers will be allowed to designate in writing to the ~~department~~ office  
32 two one-hour periods daily during which 25 square feet of usable space per child for  
33 children aged three years and older may be provided. Notwithstanding the limitation to  
34 18 children prescribed by paragraph (9.1) of Code Section 49-5-3, group day-care homes  
35 will be allowed to designate in writing to the ~~department~~ office two one-hour periods  
36 daily during which 25 square feet of usable space per child for children aged three years  
37 and older may be provided. Notwithstanding the limitation to six children prescribed by

paragraph (8) of Code Section 49-5-3, a family day-care home operator may care for two additional children three years and older for two designated one-hour periods daily. Notwithstanding the provisions of this paragraph, all other applicable rules and regulations shall apply.

~~(c)~~(b)(1) The department shall assist applicants or licensees or persons holding commissions in meeting ~~standards~~ rules and regulations of the department for child services agencies and, if a licensee or person holding a commission is, for any reason, denied renewal of a license or commission or if a license or commission is revoked or if any applicant for a license or commission cannot meet department ~~standards~~ rules and regulations for child services agencies, the department shall assist in planning the placement of children, if any, in the custody of such child ~~welfare~~ services agency in some other licensed or commissioned child ~~welfare~~ services agency or assist in returning them to their own homes or in making any other plans or provisions as may be necessary and advisable to meet the particular needs of the children involved.

(2) The office shall assist applicants or licensees or persons holding commissions in meeting rules and regulations of the office for early care and education programs.

~~(d)~~(c)(1) Application for a license or commission for a child services agency shall be made to the department upon forms furnished by the department. Upon receipt of an application for a license or commission and upon presentation by the applicant of evidence that the child ~~welfare~~ services agency meets the ~~standards~~ rules and regulations prescribed by the department, the department shall issue such child ~~welfare~~ services agency a license or commission for a one-year period.

(2) Application for a license, commission, or registration for early care and education programs shall be made to the office upon forms furnished by the office. Upon receipt of an application for a license or commission and upon presentation by the applicant of evidence that the early care and education program meets the rules and regulations prescribed by the office, the office shall issue such early care and education program a license, commission, or registration for a one-year period.

~~(e)~~(d)(1) If the department finds that any child ~~welfare~~ services agency applicant does not meet ~~standards~~ rules and regulations prescribed by the department but is attempting to meet such ~~standards~~ rules and regulations, the department may, in its discretion, issue a temporary license or commission to such child ~~welfare~~ services agency, but such temporary license or commission shall not be issued for more than a one-year period. Upon presentation of satisfactory evidence that such agency is making progress toward meeting prescribed ~~standards~~ rules and regulations of the department, the department may, in its discretion, reissue such temporary license or commission for one additional period not to exceed one year. As an alternative to a temporary license or commission,



the department, in its discretion, may issue a restricted license or commission which states the restrictions on its face.

(2) If the office finds that any early care and education program applicant does not meet rules and regulations prescribed by the office but is attempting to meet such rules and regulations, the office may, in its discretion, issue a temporary license or commission to such early care and education program, but such temporary license or commission shall not be issued for more than a one-year period. Upon presentation of satisfactory evidence that such program is making progress toward meeting prescribed rules and regulations of the office, the office may, in its discretion, reissue such temporary license or commission for one additional period not to exceed one year. As an alternative to a temporary license or commission, the office, in its discretion, may issue a restricted license or commission which states the restrictions on its face.

~~(f)~~(e)(1) The department shall refuse a license or commission upon a showing of:

~~(1)(A)~~ (A) Noncompliance with the ~~Rules and Regulations for Day Care Centers, Family Day Care Homes, or Group Day Care Homes~~ rules and regulations for child services agencies as adopted by the Board of Human Resources which are designated in writing to the facilities as being related to children's health and safety;

~~(2)(B)~~ (B) Flagrant and continued operation of an unlicensed or uncommissioned facility in contravention of the law; or

~~(3)(C)~~ (C) Prior license or commission denial or revocation within one year of application.

(2) The office shall refuse a license, commission, or registration upon a showing of:

(A) Noncompliance with the rules and regulations for day-care centers, family day-care homes, group day-care homes, or child care learning centers as adopted by the office which are designated in writing to the facilities as being related to children's health and safety;

(B) Flagrant and continued operation of an unlicensed or uncommissioned facility in contravention of the law; or

(C) Prior license, commission, or registration denial or revocation within one year of application.

~~(g)~~(f) All licensed or commissioned child welfare agencies shall prominently display the license or commission issued to such agency by the department or office at some point near the entrance of the premises of such agency that is open to view by the public.

~~(h)~~(g) The department's or office's action revoking or refusing to renew or issue a license, ~~or commission, or registration~~ required by this Code section shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that only 30 days' notice in writing from the commissioner's or director's designee shall be required

1 prior to license or commission revocation and except that hearings held relating to such  
2 action by the department or office may be closed to the public if the hearing officer  
3 determines that an open hearing would be detrimental to the physical or mental health of  
4 any child who will testify at that hearing.

5 ~~(i)(h)~~ ~~Child-caring institutions and child-placing~~ Child services agencies, when licensed  
6 in accordance with this Code section, may receive needy or dependent children from their  
7 parents, guardians, custodians, or persons serving in loco parentis for special, temporary,  
8 or continued care. Parents, guardians, custodians, or persons serving in loco parentis to  
9 such children may sign releases or agreements giving to such institutions or agencies  
10 custody and control over such children during the period of care.

11 ~~(j)(i)~~ Child-placing agencies, in placing children in foster family homes, shall safeguard  
12 the welfare of such children by thoroughly investigating each such home and the character  
13 and reputation of the persons residing therein and shall adequately supervise each home  
14 during the period of care. All children placed in foster family homes shall, as far as is  
15 practicable, be placed with persons of the same religious faith as the children themselves  
16 or the children's parents.

17 ~~(k)(j)(1)~~ It shall be the duty of the department to periodically inspect ~~at regular intervals~~  
18 ~~all~~ licensed or commissioned child ~~welfare~~ services agencies within the state, including  
19 ~~all~~ foster family homes used by such child-placing agencies. The department shall have  
20 right of entrance, privilege of inspection, and right of access to all children under the care  
21 and control of the licensee or commissionee.

22 (2) It shall be the duty of the office to periodically inspect licensed, commissioned, or  
23 registered early care and education programs within the state. The office shall have right  
24 of entrance, privilege of inspection, and right of access to all children under the care and  
25 control of the licensee or commissionee.

26 ~~(k)(k)(1)~~ If any flagrant abuses, derelictions, or deficiencies are made known to the  
27 department or its duly authorized agents during their inspection of any child ~~welfare~~  
28 services agency or if, at any time, such are reported to the department, the department  
29 shall immediately investigate such matters and take such action as conditions may  
30 require.

31 (2) If any flagrant abuses, derelictions, or deficiencies are made known to the office or  
32 its duly authorized agents during their inspection of any early care and education program  
33 or if, at any time, such are reported to the office, the office shall immediately investigate  
34 such matters and take such action as conditions may require.

35 ~~(m)(1)~~ If abuses, derelictions, or deficiencies are found in the operation and management  
36 of any child welfare agency, they shall be brought immediately to the attention of the  
37 management of such agency; and if correctable, but not corrected within a reasonable time,

the department or office, as applicable, shall revoke the license, ~~or commission,~~ or registration of such agency in the manner prescribed in this Code section.

~~(n)(m)~~(1) The department may require periodic reports from child ~~welfare~~ services agencies in such forms and at such times as the department may prescribe.

(2) The office may require periodic reports from early care and education programs in such forms and at such times as the office may prescribe.

~~(o)~~(n) Child ~~welfare~~ services agencies and other facilities and institutions wherein children and youths are detained which are operated by any department or agency of state, county, or municipal government shall not be subject to licensure under this Code section, but the department may, through its authorized agents, make periodic inspections of such agencies, facilities, and institutions. Reports of such inspections shall be made privately to the proper authorities in charge of such agencies, facilities, or institutions. The department shall cooperate with such authorities in the development of standards that will adequately protect the health and well-being of all children and youths detained in such agencies, facilities, and institutions or provided care by them. The department may recommend changes in programs and policies and if, within a reasonable time, the standards established by the department and the recommendations of the department are not met, it shall be the duty of the commissioner to make public in the community in which such agency, facility, or institution is located the report of the above-mentioned inspection and the changes recommended by the department. If any serious abuses, derelictions, or deficiencies are found and are not corrected within a reasonable time, the commissioner shall report them in writing to the Governor.

~~(p)~~(o) Any child ~~welfare~~ services agency that shall operate without a license or commission issued by the department or any early care and education program that shall operate without a license or commission issued by the office shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$200.00 for each such offense. Each day of operation without a license or commission shall constitute a separate offense.

~~(q)~~(p) No person, official, agency, hospital, maternity home, or institution, public or private, in this state shall receive or accept a child under ~~17~~ 18 years of age for placement or adoption or place such a child, either temporarily or permanently, in a home other than the home of the child's relatives without having been licensed or commissioned by the department. Notwithstanding the provisions of Code Section 49-5-12.1, violation of this subsection shall be punishable by a fine of not less than \$100.00 nor exceeding \$500.00 for each offense. Nothing in this Code section shall be construed to prohibit a properly licensed attorney at law from providing necessary legal services and counsel to parties engaged in

or contemplating adoption proceedings. Nothing in this Code section shall be construed to prohibit an individual seeking to:

(1) Adopt a child or children from receiving or accepting a child or children in the individual's home in anticipation of filing a petition for adoption under Chapter 8 of Title 19; or

(2) Have that individual's child or children placed for adoption from placing that individual's child or children in the home of an individual who is not related to the child or children in anticipation of the individual's initiation of adoption proceedings pursuant to Chapter 8 of Title 19.

~~(r)~~(q)(1) The department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of a child ~~welfare~~ services agency without a license or commission or the continued operation of a child ~~welfare~~ services agency in willful violation of this article or of any regulation of the department or in violation of any order of the board.

(2) The office may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of an early care and education program without a license or commission or the continued operation of an early care and education program in willful violation of this article, any regulation of the office, or any order of the office.

~~(s)~~(r)(1) The term 'licensed day-care center' shall include a commissioned day-care center and any references in this Code to a licensed day-care center, including criminal, administrative, and civil provisions applicable to licensed day-care centers, shall include and apply to commissioned day-care centers unless otherwise provided in this ~~Code~~ section article.

(2) The term 'licensed child welfare agency' shall include a commissioned or registered child welfare agency and any references in this Code to a licensed child welfare agency, including criminal, administrative, and civil provisions applicable to licensed child welfare agencies, shall include and apply to commissioned and registered child welfare agencies unless otherwise provided in this article."

### SECTION 10.

Said chapter is further amended by striking Code Section 49-5-12.1, relating to penalties for violation of child welfare agency laws and regulations, in its entirety and inserting in lieu thereof the following:

"49-5-12.1.

(a) Unless otherwise provided in subsection ~~(r)~~ (q) of Code Section 49-5-12, any person who violates the provisions of Code Section 49-5-12 or who hinders, obstructs, or

1 otherwise interferes with any representative of the department or office in the discharge of  
2 that person's official duties in making inspections as provided in Code Section 49-5-12 or  
3 in investigating complaints as provided in Code Section 49-5-12 shall be guilty of a  
4 misdemeanor.

5 (b)(1) Any person who:

6 (A) Violates any licensing or registration provision of this chapter or any rule,  
7 regulation, or order issued under this chapter or any term, condition, or limitation of any  
8 license or registration certificate under this chapter thereby subjecting a child in care  
9 to injury or a life-threatening situation; or

10 (B) Commits any violation for which a license or registration certificate may be  
11 revoked under rules or regulations issued pursuant to this chapter  
12 may be subject to a civil penalty, to be imposed by the department or office, as  
13 appropriate, not to exceed \$500.00. If any violation is a continuing one, each day of such  
14 violation shall constitute a separate violation for the purpose of computing the applicable  
15 civil penalty.

16 (2) Whenever the department or office proposes to subject a person to the imposition of  
17 a civil penalty under this subsection, it shall notify such person in writing:

18 (A) Setting forth the date, facts, and nature of each act or omission with which the  
19 person is charged;

20 (B) Specifically identifying the particular provision or provisions of the Code section,  
21 rule, regulation, order, license, or registration certificate involved in the violation; and

22 (C) Advising of each penalty which the department or office proposes to impose and  
23 its amount.

24 Such written notice shall be sent by registered or certified mail or statutory overnight  
25 delivery by the department or office to the last known address of such person. The person  
26 so notified shall be granted an opportunity to show in writing, within such reasonable  
27 period as the department or office shall by rule or regulation prescribe, why such penalty  
28 should not be imposed. The notice shall also advise such person that, upon failure to pay  
29 the civil penalty subsequently determined by the department or office, if any, the penalty  
30 may be collected by civil action. Any person upon whom a civil penalty is imposed may  
31 appeal such action pursuant to Chapter 13 of Title 50, the 'Georgia Administrative  
32 Procedure Act.'

33 (3) A civil penalty finally determined under this Code section may be collected by civil  
34 action in the event that such penalty is not paid as required. On the request of the  
35 department or office, the Attorney General is authorized to institute a civil action to  
36 collect a penalty imposed pursuant to this subsection. The Attorney General shall have

1 the exclusive power to compromise, mitigate, or remit such civil penalties as are referred  
2 to the Attorney General for collection.

3 (4) All moneys collected from civil penalties shall be paid to the state for deposit in the  
4 general fund."

### 5 **SECTION 11.**

6 Said chapter is further amended by adding a new Code Section 49-5-12.2, as follows:

7 "49-5-12.2.

8 (a) This Code section shall be applicable to any early care and education program which  
9 is subject to regulation by the office under Code Section 49-5-12. For purposes of this  
10 Code section, the term 'license' shall be used to refer to any license, permit, registration, or  
11 commission issued by the office pursuant to the provisions of this subsection.

12 (b) The office shall have the authority to take any of the actions enumerated in subsection

13 (c) of this Code section upon a finding that the applicant or licensee has:

14 (1) Knowingly made any false statement of material information in connection with the  
15 application for a license, or in statements made or on documents submitted to the office  
16 as part of an inspection, survey, or investigation, or in the alteration or falsification of  
17 records maintained by the early care and education program;

18 (2) Failed or refused to provide the office with access to the premises subject to  
19 regulation or information pertinent to the initial or continued licensing of the program;

20 (3) Failed to comply with the licensing requirements of this state; or

21 (4) Failed to comply with any provisions of this Code section.

22 (c) When the office finds that any applicant or licensee has violated any provision of  
23 subsection (b) of this Code section or laws, rules, regulations, or formal orders related to  
24 the initial or continued licensing of the program, the office, subject to notice and  
25 opportunity for hearing, may take any of the following actions:

26 (1) Refuse to grant a license; provided, however, that the office may refuse to grant a  
27 license without holding a hearing prior to taking such action;

28 (2) Administer a public reprimand;

29 (3) Suspend any license, permit, registration, or commission for a definite period or for  
30 an indefinite period in connection with any condition which may be attached to the  
31 restoration of said license;

32 (4) Prohibit any applicant or licensee from allowing a person who previously was  
33 involved in the management or control, as defined by rule, of any program which has had  
34 its license or application revoked or denied within the past 12 months to be involved in  
35 the management or control of such program;

36 (5) Revoke any license;

1 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
2 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
3 licensing of any program; or

4 (7) Limit or restrict any license as the office deems necessary for the protection of the  
5 public, including, but not limited to, restricting some or all services of or admissions into  
6 a program for a time certain.

7 In taking any of the actions enumerated in this subsection, the office shall consider the  
8 seriousness of the violation, including the circumstances, extent, and gravity of the  
9 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
10 public.

11 (d) The office may deny a license or otherwise restrict a license for any applicant who has  
12 had a license denied, revoked, or suspended within one year of the date of an application  
13 or who has transferred ownership or governing authority of a program subject to regulation  
14 by the office within one year of the date of a new application when such transfer was made  
15 in order to avert denial, revocation, or suspension of a license.

16 (e) With regard to any contested case instituted by the office pursuant to this Code section  
17 or other provisions of law which may now or hereafter authorize remedial or disciplinary  
18 grounds and action, the office may, in its discretion, dispose of the action so instituted by  
19 settlement. In such cases, all parties, successors, and assigns to any settlement agreement  
20 shall be bound by the terms specified therein and violation thereof by any applicant or  
21 licensee shall constitute grounds for any action enumerated in subsection (c) of this Code  
22 section.

23 (f) The office shall have the authority to make public or private investigations or  
24 examinations inside or outside of this state to determine whether the provisions of this  
25 Code section or any other law, rule, regulation, or formal order relating to the licensing of  
26 a program has been violated. Such investigations may be initiated at any time, in the  
27 discretion of the office, and may continue during the pendency of any action initiated by  
28 the office pursuant to subsection (c) of this Code section.

29 (g) For the purpose of conducting any investigation, inspection, or survey, the office shall  
30 have the authority to require the production of any books, records, papers, or other  
31 information related to the initial or continued licensing of any program.

32 (h) Pursuant to the investigation, inspection, and enforcement powers given to the office  
33 by this Code section and other applicable laws, the office may assess against a program  
34 reasonable and necessary expenses incurred by the office pursuant to any administrative  
35 or legal action required by the failure of the program to fully comply with the provisions  
36 of any law, rule, regulation, or formal order related to the initial or continued licensing.  
37 Assessments shall not include attorney's fees and expenses of litigation, shall not exceed

1 other actual expenses, and shall only be assessed if such investigations, inspections, or  
2 enforcement actions result in adverse findings, as finally determined by the office, pursuant  
3 to administrative or legal action.

4 (i) For any action taken or any proceeding held under this Code section or under color of  
5 law, except for gross negligence or willful or wanton misconduct, the office, when acting  
6 in its official capacity, shall be immune from liability and suit to the same extent that any  
7 judge of any court of general jurisdiction in this state would be immune.

8 (j) In an administrative or legal proceeding under this Code section, a person or entity  
9 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
10 the burden of proving this exemption or exception.

11 (k) This Code section and all actions resulting from its provisions shall be administered  
12 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

13 (l) The provisions of this Code section shall be supplemental to and shall not operate to  
14 prohibit the office from acting pursuant to those provisions of law which may now or  
15 hereafter authorize remedial or disciplinary grounds and action for the office. In cases  
16 where those other provisions of law so authorize other disciplinary grounds and actions,  
17 but this Code section limits such grounds or actions, those other provisions shall apply.

18 (m) The office is authorized to promulgate rules and regulations to implement the  
19 provisions of this Code section."

## 20 **SECTION 12.**

21 Said chapter is further amended by striking paragraph (1) of Code Section 49-5-60, relating  
22 to definitions regarding employees' records checks for day-care centers, in its entirety and  
23 inserting in lieu thereof the following:

24 "(1) 'Center' means a ~~day-care center, group day-care home, family day-care home, or~~  
25 child-caring institution or child-placing agency which is required to be licensed or  
26 registered under Article 1 of this chapter."

## 27 **SECTION 13.**

28 Said chapter is further amended by striking Code Section 49-5-61, relating to the requirement  
29 of a separate license and separate director for each facility, in its entirety and inserting in lieu  
30 thereof the following:

31 "49-5-61.

32 ~~On and after July 1, 1985, an~~ An applicant for a new license shall have a separate license  
33 for each new facility in this state owned or operated by that applicant and shall have a  
34 separate director for each such facility."



**SECTION 14.**

Said chapter is further amended by repealing in its entirety Code Section 49-5-65.1, relating to employment of persons who have entered pleas of guilty or nolo contendere to specified offenses, which reads as follows:

"49-5-65.1.

No facility operated as a day-care center, family day-care home, group-care facility, group day-care home, or similar facility or any operator of such a facility shall employ any person who has been convicted of or who has entered a plea of guilty or nolo contendere to any offense specified in Code Section 16-12-1.1 or allow any such person to reside at or be domiciled at such facility in violation of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the license, commission, or registration of any such facility violating the provisions of this Code section. The powers and duties set forth in this Code section are cumulative and not intended to limit the powers and duties set forth throughout this article."

**SECTION 15.**

Said chapter is further amended by striking Code Section 49-5-67, relating to fingerprint records check application for directors of existing facilities, in its entirety and inserting in lieu thereof the following:

"49-5-67.

~~(a) Notwithstanding any other provision of this article, an individual who resides in a family day-care home, as defined by Code Section 49-5-3, shall not be required to provide fingerprints for routine fingerprints records checks if the operator of the family day-care home provides the department with an affidavit stating that such individual is not present in the home at the same time as the children who are received for pay for supervision and care. However, all persons residing in a family day-care home are required to obtain satisfactory preliminary records checks and submit them to the department.~~

~~(b) As an exception to the requirements set out in this article for employees of centers, a center may hire emergency temporary employees in order to avoid noncompliance with staffing requirements for centers required by law, rule, or regulation. An emergency temporary employee may start working immediately after requesting a preliminary records check from a local law enforcement agency and may work up to five working days without the results of the preliminary records check if the director of the center maintains an affidavit with supporting documents in the employee's personnel file stating that the emergency temporary employee applied for a preliminary records check with a local law enforcement agency before the employee began work and the date that the preliminary records check was received from the local law enforcement agency. The employee's~~

1 personnel file shall be available to the department for inspection. At the end of the five-day  
2 work period or upon receipt of the results of the preliminary records check, whichever  
3 occurs first, emergency temporary employees become subject to all other requirements of  
4 this article."

#### 5 **SECTION 16.**

6 Said chapter is further amended by striking subsection (d) of Code Section 49-5-69, relating  
7 to employment requirements and suspension or revocation of license or criminal penalty for  
8 violations, in its entirety and inserting in lieu thereof the following:

9 "(d) No center may hire any person as an employee ~~after July 1, 1999~~, unless there is on  
10 file in the center an employment history and a satisfactory preliminary records check or,  
11 if the preliminary records check determination revealed a criminal record of any kind as  
12 to such person, either satisfactory state and satisfactory national records check  
13 determinations for that person or proof that an unsatisfactory determination has been  
14 reversed in accordance with Code Section 49-5-73."

#### 15 **SECTION 17.**

16 Said chapter is further amended by adding after Article 3, relating to employees' records  
17 checks for day-care centers, a new Article 3A to read as follows:

#### 18 **"ARTICLE 3A**

19 49-5-80.

20 As used in this article, the term:

21 (1) 'Center' means a day-care center, group day-care home, family day-care home, or  
22 child care learning center which is required to be licensed or registered under Article 1  
23 of this chapter.

24 (2) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
25 whether an appeal of the conviction has been sought.

26 (3) 'Crime' means any felony; a violation of Code Section 16-5-23, relating to simple  
27 battery, when the victim is a minor; a violation of Code Section 16-12-1, relating to  
28 contributing to the delinquency of a minor; a violation of Chapter 6 of Title 16, relating  
29 to sexual offenses, excluding the offenses of bigamy or marrying a bigamist; a violation  
30 of Code Section 16-4-1, relating to criminal attempt when the crime attempted is any of  
31 the crimes specified by this paragraph; or any other offenses committed in another  
32 jurisdiction which, if committed in this state, would be one of the enumerated crimes  
33 listed in this paragraph.

1 (4) 'Criminal record' means:

2 (A) Conviction of a crime;

3 (B) Arrest, charge, and sentencing for a crime where:

4 (i) A plea of nolo contendere was entered to the charge;

5 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
6 granted; provided, however, that this division shall not apply to a violation of Chapter  
7 13 of Title 16, relating to controlled substances, or any other offense committed in  
8 another jurisdiction which, if it were committed in this state, would be a violation of  
9 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;  
10 or

11 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
12 provided, however, that this division shall not apply to a violation of Chapter 13 of  
13 Title 16, relating to controlled substances, or any other offense committed in another  
14 jurisdiction which, if it were committed in this state, would be a violation of Chapter  
15 13 of Title 16 if such violation or offense constituted only simple possession; or

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

18 (5) 'Director' means the chief administrative or executive officer of a facility.

19 (6) 'Emergency temporary employee' means an employee other than a director whose  
20 duties involve personal contact between that person and any child being cared for at the  
21 facility and who is hired on an expedited basis to avoid noncompliance with staffing  
22 standards for centers required by law, rule, or regulation.

23 (7) 'Employee' means any person, other than a director, employed by a center to perform  
24 at any of the center's facilities any duties which involve personal contact between that  
25 person and any child being cared for at the facility and also includes any adult person  
26 who resides at the facility or who, with or without compensation, performs duties for the  
27 center which involve personal contact between that person and any child being cared for  
28 by the center.

29 (8) 'Employment history' means a record of where a person has worked for the past ten  
30 years.

31 (9) 'Facility' means a center's real property at which children are received for care.

32 (10) 'Fingerprint records check determination' means a satisfactory or unsatisfactory  
33 determination by the office based upon a records check comparison of GCIC information  
34 with fingerprints and other information in a records check application.

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

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

(13) 'License' means the document issued by the office to authorize the center to which it is issued to operate a facility under this article.

(14) 'National fingerprint records check determination' means a satisfactory or unsatisfactory determination by the office in accordance with applicable law based upon a report from the Federal Bureau of Investigation after a search of bureau records and fingerprints.

(15) 'Office' means Bright From The Start: Georgia's Office of Early Care and Education.

(16) 'Preliminary records check application' means an application for a preliminary records check determination on forms provided by the office.

(17) 'Preliminary records check determination' means a satisfactory or unsatisfactory determination by the office based only upon a comparison of GCIC information with other than fingerprint information regarding the person upon whom the records check is being performed.

(18) 'Records check application' means two sets of classifiable fingerprints, a records search fee to be established by the office by rule and regulation, payable in such form as the office may direct to cover the cost of a fingerprint records check under this article, and an affidavit by the applicant disclosing the nature and date of any arrest, charge, or conviction of the applicant for the violation of any law, except for motor vehicle parking violations, whether or not the violation occurred in this state, and such additional information as the office may require.

(19) 'Satisfactory determination' means a written determination that a person for whom a records check was performed was found to have no criminal record.

(20) 'State fingerprint records check determination' means a satisfactory or unsatisfactory determination by the office in accordance with applicable law based upon a records check comparison of GCIC information with fingerprints and other information in a records check application.

(21) 'Unsatisfactory determination' means a written determination that a person for whom a records check was performed has a criminal record.

49-5-81.

An applicant for a new license shall have a separate license for each new facility in this state owned or operated by that applicant and shall have a separate director for each such facility.

1 49-5-82.

2 Accompanying any application for a new license for a facility, the applicant shall furnish  
3 to the office a records check application for the director and a satisfactory preliminary  
4 records check for each employee of such facility. In lieu of such records check  
5 applications, the applicant may submit evidence, satisfactory to the office, that within the  
6 immediately preceding 12 months the director received satisfactory state and national  
7 fingerprint records check determinations and each employee received a satisfactory  
8 preliminary records check determination, or that any employee other than the director  
9 whose preliminary records check revealed a criminal record of any kind has either  
10 subsequently received satisfactory state and national fingerprint records check  
11 determinations or has had the unsatisfactory determination reversed in accordance with  
12 Code Section 49-5-89.5. The office may either perform preliminary records checks under  
13 agreement with GCIC or contract with GCIC and appropriate law enforcement agencies  
14 which have access to GCIC information to have those agencies perform for the office a  
15 preliminary records check for each preliminary records check application submitted thereto  
16 by the office. Either the office or the appropriate law enforcement agencies may charge  
17 reasonable fees for performing preliminary records checks.

18 49-5-83.

19 After being furnished the required records check application under Code Section 49-5-82,  
20 the office shall notify in writing the license applicant as to each person for whom an  
21 application was received regarding whether the office's determination as to that person's  
22 state fingerprint records check was satisfactory or unsatisfactory. If the preliminary records  
23 check determination was satisfactory as to each employee of an applicant's facility and the  
24 state fingerprint records check was satisfactory as to the director, that applicant may be  
25 issued a license for that facility if the applicant otherwise qualifies for a license under  
26 Article 1 of this chapter. If the state or national fingerprint records check determination was  
27 unsatisfactory as to the director of an applicant's facility, the applicant shall designate  
28 another director for that facility after receiving notification of the determination and  
29 proceed under Code Section 49-5-82 and this Code section to obtain state and national  
30 fingerprint records checks for that newly designated director. If the preliminary records  
31 check for any employee other than the director revealed a criminal record of any kind, such  
32 employee shall not be allowed to work in the center until he or she either has obtained  
33 satisfactory state and national fingerprint records check determinations or has had the  
34 unsatisfactory determination reversed in accordance with Code Section 49-5-89.5. If the  
35 determination was unsatisfactory as to any employee of an applicant's facility, the  
36 applicant shall, after receiving notification of that determination, take such steps as are

1 necessary so that such person is no longer an employee. Any employee other than the  
2 director who receives a satisfactory preliminary records check shall not be required to  
3 obtain a fingerprint records check unless such an employee has been designated as a  
4 director or as permitted by the provisions of subsection (c) of Code Section 49-5-89.1.

5 49-5-84.

6 The office shall transmit to GCIC both sets of fingerprints and the records search fee from  
7 each fingerprint records check application. Upon receipt thereof, GCIC shall promptly  
8 transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau  
9 records and an appropriate report and shall retain the other set and promptly conduct a  
10 search of its records and records to which it has access. Within ten days after receiving  
11 fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the office in  
12 writing of any derogatory finding, including but not limited to any criminal record, of the  
13 state fingerprint records check or if there is no such finding. After a search of Federal  
14 Bureau of Investigation records and fingerprints and upon receipt of the bureau's report,  
15 the office shall make a national fingerprint records determination.

16 49-5-85.

17 After receiving a Federal Bureau of Investigation report regarding a national fingerprint  
18 records check under Code Section 49-5-84, the office shall make a determination based  
19 thereon and notify in writing the license applicant as to whether that records check was  
20 satisfactory or unsatisfactory. If the national fingerprint records check determination was  
21 unsatisfactory as to the director of an applicant's facility, after receiving notification of that  
22 determination, that applicant shall designate another director for such facility for which  
23 director the applicant has not received or made an unsatisfactory preliminary or fingerprint  
24 records check determination and proceed under the requirements of Code Sections 49-5-82  
25 through 49-5-84 and this Code section to obtain state and national fingerprint records check  
26 determinations for the newly designated director. The director may begin working upon the  
27 receipt of a satisfactory state fingerprint records check determination pending the receipt  
28 of the national fingerprint records check determination from the office. The office may  
29 revoke the license of that facility if the facility fails to comply with the requirements of this  
30 Code section and Code Section 49-5-83 to receive satisfactory state and national fingerprint  
31 determinations on the director or to comply with Code Section 49-5-83 regarding  
32 employees other than the director.

1 49-5-86.

2 No facility operated as an early care and education program or similar facility or any  
3 operator of such a facility shall employ any person who has been convicted of or who has  
4 entered a plea of guilty or nolo contendere to any offense specified in Code Section  
5 16-12-1.1 or allow any such person to reside at or be domiciled at such facility in violation  
6 of Code Section 16-12-1.1. The office shall either deny the issuance of or revoke the  
7 license, commission, or registration of any such facility violating the provisions of this  
8 Code section. The powers and duties set forth in this Code section are cumulative and not  
9 intended to limit the powers and duties set forth throughout this article.

10 49-5-87.

11 Each center shall be required to obtain a separate license and shall have a separate director  
12 for each center.

13 49-5-88.

14 (a) Notwithstanding any other provision of this article, an individual who resides in a  
15 family day-care home, as defined by Code Section 49-5-3, shall not be required to provide  
16 fingerprints for routine fingerprints records checks if the operator of the family day-care  
17 home provides the office with an affidavit stating that such individual is not present in the  
18 home at the same time as the children who are received for pay for supervision and care.  
19 However, all persons residing in a family day-care home are required to obtain satisfactory  
20 preliminary records checks and submit them to the office.

21 (b) As an exception to the requirements set out in this article for employees of centers, a  
22 center may hire emergency temporary employees in order to avoid noncompliance with  
23 staffing requirements for centers required by law, rule, or regulation. An emergency  
24 temporary employee may start working immediately after requesting a preliminary records  
25 check from a local law enforcement agency and may work up to five working days without  
26 the results of the preliminary records check if the director of the center maintains an  
27 affidavit with supporting documents in the employee's personnel file stating that the  
28 emergency temporary employee applied for a preliminary records check with a local law  
29 enforcement agency before the employee began work and the date that the preliminary  
30 records check was received from the local law enforcement agency. The employee's  
31 personnel file shall be available to the office for inspection. At the end of the five-day work  
32 period or upon receipt of the results of the preliminary records check, whichever occurs  
33 first, emergency temporary employees become subject to all other requirements of this  
34 article.

1 49-5-89.

2 (a) If the director of a facility which has been issued a license ceases to be the director of  
3 that facility, the licensee shall thereupon designate a new director. After such change, the  
4 licensee of that facility shall notify the office of such change and of any additional  
5 information the office may require regarding the newly designated director of that facility.  
6 Such information shall include but not be limited to any information the licensee may have  
7 regarding preliminary or any fingerprint records check determinations regarding that  
8 director. After receiving a change of director notification, the office shall make a written  
9 determination from the information furnished with such notification and the office's own  
10 records as to whether satisfactory or unsatisfactory preliminary or state and national  
11 fingerprint records check determinations have ever been made for the newly designated  
12 director. If the office determines that such director within 12 months prior thereto has had  
13 satisfactory state and national fingerprint records check determinations, such  
14 determinations shall be deemed to be satisfactory state and national fingerprint records  
15 check determinations as to that director. The license of that facility shall not be adversely  
16 affected by that change in director, and the licensee shall be so notified.

17 (b) If the office determines under subsection (a) of this Code section that there has ever  
18 been an unsatisfactory preliminary or state or national fingerprint records check  
19 determination of the newly designated director which has not been legally reversed, the  
20 center and that director shall be so notified. The license for that director's facility shall be  
21 indefinitely suspended or revoked unless the center designates another director for whom  
22 it has not received or made an unsatisfactory preliminary or state or national fingerprint  
23 records check determination and proceeds pursuant to the provisions of this Code section  
24 relating to a change of director.

25 (c) If the office determines under subsection (a) of this Code section that there have been  
26 no state and national fingerprint records check determinations regarding the newly  
27 designated director within the immediately preceding 12 months, the office shall so notify  
28 the center. The center shall furnish to the office the fingerprint records check application  
29 of the newly designated director after the date the notification is sent by the office or the  
30 license of that facility shall be indefinitely suspended or revoked. If that fingerprint records  
31 check application is so received, unless the office has within the immediately preceding 12  
32 months made a satisfactory state fingerprint records check determination regarding the  
33 newly designated director, the office shall perform a state fingerprint records check  
34 determination of the newly designated director; and the applicant and that director shall be  
35 so notified. If that determination is unsatisfactory, the provisions of subsection (b) of this  
36 Code section regarding procedures after notification shall apply. If that determination is  
37 satisfactory, the office shall perform a national fingerprint records check determination for



1 that director as provided in Code Sections 49-5-84 and 49-5-85. The director may begin  
2 working upon the receipt of a satisfactory state fingerprint records check determination  
3 pending the receipt of the national fingerprint records check determination from the office.  
4 If that determination is satisfactory, the center and director for whom the determination was  
5 made shall be so notified after the office makes its determination, and the license for the  
6 facility at which that person is the newly designated director shall not be adversely affected  
7 by that change of director. If that determination is unsatisfactory, the provisions of  
8 subsection (b) of this Code section shall apply.

9 49-5-89.1.

10 (a) Before a person may become an employee other than a director of any center after that  
11 center has received a license, that center shall require that person to obtain a satisfactory  
12 preliminary records check. The center shall maintain documentation in the employee's  
13 personnel file, which is available to the office upon request, which reflects that a  
14 satisfactory preliminary criminal records check was received before the employee began  
15 working with children. If the preliminary records check for any potential employee other  
16 than the director reveals a criminal record of any kind, such potential employee shall not  
17 be allowed to begin working until either such potential employee has obtained satisfactory  
18 state and national fingerprint records check determinations or has had the unsatisfactory  
19 preliminary or fingerprint records check determination reversed in accordance with Code  
20 Section 49-5-89.5. If either the preliminary or state or national fingerprint records  
21 determination is unsatisfactory, the center shall, after receiving notification of the  
22 determination, take such steps as are necessary so that such person is no longer an  
23 employee. Any potential employee other than the director who receives a satisfactory  
24 preliminary records check determination shall not be required to obtain a fingerprint  
25 records check determination except as permitted in accordance with subsection (c) of this  
26 Code section.

27 (b) A license is subject to suspension or revocation and the office may refuse to issue a  
28 license if a director or employee does not undergo the records and fingerprint checks  
29 applicable to that director or employee and receive satisfactory determinations.

30 (c) After the issuance of a license, the office may require a fingerprint records check on  
31 any director or employee to confirm identification for records search purposes, when the  
32 office has reason to believe the employee has a criminal record that renders the employee  
33 ineligible to have contact with children in the center, or during the course of a child abuse  
34 investigation involving the director or employee.

35 (d) No center may hire any person as an employee unless there is on file in the center an  
36 employment history and a satisfactory preliminary records check or, if the preliminary

1 records check determination revealed a criminal record of any kind as to such person, either  
2 satisfactory state and satisfactory national records check determinations for that person or  
3 proof that an unsatisfactory determination has been reversed in accordance with Code  
4 Section 49-5-89.5.

5 (e) A director of a facility having an employee whom that director knows or should  
6 reasonably know to have a criminal record that renders the employee ineligible to have  
7 contact with children in the center shall be guilty of a misdemeanor.

8 49-5-89.2.

9 (a) GCIC and law enforcement agencies which have access to GCIC information shall  
10 cooperate with the office in performing preliminary and fingerprint records checks required  
11 under this chapter and shall provide such information so required for such records checks  
12 notwithstanding any other law to the contrary and may charge reasonable fees therefor.

13 (b) Any person who knowingly and under false pretenses requests, obtains, or attempts to  
14 obtain GCIC information otherwise authorized to be obtained pursuant to this chapter, or  
15 who knowingly communicates or attempts to communicate such information obtained  
16 pursuant to this article to any person or entity except in accordance with this article, or who  
17 knowingly uses or attempts to use such information obtained pursuant to this article for any  
18 purpose other than as authorized by this article shall be fined not more than \$5,000.00,  
19 imprisoned for not more than two years, or both.

20 49-5-89.3.

21 (a) Neither GCIC, the office, any law enforcement agency, nor the employees of any such  
22 entities shall be responsible for the accuracy of information nor have any liability for  
23 defamation, invasion of privacy, negligence, or any other claim in connection with any  
24 dissemination of information or determination based thereon pursuant to this article.

25 (b) A center, its director, and its employees shall have no liability for defamation, invasion  
26 of privacy, or any other claim based upon good faith action thereby pursuant to the  
27 requirements of this article.

28 49-5-89.4.

29 The requirements of this article are supplemental to any requirements for a license imposed  
30 by Article 1 of this chapter.

31 49-5-89.5.

32 A determination by the office regarding preliminary or fingerprint records checks under  
33 this article, or any action by the office revoking, suspending, or refusing to grant or renew

a license based upon such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the office. It is expressly provided that upon motion from any party, the hearing officer may, in his or her discretion, consider matters in mitigation of any conviction, provided that the hearing officer examines the circumstances of the case and makes an independent finding that no physical harm was done to a victim and also examines the character and employment history since the conviction and determines that there is no propensity for cruel behavior or behavior involving moral turpitude on the part of the person making a motion for an exception to sanctions normally imposed. If the hearing officer deems a hearing to be appropriate, he or she will also notify at least 30 days prior to such hearing the office of the prosecuting attorney who initiated the prosecution of the case in question in order to allow the prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license or employment as contemplated within this title. If objections are made, the hearing officer will take such objections into consideration in considering the case.

49-5-89.6.

The office is authorized to provide by regulation for the administration of this article."

#### SECTION 18.

Said chapter is further amended by striking Code Section 49-5-90, relating to definitions regarding emergency protection of children in certain institutions, in its entirety and inserting in lieu thereof the following:

"49-5-90.

As used in this article, the term:

(1) 'Child in care' means any person under the age of ~~17~~ 18 years who has been admitted to, is cared for, or resides in a facility.

(2) 'Commissioner' means the commissioner of human resources or his designee.

(3) 'Corrective order' means an order by the commissioner detailing the findings of the commissioner or his designee regarding violations of law or rules or regulations of the department by an institution or other conditions threatening the health and safety of residents of the institution and the changes which the commissioner has ordered.

(4) 'Department' means the Department of Human Resources.

(5) 'Director' means the director of Bright From The Start: Georgia's Office of Early Care and Education.

1 (6) 'Early care and education program' means a family day-care home, group day-care  
 2 home, day-care center, or child care learning center.

3 ~~(5)~~(7) 'Emergency order' or 'order' means a written directive by the commissioner or  
 4 director or his or her designee ordering the emergency relocation of residents, prohibiting  
 5 admissions, or placing a monitor in a facility.

6 ~~(6)~~(8) 'Guardian' means a minor's parent, legal guardian, or conservator.

7 ~~(7)~~(9) 'Facility' means a child-caring institution or child welfare agency subject to  
 8 licensure under the provisions of Article 1 of this chapter, unless specifically exempted  
 9 by the rules and regulations.

10 ~~(8)~~(10) 'Monitor' means a person, designated by the department or office, to remain  
 11 on-site in a facility or early care and education program, as an agent of the department  
 12 or office, observing conditions.

13 (11) 'Office' means Bright From The Start: Georgia's Office of Early Care and  
 14 Education.

15 ~~(9)~~(12) 'Preliminary hearing' means a hearing held by the department or office as soon  
 16 as possible after the order is entered at the request of a facility or early care and education  
 17 program which has been affected by an emergency order placing a monitor in the facility  
 18 or early care and education program, relocating residents, or prohibiting admissions in  
 19 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

## 20 SECTION 19.

21 Said chapter is further amended in Code Section 49-5-91, relating to emergency orders,  
 22 corrective orders, and monitors regarding emergency protection of children in certain  
 23 institutions, by adding after paragraph (2) of subsection (b) a new paragraph (2.1) to read as  
 24 follows:

25 "(2.1)(A) The director or his or her designee may order the emergency placement of  
 26 a monitor or monitors in an early care and education program upon a finding that rules  
 27 and regulations of the office are being violated which threaten the health, safety, or  
 28 welfare of children in care and when one or more of the following conditions are  
 29 present:

30 (i) The program is operating without a license or registration;

31 (ii) The office has denied application for license, commission, or registration or has  
 32 initiated action to revoke the existing license, commission, or registration of the  
 33 program; or

34 (iii) Children are suspected of being subjected to injury or life-threatening situations  
 35 or the health or safety of the child or children is in danger.

(B) A monitor may be placed in a program for no more than ten consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the office. Upon expiration of the ten-day period, should the conditions warrant, the initial ten-day period may be extended for an additional ten-day period. The monitor shall report to the office. The monitor shall not assume any administrative responsibility within the program, nor shall the monitor be liable for any actions of the program. The salary and related costs and travel and subsistence allowance as defined by office policy of placing a monitor in a program shall be reimbursed to the office by the program, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the cost shall be paid by the office."

## SECTION 20.

Said chapter is further amended by striking Article 11, relating to the Georgia Child Care Council, in its entirety and inserting in lieu thereof the following:

## "ARTICLE 11

49-5-240.

As used in this article, the term:

(1) 'Council' means the Georgia Child Care Council created pursuant to Code Section 49-5-241.

(2) 'Director' means the director of Bright From The Start: Georgia's Office of Early Care and Education.

~~(2)~~(3) 'Federal act' means the Child Care and Development Block Grant Act of 1990, pursuant to amendments to Chapter 8 of subtitle A of Title IV of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

(4) 'Lead agency' means the Department of Human Resources or any state agency designated by the Governor pursuant to the federal act and applicable regulations.

(5) 'Office' means Bright From The Start: Georgia's Office of Early Care and Education.

49-5-241.

(a) There is created the Georgia Child Care Council which shall consist of 19 members. Thirteen of those members shall be voting members appointed by the Governor and confirmed by the Senate, and two shall be voting members appointed as provided in paragraph (10) of this subsection. The 15 voting members shall be appointed as follows:

(1) Two members shall be representatives of local or state chambers of commerce;

(2) One member shall be a representative of the licensed or commissioned for profit child care businesses in the state;

(3) One member shall be a representative of the licensed or commissioned not for profit child care businesses in the state;

(4) Four members shall be consumers of child care services or persons whose children are regularly placed in child care but who have no other business connection with any child care facility or business and at least one of them shall represent the interests of children with special needs and one shall represent the interests of school age children;

(5) One member shall represent registered family day-care homes, as defined in Code Section 49-5-3;

(6) One member shall represent licensed or commissioned church or synagogue day-care centers;

(7) One member shall be an expert or have special academic or research responsibilities in early childhood development;

(8) One member shall represent a child care resource and referral agency;

(9) One member shall represent a Head Start organization; and

(10) Two members shall represent the general public and shall be appointed by the President of the Senate and the Speaker of the House of Representatives.

At the expiration of the original three-year terms of office of members of the council, successors to such members shall be appointed as follows: six of the members appointed by the Governor shall serve for initial terms of one year and seven of such Governor appointed members shall serve for initial terms of three years; thereafter all members appointed by the Governor shall serve for terms of three years. Successors to those members appointed by the Speaker of the House of Representatives and the President of the Senate shall each serve for terms of three years. The remaining four nonvoting members shall be the State School Superintendent, the Commissioner of Labor, the commissioner of human resources, and the commissioner of industry, trade, and tourism, or the designee of the State School Superintendent, the Commissioner of Labor, the commissioner of human resources, and the commissioner of industry, trade, and tourism, all of whom shall be ex officio members.

(b) The ex officio members of the council shall serve while holding their state offices. ~~The original appointive members shall serve for a term which expires June 30, 1994, and their successors shall be appointed as provided in subsection (a) of this Code section.~~

(c) Vacancies in the office of any appointive member of the council shall be filled for the remainder of the unexpired term by appointment by the Governor in the same manner as the appointment to the position on the council which becomes vacant, and the appointment

shall be submitted to the Senate for confirmation at the next regular session of the General Assembly.

(d) The Governor may remove any appointive member of the council for failure to attend meetings, neglect of duty, or incompetence.

(e) Any appointive member of the council who, during such person's term of office, ceases to meet the qualifications for the original appointment or does not attend three or more successive meetings of the council shall forfeit such person's membership on the council.

(f) Each member of the council shall take an oath of office before the Governor that he or she will faithfully perform the duties of office.

49-5-242.

(a) The Governor shall annually appoint a ~~chairman~~ chairperson and vice ~~chairman~~ chairperson of the council to serve for one-year terms.

(b) The council shall hold regular meetings at least once every calendar quarter and may not hold more than six regular or special meetings during any calendar year. A special meeting may be called by the ~~chairman~~ chairperson or a majority of the members of the council. The council shall meet at such times and at such designated places in the state as it may determine. In addition to the notice of meetings required under Chapter 14 of Title 50, the council shall also provide written notice to the director no later than 24 hours prior to the meeting.

(c) Nine members of the council shall constitute a quorum.

(d) The appointive members of the council shall receive the same allowances authorized for legislative members of interim legislative committees for each day of actual attendance at official meetings of the council. Ex officio members of the council shall receive no additional compensation for their services on the council but shall be reimbursed for expenses incurred by them in their performance of their duties as members of the council in the same manner as state employees are reimbursed for expenses.

49-5-243.

~~There shall be a director of the council who shall be both appointed and removed by the council subject to approval by the Governor. Subject to the general policy established by the council, the director shall supervise, direct, account for, organize, plan, administer, and execute the functions of the council. The council shall be attached to the Department of Human Resources for administrative purposes only, as provided in Code Section 50-4-3. Costs incurred by the council shall be funded by moneys available under the federal act. The council shall advise and make recommendations to the director on the following:~~

(1) Policy matters relating to early care and education programs;

(2) Planning and coordination of child care programs at the state and local levels;

(3) Measures to improve the quality, availability, and affordability of child care in this state;

(4) Issues relating to the annual Georgia report on child care; and

(5) General policy matters relating to functions performed or services provided by the office.

49-5-244.

~~(a) The council shall recommend measures to improve the quality, availability, and affordability of child care in this state. In addition, the council lead agency shall:~~

(1) Provide to the office, under contract, an amount not less than the minimum percentage of the grant to the State of Georgia under the federal act, which must be expended for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality, availability, and affordability of child care. In addition to this minimum percentage, the lead agency must also provide the amount of any additional funds, which exist on the effective date of this subsection or which may exist in the future, which are required to be spent on child care quality activities, including school-aged child care;

~~(1)(2) In conjunction with the office, provide~~ Provide a mechanism for the planning and coordination of child care programs at the state and local levels;

(3) Recommend to the office measures to improve the quality, availability, and affordability of child care in this state;

~~(2)(4) In conjunction with the office, inventory~~ Inventory and monitor the disbursement and make recommendations as to the coordination of the disbursement of all state and federal funding streams that impact the supply, quality, and affordability of child care;

~~(3)(5) In conjunction with the office, develop~~ Develop an annual Georgia child care plan which includes all identified revenue sources and, at a minimum, the requirements indicated in the federal act;

~~(4)(6) Hold a public hearing with sufficient time and state-wide publication of the notice of such hearing to provide the public with an opportunity to comment on the provision of child care services under the annual Georgia child care plan, as required by the federal act; Develop an annual Georgia report on child care, reporting child care statistics, an evaluation of the state planning process, and~~

(7) Develop reports that meet, at a minimum, meeting the reporting requirements of the federal act;

~~(5) Hold at least one annual public hearing on child care needs;~~



~~(6) Serve as the state clearing-house for information on child care resources and statistics;~~

~~(7) Provide child care information to corporations and business seeking to locate in Georgia;~~

~~(8) Promote public-private sector collaboration for child care;~~

~~(9)~~ (8) In conjunction with the office, recommend Recommend to the Governor and to the General Assembly policies, legislation, and funding that will promote the work of the council lead agency and office and the realization of the Georgia child care plan to promote quality, affordable, and accessible child care for Georgia's children; and

~~(10)~~ (9) Develop a plan for application and distribution, including any necessary requests for proposals, in accordance with the Georgia child care plan, for federal block grant funds available to Georgia under the federal act;

~~(11) Promote consumer education to parents to help them select child care including the expansion of child care resource and referral agencies; and~~

~~(12) Monitor, review, and recommend improvements to child care licensing requirements.~~

(b) The office shall:

(1) In conjunction with the lead agency, provide a mechanism for the planning and coordination of child care programs at the state and local levels;

(2) Plan and implement activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, activities designed to improve the quality, availability, and affordability of child care, and other activities which meet the requirements of the federal act;

(3) Recommend to the lead agency measures to improve the quality, availability, and affordability of child care in this state;

(4) In conjunction with the lead agency, inventory and monitor the disbursement and make recommendations as to the coordination of the disbursement of all state and federal funding streams that impact the supply, quality, and affordability of child care funds expended by the office;

(5) Develop an annual Georgia report on child care, reporting child care statistics, and, in conjunction with the lead agency, an evaluation of the state planning process related to quality initiatives;

(6) Serve as the state clearing-house for information on child care resources and statistics by working with the child care resource and referral agencies;

(7) Provide child care information to corporations and businesses seeking to locate in Georgia;

(8) Promote public-private sector collaboration for child care;

(9) Recommend to the Governor and to the General Assembly policies, legislation, and funding that will promote the work of the office and the realization of the Georgia child care plan and to promote quality, affordable, and accessible child care for Georgia's children;

(10) Promote consumer education to parents to help them select child care, including the expansion of child care resource and referral agencies; and

(11) Develop a plan for application and distribution, including any necessary requests for proposals, in accordance with the Georgia child care plan, for federal block grant funds available to Georgia under the federal act."

## **SECTION 21.**

The Official Code of Georgia Annotated is amended by striking from the following Code sections the name "Office of School Readiness" wherever the same shall occur and inserting in lieu thereof the name "Bright From The Start: Georgia's Office of Early Care and Education":

(1) Code Section 20-2-320, relating to the Education Information Steering Committee and identification of data to implement the Quality Basic Education Program;

(2) Code Section 20-14-3, relating to membership, officers, and meetings of the Education Coordinating Council;

(3) Code Section 20-14-8, relating to general powers and duties of the Education Coordinating Council;

(4) Code Section 20-14-27, relating to required reports of the Office of Education Accountability;

(5) Code Section 20-14-60, relating to performance based accountability assessment program for pre-kindergarten; and

(6) Code Section 49-5-41, relating to persons and agencies permitted access to child abuse and deprivation records.

## **SECTION 22.**

The Official Code of Georgia Annotated is amended by striking from the following Code sections the reference to "Code Section 49-5-12" wherever the same shall occur and inserting in lieu thereof the reference to "Code Section 49-5-3":

(1) Code Section 19-7-5, relating to reporting of child abuse; and

(2) Code Section 31-22-9.1, relating to who may perform HIV tests.

## **SECTION 23.**

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