

House Bill 50 (AS PASSED HOUSE AND SENATE)

By: Representative Teilhet of the 40th

A BILL TO BE ENTITLED
AN ACT

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

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the
11 Georgia Crime Information Center, is amended by adding a new Code Section 35-3-35.1 to
12 read as follows:

13 "35-3-35.1.

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

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

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

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

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

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

- 1 (5) 'NCPA' means the 'National Child Protection Act of 1993,' 42 U.S.C. Sections 3759,
2 5101 note, 5119, 5119(a) to 5119(c).
- 3 (6) 'ORI' means an originating agency identifier.
- 4 (7) 'Provider' means:
- 5 (A) A person who:
- 6 (i) Is employed by or volunteers with a qualified entity;
- 7 (ii) Owns or operates a qualified entity; or
- 8 (iii) Has or may have unsupervised access to a person to whom the qualified entity
9 provides care; and
- 10 (B) A person who:
- 11 (i) Seeks to be employed by or volunteer with a qualified entity;
- 12 (ii) Seeks to own or operate a qualified entity; or
- 13 (iii) Seeks to have or may have unsupervised access to a person to whom the
14 qualified entity provides care.
- 15 (8) 'Qualified entity' means a business or organization, whether public, private, for profit,
16 not for profit, or voluntary, that provides care or care placement services, including a
17 business or organization that licenses or certifies others to provide care or care placement
18 services.
- 19 (9) 'VCA' means the 'Volunteers for Children Act,' 42 U.S.C. Sections 5101 note,
20 5119(a) and 5119(b).
- 21 (c) An authorized agency is responsible for the designation of qualified entities within its
22 local jurisdiction and for the submission of national criminal history background checks
23 as authorized under the NCPA and the VCA.
- 24 (d) An authorized agency, other than a criminal justice agency as defined in Code Section
25 35-3-30, must request an ORI from the FBI for the express purpose of submitting national
26 criminal history background checks under this Code section. Requests shall be made in
27 writing to the FBI through the center.
- 28 (e) National criminal history background checks shall be submitted directly to the center
29 for a state records check; fingerprint cards shall then be forwarded to the FBI for a national
30 check. The responses from both the state and national criminal history background checks
31 shall be returned to the authorized agency.
- 32 (f) The authorized agency may provide directly to the qualified entity the state criminal
33 history record provided as part of the national criminal history background check.
- 34 (g) An authorized agency shall be responsible for review of the national criminal history
35 record provided as part of the national criminal history background check to determine
36 whether the provider has been convicted of or is under indictment for a crime that bears
37 upon the provider's fitness to have responsibility for the safety and well-being of children,

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

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

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

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

11 **SECTION 2.**

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

14 **SECTION 3.**

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