

House Bill 70

By: Representatives Jerguson of the 22nd, Barnard of the 166th, Dempsey of the 13th, Pruett of the 144th, and Glanton of the 76th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early
2 care and learning, so as to require certain employees to have state and national fingerprint
3 records checks prior to employment; to revise certain definitions; to change certain
4 provisions relating to records check requirements for applicants and notification to such
5 applicants; to change certain provisions relating to requirements of individuals residing in
6 family day-care homes; to remove preliminary records checks of employees and require state
7 and national fingerprint determinations, except in limited circumstances; to provide that
8 directors convicted of certain criminal acts lose the ability to serve as directors; to provide
9 for criminal background checks for current directors, employees, and certain other persons;
10 to provide for related matters; to provide for an effective date and applicability; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and
15 learning, is amended by revising Article 2, relating to background checks, as follows:

16 style="text-align:center">"ARTICLE 2

17 20-1A-30.

18 As used in this article, the term:

- 19 (1) 'Center' means a day-care center, group day-care home, family day-care home, or
20 child care learning center which is required to be licensed or registered under Article 1
21 of this chapter.
- 22 (2) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of
23 whether an appeal of the conviction has been sought.

- 24 (3) 'Crime' means:
- 25 (A) Any any felony;
- 26 (B) A a violation of Code Section 16-5-23, relating to simple battery, when the victim
27 is a minor;
- 28 (C) A a violation of Code Section 16-12-1, relating to contributing to the delinquency
29 of a minor;
- 30 (D) A a violation of Chapter 6 of Title 16, relating to sexual offenses;
- 31 (E) A a violation of Code Section 16-4-1, relating to criminal attempt when the crime
32 attempted is any of the crimes specified by this paragraph; or
- 33 (F) Any any other offenses committed in another jurisdiction which, if committed in
34 this state, would be one of the enumerated crimes listed in this paragraph.
- 35 (4) 'Criminal record' means:
- 36 (A) Conviction of a crime;
- 37 (B) Arrest, charge, and sentencing for a crime where:
- 38 (i) A plea of nolo contendere was entered to the charge;
- 39 (ii) First offender treatment without adjudication of guilt pursuant to the charge was
40 granted; provided, however, that this division shall not apply to a violation of Chapter
41 13 of Title 16, relating to controlled substances, or any other offense committed in
42 another jurisdiction which, if it were committed in this state, would be a violation of
43 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;
44 or
- 45 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
46 provided, however, that this division shall not apply to a violation of Chapter 13 of
47 Title 16, relating to controlled substances, or any other offense committed in another
48 jurisdiction which, if it were committed in this state, would be a violation of Chapter
49 13 of Title 16 if such violation or offense constituted only simple possession; or
- 50 (C) Arrest and being charged for a crime if the charge is pending, unless the time for
51 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 52 (5) 'Director' means the ~~chief administrative or executive officer of~~ on-site manager of
53 a facility who is responsible for hiring employees.
- 54 (6) 'Emergency temporary employee' means an employee other than a director whose
55 duties involve personal contact between that person and any child being cared for at the
56 facility and who is hired on an expedited basis to avoid noncompliance with staffing
57 standards for centers required by law, rule, or regulation.
- 58 (7) 'Employee' means any person, other than a director, employed by a center to perform
59 at any of the center's facilities any duties which involve personal contact between that
60 person and any child being cared for at the facility and also includes any adult person

61 who resides at the facility or who, with or without compensation, performs duties for the
 62 center which involve personal contact between that person and any child being cared for
 63 by the center.

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

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

67 ~~(10) 'Fingerprint records check determination' means a satisfactory or unsatisfactory~~
 68 ~~determination by the department based upon a records check comparison of GCIC~~
 69 ~~information with fingerprints and other information in a records check application.~~

70 (10) 'Fingerprint' means an inked fingerprint card or an electronic image of a person's
 71 fingerprint.

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

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

76 (13) 'License' means the document issued by the department to authorize the center to
 77 which it is issued to operate a facility.

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

82 ~~(15) 'Preliminary records check application' means an application for a preliminary~~
 83 ~~records check determination on forms provided by the department.~~

84 (15) 'NCIC' means the National Crime Information Center.

85 (16) 'NCIC information' means criminal history record information, as defined in Code
 86 Section 35-3-30, from the Federal Bureau of Investigation.

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

91 ~~(17)~~(18) 'Records check application' means two sets of classifiable fingerprints, a records
 92 search fee to be established by the board by rule and regulation, payable in such form as
 93 the department may direct to cover the cost of a state fingerprint records check
 94 determination and national fingerprint records check determination under this article, and
 95 an affidavit by the applicant disclosing the nature and date of any arrest, charge, or
 96 conviction of such applicant for the violation of any law, except for motor vehicle

97 parking violations, whether or not the violation occurred in this state, and such additional
98 information as the department may require.

99 ~~(18)~~(19) 'Satisfactory determination' means a written determination that a person for
100 whom a records check was performed was found to have no criminal record.

101 ~~(19)~~(20) 'State fingerprint records check determination' means a ~~satisfactory or~~
102 ~~unsatisfactory~~ determination by the department in accordance with applicable ~~law~~ laws
103 based upon a records check comparison of GCIC information with fingerprints and other
104 information in a records check application.

105 ~~(20)~~(21) 'Unsatisfactory determination' means a written determination that a person for
106 whom a records check was performed has a criminal record.

107 20-1A-31.

108 (a) Each center shall be required to obtain a separate license for each facility and shall
109 have a separate director for each facility.

110 (b) An applicant for a new license shall apply for a separate license for each new facility
111 in this state owned or operated by that applicant and shall have a separate director for each
112 such facility.

113 20-1A-32.

114 Accompanying any application for a new license for a facility, the applicant shall furnish
115 to the department a records check application for the director and ~~a satisfactory preliminary~~
116 ~~records check~~ for each employee of such facility. In lieu of such records check
117 applications, the applicant may submit evidence, satisfactory to the department, that within
118 the immediately preceding 12 months, the director or any employee received a satisfactory
119 state fingerprint records check determination and national fingerprint records check
120 ~~determinations and each employee received a satisfactory preliminary records check~~
121 ~~determination, or that any employee other than the director whose preliminary records~~
122 ~~check application revealed a criminal record of any kind has either subsequently received~~
123 a satisfactory state fingerprint records check determination and national fingerprint records
124 ~~check determinations~~ determination or has had the unsatisfactory determination reversed
125 in accordance with Code Section 20-1A-43. The department may either perform
126 ~~preliminary records~~ criminal background checks under agreement with GCIC or contract
127 with GCIC and appropriate law enforcement agencies which have access to NCIC
128 information and GCIC information to have those agencies perform for the department a
129 ~~preliminary records~~ criminal background check for each ~~preliminary records check~~
130 ~~application~~ director, employee, or adult living in a family day-care center submitted thereto

131 by the department. Either the department or the appropriate law enforcement agencies may
132 charge reasonable fees for performing ~~preliminary records~~ criminal background checks.

133 20-1A-33.

134 After being furnished the required records check application under Code Section 20-1A-32,
135 the department shall notify ~~in writing~~ the license applicant in writing as to each person for
136 whom ~~an~~ a records check application was received regarding whether the department's
137 determination as to that person's state fingerprint records check determination was
138 satisfactory or unsatisfactory. If the ~~preliminary records check determination~~ was
139 ~~satisfactory as to each employee of an applicant's facility and the state fingerprint records~~
140 ~~check determination~~ was satisfactory as to the director and each employee, that applicant
141 may be issued a license for that facility if ~~the~~ such applicant otherwise qualifies for a
142 license under Article 1 of this chapter. If the state ~~or~~ fingerprint records check
143 determination and national fingerprint records check determination was unsatisfactory as
144 to the director of an applicant's facility, ~~the~~ that applicant shall designate another director
145 for that facility after receiving notification of ~~the~~ such unsatisfactory determination and
146 proceed under Code Section 20-1A-32 and this Code section to obtain a state fingerprint
147 records check determination and national fingerprint records checks check determination
148 for that newly designated director. If the ~~preliminary records check state fingerprint~~
149 ~~records check determination and national fingerprint records check determination~~ for any
150 employee other than the director ~~revealed a criminal record of any kind was unsatisfactory~~,
151 such employee shall not be allowed to work in the center until he or she either has obtained
152 a satisfactory state fingerprint records check determination and national fingerprint records
153 ~~check determinations~~ determination or has had the unsatisfactory determination reversed
154 in accordance with Code Section 20-1A-43. If the determination was unsatisfactory as to
155 any employee of an applicant's facility, ~~the~~ that applicant shall, after receiving notification
156 of that unsatisfactory determination, take such steps as are necessary so that such person
157 is no longer an employee. ~~Any employee other than the director who receives a~~
158 ~~satisfactory preliminary records check shall not be required to obtain a fingerprint records~~
159 ~~check unless such an employee has been designated as a director or as permitted by the~~
160 ~~provisions of subsection (c) of Code Section 20-1A-39.~~

161 20-1A-34.

162 The department shall transmit to GCIC both sets of fingerprints and the records search fee
163 from each fingerprint records check application. Upon receipt thereof, GCIC shall
164 promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search
165 of bureau records and an appropriate report and shall retain the other set and promptly

166 conduct a search of its records and records to which it has access. Within ten days after
 167 receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the
 168 department in writing of any derogatory finding, including, but not limited to, any criminal
 169 record, of the state fingerprint records check determination or if there is no such finding.
 170 After a search of Federal Bureau of Investigation records and fingerprints and upon receipt
 171 of the bureau's report, the department shall make a national fingerprint records
 172 determination within ten business days of receiving such report.

173 20-1A-35.

174 (a) After receiving a Federal Bureau of Investigation report regarding a national fingerprint
 175 records check ~~under Code Section 20-1A-34~~ determination, the department shall make a
 176 determination based thereon and notify ~~in writing~~ the license applicant in writing as to
 177 whether ~~that~~ the national fingerprint records check determination was satisfactory or
 178 unsatisfactory. If the national fingerprint records check determination was unsatisfactory
 179 as to the director of an applicant's facility, after receiving notification of that unsatisfactory
 180 determination, that applicant shall designate another director for such facility for which
 181 director the applicant has not received or made an unsatisfactory preliminary records check
 182 determination or state fingerprint records check determination and national fingerprint
 183 records check determination and proceed under the requirements of Code Sections
 184 20-1A-32 through 20-1A-34 and this Code section to obtain a state fingerprint records
 185 check determination and national fingerprint records check ~~determinations~~ determination
 186 for ~~the~~ such newly designated director. The director and any employee may begin working
 187 upon the receipt of a satisfactory state fingerprint records check determination ~~pending the~~
 188 ~~receipt of the~~ and national fingerprint records check determination from the department.
 189 (b) The department ~~may~~ shall revoke the license of ~~that~~ any facility if ~~the facility~~ it fails
 190 to comply with the requirements of this Code section and Code Section 20-1A-33 to
 191 receive a satisfactory state fingerprint records check determination and national fingerprint
 192 ~~determinations~~ records check determination on the director ~~or to comply with Code Section~~
 193 ~~20-1A-33 regarding~~ and all employees ~~other than the~~ director.

194 20-1A-36.

195 No facility operated as an early care and education program or similar facility or any
 196 operator of such a facility shall employ any person who has been convicted of or who has
 197 entered a plea of guilty or nolo contendere to any offense specified in Code Section
 198 16-12-1.1 or allow any such person to reside at or be domiciled at such facility in violation
 199 of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the
 200 license, commission, or registration of any such facility violating the provisions of this

201 Code section. The powers and duties set forth in this Code section are cumulative and not
202 intended to limit the powers and duties set forth throughout this article.

203 20-1A-37.

204 ~~(a) Notwithstanding any other provision of this article, an Any individual who is 18 years
205 of age or older who resides in a family day-care home, ~~as defined by Code Section~~
206 ~~20-1A-2~~, shall ~~not~~ be required to provide fingerprints for routine fingerprints records
207 checks if the operator of the family day-care home provides the department with an
208 affidavit stating that such individual is not present in the home at the same time as the
209 children who are received for pay for supervision and care. ~~However, all persons residing~~
210 ~~in a family day-care home are required to obtain satisfactory preliminary records checks~~
211 ~~and submit them to the department a records check application. Such individual's~~
212 ~~fingerprints shall be submitted for a state fingerprint records check determination and~~
213 ~~national fingerprint records check determination. Such individual may reside at the family~~
214 ~~day-care home upon receipt of a satisfactory state fingerprint records check determination~~
215 ~~pending the receipt of the national fingerprint records check determination from the~~
216 ~~department. If the state fingerprint records check determination is unsatisfactory, the~~
217 ~~department shall notify the operator of the family day-care home, and such individual shall~~
218 ~~not be allowed to reside at the family day-care home until such individual has obtained a~~
219 ~~satisfactory state fingerprint records check determination and national fingerprint records~~
220 ~~check determination or has had the unsatisfactory determination reversed in accordance~~
221 ~~with Code Section 20-1A-43. The department shall revoke the license of a family day-care~~
222 ~~home if such home fails to comply with the requirements of this Code section.~~~~

223 ~~(b) As an alternative to the requirements set out in this article pertaining to obtaining~~
224 ~~preliminary criminal records check determinations through the department for employees~~
225 ~~of centers and adults residing in a family day-care home, but not including directors of~~
226 ~~centers, centers may obtain GCIC information through local law enforcement agencies. The~~
227 ~~center shall be responsible for reviewing the GCIC information obtained for the potential~~
228 ~~employee or adult residing in the family day-care home and making a written determination~~
229 ~~that the individual does not have a criminal record as defined in this article. This written~~
230 ~~determination, together with all supporting documentation received from any law~~
231 ~~enforcement agency, must be maintained in the center's file and available for inspection by~~
232 ~~the department. This satisfactory determination must be made before the employee begins~~
233 ~~any duties for the center.~~

234 20-1A-37.1.

235 ~~(a) Where~~ However, where there is an urgent need for an emergency temporary employee
 236 to work at a center's facility in order to avoid immediate noncompliance with staffing
 237 requirements, such center may utilize the employee applicant as an emergency temporary
 238 employee after applying for the preliminary records check determination through the local
 239 law enforcement agency ~~and completing the affidavit~~. In such emergency situations, the
 240 director of the center ~~must~~ shall complete an affidavit, with all supporting documentation
 241 attached thereto, stating that the GCIC information has been requested through an
 242 identified local law enforcement agency and that the results were not immediately available
 243 to the center prior to assigning the employee to work with children at the center's facility
 244 in order to avoid immediate noncompliance with staffing ratios. The affidavit with
 245 supporting documentation ~~must~~ shall be maintained in the center's file on the individual and
 246 shall be available to the department for inspection. The director shall review the GCIC
 247 information upon receipt, but in no case shall an emergency temporary employee be
 248 permitted to continue working for more than ~~three~~ ten days without having a satisfactory
 249 state fingerprint records check determination ~~made by the director~~ and national fingerprint
 250 records check determination made and entered into the center's file on the employee with
 251 all supporting documentation. The department shall promulgate rules and regulations
 252 limiting the extent to which centers are authorized to use emergency temporary employees
 253 in accordance with this subsection.

254 (b) Employees, emergency temporary employees, and other adults required to have records
 255 ~~checks~~ check applications who are utilized by centers ~~are~~ shall be subject to all other
 256 requirements set forth in this article. Where the department has reason to question the
 257 validity of the NCIC information or GCIC information or the satisfactory determination
 258 ~~made by the center~~, the department may require the employee, emergency temporary
 259 employee, or other adult to submit a ~~preliminary criminal~~ records check application
 260 through the department together with appropriate fees.

261 20-1A-38.

262 (a) If the director of a facility which has been issued a license ceases to be the director of
 263 that facility, the licensee shall thereupon designate a new director. After such change, the
 264 licensee of that facility shall notify the department of such change and of any additional
 265 information the department may require regarding the newly designated director of that
 266 facility. Such information shall include, but not be limited to, any information the licensee
 267 may have regarding preliminary records check determinations or ~~any~~ state fingerprint
 268 records check determinations and national fingerprint records check determinations
 269 regarding that director. After receiving a change of director notification, the department

270 shall make a written determination from the information furnished with such notification
271 and the department's own records as to whether satisfactory or unsatisfactory preliminary
272 records check determinations or state fingerprint records check determinations and national
273 fingerprint records check determinations have ever been made for the newly designated
274 director. If the department determines that such director within 12 months prior thereto has
275 had satisfactory state fingerprint records check determinations and national fingerprint
276 records check determinations, such determinations shall be deemed to be satisfactory state
277 fingerprint records check determinations and national fingerprint records check
278 determinations as to that director. The license of that facility shall not be adversely
279 affected by that change in director, and the licensee shall be so notified.

280 (b) If the department determines under subsection (a) of this Code section that there has
281 ever been an unsatisfactory preliminary records check determination or state fingerprint
282 records check determination or national fingerprint records check determination of the
283 newly designated director which has not been legally reversed, the center and that director
284 shall be so notified. The license for that director's facility shall be indefinitely suspended
285 or revoked unless the center designates another director for whom it has not received or
286 made an unsatisfactory preliminary records check determination or state fingerprint records
287 check determination or national fingerprint records check determination and proceeds
288 pursuant to the provisions of this Code section relating to a change of director.

289 (c) If the department determines under subsection (a) of this Code section that there have
290 been no state fingerprint records check determinations and national fingerprint records
291 check determinations regarding the newly designated director within the immediately
292 preceding 12 months, the department shall so notify the center. The center shall furnish
293 to the department the fingerprint records check application of the newly designated director
294 after the date the notification is sent by the department, or the license of that facility shall
295 be indefinitely suspended or revoked. If that fingerprint records check application is so
296 received, unless the department has within the immediately preceding 12 months made a
297 satisfactory state fingerprint records check determination regarding the newly designated
298 director, the department shall perform a state fingerprint records check determination of
299 the newly designated director, and the applicant and that director shall be so notified. If
300 that determination is unsatisfactory, the provisions of subsection (b) of this Code section
301 regarding procedures after notification shall apply. If that determination is satisfactory, the
302 department shall perform a national fingerprint records check determination for that
303 director as provided in Code Sections Section 20-1A-34 and subsection (a) of Code Section
304 20-1A-35. The director may begin working upon the receipt of a satisfactory state
305 fingerprint records check determination pending the receipt of the national fingerprint
306 records check determination from the department. If that determination is satisfactory, the

307 center and director for whom the determination was made shall be so notified after the
 308 department makes its determination, and the license for the facility at which that person is
 309 the newly designated director shall not be adversely affected by that change of director.
 310 If that determination is unsatisfactory, the provisions of subsection (b) of this Code section
 311 shall apply.

312 20-1A-39.

313 (a) Before a person may become an employee other than a director of any center after that
 314 center has received a license, that center shall require that person to obtain a satisfactory
 315 ~~preliminary records check~~ state fingerprint records check determination pending the receipt
 316 of the national fingerprint records check determination. The center shall maintain
 317 documentation in the employee's personnel file, ~~which is~~ available to the department upon
 318 request, which reflects that a satisfactory ~~preliminary criminal~~ state fingerprint records
 319 check determination was received before the employee ~~began~~ begins working with
 320 children. If the ~~preliminary~~ state fingerprint records check determination for any potential
 321 employee other than the director ~~reveals a criminal record of any kind is unsatisfactory,~~
 322 such potential employee shall not be allowed to begin working until either such potential
 323 employee has obtained a satisfactory state fingerprint records check determination and
 324 national fingerprint records check determinations determination or has had the
 325 unsatisfactory ~~preliminary or state fingerprint records check determination or national~~
 326 fingerprint records check determination reversed in accordance with Code Section
 327 20-1A-43. If either the preliminary or the state fingerprint records check determination or
 328 national fingerprint records determination is unsatisfactory, the center shall, after receiving
 329 notification of the such unsatisfactory determination, take such steps as are necessary so
 330 that such person is no longer an employee. Any potential employee other than the director
 331 who receives a satisfactory preliminary records check determination shall not be required
 332 to obtain a fingerprint records check determination except as permitted in accordance with
 333 subsection (c) of this Code section.

334 (b) A license is shall be subject to suspension or revocation, and the department ~~may~~ shall
 335 refuse to issue a license if a director or employee does not undergo the records ~~and~~
 336 ~~fingerprint checks~~ check application applicable to that director or employee and receive
 337 satisfactory determinations.

338 (c) After the issuance of a license, the department may require a state fingerprint records
 339 check determination and a national fingerprint records determination on any director or
 340 employee to confirm identification for records search purposes, when the department has
 341 reason to believe the director or employee has a criminal record that renders the director

342 or employee ineligible to have contact with children in the center, or during the course of
 343 a child abuse investigation involving the director or employee.

344 (d) No center ~~may~~ shall hire any person as an employee unless there is on file in the center
 345 an employment history and a satisfactory ~~preliminary state fingerprint~~ records check
 346 determination and national fingerprint records check determination or, if the ~~preliminary~~
 347 state fingerprint records check determination ~~revealed a criminal record of any kind and~~
 348 national fingerprint records check determination was unsatisfactory as to such person,
 349 ~~either satisfactory state and satisfactory national records check determinations for that~~
 350 ~~person or~~ proof that an such unsatisfactory determination has been reversed in accordance
 351 with Code Section 20-1A-43.

352 (e) A director of a facility having an employee whom that director knows ~~or should~~
 353 ~~reasonably know~~ to have a criminal record that renders the employee ineligible to have
 354 contact with children in the center shall be guilty of a misdemeanor. If a director is
 355 convicted, including a plea of nolo contendere, pursuant to this subsection, such director
 356 shall not be eligible to remain as or become a director subsequent to such conviction.

357 20-1A-39.1.

358 On or before June 30, 2010, the department shall perform a criminal background check for
 359 each person who, as of June 30, 2009, was a director of, employee of, or adult living in a
 360 family day-care center requiring a satisfactory state fingerprint records check determination
 361 and national fingerprint records check determination, the same as required under this article
 362 for new directors, employees, or adults living in a family day-care center on and after July
 363 1, 2009, unless such person is no longer a director of, employee of, or adult living in a
 364 family day-care center at the time a criminal background check would otherwise be
 365 performed under this Code section. If any such person has an unsatisfactory state
 366 fingerprint records check determination or national fingerprint records check
 367 determination, such person shall follow the procedure set forth in Code Section 20-1A-43.

368 20-1A-40.

369 (a) GCIC and law enforcement agencies which have access to GCIC information shall
 370 cooperate with the department in performing preliminary records check determinations, and
 371 GCIC and law enforcement agencies which have access to NCIC information or GCIC
 372 information shall cooperate with the department in performing state fingerprint records
 373 checks check determinations and national fingerprint records check determinations required
 374 under this article and shall provide such information so required for such records checks
 375 notwithstanding any other law to the contrary and may charge reasonable fees therefor.

376 (b) Any person who knowingly and under false pretenses requests, obtains, or attempts to
377 obtain NCIC information or GCIC information otherwise authorized to be obtained
378 pursuant to this article, or who knowingly communicates or attempts to communicate such
379 information obtained pursuant to this article to any person or entity except in accordance
380 with this article, or who knowingly uses or attempts to use such information obtained
381 pursuant to this article for any purpose other than as authorized by this article shall be fined
382 not more than \$5,000.00, imprisoned for not more than two years, or both.

383 20-1A-41.

384 (a) Neither GCIC, NCIC, the department, any law enforcement agency, nor the employees
385 of any such entities shall be responsible for the accuracy of information nor have any
386 liability for defamation, invasion of privacy, negligence, or any other claim in connection
387 with any dissemination of information or determination based thereon pursuant to this
388 article.

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

392 20-1A-42.

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

395 20-1A-43.

396 A determination by the department regarding preliminary records check determinations or
397 state fingerprint records check determinations or national fingerprint records ~~checks~~ check
398 determinations under this article, or any action by the department revoking, suspending,
399 or refusing to grant or renew a license based upon such determination, shall constitute a
400 contested case for purposes of Chapter 13 of Title 50, the 'Georgia Administrative
401 Procedure Act,' except that any hearing required to be held pursuant thereto may be held
402 reasonably expeditiously after such determination or action by the department. It is
403 expressly provided that upon motion from any party, the hearing officer may, in his or her
404 discretion, consider matters in mitigation of any conviction, provided that the hearing
405 officer examines the circumstances of the case and makes an independent finding that no
406 physical harm was done to a victim and also examines the character and employment
407 history since the conviction and determines that there is no propensity for cruel behavior
408 or behavior involving moral turpitude on the part of the person making a motion for an
409 exception to sanctions normally imposed. If the hearing officer deems a hearing to be

410 appropriate, he or she will also notify at least 30 days prior to such hearing the office of the
411 prosecuting attorney who initiated the prosecution of the case in question in order to allow
412 ~~the~~ such prosecutor to object to a possible determination that ~~the~~ such conviction would not
413 be a bar for the grant or continuation of a license or employment as contemplated within
414 this chapter. If objections are made, the hearing officer ~~will~~ shall take such objections into
415 consideration in considering the case.

416 20-1A-44.

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

418 **SECTION 2.**

419 This Act shall become effective on July 1, 2009, and, except as provided in Code Section
420 20-1A-39.1 as enacted by this Act, shall apply to any director or employee hired on or after
421 such date and to any applicable adult newly residing in a family day-care center on or after
422 such date.

423 **SECTION 3.**

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