

House Bill 478

By: Representatives Abdul-Salaam of the 74th, Brooks of the 63rd, Beasley-Teague of the 65th, Fludd of the 66th, Williams of the 89th, and others

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 provide that the criminal record
3 of a person convicted of a misdemeanor or a nonviolent felony who has been released from
4 custody for a period of two years without a further conviction shall be restricted from public
5 disclosure; to provide for notification to local agencies; to provide for action to enforce such
6 restriction; to provide that a person whose criminal record is restricted shall not be obligated
7 to reveal such prior criminal information; 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 to read as
12 follows:

13 "35-3-37.1

14 (a) Access to the criminal record history information of an individual convicted of a
15 misdemeanor or a felony other than a serious violent felony, as such term is defined in
16 Code Section 17-10-6.1, and who has been released from custody for a period of two years
17 with no further misdemeanor or felony conviction shall be restricted, including criminal
18 history record information from county or municipal jails and detention centers and any
19 fingerprints or photographs of such individual.

20 (b) The center shall notify the arresting law enforcement agency, any other appropriate law
21 enforcement agency, and the clerk of court's office of any criminal history record
22 information to which access has been restricted pursuant to this Code section within 30
23 days of the date access to such information is restricted. Upon receipt of notice from the
24 center that access to information has been restricted, the arresting law enforcement agency,
25 any other law enforcement agency, and the clerk of court's office, including county and
26 municipal jails and detention centers, shall, within 30 days, restrict access to all such

27 information maintained by such entities for such individual's offense. Records for which
28 access is restricted pursuant to this subsection shall be made available only to criminal
29 justice officials upon written application for official judicial law enforcement or criminal
30 investigative purposes.

31 (c) If the arresting law enforcement agency, other law enforcement agency, or clerk of
32 court's office declines to restrict access to such criminal history record information, the
33 individual may file an action in the superior court where the arresting law enforcement
34 agency, other law enforcement agency, or clerk of court's office is located as provided in
35 Code Section 50-13-19. A decision of the agency shall be upheld only if it is determined
36 by clear and convincing evidence that the individual did not meet the criteria set forth in
37 subsection (a) of this Code section. Any such action shall be served upon the arresting law
38 enforcement agency, other law enforcement agency, clerk of court's office, the center, the
39 prosecuting attorney having jurisdiction over the offense sought to be restricted, and the
40 Attorney General who may become parties to the action. The court in its discretion may
41 award reasonable court costs, including attorney's fees, to the individual if he or she
42 prevails in the appellate process.

43 (d) It shall be the duty of the arresting law enforcement agency, other law enforcement
44 agency, clerk of court's office, county or municipal jails and detention centers, and any
45 other entity to take such action as may be reasonable to prevent disclosure of information
46 to the public which would identify any individual whose criminal history record
47 information was restricted.

48 (e) Any individual whose criminal history record information is restricted pursuant to this
49 Code section shall not have to disclose the fact of the arrest, record, or any matter relating
50 thereto on an application for employment."

51 **SECTION 2.**

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