

House Bill 247 (AS PASSED HOUSE AND SENATE)

By: Representatives Neal of the 1st, Bearden of the 68th, Talton of the 145th, Parrish of the 156th, Howard of the 121st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 4 of Title 25 of the Official Code of Georgia Annotated,
2 relating to general provisions for firefighter standards and training, so as to provide for the
3 automatic termination of the certification of a firefighter convicted of a felony; to amend
4 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, so as to
5 provide for matters relevant to guardians generally; to provide for an exemption from
6 liability for persons who comply with a Physician Order for Life-sustaining Treatment; to
7 provide for criminal background checks for persons seeking to become a guardian or
8 conservator; to provide for a definition; to amend Article 3 of Chapter 11 of Title 31 of the
9 Official Code of Georgia Annotated, relating to emergency medical services personnel, so
10 as to provide that the Department of Public Health shall accept criminal history background
11 checks of applicants for certification from state and local law enforcement agencies; to
12 provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Article 1 of Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to
16 general provisions for firefighter standards and training, is amended by revising subsection
17 (b) and paragraph (1) of subsection (c) of Code Section 25-4-8, relating to qualifications of
18 firefighters generally, as follows:

19 "(b) For the purposes of paragraph (2) of subsection (a) of this Code section, a person shall
20 be deemed to have been convicted of a crime if such person shall have pleaded guilty to
21 a charge thereof before a court or federal magistrate or shall have been found guilty thereof
22 by the decision or judgment of a court or federal magistrate or by the verdict of a jury,
23 irrespective of the pronouncement of sentence or the suspension thereof, unless such plea
24 of guilty or such decision, judgment, or verdict shall have been set aside, reversed, or
25 otherwise abrogated by lawful judicial process or unless the person convicted of the crime
26 shall have received a pardon therefor from the President of the United States or the
27 governor or other pardoning authority in the jurisdiction where the conviction was had or

28 shall have received a certificate of good conduct granted by the State Board of Pardons and
 29 Paroles pursuant to the provisions of law to remove a disability under law because of such
 30 conviction. Any person convicted of a felony while he or she is a certified firefighter shall
 31 have his or her certification revoked.

32 (c)(1) For the purposes of making determinations relating to eligibility under ~~paragraph~~
 33 ~~(2) of subsection (a) of~~ this Code section, a local fire department shall provide
 34 information relative to prospective employees to the local law enforcement agency and
 35 a state fire department shall provide information relative to prospective employees to a
 36 state law enforcement agency. Such local or state law enforcement agency shall be
 37 authorized to obtain conviction data with respect to such prospective employees of a local
 38 or state fire department as authorized in this subsection. The local or state law
 39 enforcement agency shall submit to the Georgia Crime Information Center two complete
 40 sets of fingerprints of the applicant for appointment or employment, the required records
 41 search fees, and such other information as may be required. Upon receipt thereof, the
 42 Georgia Crime Information Center shall promptly transmit one set of fingerprints to the
 43 Federal Bureau of Investigation for a search of bureau records and an appropriate report
 44 and shall retain the other set and promptly conduct a search of its own records and
 45 records to which it has access. The Georgia Crime Information Center shall notify the
 46 local or state law enforcement agency in writing of any derogatory finding, including, but
 47 not limited to, any conviction data regarding the fingerprint records check or if there is
 48 no such finding. All conviction data received by the local or state law enforcement
 49 agency shall not be a public record, shall be privileged, and shall not be disclosed to any
 50 other person or agency except as provided in this subsection and except to any person or
 51 agency which otherwise has a legal right to inspect the employment file. All such records
 52 shall be maintained by the local or state law enforcement agency pursuant to laws
 53 regarding such records and the rules and regulations of the Federal Bureau of
 54 Investigation and the Georgia Crime Information Center, as applicable. As used in this
 55 subsection, 'conviction data' means a record of a finding or verdict of guilty or plea of
 56 guilty or plea of nolo contendere with regard to any crime, regardless of whether an
 57 appeal of the conviction has been sought."

58 **SECTION 2.**

59 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is
 60 amended by revising subsection (k) of Code Section 29-4-18, relating to definitions,
 61 requirements, and termination of temporary medical consent guardianship, by adding a new
 62 paragraph to read as follows:

63 "(3) Any person who acts in good faith in accordance with a Physician Order for
 64 Life-sustaining Treatment developed pursuant to subsection (l) of this Code section shall
 65 have all of the immunity granted pursuant to Code Section 31-32-10."

66 **SECTION 3.**

67 Said title is further amended by adding a new Code section to read as follows:

68 "29-9-19.

69 (a) As used in this Code section, the term 'criminal history record information' means
 70 information collected by criminal justice agencies on individuals consisting of identifiable
 71 descriptions and notations of arrests, detentions, indictments, accusations, information, or
 72 other formal charges, and any disposition arising therefrom, sentencing, correctional
 73 supervision, and release.

74 (b) The court may require a petitioner seeking to become a guardian or conservator, or a
 75 nominated guardian or conservator if such person is different from the petitioner, to submit
 76 to a criminal history records check. The petitioner or nominee shall submit his or her
 77 fingerprints to the Georgia Crime Information Center with the appropriate fee. The
 78 Georgia Crime Information Center shall promptly transmit the fingerprints to the Federal
 79 Bureau of Investigation for a search of its records and shall obtain a report containing
 80 criminal history record information. The Georgia Crime Information Center shall also
 81 promptly conduct a search of its records and any records to which it has access. The
 82 Georgia Crime Information Center shall provide a report of the petitioner's or nominee's
 83 criminal history record information to the court for its consideration in determining the
 84 suitability of the petitioner or nominee to serve as a guardian or conservator."

85 **SECTION 4.**

86 Article 3 of Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to
 87 emergency medical services personnel, is amended by revising subsections (d) and (e) of
 88 Code Section 31-11-51, relating to certification and recertification of emergency medical
 89 technicians, as follows:

90 "(d) The department shall by rule or regulation, consistent with the requirements of this
 91 paragraph, establish a procedure for requesting a fingerprint based criminal history records
 92 check from the center and the Federal Bureau of Investigation. Fingerprints shall be in
 93 such form and of such quality as prescribed by the center and under standards adopted by
 94 the Federal Bureau of Investigation. Fees may be charged as necessary to cover the cost
 95 of the records search. An applicant may request that a criminal history records check be
 96 conducted by a state or local law enforcement agency or by a private vendor approved by
 97 the department. Fees for criminal history records checks shall be paid by the applicant to

98 the entity processing the request at the time such request is made. The state or local law
99 enforcement agency or private vendor shall remit payment to the center in such amount as
100 required by the center for conducting a criminal history records check. The department shall
101 accept a criminal history records check whether such request is made through a state or local
102 law enforcement agency or through a private vendor approved by the department. Upon
103 receipt thereof of an authorized request, the center shall promptly cause such criminal records
104 search to be conducted. The center shall notify the department in writing of any finding of
105 disqualifying information, including, but not limited to, any conviction data regarding the
106 fingerprint records check, or if there is no such finding.

107 (e) Conviction data received by the department or a state or local law enforcement agency
108 shall be privileged and shall not be a public record or disclosed to any person. Conviction
109 data shall be maintained by the department and the state or local law enforcement pursuant
110 to laws regarding such records and the rules and regulations of the center and the Federal
111 Bureau of Investigation. Penalties for the unauthorized release or disclosure of conviction
112 data shall be as prescribed by law or rule or regulation of the center or Federal Bureau of
113 Investigation."

114 **SECTION 5.**

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