

House Bill 350

By: Representatives Peake of the 141<sup>st</sup>, Hitchens of the 161<sup>st</sup>, Hatchett of the 150<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, Coomer of the 14<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 16-12-1.1 of the Official Code of Georgia Annotated, relating to  
2 child, family, or group-care facility operators prohibited from employing or allowing to  
3 reside or be domiciled persons with certain past criminal violations, so as to provide for  
4 exceptions for persons otherwise issued licenses as provided by law; to amend Chapter 1A  
5 of Title 20 of the Official Code of Georgia Annotated, relating to early care and learning, so  
6 as to define a certain term; to provide for the licensing of certain informal family day-care  
7 homes; to require certain employees to have fingerprint records checks prior to employment;  
8 to revise certain definitions; to change certain provisions relating to records check  
9 requirements for applicants and notification to such applicants; to change certain provisions  
10 relating to requirements of individuals residing in family day-care homes; to remove  
11 preliminary records checks of employees and require state and national fingerprint  
12 determinations, except in limited circumstances; to provide that directors convicted of certain  
13 criminal acts lose the ability to serve as directors; to provide for criminal background checks  
14 for current directors, employees, and certain other persons; to provide for related matters; to  
15 provide for an effective date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Code Section 16-12-1.1 of the Official Code of Georgia Annotated, relating to child, family,  
19 or group-care facility operators prohibited from employing or allowing to reside or be  
20 domiciled persons with certain past criminal violations, is amended by revising subsection  
21 (b) as follows:

22 "(b) Unless otherwise authorized as provided in Code Section 20-1A-43, it shall be  
23 unlawful for any operator of a facility to knowingly have any person reside at, be domiciled  
24 at, or be employed at any such facility if such person has been convicted of or has entered  
25 a plea of guilty or nolo contendere to or has been adjudicated a delinquent for:

- 26 (1) A violation of Code Section 16-4-1, relating to criminal attempt, when the crime  
 27 attempted is any of the crimes specified in paragraphs (2) through (10) of this subsection;  
 28 (2) A violation of Code Section 16-5-23.1, relating to battery, when the victim at the  
 29 time of such offense was a minor;  
 30 (3) A violation of any provision of Chapter 6 of this title, relating to sexual offenses,  
 31 when the victim at the time of such offense was a minor;  
 32 (4) A violation of Code Section 16-12-1, relating to contributing to the delinquency of  
 33 a minor;  
 34 (5) A violation of Code Section 16-5-1, relating to murder;  
 35 (6) A violation of Code Section 16-5-2, relating to voluntary manslaughter;  
 36 (7) A violation of Code Section 16-6-2, relating to aggravated sodomy;  
 37 (8) A violation of Code Section 16-6-3, relating to rape;  
 38 (9) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery; or  
 39 (10) A violation of Code Section 16-8-41, relating to armed robbery, if committed with  
 40 a firearm."

41 **SECTION 2.**

42 Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and  
 43 learning, is amended in Code Section 20-1A-2, relating to definitions, by revising paragraph  
 44 (6) as follows:

45 "(6) 'Early care and education programs' include all family day-care homes, informal  
 46 family day-care homes, group day-care homes, day-care centers, and child care learning  
 47 centers."

48 **SECTION 3.**

49 Said chapter is further amended in Code Section 20-1A-2, relating to definitions, by adding  
 50 a new paragraph to read as follows:

51 "(10) 'Informal family day-care home' means a child care subsidy program provided  
 52 pursuant to a means-tested public assistance program located in a private residence  
 53 operated by any person who receives therein for pay for supervision and care fewer than  
 54 24 hours per day, without transfer of legal custody, fewer than three children under 18  
 55 years of age who may or may not be related to such person, and whose parents or  
 56 guardians are not residents in the same private residence."

57 **SECTION 4.**

58 Said chapter is further amended by revising Article 2, relating to background checks, as  
 59 follows:

## "ARTICLE 2

60

61 20-1A-30.

62 As used in this article, the term:

63 (1) 'Center' means a day-care center, group day-care home, family day-care home,  
 64 informal family day-care home, or child care learning center which is allowed to operate  
 65 or is required to be licensed, commissioned, or registered under Article 1 of this chapter.

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

68 (3) 'Crime' means:

69 (A) Any ~~any~~ felony;70 (B) A ~~a~~ violation of Code Section 16-5-23, relating to simple battery, when the victim  
71 is a minor;72 (C) A violation of Code Section 16-5-23.1, relating to battery, when the victim is a  
73 minor;74 (D) A ~~a~~ violation of Code Section 16-12-1, relating to contributing to the delinquency  
75 of a minor;76 (E) A ~~a~~ violation of Chapter 6 of Title 16, relating to sexual offenses;77 (F) A ~~a~~ violation of Code Section 16-4-1, relating to criminal attempt when the crime  
78 attempted is any of the crimes specified by this paragraph; or79 (G) Any ~~any~~ other offenses committed in another jurisdiction which, if committed in  
80 this state, would be one of the enumerated crimes listed in this paragraph.

81 (4) 'Criminal record' means:

82 (A) Conviction of a crime;

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

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

85 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
86 granted; provided, however, that this division shall not apply to a violation of Chapter  
87 13 of Title 16, relating to controlled substances, or any other offense committed in  
88 another jurisdiction which, if it were committed in this state, would be a violation of  
89 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;  
90 or91 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
92 provided, however, that this division shall not apply to a violation of Chapter 13 of  
93 Title 16, relating to controlled substances, or any other offense committed in another  
94 jurisdiction which, if it were committed in this state, would be a violation of Chapter  
95 13 of Title 16 if such violation or offense constituted only simple possession; or

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

98 (5) 'Director' means the ~~chief administrative or executive officer of~~ on-site manager of  
99 a facility designated by the legal owner who is responsible for the supervision, operation,  
100 and maintenance of the center and meets the minimum qualifications as determined by  
101 the department.

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

106 ~~(7)~~(6) 'Employee' means any person, other than a director, who is 17 years of age or  
107 older and is employed by a center to perform at any of the center's facilities any duties  
108 which involve personal contact between that person and any child being cared for at the  
109 facility and also includes any adult person who resides at the facility or who, with or  
110 without compensation, performs duties for the center which involve personal contact  
111 between that person and any child being cared for by the center.

112 ~~(8)~~(7) 'Employment history' means a record of where a person has worked for the past  
113 ten years.

114 ~~(9)~~(8) 'Facility' means a center's real property at which children are received for care.

115 (9) 'Fingerprint' means an inked fingerprint card or an electronic image of a person's  
116 fingerprint.

117 (10) 'Fingerprint records check determination' means a satisfactory or unsatisfactory  
118 determination by the department based upon ~~a records check comparison of GCIC~~  
119 ~~information with fingerprints and other information in a records check application~~  
120 fingerprint-based national criminal history record information.

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

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

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

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

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

133 ~~(16)~~(14) 'Preliminary records check determination' means a satisfactory or unsatisfactory  
 134 determination by the ~~department~~ director based only upon a comparison of GCIC  
 135 information obtained solely from a law enforcement agency within the state with other  
 136 than fingerprint information regarding the person upon whom the records check is being  
 137 performed for purposes of this article.

138 ~~(17)~~(15) 'Records check application' means ~~two sets of classifiable fingerprints, a records~~  
 139 ~~search fee to be established by the board by rule and regulation, payable in such form as~~  
 140 ~~the department may direct to cover the cost of a fingerprint records check under this~~  
 141 ~~article, and an affidavit by the applicant disclosing the nature and date of any arrest,~~  
 142 ~~charge, or conviction of the applicant for the violation of any law, except for motor~~  
 143 ~~vehicle parking violations, whether or not the violation occurred in this state, and such~~  
 144 ~~additional information as the department may require~~ a document created by the  
 145 department to be completed, notarized, and submitted to the department by every actual  
 146 and potential director and employee that indicates such director's name, center type, and  
 147 such other information as the department deems appropriate and which authorizes the  
 148 department to receive and render a fingerprint records check determination pursuant to  
 149 any criminal history record information pertaining to such individual from any local,  
 150 state, or national criminal justice or law enforcement agency.

151 ~~(18)~~(16) 'Satisfactory determination' means a written ~~determination~~ declaration that a  
 152 person for whom a preliminary or fingerprint records check determination was performed  
 153 was found to have no criminal record.

154 (17) 'Temporary employee' means an individual other than a director whose duties  
 155 involve personal contact between that person and any child being cared for at the facility  
 156 and who is hired for a limited period of employment.

157 ~~(19)~~ 'State fingerprint records check determination' means a satisfactory or unsatisfactory  
 158 ~~determination by the department in accordance with applicable law based upon a records~~  
 159 ~~check comparison of GCIC information with fingerprints and other information in a~~  
 160 ~~records check application.~~

161 ~~(20)~~(18) 'Unsatisfactory determination' means a written ~~determination~~ declaration that  
 162 a person for whom a preliminary or fingerprint records check determination was  
 163 performed ~~has~~ was found to have a criminal record.

164 20-1A-31.

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

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

170 20-1A-32.

171 ~~Accompanying Effective January 1, 2014, accompanying~~ any application for a new license  
 172 for a facility, the applicant shall furnish to the department a records check application for  
 173 the director and a ~~satisfactory preliminary records check~~ for each employee of such facility.  
 174 In lieu of such records check applications, the license applicant may submit evidence,  
 175 satisfactory to the department, that within the immediately preceding 12 months the  
 176 director or employee received a satisfactory state and national fingerprint records check  
 177 ~~determinations and each employee received a satisfactory preliminary records check~~  
 178 ~~determination, or that any director or employee other than the director whose preliminary~~  
 179 fingerprint records check revealed a criminal record of any kind has either subsequently  
 180 received a satisfactory state and national fingerprint records check ~~determinations~~  
 181 determination or has had the unsatisfactory determination reversed in accordance with  
 182 Code Section 20-1A-43. ~~The department may either perform preliminary records checks~~  
 183 ~~under agreement with GCIC or contract with GCIC and appropriate law enforcement~~  
 184 ~~agencies which have access to GCIC information to have those agencies perform for the~~  
 185 ~~department a preliminary records check for each preliminary records check application~~  
 186 ~~submitted thereto by the department. Either the department or the appropriate law~~  
 187 ~~enforcement agencies may charge reasonable and additional processing fees for performing~~  
 188 preliminary fingerprint records checks as required by statute, regulation, or policy or by  
 189 GCIC.

190 20-1A-33.

191 After being furnished the required records check application under Code Section 20-1A-32,  
 192 the department shall notify ~~in writing~~ the license applicant and the fingerprint records  
 193 check applicant in writing ~~as to each person for whom an application was received~~  
 194 ~~regarding~~ whether the department's determination as to ~~that person's state fingerprint~~  
 195 ~~records check was a director or employee is~~ satisfactory or unsatisfactory. If the  
 196 ~~preliminary fingerprint~~ records check determination was satisfactory as to the director and  
 197 ~~each employee of an a license applicant's facility and the state fingerprint records check~~  
 198 ~~was satisfactory as to the director~~, that applicant may be issued a license for that facility  
 199 if the applicant otherwise qualifies for a license under Article 1 of this chapter. ~~If the state~~  
 200 ~~or national fingerprint records check determination was unsatisfactory as to the director of~~  
 201 ~~an applicant's facility, the applicant shall designate another director for that facility after~~

202 ~~receiving notification of the determination and proceed under Code Section 20-1A-32 and~~  
 203 ~~this Code section to obtain state and national fingerprint records checks for that newly~~  
 204 ~~designated director. If the preliminary fingerprint records check for a director or any~~  
 205 ~~employee other than the director revealed a criminal record of any kind, such director or~~  
 206 ~~employee shall not be allowed to work in the center while any child is present until he or~~  
 207 ~~she either has obtained a satisfactory state and national fingerprint records check~~  
 208 ~~determinations determination or has had the unsatisfactory determination reversed in~~  
 209 ~~accordance with Code Section 20-1A-43. The department shall revoke the license of a~~  
 210 ~~center if the center fails to comply with the requirements of this Code section. If the~~  
 211 ~~determination was unsatisfactory as to any employee of an applicant's facility, the applicant~~  
 212 ~~shall, after receiving notification of that determination, take such steps as are necessary so~~  
 213 ~~that such person is no longer an employee. Any employee other than the director who~~  
 214 ~~receives a satisfactory preliminary records check shall not be required to obtain a~~  
 215 ~~fingerprint records check unless such an employee has been designated as a director or as~~  
 216 ~~permitted by the provisions of subsection (c) of Code Section 20-1A-39.~~

217 20-1A-34.

218 (a) The department shall transmit to GCIC both sets of fingerprints and the records search  
 219 fee from each fingerprint records check application. Upon receipt thereof, GCIC shall  
 220 promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search  
 221 of bureau records and an appropriate report and shall retain the other set and promptly  
 222 conduct a search of its records and records to which it has access. Within ten days after  
 223 receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the  
 224 department in writing of any derogatory finding, including but not limited to any criminal  
 225 record, of the state fingerprint records check or if there is no such finding. After a search  
 226 of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's  
 227 report, the department shall make a national fingerprint records check determination.

228 (b) Every potential employee of the department who may have any reason to be present  
 229 at a center while any child is present for care must receive a satisfactory fingerprint records  
 230 check determination or have had an unsatisfactory fingerprint records check determination  
 231 reversed in accordance with Code Section 20-1A-43 prior to employment. Every current  
 232 employee of the department who may have any reason to be present at a center while any  
 233 child is present for care must receive a satisfactory fingerprint records check determination  
 234 or have had an unsatisfactory fingerprint records check determination reversed in  
 235 accordance with Code Section 20-1A-43 by January 1, 2014. Every employee of the  
 236 department shall undergo additional fingerprint records checks such that the time between  
 237 such additional fingerprint records checks and that employee's previous fingerprint records

238 check shall not exceed five years. The department shall maintain documentation in the  
239 appropriate personnel file indicating that such person has obtained such current satisfactory  
240 fingerprint records check determination or has had an unsatisfactory fingerprint records  
241 check determination reversed in accordance with Code Section 20-1A-43.

242 20-1A-35.

243 ~~After receiving a Federal Bureau of Investigation report regarding a national fingerprint~~  
244 ~~records check under Code Section 20-1A-34, the department shall make a determination~~  
245 ~~based thereon and notify in writing the license applicant as to whether that records check~~  
246 ~~was satisfactory or unsatisfactory. If the national fingerprint records check determination~~  
247 ~~was unsatisfactory as to the director of an applicant's facility, after receiving notification~~  
248 ~~of that determination, that applicant shall designate another director for such facility for~~  
249 ~~which director the applicant has not received or made an unsatisfactory preliminary or~~  
250 ~~fingerprint records check determination and proceed under the requirements of Code~~  
251 ~~Sections 20-1A-32 through 20-1A-34 and this Code section to obtain state and national~~  
252 ~~fingerprint records check determinations for the newly designated director. The director~~  
253 ~~may begin working upon the receipt of a satisfactory state fingerprint records check~~  
254 ~~determination pending the receipt of the national fingerprint records check determination~~  
255 ~~from the department. The department may revoke the license of that facility if the facility~~  
256 ~~fails to comply with the requirements of this Code section and Code Section 20-1A-33 to~~  
257 ~~receive satisfactory state and national fingerprint determinations on the director or to~~  
258 ~~comply with Code Section 20-1A-33 regarding employees other than the director. Where~~  
259 ~~there is urgent need for a temporary employee to work at a center's facility, such center~~  
260 ~~may utilize an individual as a temporary employee only after the director reviews a~~  
261 ~~preliminary records check and makes a satisfactory determination in accordance with this~~  
262 ~~article. No such temporary employee shall be present in the facility while any child is~~  
263 ~~present for care until such satisfactory preliminary records check determination has been~~  
264 ~~made based upon GCIC information obtained from local law enforcement within the prior~~  
265 ~~ten days. The board shall be authorized to define and enforce by regulations, including, but~~  
266 ~~not limited to, the length of time a temporary employee may be present at a facility without~~  
267 ~~a fingerprint records check determination. The department may revoke the license of a~~  
268 ~~center if the center fails to comply with the requirements of this Code section and employs~~  
269 ~~a person with an unsatisfactory preliminary records check determination.~~

270 20-1A-36.

271 No facility operated as an early care and education program or similar facility or any  
272 operator of such a facility shall employ any person who has been convicted of or who has

273 entered a plea of guilty or nolo contendere to any offense specified in Code Section  
 274 16-12-1.1 or allow any such person to reside at or be domiciled at such facility in violation  
 275 of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the  
 276 license, commission, or registration of any such facility violating the provisions of this  
 277 Code section. The powers and duties set forth in this Code section are cumulative and not  
 278 intended to limit the powers and duties set forth throughout this article.

279 20-1A-37.

280 (a) Notwithstanding any other provision of this article, an individual who resides in a  
 281 family day-care home ~~or an informal family day-care home~~, as defined by Code Section  
 282 20-1A-2, shall ~~not~~ be required to provide fingerprints for routine fingerprints records  
 283 checks if the operator of the family day-care home provides the department with an  
 284 affidavit stating that such individual is not present in the home at the same time as the  
 285 children who are received for pay for supervision and care. However, all persons residing  
 286 in a family day-care home are required to obtain satisfactory preliminary records checks  
 287 and submit them a fingerprint records check application to the department. If the  
 288 fingerprint records check determination is unsatisfactory, the department shall notify the  
 289 provider and the employee of such determination in writing and no such employee shall be  
 290 allowed to reside at the day-care home or be present at the day-care home when any child  
 291 is present for care until he or she either has obtained a satisfactory fingerprint records check  
 292 determination or has had the unsatisfactory determination reversed in accordance with  
 293 Code Section 20-1A-43.

294 (b) ~~As an alternative to the requirements set out in this article pertaining to obtaining~~  
 295 ~~preliminary criminal records check determinations through the department for employees~~  
 296 ~~of centers and adults residing in a family day-care home, but not including directors of~~  
 297 ~~centers, centers may obtain GCIC information through local law enforcement agencies.~~  
 298 ~~The center shall be responsible for reviewing the GCIC information obtained for the~~  
 299 ~~potential employee or adult residing in the family day-care home and making a written~~  
 300 ~~determination that the individual does not have a criminal record as defined in this article.~~  
 301 ~~This written determination, together with all supporting documentation received from any~~  
 302 ~~law enforcement agency, must be maintained in the center's file and available for~~  
 303 ~~inspection by the department. This satisfactory determination must be made before the~~  
 304 ~~employee begins any duties for the center. However, where there is an urgent need for an~~  
 305 ~~emergency temporary employee to work at a center's facility in order to avoid immediate~~  
 306 ~~noncompliance with staffing requirements, such center may utilize the applicant as an~~  
 307 ~~emergency temporary employee after applying for the preliminary records check through~~  
 308 ~~the local law enforcement agency and completing the affidavit. In such emergency~~

309 ~~situations, the director of the center must complete an affidavit, with all supporting~~  
310 ~~documentation attached thereto, stating that the GCIC information has been requested~~  
311 ~~through an identified local law enforcement agency and that the results were not~~  
312 ~~immediately available to the center prior to assigning the employee to work with children~~  
313 ~~at the center's facility in order to avoid immediate noncompliance with staffing ratios. The~~  
314 ~~affidavit with supporting documentation must be maintained in the center's file on the~~  
315 ~~individual and available to the department for inspection. The director shall review the~~  
316 ~~GCIC information upon receipt, but in no case shall an emergency temporary employee be~~  
317 ~~permitted to continue working for more than three days without having a satisfactory~~  
318 ~~determination made by the director and entered into the center's file on the employee with~~  
319 ~~all supporting documentation. The department shall promulgate rules and regulations~~  
320 ~~limiting the extent to which centers are authorized to use emergency temporary employees~~  
321 ~~in accordance with this subsection. Employees, emergency temporary employees, and~~  
322 ~~other adults required to have records checks who are utilized by centers are subject to all~~  
323 ~~other requirements set forth in this article. Where the department has reason to question~~  
324 ~~the validity of the GCIC information or the satisfactory determination made by the center,~~  
325 ~~the department may require the employee, emergency temporary employee, or other adult~~  
326 ~~to submit a preliminary criminal records check application through the department together~~  
327 ~~with appropriate fees.~~

328 20-1A-38.

329 (a) ~~If the director of a facility which has been issued a license ceases to be the director of~~  
330 ~~that facility, the licensee shall thereupon designate a new director. After such change, the~~  
331 ~~licensee of that facility shall notify the department in writing of such change and of any~~  
332 ~~additional information the department may require regarding the newly designated director~~  
333 ~~of that facility, including a fingerprint records check application. Such information shall~~  
334 ~~include but not be limited to any information the licensee may have regarding preliminary~~  
335 ~~or any fingerprint records check determinations regarding that director. After receiving a~~  
336 ~~change of director notification, the department shall make a written determination from the~~  
337 ~~information furnished with such notification and the department's own records as to~~  
338 ~~whether satisfactory or unsatisfactory preliminary or state and national fingerprint records~~  
339 ~~check determinations have ever been made for the newly designated director. If the~~  
340 ~~department determines that such newly designated director within 12 months prior thereto~~  
341 ~~has had a satisfactory state and national fingerprint records check determinations~~  
342 ~~determination or an unsatisfactory determination reversed pursuant to Code Section~~  
343 ~~20-1A-43 within the prior 12 months, such determinations determination shall be deemed~~  
344 ~~to be satisfactory state and national fingerprint records check determinations as to that~~

345 ~~director for purposes of this article.~~ The license of that facility shall not be adversely  
 346 affected by that change in director, and the licensee shall be so notified.

347 (b) If the department determines under subsection (a) of this Code section that there has  
 348 ever been an unsatisfactory preliminary or state or national fingerprint records check  
 349 determination of the newly designated director which has not been legally reversed, the  
 350 center and that director shall be so notified. The license for that director's facility shall be  
 351 indefinitely suspended or revoked unless the unsatisfactory determination as to that director  
 352 is reversed in accordance with Code Section 20-1A-43 or the center designates another  
 353 director for whom it has not received or made an unsatisfactory preliminary or state or  
 354 national fingerprint records check determination and proceeds pursuant to the provisions  
 355 of this Code section relating to a change of director.

356 (c) If the department determines under subsection (a) of this Code section that there have  
 357 been no state and national satisfactory or legally reversed fingerprint records check  
 358 determinations regarding the newly designated director within the immediately preceding  
 359 12 months, the department shall so notify the center. ~~The center shall furnish to the~~  
 360 ~~department the fingerprint records check application of the newly designated director after~~  
 361 ~~the date the notification is sent by the department.~~ Upon such notification, the newly  
 362 designated director shall follow the procedures for new directors as outlined in Code  
 363 Section 20-1A-39, or the license of that facility shall be indefinitely suspended or revoked.  
 364 ~~If that fingerprint records check application is so received, unless the department has within~~  
 365 ~~the immediately preceding 12 months made a satisfactory state fingerprint records check~~  
 366 ~~determination regarding the newly designated director, the department shall perform a state~~  
 367 ~~fingerprint records check determination of the newly designated director, and the applicant~~  
 368 ~~and that director shall be so notified. If that determination is unsatisfactory, the provisions~~  
 369 ~~of subsection (b) of this Code section regarding procedures after notification shall apply.~~  
 370 ~~If that determination is satisfactory, the department shall perform a national fingerprint~~  
 371 ~~records check determination for that director as provided in Code Sections 20-1A-34 and~~  
 372 ~~20-1A-35. The director may begin working upon the receipt of a satisfactory state~~  
 373 ~~fingerprint records check determination pending the receipt of the national fingerprint~~  
 374 ~~records check determination from the department. If that determination is satisfactory, the~~  
 375 ~~center and director for whom the determination was made shall be so notified after the~~  
 376 ~~department makes its determination, and the license for the facility at which that person is~~  
 377 ~~the newly designated director shall not be adversely affected by that change of director.~~  
 378 ~~If that determination is unsatisfactory, the provisions of subsection (b) of this Code section~~  
 379 ~~shall apply.~~

380 20-1A-39.

381 (a) Before a person may become an employee ~~other than a director~~ of any center after that  
382 center has received a license, that center shall require that person to obtain a satisfactory  
383 preliminary fingerprint records check determination. The center shall maintain  
384 documentation in the employee's personnel file, which is available to the department upon  
385 request, which reflects that a satisfactory ~~preliminary criminal fingerprint records check~~  
386 determination was received before the employee ~~began~~ begins working with children. If  
387 the ~~preliminary fingerprint records check determination~~ for any potential employee ~~other~~  
388 ~~than the director~~ reveals a criminal record of any kind, such potential employee shall not  
389 be allowed to begin working until ~~either~~ such potential employee has either obtained a  
390 satisfactory ~~state and national~~ fingerprint records check ~~determinations~~ determination or  
391 has had the unsatisfactory ~~preliminary or~~ fingerprint records check determination reversed  
392 in accordance with Code Section 20-1A-43. If ~~either the preliminary or state or national~~  
393 fingerprint records check determination is unsatisfactory, the center shall, after receiving  
394 notification of the such unsatisfactory determination, take such steps as are necessary so  
395 that such person is no longer an employee. ~~Any potential employee other than the director~~  
396 ~~who receives a satisfactory preliminary records check determination shall not be required~~  
397 ~~to obtain a fingerprint records check determination except as permitted in accordance with~~  
398 ~~subsection (c) of this Code section.~~

399 (b) By no later than January 1, 2017, every current employee and director of any center  
400 shall obtain either a satisfactory fingerprint records check determination or shall have had  
401 an unsatisfactory fingerprint records check determination reversed in accordance with Code  
402 Section 20-1A-43. The center shall maintain such documentation in the appropriate  
403 personnel file, which is available to the department immediately upon request. If the  
404 fingerprint records check determination is unsatisfactory, the center shall, after receiving  
405 notification of the determination, take such steps as are necessary so that such person is no  
406 longer an employee or director. The department shall revoke the license of a center if the  
407 center fails to comply with the requirements of this Code section.

408 (c) Effective January 1, 2019, every employee and director of any center shall undergo  
409 additional fingerprint records checks such that the time between such additional fingerprint  
410 records checks and that employee's or director's previous fingerprint records check shall  
411 not exceed five years. The center shall maintain documentation in the appropriate  
412 personnel file, which is available to the department immediately upon request, indicating  
413 that such person has obtained such current satisfactory fingerprint records check  
414 determination or has had an unsatisfactory fingerprint records check determination reversed  
415 in accordance with Code Section 20-1A-43. The department shall revoke the license of a  
416 center if the center fails to comply with the requirements of this Code section.

417 (d) A license ~~is~~ shall be subject to suspension or revocation and the department may refuse  
 418 to issue a license if a director or employee does not undergo the ~~records and fingerprint~~  
 419 ~~checks~~ records check determination applicable to that director or employee and receive  
 420 ~~satisfactory~~ acceptable determinations.

421 ~~(e)~~(e) After the issuance of a license, the department may require a additional fingerprint  
 422 records check determinations on any director or employee ~~to confirm identification for~~  
 423 ~~records search purposes~~, when the department has reason to believe the director or  
 424 employee has a criminal record that renders the director or employee ineligible to have  
 425 contact with children in the center, or during the course of a child abuse investigation  
 426 involving the director or employee.

427 ~~(d)~~(f) No center may hire any person as an employee unless there is on file in the center  
 428 an employment history and a satisfactory preliminary fingerprint records check  
 429 determination or, if the ~~preliminary records check determination~~ revealed a criminal record  
 430 of any kind as to such person, either ~~satisfactory state and satisfactory national records~~  
 431 ~~check determinations for that person~~ or proof that an unsatisfactory determination has been  
 432 reversed in accordance with Code Section 20-1A-43.

433 ~~(e)~~(g) A licensee or director of a facility having an employee whom ~~that~~ such licensee or  
 434 director knows or should reasonably know to have a criminal record that renders the  
 435 employee ineligible to have contact with children in the center shall be guilty of a  
 436 misdemeanor.

437 20-1A-40.

438 (a) GCIC and law enforcement agencies which have access to GCIC information shall  
 439 cooperate with the department in performing preliminary and fingerprint records ~~checks~~  
 440 check determinations required under this article and shall provide such information so  
 441 required for such records checks notwithstanding any other law to the contrary and may  
 442 charge reasonable fees therefor.

443 (b) Any person who knowingly and under false pretenses requests, obtains, or attempts to  
 444 obtain GCIC information otherwise authorized to be obtained pursuant to this article, or  
 445 who knowingly communicates or attempts to communicate such information obtained  
 446 pursuant to this article to any person or entity except in accordance with this article, or who  
 447 knowingly uses or attempts to use such information obtained pursuant to this article for any  
 448 purpose other than as authorized by this article shall be fined not more than \$5,000.00,  
 449 imprisoned for not more than two years, or both.

450 20-1A-41.

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

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

458 20-1A-42.

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

461 20-1A-43.

462 A determination by the department regarding preliminary or fingerprint records checks  
463 under this article, or any action by the department revoking, suspending, or refusing to  
464 grant or renew a license based upon such determination, shall constitute a contested case  
465 for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except  
466 that any hearing required to be held pursuant thereto may be held reasonably expeditiously  
467 after such determination or action by the department. It is expressly provided that upon  
468 motion from any party, the hearing officer may, in his or her discretion, consider matters  
469 in mitigation of any conviction, provided that the hearing officer examines the  
470 circumstances of the case and makes an independent finding that no physical harm was  
471 done to a victim and also examines the character and employment history since the  
472 conviction and determines that there is no propensity for cruel behavior or behavior  
473 involving moral turpitude on the part of the person making a motion for an exception to  
474 sanctions normally imposed. If the hearing officer deems a hearing to be appropriate, he  
475 or she ~~will~~ shall also notify at least 30 days prior to such hearing the office of the  
476 prosecuting attorney who initiated the prosecution of the case in question in order to allow  
477 ~~the~~ such prosecutor to object to a possible determination that the conviction would not be  
478 a bar for the grant or continuation of a license or employment as contemplated within this  
479 chapter. If objections are made, the hearing officer ~~will~~ shall take such objections into  
480 consideration in considering the case.

481 20-1A-44.

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

483 **SECTION 5.**

484 This Act shall become effective on January 1, 2014.

485 **SECTION 6.**

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