

House Bill 350 (COMMITTEE SUBSTITUTE)

By: Representatives Peake of the 141st, Hitchens of the 161st, Hatchett of the 150th, Ramsey of the 72nd, Coomer of the 14th, 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 require certain employees to have fingerprint records checks prior to employment; to
 7 revise certain definitions; to change certain provisions relating to records check requirements
 8 for applicants and notification to such applicants; to change certain provisions relating to
 9 requirements of individuals residing in family day-care homes; to remove preliminary
 10 records checks of employees and require state and national fingerprint determinations, except
 11 in limited circumstances; to provide that directors convicted of certain criminal acts lose the
 12 ability to serve as directors; to provide for criminal background checks for current directors,
 13 employees, and certain other persons; to provide for related matters; to provide effective
 14 dates; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

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

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

25 (1) A violation of Code Section 16-4-1, relating to criminal attempt, when the crime
 26 attempted is any of the crimes specified in paragraphs (2) through (10) of this subsection;

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

40 SECTION 2.

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

43 "ARTICLE 2

44 20-1A-30.

45 As used in this article, the term:

- 46 (1) 'Center' means a day-care center, group day-care home, family day-care home, or
 47 child care learning center which is allowed to operate or is required to be licensed,
 48 commissioned, or registered under Article 1 of this chapter.
- 49 (2) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of
 50 whether an appeal of the conviction has been sought.
- 51 (3) 'Crime' means:
- 52 (A) Any ~~any~~ felony;
- 53 (B) A a violation of Code Section 16-5-23, relating to simple battery, when the victim
 54 is a minor;
- 55 (C) A violation of Code Section 16-5-23.1, relating to battery, when the victim is a
 56 minor;
- 57 (D) A a violation of Code Section 16-12-1, relating to contributing to the delinquency
 58 of a minor;
- 59 (E) A a violation of Chapter 6 of Title 16, relating to sexual offenses;

60 (F) A a violation of Code Section 16-4-1, relating to criminal attempt when the crime
61 attempted is any of the crimes specified by this paragraph; or

62 (G) Any any other offenses committed in another jurisdiction which, if committed in
63 this state, would be one of the enumerated crimes listed in this paragraph.

64 (4) 'Criminal record' means:

65 (A) Conviction of a crime;

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

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

68 (ii) First offender treatment without adjudication of guilt pursuant to the charge was
69 granted; provided, however, that this division shall not apply to a violation of Chapter
70 13 of Title 16, relating to controlled substances, or any other offense committed in
71 another jurisdiction which, if it were committed in this state, would be a violation of
72 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;
73 or

74 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
75 provided, however, that this division shall not apply to a violation of Chapter 13 of
76 Title 16, relating to controlled substances, or any other offense committed in another
77 jurisdiction which, if it were committed in this state, would be a violation of Chapter
78 13 of Title 16 if such violation or offense constituted only simple possession; or

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

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

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

89 ~~(7)~~(6) 'Employee' means any person, other than a director, who is 17 years of age or
90 older and is employed by a center to perform at any of the center's facilities any duties
91 which involve personal contact between that person and any child being cared for at the
92 facility and also includes any adult person who resides at the facility or who, with or
93 without compensation, performs duties for the center which involve personal contact
94 between that person and any child being cared for by the center.

95 ~~(8)~~(7) 'Employment history' means a record of where a person has worked for the past
96 ten years.

- 97 ~~(9)~~(8) 'Facility' means a center's real property at which children are received for care.
- 98 (9) 'Fingerprint' means an inked fingerprint card or an electronic image of a person's
- 99 fingerprint.
- 100 (10) 'Fingerprint records check determination' means a satisfactory or unsatisfactory
- 101 determination by the department based upon a ~~records check comparison of GCIC~~
- 102 ~~information with fingerprints and other information in a records check application~~
- 103 fingerprint-based national criminal history record information.
- 104 (11) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
- 105 Chapter 3 of Title 35.
- 106 (12) 'GCIC information' means criminal history record information, as defined in Code
- 107 Section 35-3-30.
- 108 (13) 'License' means the document issued by the department to authorize the center to
- 109 which it is issued to operate a facility.
- 110 ~~(14) 'National fingerprint records check determination' means a satisfactory or~~
- 111 ~~unsatisfactory determination by the department in accordance with applicable law based~~
- 112 ~~upon a report from the Federal Bureau of Investigation after a search of bureau records~~
- 113 ~~and fingerprints.~~
- 114 ~~(15) 'Preliminary records check application' means an application for a preliminary~~
- 115 ~~records check determination on forms provided by the department.~~
- 116 ~~(16)~~(14) 'Preliminary records check determination' means a satisfactory or unsatisfactory
- 117 determination by the department director based only upon a comparison of GCIC
- 118 information obtained solely from a law enforcement agency within the state with other
- 119 than fingerprint information regarding the person upon whom the records check is being
- 120 performed for purposes of this article.
- 121 (15) 'Provisional employee' means an individual other than a director whose duties
- 122 involve personal contact between that person and any child being cared for at the facility
- 123 and who is hired for a limited period of employment.
- 124 ~~(17)~~(16) 'Records check application' means ~~two sets of classifiable fingerprints, a records~~
- 125 ~~search fee to be established by the board by rule and regulation, payable in such form as~~
- 126 ~~the department may direct to cover the cost of a fingerprint records check under this~~
- 127 ~~article, and an affidavit by the applicant disclosing the nature and date of any arrest,~~
- 128 ~~charge, or conviction of the applicant for the violation of any law, except for motor~~
- 129 ~~vehicle parking violations, whether or not the violation occurred in this state, and such~~
- 130 ~~additional information as the department may require~~ a document created by the
- 131 department to be completed, notarized, and submitted to the department by every actual
- 132 and potential director and employee that indicates such director's name, center type, and
- 133 such other information as the department deems appropriate and which authorizes the

134 department to receive and render a fingerprint records check determination pursuant to
 135 any criminal history record information pertaining to such individual from any local,
 136 state, or national criminal justice or law enforcement agency.

137 ~~(18)~~(17) 'Satisfactory determination' means a written determination declaration that a
 138 person for whom a preliminary or fingerprint records check determination was performed
 139 was found to have no criminal record.

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

144 ~~(20)~~(18) 'Unsatisfactory determination' means a written determination declaration that
 145 a person for whom a preliminary or fingerprint records check determination was
 146 performed ~~has~~ was found to have a criminal record.

147 20-1A-31.

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

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

153 20-1A-32.

154 ~~Effective January 1, 2014, accompanying~~ ~~Accompanying~~ any application for a new license
 155 for a facility, the applicant shall furnish to the department a records check application for
 156 the director and a ~~satisfactory preliminary records check~~ for each employee of such facility.

157 In lieu of such records check applications, the license applicant may submit evidence,
 158 satisfactory to the department, that within the immediately preceding 12 months the
 159 director or employee received a satisfactory state and national fingerprint records check
 160 ~~determinations and each employee received a satisfactory preliminary records check~~
 161 ~~determination, or that any director or employee other than the director whose preliminary~~
 162 fingerprint records check revealed a criminal record of any kind has either subsequently
 163 received a satisfactory state and national fingerprint records check ~~determinations~~
 164 determination or has had the unsatisfactory determination reversed in accordance with
 165 Code Section 20-1A-43. ~~The department may either perform preliminary records checks~~
 166 ~~under agreement with GCIC or contract with GCIC and appropriate law enforcement~~
 167 ~~agencies which have access to GCIC information to have those agencies perform for the~~
 168 ~~department a preliminary records check for each preliminary records check application~~

169 ~~submitted thereto by the department.~~ Either the department or the appropriate law
 170 enforcement agencies may charge reasonable and additional processing fees for performing
 171 preliminary fingerprint records checks as required by statute, regulation, or policy or by
 172 GCIC.

173 20-1A-33.

174 After being furnished the required records check application under Code Section 20-1A-32,
 175 the department shall notify ~~in writing~~ the license applicant and the fingerprint records
 176 check applicant in writing as to each person for whom an application was received
 177 regarding whether the department's determination as to ~~that person's state fingerprint~~
 178 ~~records check~~ was a director or employee is satisfactory or unsatisfactory. If the
 179 preliminary fingerprint records check determination was satisfactory as to the director and
 180 each employee of an a license applicant's facility ~~and the state fingerprint records check~~
 181 ~~was satisfactory as to the director~~, that applicant may be issued a license for that facility
 182 if the applicant otherwise qualifies for a license under Article 1 of this chapter. ~~If the state~~
 183 ~~or national fingerprint records check determination was unsatisfactory as to the director of~~
 184 ~~an applicant's facility, the applicant shall designate another director for that facility after~~
 185 ~~receiving notification of the determination and proceed under Code Section 20-1A-32 and~~
 186 ~~this Code section to obtain state and national fingerprint records checks for that newly~~
 187 ~~designated director.~~ If the preliminary fingerprint records check for a director or any
 188 employee ~~other than the director~~ revealed a criminal record of any kind, such director or
 189 employee shall not be allowed to work in the center while any child is present until he or
 190 she either has obtained a satisfactory ~~state and national~~ fingerprint records check
 191 ~~determinations~~ determination or has had the unsatisfactory determination reversed in
 192 accordance with Code Section 20-1A-43. The department shall revoke the license of a
 193 center if the center fails to comply with the requirements of this Code section. ~~If the~~
 194 ~~determination was unsatisfactory as to any employee of an applicant's facility, the applicant~~
 195 ~~shall, after receiving notification of that determination, take such steps as are necessary so~~
 196 ~~that such person is no longer an employee.~~ Any employee ~~other than the director who~~
 197 ~~receives a satisfactory preliminary records check shall not be required to obtain a~~
 198 ~~fingerprint records check unless such an employee has been designated as a director or as~~
 199 ~~permitted by the provisions of subsection (c) of Code Section 20-1A-39.~~

200 20-1A-34.

201 (a) The department shall transmit to GCIC both sets of fingerprints and the records search
 202 fee from each fingerprint records check application. Upon receipt thereof, GCIC shall
 203 promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search

204 of bureau records and an appropriate report and shall retain the other set and promptly
205 conduct a search of its records and records to which it has access. Within ten days after
206 receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the
207 department in writing of any derogatory finding, including but not limited to any criminal
208 record, of the state fingerprint records check or if there is no such finding. After a search
209 of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's
210 report, the department shall make a national fingerprint records check determination.

211 (b) Every potential employee of the department who may have any reason to be present
212 at a center while any child is present for care must receive a satisfactory fingerprint records
213 check determination or have had an unsatisfactory fingerprint records check determination
214 reversed in accordance with Code Section 20-1A-43 prior to employment. Every current
215 employee of the department who may have any reason to be present at a center while any
216 child is present for care must receive a satisfactory fingerprint records check determination
217 or have had an unsatisfactory fingerprint records check determination reversed in
218 accordance with Code Section 20-1A-43 by January 1, 2014. Every employee of the
219 department shall undergo additional fingerprint records checks such that the time between
220 such additional fingerprint records checks and that employee's previous fingerprint records
221 check shall not exceed five years. The department shall maintain documentation in the
222 appropriate personnel file indicating that such person has obtained such current satisfactory
223 fingerprint records check determination or has had an unsatisfactory fingerprint records
224 check determination reversed in accordance with Code Section 20-1A-43.

225 20-1A-35.

226 ~~After receiving a Federal Bureau of Investigation report regarding a national fingerprint~~
227 ~~records check under Code Section 20-1A-34, the department shall make a determination~~
228 ~~based thereon and notify in writing the license applicant as to whether that records check~~
229 ~~was satisfactory or unsatisfactory. If the national fingerprint records check determination~~
230 ~~was unsatisfactory as to the director of an applicant's facility, after receiving notification~~
231 ~~of that determination, that applicant shall designate another director for such facility for~~
232 ~~which director the applicant has not received or made an unsatisfactory preliminary or~~
233 ~~fingerprint records check determination and proceed under the requirements of Code~~
234 ~~Sections 20-1A-32 through 20-1A-34 and this Code section to obtain state and national~~
235 ~~fingerprint records check determinations for the newly designated director. The director~~
236 ~~may begin working upon the receipt of a satisfactory state fingerprint records check~~
237 ~~determination pending the receipt of the national fingerprint records check determination~~
238 ~~from the department. The department may revoke the license of that facility if the facility~~
239 ~~fails to comply with the requirements of this Code section and Code Section 20-1A-33 to~~

240 ~~receive satisfactory state and national fingerprint determinations on the director or to~~
 241 ~~comply with Code Section 20-1A-33 regarding employees other than the director. Where~~
 242 ~~there is need for a provisional employee to work at a center's facility, such center may~~
 243 ~~utilize an individual as a provisional employee only after the director reviews a preliminary~~
 244 ~~records check and makes a satisfactory determination in accordance with this article. No~~
 245 ~~such provisional employee shall be present in the facility while any child is present for care~~
 246 ~~until such satisfactory preliminary records check determination has been made based upon~~
 247 ~~GCIC information obtained from local law enforcement within the prior ten days. The~~
 248 ~~board shall be authorized to define and enforce by regulations, including, but not limited~~
 249 ~~to, the length of time a provisional employee may be present at a facility without a~~
 250 ~~fingerprint records check determination. The department may revoke the license of a~~
 251 ~~center if the center fails to comply with the requirements of this Code section and employs~~
 252 ~~a person with an unsatisfactory preliminary records check determination.~~

253 20-1A-36.

254 No facility operated as an early care and education program or similar facility or any
 255 operator of such a facility shall employ any person who has been convicted of or who has
 256 entered a plea of guilty or nolo contendere to any offense specified in Code Section
 257 16-12-1.1 or allow any such person to reside at or be domiciled at such facility in violation
 258 of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the
 259 license, commission, or registration of any such facility violating the provisions of this
 260 Code section. The powers and duties set forth in this Code section are cumulative and not
 261 intended to limit the powers and duties set forth throughout this article.

262 20-1A-37.

263 (a) Notwithstanding any other provision of this article, an individual who resides in a
 264 family day-care home, as defined by Code Section 20-1A-2, shall ~~not~~ be required to
 265 ~~provide fingerprints for routine fingerprints records checks if the operator of the family~~
 266 ~~day-care home provides the department with an affidavit stating that such individual is not~~
 267 ~~present in the home at the same time as the children who are received for pay for~~
 268 ~~supervision and care. However, all persons residing in a family day-care home are required~~
 269 ~~to obtain satisfactory preliminary records checks and submit them a fingerprint records~~
 270 ~~check application to the department. If the fingerprint records check determination is~~
 271 ~~unsatisfactory, the department shall notify the provider and the employee of such~~
 272 ~~determination in writing and no such employee shall be allowed to reside at the day-care~~
 273 ~~home or be present at the day-care home when any child is present for care until he or she~~

274 either has obtained a satisfactory fingerprint records check determination or has had the
275 unsatisfactory determination reversed in accordance with Code Section 20-1A-43.
276 ~~(b) As an alternative to the requirements set out in this article pertaining to obtaining~~
277 ~~preliminary criminal records check determinations through the department for employees~~
278 ~~of centers and adults residing in a family day-care home, but not including directors of~~
279 ~~centers, centers may obtain GCIC information through local law enforcement agencies.~~
280 ~~The center shall be responsible for reviewing the GCIC information obtained for the~~
281 ~~potential employee or adult residing in the family day-care home and making a written~~
282 ~~determination that the individual does not have a criminal record as defined in this article.~~
283 ~~This written determination, together with all supporting documentation received from any~~
284 ~~law enforcement agency, must be maintained in the center's file and available for~~
285 ~~inspection by the department. This satisfactory determination must be made before the~~
286 ~~employee begins any duties for the center. However, where there is an urgent need for an~~
287 ~~emergency temporary employee to work at a center's facility in order to avoid immediate~~
288 ~~noncompliance with staffing requirements, such center may utilize the applicant as an~~
289 ~~emergency temporary employee after applying for the preliminary records check through~~
290 ~~the local law enforcement agency and completing the affidavit. In such emergency~~
291 ~~situations, the director of the center must complete an affidavit, with all supporting~~
292 ~~documentation attached thereto, stating that the GCIC information has been requested~~
293 ~~through an identified local law enforcement agency and that the results were not~~
294 ~~immediately available to the center prior to assigning the employee to work with children~~
295 ~~at the center's facility in order to avoid immediate noncompliance with staffing ratios. The~~
296 ~~affidavit with supporting documentation must be maintained in the center's file on the~~
297 ~~individual and available to the department for inspection. The director shall review the~~
298 ~~GCIC information upon receipt, but in no case shall an emergency temporary employee be~~
299 ~~permitted to continue working for more than three days without having a satisfactory~~
300 ~~determination made by the director and entered into the center's file on the employee with~~
301 ~~all supporting documentation. The department shall promulgate rules and regulations~~
302 ~~limiting the extent to which centers are authorized to use emergency temporary employees~~
303 ~~in accordance with this subsection. Employees, emergency temporary employees, and~~
304 ~~other adults required to have records checks who are utilized by centers are subject to all~~
305 ~~other requirements set forth in this article. Where the department has reason to question~~
306 ~~the validity of the GCIC information or the satisfactory determination made by the center,~~
307 ~~the department may require the employee, emergency temporary employee, or other adult~~
308 ~~to submit a preliminary criminal records check application through the department together~~
309 ~~with appropriate fees.~~

310 20-1A-38.

311 (a) If the director of a facility ~~which has been issued a license~~ ceases to be the director of
 312 that facility, the licensee shall thereupon designate a new director. After such change, the
 313 licensee of that facility shall notify the department in writing of such change and of any
 314 additional information the department may require regarding the newly designated director
 315 of that facility, including a fingerprint records check application. ~~Such information shall~~
 316 ~~include but not be limited to any information the licensee may have regarding preliminary~~
 317 ~~or any fingerprint records check determinations regarding that director. After receiving a~~
 318 ~~change of director notification, the department shall make a written determination from the~~
 319 ~~information furnished with such notification and the department's own records as to~~
 320 ~~whether satisfactory or unsatisfactory preliminary or state and national fingerprint records~~
 321 ~~check determinations have ever been made for the newly designated director. If the~~
 322 department determines that such newly designated director ~~within 12 months prior thereto~~
 323 has had a satisfactory state and national fingerprint records check determinations
 324 determination or an unsatisfactory determination reversed pursuant to Code Section
 325 20-1A-43 within the prior 12 months, such ~~determinations~~ determination shall be deemed
 326 to be satisfactory ~~state and national fingerprint records check determinations as to that~~
 327 ~~director~~ for purposes of this article. The license of that facility shall not be adversely
 328 affected by that change in director, and the licensee shall be so notified.

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

338 (c) If the department determines under subsection (a) of this Code section that there have
 339 been no ~~state and national~~ satisfactory or legally reversed fingerprint records check
 340 determinations regarding the newly designated director within the immediately preceding
 341 12 months, the department shall so notify the center. ~~The center shall furnish to the~~
 342 ~~department the fingerprint records check application of the newly designated director after~~
 343 ~~the date the notification is sent by the department. Upon such notification, the newly~~
 344 designated director shall follow the procedures for new directors as outlined in Code
 345 Section 20-1A-39, or the license of that facility shall be indefinitely suspended or revoked.
 346 ~~If that fingerprint records check application is so received, unless the department has within~~

347 ~~the immediately preceding 12 months made a satisfactory state fingerprint records check~~
 348 ~~determination regarding the newly designated director, the department shall perform a state~~
 349 ~~fingerprint records check determination of the newly designated director, and the applicant~~
 350 ~~and that director shall be so notified. If that determination is unsatisfactory, the provisions~~
 351 ~~of subsection (b) of this Code section regarding procedures after notification shall apply.~~
 352 ~~If that determination is satisfactory, the department shall perform a national fingerprint~~
 353 ~~records check determination for that director as provided in Code Sections 20-1A-34 and~~
 354 ~~20-1A-35. The director may begin working upon the receipt of a satisfactory state~~
 355 ~~fingerprint records check determination pending the receipt of the national fingerprint~~
 356 ~~records check determination from the department. If that determination is satisfactory, the~~
 357 ~~center and director for whom the determination was made shall be so notified after the~~
 358 ~~department makes its determination, and the license for the facility at which that person is~~
 359 ~~the newly designated director shall not be adversely affected by that change of director.~~
 360 ~~If that determination is unsatisfactory, the provisions of subsection (b) of this Code section~~
 361 ~~shall apply.~~

362 20-1A-39.

363 (a) Before a person may become an employee ~~other than a director~~ of any center after that
 364 center has received a license, that center shall require that person to obtain a satisfactory
 365 preliminary fingerprint records check determination. The potential employee may submit
 366 evidence, satisfactory to the department, that within the immediately preceding 12 months
 367 the employee received a satisfactory fingerprint records check determination, or that any
 368 employee whose fingerprint records check revealed a criminal record of any kind has either
 369 subsequently received a satisfactory fingerprint records check determination or has had the
 370 unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The
 371 center shall maintain documentation in the employee's personnel file, which is available
 372 to the department upon request, which reflects that a satisfactory ~~preliminary criminal~~
 373 fingerprint records check determination was received before the employee ~~began~~ begins
 374 working with children. If the preliminary fingerprint records check determination for any
 375 potential employee ~~other than the director~~ reveals a criminal record of any kind, such
 376 potential employee shall not be allowed to begin working until ~~either~~ such potential
 377 employee has either obtained a satisfactory ~~state and national~~ fingerprint records check
 378 ~~determinations~~ determination or has had the unsatisfactory ~~preliminary or~~ fingerprint
 379 records check determination reversed in accordance with Code Section 20-1A-43. If ~~either~~
 380 the ~~preliminary or state or national~~ fingerprint records check determination is
 381 unsatisfactory, the center shall, after receiving notification of ~~the~~ such unsatisfactory
 382 determination, take such steps as are necessary so that such person is no longer an

383 employee. ~~Any potential employee other than the director who receives a satisfactory~~
 384 ~~preliminary records check determination shall not be required to obtain a fingerprint~~
 385 ~~records check determination except as permitted in accordance with subsection (c) of this~~
 386 ~~Code section.~~

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

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

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

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

415 ~~(f)~~(f) No center may hire any person as an employee unless there is on file in the center
 416 an employment history and a satisfactory preliminary fingerprint records check
 417 determination or, if the preliminary records check determination revealed a criminal record
 418 of any kind as to such person, either satisfactory state and satisfactory national records

419 ~~check determinations for that person~~ or proof that an unsatisfactory determination has been
420 reversed in accordance with Code Section 20-1A-43.

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

425 20-1A-40.

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

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

438 20-1A-41.

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

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

446 20-1A-42.

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

449 20-1A-43.

450 A determination by the department regarding preliminary or fingerprint records checks
451 under this article, or any action by the department revoking, suspending, or refusing to

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

469 20-1A-44.

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

471 **SECTION 3.**

472 This Act shall become effective for purposes of promulgating rules and regulations on July
473 1, 2013. For all other purposes, this Act shall become effective on January 1, 2014.

474 **SECTION 4.**

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