

House Bill 328

By: Representatives Efstration of the 104th, Coomer of the 14th, Nimmer of the 178th, Dickey of the 140th, Golick of the 40th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10, Code Sections 17-10-7 and 42-9-45,
2 Chapter 1 of Title 43, and Code Section 49-4-15 of the Official Code of Georgia Annotated,
3 relating to the "Fair Business Practices Act of 1975," repeat offenders and the State Board
4 of Pardons and Paroles general rule-making authority, general provisions for professions and
5 businesses, and fraud in obtaining public assistance, food stamps, or Medicaid, respectively,
6 so as to enact reforms recommended by the Georgia Council on Criminal Justice Reform
7 involving adult offenders; to provide greater employment opportunities for individuals who
8 have had interaction with the criminal justice system; to provide protection to consumers
9 relating to consumer reports in connection with employment and licensing; to provide for
10 definitions; to change provisions relating to certain inmates' parole eligibility; to provide for
11 probationary licenses under certain conditions; to change provisions relating to the
12 misdemeanor and felony threshold in certain fraud cases; to provide for related matters; to
13 provide for an effective date and applicability; to repeal conflicting laws; and for other
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**PART I**
17 style="text-align:center">**SECTION 1-1.**

18 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
19 "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as
20 follows:

21 "10-1-393.14.

22 (a) As used in this Code section, the term:

23 (1) 'Adverse action' means:

24 (A) A denial of employment;

25 (B) Any other decision for employment purposes that negatively affects any current
26 or prospective employee; or

27 (C) A denial or cancellation of, an increase in any charge for, or any other adverse or
28 unfavorable change in the terms of any license.

29 (2) 'Consumer report' means any written, oral, or other communication of any
30 information bearing on a consumer's credit worthiness, credit standing, credit capacity,
31 character, general reputation, personal characteristics, or mode of living which is used or
32 expected to be used or collected in whole or in part for the purpose of serving as a factor
33 in establishing the consumer's eligibility for purposes of credit, insurance, or
34 employment.

35 (3) 'Consumer reporting agency' means any person or entity which, for monetary fees or
36 dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the
37 practice of assembling or evaluating consumer credit information or other information
38 on consumers for the purpose of furnishing consumer reports to third parties.

39 (4) 'Employment purposes' means used for the purpose of evaluating a consumer for
40 employment, promotion, reassignment, retention as an employee, or licensing.

41 (b) A consumer reporting agency which furnishes a consumer report for employment
42 purposes and which for that purpose compiles and reports items of information on
43 consumers which are matters of public record and are likely to have an adverse action upon
44 a consumer's ability to obtain employment shall:

45 (1) At the time such public record information is reported to the user of such consumer
46 report, notify the consumer of the fact that public record information is being reported by
47 the consumer reporting agency, together with the name and address of the person to
48 whom such information is being reported; or

49 (2) Maintain strict procedures designed to ensure that whenever public record
50 information which is likely to have an adverse action on a consumer's ability to obtain
51 employment is reported it is complete and up to date. For purposes of this paragraph,
52 items of public record relating to arrests, indictments, and convictions shall be considered
53 up to date if the current public record status of the item at the time of the report is
54 reported.

55 (c) A consumer reporting agency shall be considered to be conducting business in this state
56 if it provides information to any individual, partnership, corporation, association, or any
57 other group however organized that is domiciled within this state or whose principal place
58 of business is within this state."

59 **PART II**

60 **SECTION 2-1.**

61 Code Section 17-10-7 of the Official Code of Georgia Annotated, relating to punishment of
62 repeat offenders, is amended by revising subsection (c) as follows:

63 "(c) Except as otherwise provided in subsection (b) or (b.1) of this Code section and
64 subsection (b) of Code Section 42-9-45, any person who, after having been convicted under
65 the laws of this state for three felonies or having been convicted under the laws of any other
66 state or of the United States of three crimes which if committed within this state would be
67 felonies, commits a felony within this state shall, upon conviction for such fourth offense
68 or for subsequent offenses, serve the maximum time provided in the sentence of the judge
69 based upon such conviction and shall not be eligible for parole until the maximum sentence
70 has been served."

71 **SECTION 2-2.**

72 Code Section 42-9-45 of the Official Code of Georgia Annotated, relating to the State Board
73 of Pardons and Paroles general rule-making authority, is amended by revising subsection (b)
74 as follows:

75 "(b)(1) An inmate serving a misdemeanor sentence or misdemeanor sentences shall only
76 be eligible for consideration for parole after the expiration of six months of his or her
77 sentence or sentences or one-third of the time of his or her sentence or sentences,
78 whichever is greater.

79 (2) Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and
80 paragraph (3) of this subsection, an inmate serving a felony sentence or felony sentences
81 shall only be eligible for consideration for parole after the expiration of nine months of
82 his or her sentence or one-third of the time of the sentences, whichever is greater. Except
83 as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and paragraph (3) of this
84 subsection, inmates serving sentences aggregating 21 years or more shall become eligible
85 for consideration for parole upon completion of the service of seven years.

86 (3) When an inmate was sentenced pursuant to subsection (d) of Code Section 16-13-30
87 and subsection (c) of Code Section 17-10-7 to a term of at least 12 years and up to a life
88 sentence, he or she may become eligible for consideration for parole if he or she:

89 (A) Has never been convicted of:

90 (i) A serious violent felony as such term is defined in Code Section 17-10-6.1;

91 (ii) An offense for which he or she was or could have been required to register
92 pursuant to Code Section 42-1-12; provided, however, that this paragraph shall not

93 apply to any felony that became punishable as a misdemeanor on or after July 1,
 94 2006;
 95 (iii) A violation of paragraph (1) or (2) of subsection (b) of Code Section 16-5-21;
 96 (iv) A violation of Code Section 16-11-106; and
 97 (v) A violation of Code Section 16-11-131;
 98 (B) Has completed at least 12 years of his or her sentence;
 99 (C) Has obtained a low-risk for recidivism rating as determined by a validated risk
 100 assessment instrument approved by the Department of Corrections;
 101 (D) Has been classified as a medium or less than medium security risk for institutional
 102 housing classification purposes by the Department of Corrections;
 103 (E) Has completed all criminogenic programming requirements as determined by a
 104 validated risk assessment instrument approved by the Department of Corrections;
 105 (F) In the 12 months preceding consideration, has not been found guilty of any serious
 106 disciplinary infractions; and
 107 (G) Has a high school diploma or general educational development (GED) diploma,
 108 unless he or she is unable to obtain such educational achievement due to a learning
 109 disability or illiteracy. If the inmate is incapable of obtaining such education, he or she
 110 shall have completed a job skills training program, a literacy program, an adult basic
 111 education program, or a faith-based program."

112 **PART III**

113 **SECTION 3-1.**

114 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
 115 provisions for professions and businesses, is amended by adding a new subsection to Code
 116 Section 43-1-19, relating to grounds for refusing to grant or revoking licenses, to read as
 117 follows:

118 "(p)(1) Notwithstanding any other provision of this Code section or title, when an
 119 applicant submits his or her application for licensure or renewal, together with proof of
 120 completion of a drug court division program, as set forth in Code Section 15-1-15, a
 121 board shall issue the applicant a probationary license under the terms and conditions
 122 deemed appropriate by such board.
 123 (2) Paragraph (1) of this subsection shall not supersede a board's consideration of an
 124 applicant's other prior criminal history or arrests or convictions that occur subsequent to
 125 completion of a drug court division program."

126

PART IV

127

SECTION 4-1.

128 Code Section 49-4-15 of the Official Code of Georgia Annotated, relating to fraud in
 129 obtaining public assistance, food stamps, or Medicaid, is amended by revising subsection (a)
 130 as follows:

131 "(a) Any person who by means of a false statement, failure to disclose information, or
 132 impersonation, or by other fraudulent device, obtains or attempts to obtain, or any person
 133 who knowingly or intentionally aids or abets such person in the obtaining or attempting to
 134 obtain:

135 (1) Any grant or payment of public assistance, food stamps, or medical assistance
 136 (Medicaid) to which he or she is not entitled;

137 (2) A larger amount of public assistance, food stamp allotment, or medical assistance
 138 (Medicaid) than that to which he or she is entitled; or

139 (3) Payment of any forfeited grant of public assistance;

140 or any person who, with intent to defraud the department, aids or abets in the buying or in
 141 any way disposing of the real property of a recipient of public assistance shall be guilty of
 142 a misdemeanor unless the total amount of the value of public assistance, food stamps, and
 143 medical assistance (Medicaid) so obtained exceeds ~~\$500.00~~ \$1,500.00, in which event such
 144 person shall be guilty of a felony and, upon conviction thereof, shall be punished by
 145 imprisonment for not less than one nor more than five years. In determining the amount
 146 of value of public assistance, food stamps, and medical assistance (Medicaid) obtained by
 147 false statement, failure to disclose information, or impersonation, or other fraudulent
 148 device, the total amount obtained during any uninterrupted period of time shall be treated
 149 as one continuing offense."

150

PART V

151

SECTION 5-1.

152 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
 153 July 1, 2015.

154 (b) Part II of this Act shall become effective upon its approval by the Governor or upon its
 155 becoming law without such approval. The provisions of Part II of this Act shall be given
 156 retroactive effect to those sentences imposed before the effective date of Part II of this Act.

157

SECTION 5-2.

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