

House Bill 494

By: Representatives Dempsey of the 13<sup>th</sup>, Coleman of the 97<sup>th</sup>, Chandler of the 105<sup>th</sup>, Glanton of the 75<sup>th</sup>, and Carter of the 175<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early  
2 care and learning, so as to revise certain provisions relating to the safety of children in early  
3 care and education programs; to authorize hearsay in preliminary hearings regarding  
4 emergency closure of a program or the emergency placement of a monitor or monitors; to  
5 revise the definition of "crime" for purposes of background checks; to provide that  
6 background checks are not valid if an individual has been separated from employment for  
7 more than 180 consecutive days from an early care and education program; to provide for  
8 related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and  
12 learning, is amended by revising subsection (h) of Code Section 20-1A-13, relating to  
13 emergency placement of monitors, emergency closure upon minor's death, and requirements  
14 and procedures, as follows:

15 "(h) If a hearing is requested, the preliminary hearing shall consist of a review of all oral  
16 and written evidence introduced at the hearing and any arguments made. Hearsay shall be  
17 admissible in a preliminary hearing in determining the issues relevant to emergency closure  
18 of a program or the emergency placement of a monitor or monitors. A recording shall be  
19 made of the hearing."

20 style="text-align:center">**SECTION 2.**

21 Said chapter is further amended by revising paragraph (2) of Code Section 20-1A-30, relating  
22 to definitions relative to background checks, as follows:

23 "(2) 'Crime' means:

24 (A) Any felony;

25 (B) A violation of Code Section 16-5-23 when the victim is a minor;

- 26 (C) A violation of Code Section 16-5-23.1 when the victim is a minor;  
 27 (D) A violation of Code Section 16-12-1;  
 28 (E) A violation of Chapter 6 of Title 16;  
 29 (F) A violation of Code Section 16-4-1; ~~or~~  
 30 (G) A violation of Code Section 16-5-29;  
 31 (H) A violation of Code Section 16-5-60 when the victim is a minor;  
 32 (I) A violation of Code Section 16-5-70;  
 33 (J) A violation of Code Section 16-12-1.1;  
 34 (K) A violation of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, or 16-12-100.3;  
 35 (L) A violation of Code Section 40-6-391 when a child is endangered; or  
 36 ~~(G)~~(M) Any other offenses committed in another jurisdiction which, if committed in  
 37 this state, would be one of the enumerated crimes listed in this paragraph."

38 **SECTION 3.**

39 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
 40 20-1A-31, relating to records check application for potential employees and fingerprint  
 41 records checks, as follows:

42 "(a) A support center may furnish to the department a records check application for each  
 43 potential employee of any licensed, commissioned, or permitted early care and education  
 44 program. Before a person affiliated with a support center may become an employee of any  
 45 licensed, commissioned, or permitted early care and education program, such person shall  
 46 obtain a satisfactory fingerprint records check determination. All potential employees,  
 47 excluding students currently enrolled in an early education curriculum through an  
 48 accredited school of higher education, may submit evidence, satisfactory to the department,  
 49 that such potential employee received a satisfactory fingerprint records check  
 50 determination that includes a records check clearance date that is no more than 12 months  
 51 old, notwithstanding Code Section 20-1A-45, or that any employee whose fingerprint  
 52 records check revealed a criminal record of any kind has either subsequently received a  
 53 satisfactory fingerprint records check determination or has had the unsatisfactory  
 54 determination reversed in accordance with Code Section 20-1A-43. A student currently  
 55 enrolled in an early education curriculum through an accredited school of higher education  
 56 may submit evidence, satisfactory to the department, that such student received a  
 57 satisfactory fingerprint records check determination that includes a records check clearance  
 58 date that is no more than 24 months old, notwithstanding Code Section 20-1A-45, or that  
 59 such student whose fingerprint records check revealed a criminal record of any kind has  
 60 either subsequently received a satisfactory fingerprint records check determination or has  
 61 had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43.

62 The licensed, commissioned, or permitted early care and education program shall maintain  
 63 documentation in the employee's personnel file, which is available to the department upon  
 64 request, and which reflects that a satisfactory fingerprint records check determination was  
 65 received before the employee is allowed to reside in an early care and education program  
 66 or be present at an early care and education program while children are present for care.  
 67 If the fingerprint records check determination for any potential employee reveals a criminal  
 68 record of any kind, such potential employee shall not be allowed to reside in an early care  
 69 and education program or be present at an early care and education program while children  
 70 are present for care until such potential employee has either obtained a satisfactory  
 71 fingerprint records check determination or has had the unsatisfactory fingerprint records  
 72 check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint  
 73 records check determination is unsatisfactory, the licensed, commissioned, or permitted  
 74 early care and education program shall, after receiving notification of such unsatisfactory  
 75 determination, take such steps as are necessary so that such person no longer resides in the  
 76 early care and education program and no longer is present at an early care and education  
 77 program while children are present for care.

78 (b) Notwithstanding the limited period of portability, every person affiliated with a support  
 79 center as a potential employee of a licensed or commissioned early care and education  
 80 program shall undergo additional fingerprint records checks such that the time between  
 81 such additional fingerprint records checks and that person's previous fingerprint records  
 82 check shall not exceed five years, notwithstanding Code Section 20-1A-45."

#### 83 SECTION 4.

84 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
 85 20-1A-32, relating to program license or commission applicants, records check requirements,  
 86 and change of ownership, as follows:

87 "(a) Accompanying any application for a new license or commission for an early care and  
 88 education program, the applicant shall furnish to the department a records check  
 89 application for the director and each employee. In lieu of such records check applications,  
 90 the license applicant may submit evidence, satisfactory to the department, that such  
 91 individual received a satisfactory fingerprint records check determination that includes a  
 92 records check clearance date that is no more than 12 months old, notwithstanding Code  
 93 Section 20-1A-45, or that any director or employee whose fingerprint records check  
 94 revealed a criminal record of any kind has either subsequently received a satisfactory  
 95 fingerprint records check determination or has had the unsatisfactory determination  
 96 reversed in accordance with Code Section 20-1A-43. Either the department or the  
 97 appropriate law enforcement agencies may charge reasonable and additional processing

98 fees for performing fingerprint records checks as required by statute, regulation, or policy  
99 or by GCIC.  
100 (b) Each change of ownership applicant shall furnish to the department a records check  
101 application for the director and each employee. In lieu of such records check applications,  
102 the change of ownership applicant may submit evidence that the director and each  
103 employee at that facility received a satisfactory fingerprint records check determination that  
104 includes a records check clearance date that is no more than 60 months old,  
105 notwithstanding Code Section 20-1A-45, or that any director or employee whose  
106 fingerprint records check revealed a criminal record of any kind has either subsequently  
107 received a satisfactory fingerprint records check determination or has had the unsatisfactory  
108 determination reversed in accordance with Code Section 20-1A-43. Failure to comply with  
109 this provision shall prevent the department from issuing a license or commission."

110 **SECTION 5.**

111 Said chapter is further amended by revising subsection (b) of Code Section 20-1A-34,  
112 relating to check of fingerprints on national level, satisfactory determination prior to  
113 employment, and additional records checks, as follows:

114 "(b) Every potential employee of the department or contractor performing duties on behalf  
115 of the department who may have any reason to be present at a licensed or commissioned  
116 early care and education program while any child is present for care must receive a  
117 satisfactory fingerprint records check determination or have had an unsatisfactory  
118 fingerprint records check determination reversed in accordance with Code Section  
119 20-1A-43 prior to being present at a licensed or commissioned early care and education  
120 program while children are present for care. Every current employee of the department  
121 who may have any reason to be present at a licensed or commissioned early care and  
122 education program while any child is present for care must receive a satisfactory fingerprint  
123 records check determination or have had an unsatisfactory fingerprint records check  
124 determination reversed in accordance with Code Section 20-1A-43. Every employee of the  
125 department shall undergo additional fingerprint records checks such that the time between  
126 such additional fingerprint records checks and that employee's previous fingerprint records  
127 check shall not exceed five years, notwithstanding Code Section 20-1A-45. The  
128 department shall maintain documentation in the appropriate personnel file indicating that  
129 such person has obtained such current satisfactory fingerprint records check determination  
130 or has had an unsatisfactory fingerprint records check determination reversed in accordance  
131 with Code Section 20-1A-43."

132 **SECTION 6.**

133 Said chapter is further amended by revising subsection (a) of Code Section 20-1A-38,  
134 relating to change of directors and records check requirements, as follows:

135 "(a) If the director of a licensed, commissioned, or permitted early care and education  
136 program ceases to be the director of that early care and education program, the license  
137 holder, commission holder, or permit holder shall thereupon designate a new director.  
138 After such change, the license holder, commission holder, or permit holder of that early  
139 care and education program shall notify the department of such change and of any  
140 additional information the department may require regarding the newly designated director  
141 of that early care and education program, including a fingerprint records check application.  
142 Such individuals shall also submit all necessary applications, fees, and acceptable  
143 fingerprints to the GCIC. If the department determines that such newly designated director  
144 has received a satisfactory fingerprint records check determination that includes a records  
145 check clearance date that is no more than 12 months old, notwithstanding Code Section  
146 20-1A-45, or had an unsatisfactory determination reversed pursuant to Code Section  
147 20-1A-43 within the prior 12 months, notwithstanding Code Section 20-1A-45, such  
148 determination shall be deemed to be satisfactory for purposes of this article."

149 **SECTION 7.**

150 Said chapter is further amended by revising subsections (a) and (c) of Code Section  
151 20-1A-39, relating to potential employees, current employees and directors, records check  
152 requirements, satisfactory records check, and liability for hiring ineligible employee, as  
153 follows:

154 "(a) Before a person may become an employee of any early care and education program  
155 after that early care and education program has received a license or commission, that early  
156 care and education program shall require that person to obtain a satisfactory fingerprint  
157 records check determination. All potential employees, excluding students currently  
158 enrolled in an early education curriculum through an accredited school of higher education,  
159 may submit evidence, satisfactory to the department, that the potential employee received  
160 a satisfactory fingerprint records check determination that includes a records check  
161 clearance date that is no more than 12 months old, notwithstanding Code Section  
162 20-1A-45, or that any potential employee whose fingerprint records check revealed a  
163 criminal record of any kind has either subsequently received a satisfactory fingerprint  
164 records check determination or has had the unsatisfactory determination reversed in  
165 accordance with Code Section 20-1A-43. A student currently enrolled in an early  
166 education curriculum through an accredited school of higher education may submit  
167 evidence, satisfactory to the department, that the student received a satisfactory fingerprint

168 records check determination that includes a records check clearance date that is no more  
169 than 24 months old, notwithstanding Code Section 20-1A-45, or that such student whose  
170 fingerprint records check revealed a criminal record of any kind has either subsequently  
171 received a satisfactory fingerprint records check determination or has had the unsatisfactory  
172 determination reversed in accordance with Code Section 20-1A-43. The licensed or  
173 commissioned early care and education program shall maintain documentation in the  
174 employee's personnel file, which is available to the department upon request, which reflects  
175 that a satisfactory fingerprint records check determination was received before the  
176 employee is eligible to reside at an early care and education program or be present at a  
177 licensed or commissioned early care and education program while children are present for  
178 care. If the fingerprint records check determination for any potential employee reveals a  
179 criminal record of any kind, such potential employee shall be ineligible to reside at an early  
180 care and education program or be present at an early care and education program while  
181 children are present for care until such potential employee has either obtained a satisfactory  
182 fingerprint records check determination or has had the unsatisfactory fingerprint records  
183 check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint  
184 records check determination is unsatisfactory, the licensed or commissioned early care and  
185 education program shall, after receiving notification of such unsatisfactory determination,  
186 take such immediate steps as are necessary so that such person no longer resides at the  
187 early care and education program or is no longer present at the early care and education  
188 program while children are present for care. The department shall revoke the license or  
189 commission of an early care and education program if the early care and education program  
190 fails to comply with the requirements of this Code section."

191 "(c) Effective January 1, 2019, every employee and director of any licensed or  
192 commissioned early care and education program shall undergo additional fingerprint  
193 records checks such that the time between such additional fingerprint records checks and  
194 that employee's or director's previous fingerprint records check shall not exceed five years,  
195 notwithstanding Code Section 20-1A-45. The early care and education program shall  
196 maintain documentation in the appropriate personnel file, which is available to the  
197 department immediately upon request, indicating that such person has obtained such  
198 current satisfactory fingerprint records check determination or has had an unsatisfactory  
199 fingerprint records check determination reversed in accordance with Code Section  
200 20-1A-43. The department shall revoke the license or commission of an early care and  
201 education program if the early care and education program fails to comply with the  
202 requirements of this Code section."

203 **SECTION 8.**

204 Said chapter is further amended by adding a new Code section to read as follows:

205 "20-1A-45.

206 A satisfactory fingerprint records check determination shall be no longer valid for an  
207 individual who has been separated from employment for more than 180 consecutive days  
208 from an early care and education program that receives, either directly or indirectly, federal  
209 funds through the department for the care of children."

210 **SECTION 9.**

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