

House Bill 795

By: Representatives Gravley of the 67th, Hilton of the 95th, Williamson of the 115th, Coomer of the 14th, and Kelley of the 16th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 34 of the Official Code of Georgia Annotated, relating to the
2 Department of Labor, so as to authorize the Commissioner of Labor to perform certain
3 functions; to authorize the Commissioner of Labor to prescribe certain rules and regulations;
4 to provide for definitions; to authorize the Commissioner of Labor to conduct fingerprint
5 based criminal background checks for individuals employed by the Department of Labor; to
6 provide a process for conducting such criminal background checks; to limit the use,
7 dissemination, and liability relating to information obtained from the criminal background
8 checks; to provide for 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 2 of Title 34 of the Official Code of Georgia Annotated, relating to the Department
12 of Labor, is amended in Code Section 34-2-6, relating to specific powers and duties of the
13 Commissioner, by revising paragraph (4) of subsection (a) as follows:

14 ~~"(4) To make and promulgate such rules or changes in rules as he may deem advisable~~
15 ~~for the prevention of accidents or the prevention of industrial or occupational diseases in~~
16 ~~every employment or place of employment, and such rules or changes in rules for the~~
17 ~~construction, repair, and maintenance of places of employment, places of public~~
18 ~~assembly, and public buildings as he may deem advisable, to render them safe. The~~
19 ~~Commissioner may appoint committees composed of employers, employees, and experts~~
20 ~~to suggest rules or changes therein~~ To prescribe such rules and regulations, consistent
21 with the terms, intent, and purposes of this title, except for Chapter 9 of this title,
22 necessary for the proper administration and enforcement thereof;"

SECTION 2.

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

"34-2-15.

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

(1) 'Criminal background check' means a search of the criminal records maintained by the GCIC and the Federal Bureau of Investigation to determine whether an individual has a criminal record.

(2) 'Criminal record' means any of the following:

(A) A conviction of a crime;

(B) An arrest, charge, and sentencing for a crime when:

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

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) An adjudication or sentence was otherwise withheld or not entered on the charge;

or

(C) An arrest and charge for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(3) 'Direct access' means having, or expecting to have, duties that involve contact with or review of certain information.

(4) 'Federal return information' shall have the same meaning as provided for the term 'return information' in 26 U.S.C. Section 6103.

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

(b) Notwithstanding any other provisions of law to the contrary, the Commissioner of Labor shall have the authority to require a criminal background check on any individual employed by the Department of Labor or applying for employment with the Department of Labor on or after January 1, 2019, and shall require a criminal background check on any such individual with direct access to federal return information as part of his or her job duties.

(c) All individuals employed by the Department of Labor shall be required upon request of the Commissioner of Labor to furnish two full sets of fingerprints in such form and of such quality as the GCIC and the Federal Bureau of Investigation deem acceptable for submission. It shall be the duty of each law enforcement agency in this state to fingerprint those individuals required to be fingerprinted under this Code section.

(d) Upon receipt thereof, the GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of the bureau records, retain another set of fingerprints, and promptly conduct a search of its own records and records to which it has

60 access. The GCIC shall notify the Department of Labor in writing of any criminal record
61 or if there is no such finding. After a search of Federal Bureau of Investigation records and
62 fingerprints and upon receipt of the bureau's report and the GCIC's findings, the
63 Commissioner of Labor shall make a determination about the individual's criminal record.
64 (e) An individual requested to submit fingerprints pursuant to this Code section may obtain
65 information concerning the accuracy of his or her criminal record, and the Department of
66 Labor shall refer such individual to the appropriate state or federal law enforcement agency
67 that was involved in the arrest or conviction.
68 (f) The Department of Labor shall perform criminal background checks either under
69 agreement with the GCIC or contract with the GCIC and appropriate law enforcement
70 agencies which have access to GCIC and Federal Bureau of Investigation information to
71 have such agencies perform criminal background checks for the Department of Labor. The
72 Department of Labor or the appropriate law enforcement agencies may charge fees for
73 performing criminal background checks, provided that such fees are reasonable.
74 (g) Neither the GCIC, the Commissioner of Labor, the Department of Labor, any law
75 enforcement agency, nor the employees of the Commissioner of Labor or any such entities
76 shall be responsible for the accuracy of information nor have any liability for defamation,
77 invasion of privacy, negligence, or any other claim in connection with any dissemination
78 of information or determination based thereon pursuant to this Code section.
79 (h) All information received from the GCIC or the Federal Bureau of Investigation shall
80 be privileged, shall be used exclusively for purposes of employment, and shall not be
81 released or otherwise disclosed to any other person or agency except to any person or
82 agency which otherwise has a legal right to inspect the employment file. All such
83 information collected by the Department of Labor shall be maintained by the Department
84 of Labor pursuant to laws regarding and rules or regulations of the GCIC and the Federal
85 Bureau of Investigation, as is applicable. Penalties for the unauthorized release or
86 disclosure of any such information shall be as prescribed pursuant to laws regarding and
87 rules or regulations of the GCIC and the Federal Bureau of Investigation, as is applicable."

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SECTION 3.

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