

House Bill 494 (COMMITTEE SUBSTITUTE)

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 definitions and terminology relating to records check determinations; 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 Code Section 20-1A-30, relating to definitions  
22 relative to background checks, as follows:

23 "20-1A-30.

24 As used in this article, the term:

25 (1) 'Comprehensive records check determination' means a satisfactory or unsatisfactory  
 26 determination by the department, based upon a Federal Bureau of Investigation  
 27 fingerprint check, a search of the National Crime Information Center's National Sex  
 28 Offender Registry, and a search of the following registries, repositories, or data bases in  
 29 the state where the actual or potential employee or director resides and in each state  
 30 where such individual resided during the preceding five years: criminal registry or  
 31 repository, with the use of fingerprints being required in the state where the individual  
 32 resides and optional in other states; state sex offender registry or repository; and state  
 33 based child abuse and neglect registry and data base.

34 ~~(1)~~(2) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of  
 35 whether an appeal of the conviction has been sought.

36 ~~(2)~~(3) 'Crime' means:

37 (A) Any felony;

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

39 (C) A violation of Code Section 16-5-23.1 when the victim is a minor;

40 (D) A violation of Code Section 16-12-1;

41 (E) A violation of Chapter 6 of Title 16;

42 (F) A violation of Code Section 16-4-1; or

43 (G) A violation of Code Section 16-5-29;

44 (H) A violation of Code Section 16-5-60 when the victim is a minor;

45 (I) A violation of Code Section 16-5-70;

46 (J) A violation of Code Section 16-12-1.1;

47 (K) A violation of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, or 16-12-100.3;

48 (L) A violation of Code Section 40-6-391 when a child is endangered;

49 (M) A violation of Code Section 19-7-5; or

50 ~~(G)~~(N) Any other offenses committed in another jurisdiction which, if committed in  
 51 this state, would be one of the enumerated crimes listed in this paragraph.

52 ~~(3)~~(4) 'Criminal record' means:

53 (A) Conviction of a crime;

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

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

56 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
 57 granted; provided, however, that this division shall not apply to a violation of Chapter  
 58 13 of Title 16, relating to controlled substances, or any other offense committed in  
 59 another jurisdiction which, if it were committed in this state, would be a violation of  
 60 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;

61 or

62 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 63 provided, however, that this division shall not apply to a violation of Chapter 13 of  
 64 Title 16, relating to controlled substances, or any other offense committed in another  
 65 jurisdiction which, if it were committed in this state, would be a violation of Chapter  
 66 13 of Title 16 if such violation or offense constituted only simple possession; or

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

69 ~~(4)~~(5) 'Director' means the on-site manager of a facility, designated by the legal owner,  
 70 who is responsible for the supervision, operation, and maintenance of an early care and  
 71 education program and meets the minimum qualifications as determined by the  
 72 department.

73 ~~(5)~~(6) 'Employee' means any person, other than a director, who is ~~17 years of age or~~  
 74 ~~older and is employed compensated~~ by an early care and education program; or who cares  
 75 for, supervises, or has unsupervised access to children at the facility; or who is 17 years  
 76 of age or older and to perform any duties which involve personal contact between that  
 77 ~~person and any child being cared for at the facility and also includes any adult person~~  
 78 ~~who resides at the facility;~~ or who, with or without compensation, performs duties or  
 79 services that benefit for the early care and education program which involve personal  
 80 contact between that person and any child being cared for by the early care and education  
 81 program; however, a parent or legal guardian of a child in care shall not be considered  
 82 an employee unless such parent or legal guardian is deemed an employee by the early  
 83 care and education program or either resides at the early care and education program or  
 84 is compensated in any fashion by the early care and education program except through  
 85 appropriate state or federal funds.

86 ~~(6)~~(7) 'Employment history' means a record of where a person has worked for the past  
 87 ten years.

88 ~~(7)~~(8) 'Facility' means an early care and education program's real property at which  
 89 children are received for care.

90 ~~(8)~~(9) 'Fingerprint' means an inked fingerprint card or an electronic image of a person's  
 91 fingerprint.

92 ~~(9)~~(10) 'Fingerprint records check determination' means a satisfactory or unsatisfactory  
 93 determination by the department based upon fingerprint-based national criminal history  
 94 record information.

95 ~~(10)~~(11) 'GCIC' means the Georgia Crime Information Center established under Article  
 96 2 of Chapter 3 of Title 35.

97 ~~(11)~~(12) 'GCIC information' means criminal history record information, as defined in  
 98 Code Section 35-3-30.

99 ~~(12) 'Preliminary records check determination' means a satisfactory or unsatisfactory~~  
 100 ~~determination by the director based only upon a comparison of GCIC information~~  
 101 ~~obtained solely from a law enforcement agency within the state with other than~~  
 102 ~~fingerprint information regarding the person upon whom the records check is being~~  
 103 ~~performed for purposes of this article.~~

104 (13) 'Provisional employee' means an individual other than a director whose duties  
 105 involve personal contact between that person and any child being cared for at the facility  
 106 and who is hired for a limited period of employment time.

107 (14) 'Records check application' means a document created by the department to be  
 108 completed and submitted to the department by every actual and potential director and  
 109 employee that indicates such ~~director's name, early care and education program name and~~  
 110 ~~type, and such other~~ information as the department deems appropriate and which  
 111 authorizes the department to receive ~~and render a fingerprint records check determination~~  
 112 ~~pursuant to any~~ sex offender registry, child abuse and neglect registry, and criminal  
 113 history record information pertaining to such individual from any local, state, or national  
 114 ~~criminal justice or law enforcement agency or appropriate jurisdiction and render a~~  
 115 fingerprint or comprehensive records check determination.

116 (15) 'Satisfactory determination' means a written declaration that a person for whom a  
 117 ~~preliminary or fingerprint or comprehensive~~ records check determination was performed  
 118 was found to have no criminal record.

119 (16) 'Unsatisfactory determination' means a written declaration that a person for whom  
 120 a ~~preliminary or fingerprint or comprehensive~~ records check determination was  
 121 performed was found to have a criminal record."

### 122 SECTION 3.

123 Said chapter is further amended by revising Code Section 20-1A-31, relating to records  
 124 check application for potential employees and fingerprint records checks, as follows:

125 "20-1A-31.

126 (a) A support center may furnish to the department a records check application for each  
 127 potential employee of any licensed, commissioned, or permitted early care and education  
 128 program. Before a person affiliated with a support center may become an employee of any  
 129 licensed, commissioned, or permitted early care and education program, such person shall  
 130 obtain a satisfactory ~~fingerprint~~ comprehensive records check determination. All potential  
 131 employees, excluding students currently enrolled in an early education curriculum through  
 132 an accredited school of higher education, may submit evidence, satisfactory to the  
 133 department, that such potential employee received a satisfactory ~~fingerprint~~ comprehensive  
 134 records check determination that includes a records check clearance date that is no more

135 than 12 months old, notwithstanding Code Section 20-1A-45, or that any employee whose  
 136 fingerprint records check revealed a criminal record of any kind has either subsequently  
 137 received a satisfactory fingerprint comprehensive records check determination or has had  
 138 the unsatisfactory determination reversed in accordance with Code Section 20-1A-43,  
 139 notwithstanding Code Section 20-1A-45. A student currently enrolled in an early  
 140 education curriculum through an accredited school of higher education may submit  
 141 evidence, satisfactory to the department, that such student received a satisfactory  
 142 fingerprint comprehensive records check determination that includes a records check  
 143 clearance date that is no more than 24 months old, notwithstanding Code Section  
 144 20-1A-45, or that such student whose fingerprint comprehensive records check  
 145 determination revealed a criminal record of any kind has either subsequently received a  
 146 satisfactory fingerprint comprehensive records check determination or has had the  
 147 unsatisfactory determination reversed in accordance with Code Section 20-1A-43,  
 148 notwithstanding Code Section 20-1A-45. The licensed, commissioned, or permitted early  
 149 care and education program shall maintain documentation in the employee's personnel file,  
 150 which is available to the department upon request, and which reflects that a satisfactory  
 151 fingerprint comprehensive records check determination was received before the employee  
 152 is allowed to ~~reside in an early care and education program or be present at an early care~~  
 153 ~~and education program~~ a facility while children are present for care or to reside in a facility.  
 154 If the fingerprint comprehensive records check determination for any potential employee  
 155 reveals a criminal record of any kind, such potential employee shall not be allowed to  
 156 ~~reside in an early care and education program or be present at an early care and education~~  
 157 ~~program~~ a facility while children are present for care or to reside in a facility until such  
 158 potential employee has either obtained a satisfactory fingerprint comprehensive records  
 159 check determination or has had the unsatisfactory fingerprint comprehensive records check  
 160 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code  
 161 Section 20-1A-45. If the fingerprint comprehensive records check determination is  
 162 unsatisfactory, the licensed, commissioned, or permitted early care and education program  
 163 shall, after receiving notification of such unsatisfactory determination, take such steps as  
 164 are necessary so that such ~~person no longer resides in the early care and education program~~  
 165 ~~and employee is no longer is present at an early care and education program~~ a facility while  
 166 children are present for care and no longer resides in the facility.  
 167 (b) Notwithstanding the limited period of portability, every person affiliated with a support  
 168 center as a potential employee of a licensed or commissioned early care and education  
 169 program shall undergo additional fingerprint comprehensive records checks determinations  
 170 such that the time between such additional fingerprint comprehensive records checks

171 determinations and that person's previous fingerprint comprehensive records check  
 172 determination shall not exceed five years, notwithstanding Code Section 20-1A-45.  
 173 (c) After the issuance of a registration, the department may require additional fingerprint  
 174 comprehensive records check determinations on any person affiliated with a support center  
 175 during the course of a child abuse investigation involving such person or when the  
 176 department has reason to believe such person has a criminal record that renders such person  
 177 ineligible to ~~reside at an early care and education program~~ or be present at an ~~early care and~~  
 178 ~~education program~~ a facility while children are present for care or to reside in a facility."

#### 179 SECTION 4.

180 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
 181 20-1A-32, relating to program license or commission applicants, records check requirements,  
 182 and change of ownership, as follows:

183 "(a) Accompanying any application for a new license or commission for an early care and  
 184 education program, the applicant shall furnish to the department a records check  
 185 application for the director and each employee. In lieu of such records check applications,  
 186 the license applicant may submit evidence, satisfactory to the department, that such  
 187 individual received a satisfactory fingerprint comprehensive records check determination  
 188 that includes a records check clearance date that is no more than 12 months old,  
 189 notwithstanding Code Section 20-1A-45, or that any director or employee whose  
 190 fingerprint comprehensive records check revealed a criminal record of any kind has either  
 191 subsequently received a satisfactory fingerprint comprehensive records check  
 192 determination or has had the unsatisfactory determination reversed in accordance with  
 193 Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. Either the department  
 194 or the appropriate ~~law enforcement~~ agencies may charge reasonable and additional  
 195 processing fees for ~~performing fingerprint records checks~~ providing information pursuant  
 196 to a records check application as required by statute, regulation, or policy or by GCIC.

197 (b) Each change of ownership applicant shall furnish to the department a records check  
 198 application for the director and each employee. In lieu of such records check applications,  
 199 the change of ownership applicant may submit evidence that the director and each  
 200 employee at that facility received a satisfactory fingerprint comprehensive records check  
 201 determination that includes a records check clearance date that is no more than 60 months  
 202 old, notwithstanding Code Section 20-1A-45, or that any director or employee whose  
 203 fingerprint comprehensive records check determination revealed a criminal record of any  
 204 kind has either subsequently received a satisfactory fingerprint comprehensive records  
 205 check determination or has had the unsatisfactory determination reversed in accordance

206 with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. Failure to comply  
 207 with this provision shall prevent the department from issuing a license or commission."

208 **SECTION 5.**

209 Said chapter is further amended by revising Code Section 20-1A-33, relating to notification  
 210 to applicant on records check, as follows:

211 "20-1A-33.

212 After being furnished the required records check application under Code Section 20-1A-32,  
 213 the department shall notify the license, commission, or change of ownership applicant and  
 214 the ~~finger~~ fingerprint records check applicant in writing whether the department's determination  
 215 as to a potential director or potential employee is satisfactory or unsatisfactory. If the  
 216 ~~finger~~ fingerprint comprehensive records check determination was satisfactory as to the potential  
 217 director and each potential employee of a license applicant's facility, that applicant may be  
 218 issued a license or commission for that facility if the applicant otherwise qualifies for a  
 219 license or commission under Article 1 of this chapter. If the ~~finger~~ fingerprint comprehensive  
 220 records check determination for a potential director or any potential employee revealed a  
 221 criminal record, such potential director or potential employee shall not be allowed to ~~reside~~  
 222 ~~at an early care and education program or be present in the early care and education~~  
 223 ~~program at the facility~~ while any child is present for care or to reside in the facility until he  
 224 or she either has obtained a satisfactory ~~finger~~ fingerprint comprehensive records check  
 225 determination or has had the unsatisfactory determination reversed in accordance with  
 226 Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The department shall  
 227 revoke the license or commission of an early care and education program if the early care  
 228 and education program fails to comply with the requirements of this Code section."

229 **SECTION 6.**

230 Said chapter is further amended by revising Code Section 20-1A-34, relating to check of  
 231 fingerprints on national level, satisfactory determination prior to employment, and additional  
 232 records checks, as follows:

233 "20-1A-34.

234 (a) The department shall receive a records check application, as may be required by the  
 235 department and allowed under federal law, for any individual that cares for children  
 236 through a program that receives, either directly or indirectly, federal funds through the  
 237 department for the care of children. Upon receipt of such records check application, the  
 238 department shall comply with all rules of the GCIC and the Federal Bureau of Investigation  
 239 for the request and receipt of national fingerprint based criminal history reports. Such  
 240 individuals shall also submit all necessary applications, fees, and acceptable fingerprints

241 to the GCIC. Within ten days after receiving fingerprints acceptable to GCIC, the  
 242 application, and fee, GCIC shall notify the department in writing of any derogatory finding,  
 243 including, but not limited to, any criminal record, of the state fingerprint records check or  
 244 if there is no such finding. The GCIC shall also conduct a search of Federal Bureau of  
 245 Investigation records and fingerprints and notify the department in writing of the results  
 246 of such search. Upon receipt of the bureau's report, the department shall make a national  
 247 fingerprint records check determination. If the fingerprint records check determination is  
 248 unsatisfactory for an individual, the department shall notify the provider and the employee  
 249 of such determination in writing, and no such individual shall be allowed to ~~reside at the~~  
 250 ~~location~~ or be present at the ~~location~~ facility when any child is present for care or to reside  
 251 in the facility until he or she either has obtained a satisfactory fingerprint comprehensive  
 252 records check determination or has had the unsatisfactory determination reversed in  
 253 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The  
 254 department ~~shall~~ may cease to issue funds, either directly or indirectly, to any individual  
 255 or program that fails to comply with the requirements of this Code section.

256 (b) Every potential employee of the department or contractor performing duties on behalf  
 257 of the department who may have any reason to be present at a licensed or commissioned  
 258 early care and education program while any child is present for care must receive a  
 259 satisfactory fingerprint comprehensive records check determination or have had an  
 260 unsatisfactory fingerprint comprehensive records check determination reversed in  
 261 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45, prior  
 262 to being present at a licensed or commissioned early care and education program while  
 263 children are present for care. Every current employee of the department who may have any  
 264 reason to be present at a licensed or commissioned early care and education program while  
 265 any child is present for care must receive a satisfactory fingerprint comprehensive records  
 266 check determination or have had an unsatisfactory fingerprint comprehensive records check  
 267 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code  
 268 Section 20-1A-45. Every employee of the department shall undergo additional fingerprint  
 269 comprehensive records checks determinations such that the time between such additional  
 270 fingerprint comprehensive records checks determinations and that employee's previous  
 271 fingerprint comprehensive records check determination shall not exceed five years,  
 272 notwithstanding Code Section 20-1A-45. The department shall maintain documentation  
 273 in the appropriate personnel file indicating that such person has obtained such current  
 274 satisfactory fingerprint comprehensive records check determination or has had an  
 275 unsatisfactory fingerprint comprehensive records check determination reversed in  
 276 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45."



277

**SECTION 7.**

278 Said chapter is further amended by revising Code Section 20-1A-35, relating to provisional  
 279 employees, records checks requirements, and revocation of license, commission, or permit  
 280 for violations, as follows:

281 "20-1A-35.

282 (a) Where there is need for a provisional employee to work at a licensed, commissioned,  
 283 or permitted early care and education program facility, such early care and education  
 284 program may utilize an individual as a provisional employee only after the ~~director reviews~~  
 285 ~~a preliminary records check and makes~~ individual receives a satisfactory determination  
 286 pursuant to rules and regulations promulgated by the department in accordance with this  
 287 article. No such provisional employee shall ~~reside in an early care and education program~~  
 288 ~~or be present in the early care and education program at a facility~~ while any child is present  
 289 for care or reside in a facility until such satisfactory ~~preliminary records check~~  
 290 determination has been made ~~based upon GCIC information obtained from local law~~  
 291 ~~enforcement within the prior ten days.~~ The board shall be authorized to define and enforce  
 292 by all regulations, including, but not limited to, the length of time a provisional employee  
 293 ~~may be present at a facility without a fingerprint records check determination~~ pertaining  
 294 to provisional employees. The department may revoke the license, commission, or permit  
 295 of an early care and education program if the early care and education program fails to  
 296 comply with the ~~requirements of this Code section and allows a person with an~~  
 297 ~~unsatisfactory preliminary records check determination to reside in an early care and~~  
 298 ~~education program or be present at an early care and education program while children are~~  
 299 ~~present for care~~ rules and regulations pertaining to provisional employees.

300 (b) If the department determines a licensed, commissioned, or permitted early care and  
 301 education program knows or should reasonably know that a provisional employee has a  
 302 criminal record and allows the provisional employee to ~~reside at an early care and~~  
 303 ~~education program or be present at an early care and education program at a facility~~ while  
 304 children are present for care or to reside at a facility, the department shall revoke the  
 305 license, commission, or permit for that early care and education program."

306

**SECTION 8.**

307 Said chapter is further amended by revising Code Section 20-1A-36, relating to certain  
 308 offenders prohibited as employees of facilities, as follows:

309 "20-1A-36.

310 No licensed, commissioned, or permitted facility operated as an early care and education  
 311 program or similar facility or any operator of such a facility shall allow any person who has  
 312 been convicted of or who has entered a plea of guilty or nolo contendere to any offense

313 specified in Code Section 16-12-1.1 to ~~reside in an early care and education program or be~~  
 314 ~~present at an early care and education program~~ a facility while children are present for care  
 315 or allow any such person to reside at in or be domiciled at such facility in violation of Code  
 316 Section 16-12-1.1. The department shall either deny the issuance of or revoke the license,  
 317 commission, or registration of any such facility violating the provisions of this Code  
 318 section. The powers and duties set forth in this Code section are cumulative and not  
 319 intended to limit the powers and duties set forth throughout this article."

320 **SECTION 9.**

321 Said chapter is further amended by revising Code Section 20-1A-37, relating to individuals  
 322 residing in family child care learning home or at certain programs and records check  
 323 requirements, as follows:

324 "20-1A-37.

325 Notwithstanding any other provision of this article, ~~an individual~~ a director or employee  
 326 who resides in a family child care learning home, as defined by Code Section 20-1A-2, or  
 327 at any program as determined by the department and allowed under federal law to receive,  
 328 either directly or indirectly, federal funds through the department for the care of children  
 329 shall be required to provide a ~~finger~~print records check application to the department.  
 330 Upon receipt of such records check application, the department shall comply with all the  
 331 rules and regulations promulgated by the GCIC and the Federal Bureau of Investigation for  
 332 the request and receipt of national fingerprint based criminal history reports. Such  
 333 individuals shall also submit all necessary applications, fees, and acceptable fingerprints  
 334 to the GCIC and appropriate agencies. If the ~~finger~~print comprehensive records check  
 335 determination is unsatisfactory, the department shall notify the provider and the employee  
 336 of such determination in writing, and no such individual shall be allowed to ~~reside at the~~  
 337 ~~location~~ or be present at the location facility when any child is present for care or to reside  
 338 in the facility until he or she either has obtained a satisfactory ~~finger~~print comprehensive  
 339 records check determination or has had the unsatisfactory determination reversed in  
 340 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The  
 341 department shall revoke the license, commission, or permit of a family child care learning  
 342 home if the family child care learning home fails to comply with the requirements of this  
 343 Code section."

344 **SECTION 10.**

345 Said chapter is further amended by revising Code Section 20-1A-38, relating to change of  
 346 directors and records check requirements, as follows:

347 "20-1A-38.

348 (a) If the director of a licensed, commissioned, or permitted early care and education  
 349 program ceases to be the director of that early care and education program, the license  
 350 holder, commission holder, or permit holder shall thereupon designate a new director.  
 351 After such change, the license holder, commission holder, or permit holder of that early  
 352 care and education program shall notify the department of such change and of any  
 353 additional information the department may require regarding the newly designated director  
 354 of that early care and education program, including a ~~fingerprint~~ records check application.  
 355 Such individuals shall also submit all necessary applications, fees, and acceptable  
 356 fingerprints to ~~the GCIC and appropriate agencies~~. If the department determines that such  
 357 newly designated director has received a satisfactory ~~fingerprint~~ comprehensive records  
 358 check determination that includes a records check clearance date that is no more than 12  
 359 months old, notwithstanding Code Section 20-1A-45, or had an unsatisfactory  
 360 determination reversed pursuant to Code Section 20-1A-43 within the prior 12 months,  
 361 notwithstanding Code Section 20-1A-45, such determination shall be deemed to be  
 362 satisfactory for purposes of this article.

363 (b) If the department determines under subsection (a) of this Code section that a licensed,  
 364 commissioned, or permitted early care and education program knows or should reasonably  
 365 know that the newly designated director has a criminal record or an unsatisfactory  
 366 determination issued by the department that has not been reversed pursuant to Code Section  
 367 20-1A-43, notwithstanding Code Section 20-1A-45, and allows the director to ~~reside at an~~  
 368 ~~early care and education program~~ or be present at an ~~early care and education program a~~  
 369 facility while children are present for care or to reside in the facility, then the license,  
 370 commission, or permit for that facility program shall be revoked."

371 **SECTION 11.**

372 Said chapter is further amended by revising Code Section 20-1A-39, relating to potential  
 373 employees, current employees and directors, records check requirements, satisfactory records  
 374 check, and liability for hiring ineligible employee, as follows:

375 "20-1A-39.

376 (a) Before a person may become an employee of any early care and education program  
 377 after that early care and education program has received a license or commission, that early  
 378 care and education program shall require that person to obtain a satisfactory ~~fingerprint~~  
 379 comprehensive records check determination. All potential employees, excluding students  
 380 currently enrolled in an early education curriculum through an accredited school of higher  
 381 education, may submit evidence, satisfactory to the department, that the potential employee  
 382 received a satisfactory ~~fingerprint~~ comprehensive records check determination that includes

383 a records check clearance date that is no more than 12 months old, notwithstanding Code  
 384 Section 20-1A-45, or that any potential employee whose fingerprint comprehensive records  
 385 check revealed a criminal record of any kind has either subsequently received a satisfactory  
 386 fingerprint comprehensive records check determination or has had the unsatisfactory  
 387 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code  
 388 Section 20-1A-45. A student currently enrolled in an early education curriculum through  
 389 an accredited school of higher education may submit evidence, satisfactory to the  
 390 department, that the student received a satisfactory fingerprint comprehensive records  
 391 check determination that includes a records check clearance date that is no more than 24  
 392 months old, notwithstanding Code Section 20-1A-45, or that such student whose  
 393 fingerprint comprehensive records check determination revealed a criminal record of any  
 394 kind has either subsequently received a satisfactory fingerprint comprehensive records  
 395 check determination or has had the unsatisfactory determination reversed in accordance  
 396 with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The licensed or  
 397 commissioned early care and education program shall maintain documentation in the  
 398 employee's personnel file, which is available to the department upon request, which reflects  
 399 that a satisfactory fingerprint comprehensive records check determination was received  
 400 before the employee is eligible to ~~reside at an early care and education program~~ or be  
 401 present at a ~~licensed or commissioned early care and education program~~ facility while  
 402 children are present for care ~~or to reside in a facility~~. If the fingerprint comprehensive  
 403 records check determination for any potential employee reveals a criminal record of any  
 404 kind, such potential employee shall be ineligible to ~~reside at an early care and education~~  
 405 ~~program~~ or be present at an ~~early care and education program~~ a facility while children are  
 406 present for care ~~or to reside in a facility~~ until such potential employee has either obtained  
 407 a satisfactory fingerprint comprehensive records check determination or has had the  
 408 unsatisfactory fingerprint comprehensive records check determination reversed in  
 409 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. If the  
 410 fingerprint comprehensive records check determination is unsatisfactory, the licensed or  
 411 commissioned early care and education program shall, after receiving notification of such  
 412 unsatisfactory determination, take such immediate steps as are necessary so that such  
 413 person ~~no longer resides at the early care and education program~~ or is no longer present at  
 414 the ~~early care and education program~~ facility while children are present for care ~~and no~~  
 415 ~~longer resides in the facility~~. The department shall revoke the license or commission of an  
 416 early care and education program if the early care and education program fails to comply  
 417 with the requirements of this Code section.

418 ~~(b) By no later than January 1, 2017, every current employee and director of any licensed~~  
 419 ~~or commissioned early care and education program shall obtain either a satisfactory~~

420 ~~fingerprint records check determination or shall have had an unsatisfactory fingerprint~~  
 421 ~~records check determination reversed in accordance with Code Section 20-1A-43. The~~  
 422 ~~early care and education program shall maintain such documentation in the appropriate~~  
 423 ~~personnel file, which is available to the department immediately upon request. If the~~  
 424 ~~fingerprint records check determination is unsatisfactory, the licensed or commissioned~~  
 425 ~~early care and education program shall, after receiving notification of the determination,~~  
 426 ~~take such steps as are necessary so that such person no longer resides at the early care and~~  
 427 ~~education program or is no longer present at the early care and education program while~~  
 428 ~~children are present for care. The department shall revoke the license or commission of an~~  
 429 ~~early care and education program if the early care and education program fails to comply~~  
 430 ~~with the requirements of this Code section.~~

431 ~~(c)~~(b) Effective January 1, 2019, every employee and director of any licensed or  
 432 commissioned early care and education program shall undergo additional fingerprint  
 433 comprehensive records checks determinations such that the time between such additional  
 434 fingerprint comprehensive records checks determinations and that employee's or director's  
 435 previous fingerprint comprehensive records check determination shall not exceed five  
 436 years, notwithstanding Code Section 20-1A-45. The early care and education program  
 437 shall maintain documentation in the appropriate personnel file, which is available to the  
 438 department immediately upon request, indicating that such person has obtained such  
 439 current satisfactory fingerprint comprehensive records check determination or has had an  
 440 unsatisfactory fingerprint comprehensive records check determination reversed in  
 441 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The  
 442 department shall revoke the license or commission of an early care and education program  
 443 if the early care and education program fails to comply with the requirements of this Code  
 444 section.

445 ~~(d)~~(c) A license or commission shall be subject to ~~suspension~~ or revocation and the  
 446 department may refuse to issue a license or commission if a director or employee does not  
 447 undergo the fingerprint comprehensive records check determination applicable to that  
 448 director or employee and receive acceptable determinations.

449 ~~(e)~~(d) After the issuance of a license, commission, or permit, the department may require  
 450 additional fingerprint comprehensive records check determinations on any director or  
 451 employee when the department has reason to believe the director or employee has a  
 452 criminal record that renders the director or employee ineligible to have contact with  
 453 children in the early care and education program, or during the course of a child abuse  
 454 investigation involving the director or employee.

455 ~~(f)~~(e) No licensed or commissioned early care and education program may allow any  
 456 person to ~~reside at an early care and education program or be present at a licensed or~~

457 ~~permitted early care and education program facility~~ while children are present for care or  
 458 to reside in a facility as a director or an employee unless there is on file in the early care  
 459 and education program an employment history and a satisfactory ~~fingerprint~~  
 460 comprehensive records check determination or proof that an unsatisfactory determination  
 461 has been reversed in accordance with Code Section 20-1A-43, notwithstanding Code  
 462 Section 20-1A-45. The department shall revoke the license or commission of any early  
 463 care and education program if the early care and education program fails to comply with  
 464 the requirements of this Code section.

465 ~~(g)~~(f) A license holder, commission holder, permit holder, or director of a licensed,  
 466 commissioned, or permitted early care and education program ~~having~~ that allows an  
 467 employee or director about whom such license holder, commission holder, permit holder,  
 468 or director knows or should reasonably know to have a criminal record that renders the  
 469 employee or director ineligible to have contact with children ~~in the early care and education~~  
 470 program to be present at a facility while children are present for care or to reside in a  
 471 facility shall be guilty of a misdemeanor."

472 **SECTION 12.**

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

474 "20-1A-45.

475 A satisfactory comprehensive records check determination shall be no longer valid for an  
 476 employee or director who has been separated from employment for more than 180  
 477 consecutive days from an early care and education program or any program that received,  
 478 either directly or indirectly, federal funds through the department for the care of children."

479 **SECTION 13.**

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