

The House Committee on Judiciary Non-Civil offers the following substitute to SB 336:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the
2 Georgia Bureau of Investigation, so as to prevent the disclosure of a subpoena issued for
3 production of electronic communication service records for computer or electronic devices
4 that are used in furtherance of certain offenses against minors or involving trafficking of
5 persons for labor or sexual servitude, to the subscriber or customer; to allow the Georgia
6 Crime Information Center to retain fingerprints of certain individuals under certain
7 circumstances and submit such fingerprints to the Federal Bureau of Investigation; to provide
8 for an exchange of information to certain entities; to provide for removal of fingerprints
9 under certain circumstances; to provide for fees; to amend Titles 20, 31, 37, and 49 of the
10 Official Code of Georgia Annotated, relating to education, health, mental health, and social
11 services, respectively, so as to allow the Georgia Bureau of Investigation and, as authorized,
12 the Federal Bureau of Investigation to retain fingerprints when an agency or entity is
13 participating in the bureau's program; to provide for related matters; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **PART I**
17 **SECTION 1-1.**

18 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
19 Bureau of Investigation, is amended in Code Section 35-3-4.1, relating to subpoena for
20 production of electronic communication service records for computer or electronic device
21 used in furtherance of certain offenses against minors, by revising subsection (a) as follows:

22 "(a)(1) In any investigation of a violation of Code Section 16-12-100, 16-12-100.1,
23 or 16-12-100.2 involving the use of a computer or an electronic device in furtherance of
24 an act related to a minor, or any investigation of a violation of Article 8 of Chapter 9 of
25 Title 16, the director, assistant director, or deputy director for investigations shall be

26 authorized to issue a subpoena, with the consent of the Attorney General, to compel the
 27 production of electronic communication service or remote communication service records
 28 or other information pertaining to a subscriber or customer of such service, exclusive of
 29 contents of communications.

30 (2) A provider of electronic communication service or remote computing service shall
 31 disclose to the bureau the:

32 (A) Name;

33 (B) Address;

34 (C) Local and long distance telephone connection records, or records of session times
 35 and durations;

36 (D) Length of service, including the start date, and types of service utilized;

37 (E) Telephone or instrument number or other subscriber number or identity, including
 38 any temporarily assigned network address; and

39 (F) Means and source of payment for such service, including any credit card or bank
 40 account number of a subscriber to or customer of such service.

41 (3) A provider of electronic communication service or remote computing service shall
 42 not provide notification of the subpoena issued pursuant to paragraph (1) of this
 43 subsection to the subscriber or customer of such service."

44 **SECTION 1-2.**

45 Said chapter is further amended by revising Code Section 35-3-4.3, relating to subpoena
 46 power for investigations of violations involving trafficking of persons for labor or sexual
 47 servitude, as follows:

48 "35-3-4.3.

49 (a) In any investigation of a violation of Code Section 16-5-46 involving trafficking of
 50 persons for labor or sexual servitude, the director, assistant director, or deputy director for
 51 investigations shall be authorized to issue a subpoena, with the consent of the Attorney
 52 General, to compel the production of books, papers, documents, or other tangible things,
 53 including records and documents contained within, or generated by, a computer or any
 54 other electronic device.

55 (b) A provider of electronic communication service or remote computing service shall not
 56 provide notification of the subpoena issued pursuant to subsection (a) of this Code section
 57 to the subscriber or customer of such service.

58 ~~(b)~~(c) Upon the failure of a person without lawful excuse to obey a subpoena, the director,
 59 assistant director, or the deputy director for investigations, through the Attorney General
 60 or district attorney, may apply to a superior court having jurisdiction for an order
 61 compelling compliance. Such person may object to the subpoena on grounds that it fails

62 to comply with this Code section or upon any constitutional or other legal right or privilege
 63 of such person. The court may issue an order modifying or setting aside such subpoena or
 64 directing compliance with the original subpoena. Failure to obey a subpoena issued under
 65 this Code section may be punished by the court as contempt of court."

66 **PART IA**

67 **SECTION 1A-1.**

68 Said chapter is further amended in Code Section 35-3-33, relating to the powers and duties
 69 of the Georgia Crime Information Center, by deleting "or" at the end of
 70 subparagraph (a)(1)(D), by inserting "or" at the end of subparagraph (a)(1)(E), and by adding
 71 a new subparagraph to read as follows:

72 "(F) Are individuals for whom fingerprint based criminal history checks are authorized
 73 by this state's or federal law for the purpose of determining suitability or fitness for
 74 employment, placement, registration, a permit, or a license for an agency or qualified
 75 entity which is participating in the federal program that allows an ongoing and
 76 continuing review of such individual's criminal history; provided, however, that such
 77 fingerprints shall be retained and maintained securely and separately from records
 78 relating to the identification of criminals, and provided, further, that the center shall not
 79 file or retain fingerprints submitted for the purpose of obtaining or renewing a weapons
 80 carry license, as such term is defined in Code Section 16-11-125.1;"

81 **SECTION 1A-2.**

82 Said chapter is further amended in subsection (a) of Code Section 35-3-33, relating to the
 83 powers and duties of the Georgia Crime Information Center, by deleting "and" at the end of
 84 paragraph (16), by replacing the period with a semicolon at the end of paragraph (17), and
 85 by adding three new paragraphs to read as follows:

86 "(18) Submit fingerprints obtained pursuant to subparagraph (F) of paragraph (1) of this
 87 subsection to the Federal Bureau of Investigation for retention under the rules established
 88 by the United States Department of Justice for processing and identification of records.
 89 Such fingerprints shall be searched by future submissions to the Federal Bureau of
 90 Investigation and the center shall send appropriate responses to submitting and
 91 subscribing entities;

92 (19) Remove fingerprints obtained pursuant to subparagraph (F) of paragraph (1) of this
 93 subsection within ten days of being notified that an individual whose fingerprints were
 94 retained under such program is no longer employed by, volunteering for, placed by, or
 95 registered, licensed, or permitted by the participating agency or qualified entity. It shall

96 also remove such fingerprints when such agency or qualified entity is no longer
 97 participating in such program. The center shall also notify the Federal Bureau of
 98 Investigation of such information; and
 99 (20) Be authorized to charge an annual subscriber fee not to exceed \$500.00 to any entity
 100 which is not a state agency that desires to participate in the program described in
 101 subparagraph (F) of paragraph (1) of this subsection."

102 **PART II**

103 **SECTION 2-1.**

104 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 105 revising Code Section 20-1A-31, relating to records check application for potential
 106 employees and fingerprint records checks, as follows:

107 "20-1A-31.

108 (a) A support center may furnish to the department a records check application for each
 109 potential employee of any licensed, commissioned, or permitted early care and education
 110 program. Before a person affiliated with a support center may become an employee of any
 111 licensed, commissioned, or permitted early care and education program, such person shall
 112 obtain a ~~satisfactory~~ fingerprint records check determination that is satisfactory. All
 113 potential employees, excluding students currently enrolled in an early education curriculum
 114 through an accredited school of higher education, may submit evidence, satisfactory to the
 115 department, that such potential employee received a ~~satisfactory~~ fingerprint records check
 116 determination that is satisfactory and that includes a records check determination clearance
 117 date that is no more than 12 months old, or that any employee whose fingerprint records
 118 check determination revealed a criminal record of any kind has either subsequently
 119 received a ~~satisfactory~~ fingerprint records check determination that is satisfactory or has
 120 had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43.
 121 A student currently enrolled in an early education curriculum through an accredited school
 122 of higher education may submit evidence, satisfactory to the department, that such student
 123 received a ~~satisfactory~~ fingerprint records check determination that is satisfactory and that
 124 includes a records check clearance date that is no more than 24 months old, or that such
 125 student whose fingerprint records check determination revealed a criminal record of any
 126 kind has either subsequently received a ~~satisfactory~~ fingerprint records check determination
 127 that is satisfactory or has had the unsatisfactory determination reversed in accordance with
 128 Code Section 20-1A-43. The licensed, commissioned, or permitted early care and
 129 education program shall maintain documentation in the employee's personnel file, which
 130 is available to the department upon request, and which reflects that a ~~satisfactory~~

131 fingerprint records check determination that was satisfactory was received before the
 132 employee is allowed to reside in an early care and education program or be present at an
 133 early care and education program while children are present for care. If the fingerprint
 134 records check determination for any potential employee reveals a criminal record of any
 135 kind, such potential employee shall not be allowed to reside in an early care and education
 136 program or be present at an early care and education program while children are present
 137 for care until such potential employee has either obtained a ~~satisfactory~~ fingerprint records
 138 check determination that is satisfactory or has had the unsatisfactory ~~fingerprint records~~
 139 ~~check~~ determination reversed in accordance with Code Section 20-1A-43. If the fingerprint
 140 records check determination is unsatisfactory, the licensed, commissioned, or permitted
 141 early care and education program shall, after receiving notification of such unsatisfactory
 142 determination, take such steps as are necessary so that such person no longer resides in the
 143 early care and education program and no longer is present at an early care and education
 144 program while children are present for care. The time frames set forth in this subsection
 145 shall not apply when fingerprints have been retained by the department due to its
 146 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33.
 147 (b) Notwithstanding the limited period of portability, every person affiliated with a support
 148 center as a potential employee of a licensed or commissioned early care and education
 149 program shall undergo an additional fingerprint records ~~checks~~ check determination such
 150 that the time between such additional fingerprint records ~~checks~~ check determination and
 151 that person's previous fingerprint records check determination shall not exceed five years
 152 except when fingerprints have been retained by the department due to its participation in
 153 the program described in subparagraph (a)(1)(F) of Code Section 35-3-33.
 154 (c) After the issuance of a registration, the department may require additional fingerprint
 155 records check determinations on any person affiliated with a support center during the
 156 course of a child abuse investigation involving such person or when the department has
 157 reason to believe such person has a criminal record that renders such person ineligible to
 158 reside at an early care and education program or be present at an early care and education
 159 program while children are present for care."

160 SECTION 2-2.

161 Said title is further amended by adding a new subsection to Code Section 20-1A-32, relating
 162 to program license or commission applicants, records check requirements, and change of
 163 ownership, to read as follows:

164 "(d) The time frames set forth in this Code section shall not apply when fingerprints have
 165 been retained by the department due to its participation in the program described in
 166 subparagraph (a)(1)(F) of Code Section 35-3-33."

167 **SECTION 2-3.**

168 Said title is further amended by revising subsection (b) of Code Section 20-1A-34, relating
 169 to check of fingerprints on national level, satisfactory determination prior to employment,
 170 and additional records checks, and adding a new subsection to read as follows:

171 "(b) Every potential employee of the department or contractor performing duties on behalf
 172 of the department who may have any reason to be present at a licensed or commissioned
 173 early care and education program while any child is present for care must receive a
 174 ~~satisfactory~~ fingerprint records check determination that is satisfactory or have had an
 175 unsatisfactory ~~fingerprint records check~~ determination reversed in accordance with Code
 176 Section 20-1A-43 prior to being present at a licensed or commissioned early care and
 177 education program while children are present for care. Every current employee of the
 178 department who may have any reason to be present at a licensed or commissioned early
 179 care and education program while any child is present for care must receive a ~~satisfactory~~
 180 fingerprint records check determination that is satisfactory or have had an unsatisfactory
 181 ~~fingerprint records check~~ determination reversed in accordance with Code Section
 182 20-1A-43. Every employee of the department shall undergo an additional fingerprint
 183 records ~~checks~~ check determination such that the time between such additional fingerprint
 184 records ~~checks~~ check determination and that employee's previous fingerprint records check
 185 determination shall not exceed five years except when fingerprints have been retained by
 186 the department due to its participation in the program described in subparagraph (a)(1)(F)
 187 of Code Section 35-3-33. The department shall maintain documentation in the appropriate
 188 personnel file indicating that such person has obtained such current ~~satisfactory~~ fingerprint
 189 records check determination that is satisfactory or has had an unsatisfactory ~~fingerprint~~
 190 records ~~check~~ determination reversed in accordance with Code Section 20-1A-43.

191 (c) If the department is participating in the program described in subparagraph (a)(1)(F)
 192 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 193 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 194 section for such program and the department shall notify the individual whose fingerprints
 195 were taken of the parameters of such retention."

196 **SECTION 2-4.**

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

199 "(a) If the director of a licensed, commissioned, or permitted early care and education
 200 program ceases to be the director of that early care and education program, the license
 201 holder, commission holder, or permit holder shall thereupon designate a new director.
 202 After such change, the license holder, commission holder, or permit holder of that early

203 care and education program shall notify the department of such change and of any
 204 additional information the department may require regarding the newly designated director
 205 of that early care and education program, including a fingerprint records check application.
 206 Such individuals shall also submit all necessary applications, fees, and acceptable
 207 fingerprints to ~~the~~ GCIC. If the department determines that such newly designated director
 208 has received a ~~satisfactory~~ fingerprint records check determination that is satisfactory and
 209 that includes a records check clearance date that is no more than 12 months old or had an
 210 unsatisfactory determination reversed pursuant to Code Section 20-1A-43 within the prior
 211 12 months, such determination shall be deemed to be satisfactory for purposes of this
 212 article. The time frames set forth in this subsection shall not apply when fingerprints have
 213 been retained by the department due to its participation in the program described in
 214 subparagraph (a)(1)(F) of Code Section 35-3-33."

215 **SECTION 2-5.**

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

219 "(a) Before a person may become an employee of any early care and education program
 220 after that early care and education program has received a license or commission, that early
 221 care and education program shall require that person to obtain a ~~satisfactory~~ fingerprint
 222 records check determination that is satisfactory. All potential employees, excluding
 223 students currently enrolled in an early education curriculum through an accredited school
 224 of higher education, may submit evidence, satisfactory to the department, that the potential
 225 employee received a ~~satisfactory~~ fingerprint records check determination that is satisfactory
 226 and that includes a records check clearance date that is no more than 12 months old, or that
 227 any potential employee whose fingerprint records check revealed a criminal record of any
 228 kind has either subsequently received a ~~satisfactory~~ fingerprint records check determination
 229 that is satisfactory or has had the unsatisfactory determination reversed in accordance with
 230 Code Section 20-1A-43. A student currently enrolled in an early education curriculum
 231 through an accredited school of higher education may submit evidence, satisfactory to the
 232 department, that the student received a ~~satisfactory~~ fingerprint records check determination
 233 that is satisfactory and that includes a records check clearance date that is no more than 24
 234 months old, or that such student whose fingerprint records check revealed a criminal record
 235 of any kind has either subsequently received a ~~satisfactory~~ fingerprint records check
 236 determination that is satisfactory or has had the unsatisfactory determination reversed in
 237 accordance with Code Section 20-1A-43. The licensed or commissioned early care and
 238 education program shall maintain documentation in the employee's personnel file, which

239 is available to the department upon request, which reflects that a ~~satisfactory~~ fingerprint
 240 records check determination that is satisfactory was received before the employee is
 241 eligible to reside at an early care and education program or be present at a licensed or
 242 commissioned early care and education program while children are present for care. If the
 243 fingerprint records check determination for any potential employee reveals a criminal
 244 record of any kind, such potential employee shall be ineligible to reside at an early care and
 245 education program or be present at an early care and education program while children are
 246 present for care until such potential employee has either obtained a ~~satisfactory~~ fingerprint
 247 records check determination that is satisfactory or has had the ~~unsatisfactory fingerprint~~
 248 ~~records check~~ determination reversed in accordance with Code Section 20-1A-43. If the
 249 fingerprint records check determination is unsatisfactory, the licensed or commissioned
 250 early care and education program shall, after receiving notification of such unsatisfactory
 251 determination, take such immediate steps as are necessary so that such person no longer
 252 resides at the early care and education program or is no longer present at the early care and
 253 education program while children are present for care. The department shall revoke the
 254 license or commission of an early care and education program if the early care and
 255 education program fails to comply with the requirements of this Code section. The time
 256 frames set forth in this subsection shall not apply when fingerprints have been retained by
 257 the department due to its participation in the program described in subparagraph (a)(1)(F)
 258 of Code Section 35-3-33."

259 "(c) Effective January 1, 2019, every employee and director of any licensed or
 260 commissioned early care and education program shall undergo an additional fingerprint
 261 records ~~checks~~ check determination such that the time between such additional fingerprint
 262 records ~~checks~~ check determination and that employee's or director's previous fingerprint
 263 records check determination shall not exceed five years except when fingerprints have been
 264 retained by the department due to its participation in the program described in
 265 subparagraph (a)(1)(F) of Code Section 35-3-33. The early care and education program
 266 shall maintain documentation in the appropriate personnel file, which is available to the
 267 department immediately upon request, indicating that such person has obtained such
 268 current ~~satisfactory~~ fingerprint records check determination that is satisfactory or has had
 269 an ~~unsatisfactory fingerprint records check~~ determination reversed in accordance with Code
 270 Section 20-1A-43. The department shall revoke the license or commission of an early care
 271 and education program if the early care and education program fails to comply with the
 272 requirements of this Code section."

273 **SECTION 2-6.**

274 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
 275 a new subsection to Code Section 31-2-9, relating to records check requirement for certain
 276 health care facilities, definitions, use of information gathered in investigation, penalties for
 277 unauthorized release or disclosure, and rules and regulations, to read as follows:

278 "(g) If the department is participating in the program described in subparagraph (a)(1)(F)
 279 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 280 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 281 section for such program and the department shall notify the individual whose fingerprints
 282 were taken of the parameters of such retention."

283 **SECTION 2-7.**

284 Said title is further amended by adding a new subsection to Code Section 31-2A-7, relating
 285 to "conviction data" defined, department authorized to receive data from law enforcement
 286 relevant to employment decisions, and criminal history information, to read as follows:

287 "(h) If the department is participating in the program described in subparagraph (a)(1)(F)
 288 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 289 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 290 section for such program and the department shall notify the individual whose fingerprints
 291 were taken of the parameters of such retention."

292 **SECTION 2-8.**

293 Said title is further amended by revising Code Section 31-7-254, relating to transmission of
 294 director's fingerprints to Georgia Crime Information Center for review and notification to
 295 department of findings, as follows:

296 "31-7-254.

297 After issuing a temporary license based upon a ~~satisfactory~~ preliminary records check
 298 determination of the director that is satisfactory under Code Section 31-7-253, the
 299 department shall transmit to GCIC both sets of fingerprints and the records search fee from
 300 that director's records check application. Upon receipt thereof, GCIC shall promptly
 301 transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau
 302 records and an appropriate report and shall retain the other set and promptly conduct a
 303 search of its records and records to which it has access. Within 75 days after receiving
 304 fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department
 305 in writing of any derogatory finding, including but not limited to any criminal record, of
 306 the fingerprint records check or if there is no such finding. If the department is
 307 participating in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33,

308 the Georgia Bureau of Investigation and the Federal Bureau of Investigation shall be
 309 authorized to retain fingerprints obtained pursuant to this Code section for such program
 310 and the department shall notify the individual whose fingerprints were taken of the
 311 parameters of such retention."

312 **SECTION 2-9.**

313 Said title is further amended by revising Code Section 31-7-258, relating to change of facility
 314 director, notification to department, and effect of department determination, as follows:

315 "31-7-258.

316 (a) If the director of a facility which has been issued a regular license ceases to be the
 317 director of that facility, the licensee shall thereupon designate a new director. After such
 318 change, the licensee of that facility shall notify the department of such change and of any
 319 additional information the department may require regarding the newly designated director
 320 of that facility. Such information shall include but not be limited to any information the
 321 licensee may have regarding preliminary or fingerprint records check determinations
 322 regarding that director. After receiving a change of director notification, the department
 323 shall make a written determination from the information furnished with such notification
 324 and the department's own records as to whether a satisfactory or unsatisfactory preliminary
 325 or fingerprint records check determination has ever been made for the newly designated
 326 director. If the department determines that such director within 12 months prior thereto has
 327 had a ~~satisfactory~~ fingerprint records check determination that is satisfactory, such
 328 determination shall be deemed to be a satisfactory fingerprint records check determination
 329 as to that director. The license of that facility shall not be adversely affected by that change
 330 in director and the licensee shall be so notified. The time frames set forth in this subsection
 331 shall not apply when fingerprints have been retained by the department due to its
 332 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33.

333 (b) If the department determines under subsection (a) of this Code section that there has
 334 ever been an ~~unsatisfactory~~ a preliminary or fingerprint records check determination of the
 335 newly designated director that was unsatisfactory, the personal care home and that director
 336 shall be notified thereof. The license for that director's facility shall be indefinitely
 337 suspended unless the personal care home designates another director for whom it has not
 338 received or made an unsatisfactory ~~preliminary or fingerprint records check~~ determination
 339 and proceeds pursuant to the provisions of this Code section relating to a change of
 340 director.

341 (c) If the department determines under subsection (a) of this Code section that there has
 342 been no fingerprint records check determination regarding the newly designated director
 343 within the immediately preceding 12 months, the department shall so notify the personal

344 care home. The personal care home shall furnish to the department the records check
 345 application of the newly designated director or the license of that facility shall be
 346 indefinitely suspended. If that records check application is so received, unless the
 347 department has within the immediately preceding 12 months made a ~~satisfactory~~
 348 preliminary records check determination that is satisfactory regarding the newly designated
 349 director, the department shall perform a preliminary records check and determination of
 350 the newly designated director; and the applicant and that director shall be notified thereof.
 351 If that determination is unsatisfactory, the provisions of subsection (b) of this Code section
 352 regarding procedures after notification shall apply. If that determination is satisfactory, the
 353 department shall perform a fingerprint records check and determination for that director as
 354 provided in Code Sections 31-7-254 and 31-7-255. If that determination is satisfactory, the
 355 personal care home and director for whom the determination was made shall be so notified,
 356 and the license for the facility at which that person is the newly designated director shall
 357 not be adversely affected by that change of director. If that determination is unsatisfactory,
 358 the provisions of subsection (b) of this Code section shall apply. The time frames set forth
 359 in this subsection shall not apply when fingerprints have been retained by the department
 360 due to its participation in the program described in subparagraph (a)(1)(F) of Code Section
 361 35-3-33."

362 **SECTION 2-10.**

363 Said title is further amended by adding a new subsection to Code Section 31-7-259, relating
 364 to preliminary records check determination, suspension or revocation of license, refusal to
 365 issue regular license, fingerprint check, employment history, director's criminal liability,
 366 exempt employees, mitigating factors in criminal records check, and civil penalty, to read as
 367 follows:

368 "(n) If the department is participating in the program described in subparagraph (a)(1)(F)
 369 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 370 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 371 section for such program and the department shall notify the individual whose fingerprints
 372 were taken of the parameters of such retention."

373 **SECTION 2-11.**

374 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 375 adding a new subsection to Code Section 37-1-28, relating to conviction data, to read as
 376 follows:

377 "(g) If the department is participating in the program described in subparagraph (a)(1)(F)
 378 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of

379 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 380 section for such program and the department shall notify the individual whose fingerprints
 381 were taken of the parameters of such retention."

382 **SECTION 2-12.**

383 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
 384 by adding a new subsection to Code Section 49-2-14, relating to record search for conviction
 385 data on prospective employees, to read as follows:

386 "(i) If the department is participating in the program described in subparagraph (a)(1)(F)
 387 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 388 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 389 section for such program and the department shall notify the individual whose fingerprints
 390 were taken of the parameters of such retention."

391 **SECTION 2-13.**

392 Said title is further amended by adding a new subsection to Code Section 49-2-14.1, relating
 393 to definitions and records check requirement for licensing certain facilities, to read as
 394 follows:

395 "(g) If the department is participating in the program described in subparagraph (a)(1)(F)
 396 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 397 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 398 section for such program and the department shall notify the individual whose fingerprints
 399 were taken of the parameters of such retention."

400 **SECTION 2-14.**

401 Said title is further amended by revising Code Section 49-5-62, relating to records check
 402 application for director of new facility and preliminary records check for employees, as
 403 follows:

404 "49-5-62.

405 (a) Accompanying any application for a new license for a facility, the applicant shall
 406 furnish to the department a records check application for the director and a ~~satisfactory~~
 407 preliminary records check for each employee of such facility that is satisfactory. In lieu
 408 of such records check applications, the applicant may submit evidence, satisfactory to the
 409 department, that within the immediately preceding 12 months the director received
 410 satisfactory state and national fingerprint records check determinations that were
 411 satisfactory and each employee received a ~~satisfactory~~ preliminary records check
 412 determination that was satisfactory, or that any employee other than the director whose

413 preliminary records check revealed a criminal record of any kind has either subsequently
 414 received satisfactory state and national fingerprint records check determinations that were
 415 satisfactory or has had the unsatisfactory determination reversed in accordance with Code
 416 Section 49-5-73. The department may either perform preliminary records checks under
 417 agreement with GCIC or contract with GCIC and appropriate law enforcement agencies
 418 which have access to GCIC information to have those agencies perform for the department
 419 a preliminary records check for each preliminary records check application submitted
 420 thereto by the department. Either the department or the appropriate law enforcement
 421 agencies may charge reasonable fees for performing preliminary records checks.

422 (b) If the department is participating in the program described in subparagraph (a)(1)(F)
 423 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 424 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 425 section for such program and the department shall notify the individual whose fingerprints
 426 were taken of the parameters of such retention. The time frames set forth in this Code
 427 section shall not apply when fingerprints have been retained by the department due to its
 428 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33."

429 **SECTION 2-15.**

430 Said title is further amended by revising Code Section 49-5-63, relating to notice of
 431 determination, issue of license, and effect of unsatisfactory determination, as follows:

432 "49-5-63.

433 After being furnished the required records check application under Code Section 49-5-62,
 434 the department shall notify in writing the license applicant as to each person for whom an
 435 application was received regarding whether the department's determination as to that
 436 person's state fingerprint records check was satisfactory or unsatisfactory. If the
 437 preliminary records check determination was satisfactory as to each employee of an
 438 applicant's facility and the state fingerprint records check was satisfactory as to the director,
 439 that applicant may be issued a license for that facility if the applicant otherwise qualifies
 440 for a license under Article 1 of this chapter. If the state or national fingerprint records
 441 check determination was unsatisfactory as to the director of an applicant's facility, the
 442 applicant shall designate another director for that facility after receiving notification of the
 443 determination and proceed under Code Section 49-5-62 and this Code section to obtain
 444 state and national fingerprint records checks for that newly designated director. If the
 445 preliminary records check for any employee other than the director revealed a criminal
 446 record of any kind, such employee shall not be allowed to work in the center until he or she
 447 either has obtained satisfactory state and national fingerprint records check determinations
 448 that are satisfactory or has had the unsatisfactory determination reversed in accordance

449 with Code Section 49-5-73. If the determination was unsatisfactory as to any employee of
 450 an applicant's facility, the applicant shall, after receiving notification of that determination,
 451 take such steps as are necessary so that such person is no longer an employee. Any
 452 employee other than the director who receives a ~~satisfactory~~ preliminary records check
 453 determination that is satisfactory shall not be required to obtain a fingerprint records check
 454 when fingerprints have been retained by the department due to its participation in the
 455 program described in subparagraph (a)(1)(F) of Code Section 35-3-33, unless such an
 456 employee has been designated as a director or as permitted by the provisions of subsection
 457 (c) of Code Section 49-5-69."

458 **SECTION 2-16.**

459 Said title is further amended by revising Code Section 49-5-64, relating to fingerprint records
 460 check, as follows:

461 "49-5-64.

462 (a) The department shall transmit to GCIC both sets of fingerprints and the records search
 463 fee from each fingerprint records check application. Upon receipt thereof, GCIC shall
 464 promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search
 465 of bureau records and an appropriate report and shall retain the other set and promptly
 466 conduct a search of its records and records to which it has access. Within ten days after
 467 receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the
 468 department in writing of any derogatory finding, including but not limited to any criminal
 469 record, of the state fingerprint records check or if there is no such finding. After a search
 470 of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's
 471 report, the department shall make a national fingerprint records determination.

472 (b) If the department is participating in the program described in subparagraph (a)(1)(F)
 473 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
 474 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
 475 section for such program and the department shall notify the individual whose fingerprints
 476 were taken of the parameters of such retention."

477 **SECTION 2-17.**

478 Said title is further amended by adding a new subsection to Code Section 49-5-68, relating
 479 to change of director, to read as follows:

480 "(d) The time frames set forth in this Code section shall not apply when fingerprints have
 481 been retained by the department due to its participation in the program described in
 482 subparagraph (a)(1)(F) of Code Section 35-3-33."

483 **SECTION 2-18.**

484 Said title is further amended by adding a new subsection to Code Section 49-5-69.1, relating
485 to fingerprint and preliminary records check for foster homes, notice of results, violations,
486 and foster parents known to have criminal records, to read as follows:

487 "(f) If the department is participating in the program described in subparagraph (a)(1)(F)
488 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
489 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
490 section for such program and the department shall notify the individual whose fingerprints
491 were taken of the parameters of such retention. The time frames set forth in this Code
492 section shall not apply when fingerprints have been retained by the department due to its
493 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33."

494 **SECTION 2-19.**

495 Said title is further amended by revising subsection (c) of Code Section 49-5-111, relating
496 to employers authorized to make records checks and procedure, as follows:

497 "(c) If the employer is participating in the program described in subparagraph (a)(1)(F) of
498 Code Section 35-3-33, the Georgia Bureau of Investigation shall be authorized to retain
499 fingerprints obtained pursuant to this article for such program and the employer shall notify
500 the individual whose fingerprints were taken of the parameters of such retention."

501 **PART III**502 **SECTION 3-1.**

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