

The House Committee on Judiciary Non-Civil offers the following substitute to SB 157:

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 20, 26, 31, 33, and 43 of the Official Code of Georgia Annotated, relating
2 to education, food, drugs, and cosmetics, health, insurance, and professions and businesses,
3 respectively, so as to create a preclearance process in the licensing of individuals with
4 criminal records who make an application to or are investigated by certain licensing boards
5 and commissions; to provide for definitions; to require certain licensing authorities to provide
6 evidence to support adverse licensing decisions based on criminal convictions; to require a
7 hearing prior to denying certain applicants on the basis of an individual's criminal record; to
8 establish findings that shall be made and evidence that shall and shall not be considered prior
9 to refusing to grant certain licenses based on certain criminal convictions; to allow an
10 applicant to submit his or her own criminal record when applying for certain licenses; to
11 provide for reapplication for licensure; to authorize and provide a process and requirements
12 for predetermination decisions; to require certain licensure application information be
13 included in certain applications and posted on a public website; to require certain annual
14 reports concerning certain applications, predeterminations, and conviction records be filed
15 with the Secretary of State; to amend Chapter 4 of Title 25 of the Official Code of Georgia
16 Annotated, relating to firefighter standards and training, so as to provide for the reporting of
17 guilty pleas taken under the "Georgia First Offender Act" to obtain employment as a fire
18 fighter; to amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia

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19 Annotated, relating to Georgia Crime Information Center, so as to provide for criminal
20 history record information restrictions for certain persons cited with or convicted of certain
21 criminal offenses; to provide that restricted criminal history record information shall be
22 available to criminal justice agencies; to provide for petitions; to provide for criminal history
23 record information restriction for persons granted a pardon for certain offenses; to amend
24 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
25 offenders, so as to revise the procedure for petitioning for exoneration and discharge when
26 an individual has qualified for sentencing as a first offender; to provide for exceptions to
27 retroactively granting first offender treatment; to provide for related matters; to provide for
28 an effective date and applicability; to repeal conflicting laws; and for other purposes.

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

30 **PART I**
31 **SECTION 1-1.**

32 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
33 is amended by revising Code Section 43-1-1, relating to definitions, as follows:

34 "43-1-1.

35 As used in this title, the term:

36 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
37 whether an appeal of such finding, verdict, or plea has been sought.

38 (2) 'Covered misdemeanor' shall mean any:

39 (A) Misdemeanor conviction in the five years prior to the submission of the licensing
40 application; and

41 (B) Misdemeanor conviction listed in subparagraph (j)(4)(B) of Code Section 35-3-37,
42 irrespective of the date of such conviction.

43 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
44 Section 43-1-2.

45 ~~(2)~~(4) 'Division director' means the individual appointed by the Secretary of State as
46 director of the professional licensing boards division within the office of the Secretary
47 of State.

48 (5) 'Felony' means any offense which, if committed in this state, would be deemed a
49 felony, without regard to its designation elsewhere.

50 ~~(3)~~(6) 'Professional licensing board' means any board, bureau, commission, or other
51 agency of the executive branch of state government which is created for the purpose of
52 licensing or otherwise regulating or controlling any profession, business, or trade and
53 which is placed by law under the jurisdiction of the division director ~~of the professional~~
54 ~~licensing boards division within the office of the Secretary of State."~~

55 SECTION 1-2.

56 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
57 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
58 probationary licenses, by revising subsection (a) as follows:

59 "(a) A professional licensing board shall have the authority to refuse to grant a license to
60 an applicant therefor or to revoke the license of a person licensed by that board or to
61 discipline a person licensed by that board, upon a finding by a majority of the entire board
62 that the licensee or applicant has:

63 (1) Failed to demonstrate the qualifications or standards for a license contained in this
64 Code section, or under the laws, rules, or regulations under which licensure is sought or
65 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the
66 board that he or she meets all the requirements for the issuance of a license, and, if the
67 board is not satisfied as to the applicant's qualifications, it may deny a license without a

68 prior hearing; provided, however, that the applicant shall be allowed to appear before the
69 board if he or she so desires;

70 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
71 practice of a business or profession licensed under this title or on any document
72 connected therewith; practiced fraud or deceit or intentionally made any false statement
73 in obtaining a license to practice the licensed business or profession; or made a false
74 statement or deceptive registration with the board;

75 (3) Been convicted of any a directly related felony or a directly related covered
76 misdemeanor or of any crime involving moral turpitude in the courts of this state or any
77 other state, territory, or country or in the courts of the United States; ~~as used in this~~
78 ~~paragraph, paragraph (4) of this subsection, and subsection (q) of this Code section, the~~
79 ~~term 'felony' shall include any offense which, if committed in this state, would be deemed~~
80 ~~a felony, without regard to its designation elsewhere; and, as used in this paragraph and~~
81 ~~subsection (q) of this Code section, the term 'conviction' shall include a finding or verdict~~
82 ~~of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been~~
83 ~~sought. The professional licensing board shall have the burden of justifying by clear and~~
84 ~~convincing evidence that a conviction supports an adverse licensing decision. Before the~~
85 ~~professional licensing board may deny an applicant a license due to his or her criminal~~
86 ~~record, such applicant shall be entitled to a hearing before the professional licensing~~
87 ~~board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure~~
88 ~~Act'~~;

89 ~~(4)(A) Been arrested, charged, and sentenced for the commission of any felony, or any~~
90 ~~crime involving moral turpitude, when:~~

91 ~~(i) A sentence for such offense was imposed pursuant to Article 3 of Chapter 8 of~~
92 ~~Title 42 or another state's first offender laws;~~

93 ~~(ii) A sentence for such offense was imposed pursuant to subsection (a) or (c) of~~
94 ~~Code Section 16-13-2;~~

95 ~~(iii) A sentence for such offense was imposed as a result of a plea of nolo contendere;~~
96 ~~or~~
97 ~~(iv) An adjudication of guilt or sentence was otherwise withheld or not entered on the~~
98 ~~charge.~~

99 ~~(B) An order entered pursuant to subsection (a) or (c) of Code Section 16-13-2, Article~~
100 ~~3 of Chapter 8 of Title 42, or another state's first offender treatment order shall be~~
101 ~~conclusive evidence of an arrest and sentencing for such offense;~~

102 ~~(5)(4)~~ Had his or her license to practice a business or profession licensed under this title
103 revoked, suspended, or annulled by any lawful licensing authority other than the board;
104 had other disciplinary action taken against him or her by any such lawful licensing
105 authority other than the board; was denied a license by any such lawful licensing
106 authority other than the board, pursuant to disciplinary proceedings; or was refused the
107 renewal of a license by any such lawful licensing authority other than the board, pursuant
108 to disciplinary proceedings;

109 ~~(6)(5)~~ Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious
110 conduct or practice harmful to the public that materially affects the fitness of the licensee
111 or applicant to practice a business or profession licensed under this title or is of a nature
112 likely to jeopardize the interest of the public; such conduct or practice need not have
113 resulted in actual injury to any person ~~or~~ but must be directly related to the practice of the
114 licensed business or profession ~~but shows~~ and show that the licensee or applicant has
115 committed any act or omission which is indicative of ~~bad moral character or~~
116 ~~untrustworthiness~~ and which makes the licensee or applicant currently likely to harm the
117 public. Such conduct or practice shall also include any departure from, or the failure to
118 conform to, the minimal reasonable standards of acceptable and prevailing practice of the
119 business or profession licensed under this title;

120 ~~(7)(6)~~ Knowingly performed any act which in any way aids, assists, procures, advises,
121 or encourages any unlicensed person or any licensee whose license has been suspended

122 or revoked by a professional licensing board to practice a business or profession licensed
123 under this title or to practice outside the scope of any disciplinary limitation placed upon
124 the licensee by the board;

125 ~~(8)~~(7) Violated a statute, law, or any rule or regulation of this state, any other state, the
126 professional licensing board regulating the business or profession licensed under this title,
127 the United States, or any other lawful authority without regard to whether the violation
128 is criminally punishable when such statute, law, or rule or regulation relates to or in part
129 regulates the practice of a business or profession licensed under this title and when the
130 licensee or applicant knows or should know that such action violates such statute, law,
131 or rule; or violated a lawful order of the board previously entered by the board in a
132 disciplinary hearing, consent decree, or license reinstatement;

133 ~~(9)~~(8) Been adjudged mentally incompetent by a court of competent jurisdiction within
134 or outside this state; any such adjudication shall automatically suspend the license of any
135 such person and shall prevent the reissuance or renewal of any license so suspended for
136 so long as the adjudication of incompetence is in effect;

137 ~~(10)~~(9) Displayed an inability to practice a business or profession licensed under this title
138 with reasonable skill and safety to the public or has become unable to practice the
139 licensed business or profession with reasonable skill and safety to the public by reason
140 of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
141 or

142 ~~(11)~~(10) Failed to comply with an order for child support as defined by Code Section
143 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
144 release to the board from the child support agency within the Department of Human
145 Services indicating that the applicant or licensee has come into compliance with an order
146 for child support so that a license may be issued or granted if all other conditions for
147 licensure are met."

148 **SECTION 1-3.**

149 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
 150 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
 151 probationary licenses, by revising subsection (j) as follows:

152 "(j) Neither the issuance of a private reprimand nor the denial of a license by reciprocity
 153 ~~nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a~~
 154 ~~previously denied license~~ shall be considered to be a contested case within the meaning of
 155 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing
 156 within the meaning of such chapter shall not be required, but the applicant or licensee shall
 157 be allowed to appear before the board if he or she so requests. A board may resolve a
 158 pending action by the issuance of a letter of concern. Such letter shall not be considered
 159 a disciplinary action or a contested case under Chapter 13 of Title 50 and shall not be
 160 disclosed to any person except the licensee or applicant."

161 **SECTION 1-4.**

162 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
 163 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
 164 probationary licenses, by revising subsection (q) as follows:

165 "(q)(1) Notwithstanding ~~paragraphs~~ paragraph (3) and (4) of subsection (a) of this Code
 166 section or any other provision of law, ~~and unless the professional licensing board shall~~
 167 refuse to grant a license to an individual or shall revoke a license only if a felony or crime
 168 involving moral turpitude covered misdemeanor directly relates to the occupation for
 169 which the license is sought or held and granting the license would pose a direct and
 170 substantial risk to public safety because the individual has not been rehabilitated to safely
 171 perform the duties and responsibilities of such occupation, after considering the criteria
 172 in paragraph (2) of this subsection. Without finding a direct and substantial risk to public
 173 safety and a direct relationship between the conviction and the licensed occupation, no

174 professional licensing board shall refuse to grant a license to an applicant therefor or shall
 175 revoke the license of an individual licensed by that board due solely or in part to such
 176 applicant's or licensee's:

177 (A) Conviction of any felony or any ~~crime involving moral turpitude~~ covered
 178 misdemeanor, whether it occurred in the courts of this state or any other state, territory,
 179 or country or in the courts of the United States;

180 (B) Arrest, charge, and sentence for the commission of such offense;

181 (C) Sentence for such offense pursuant to Article 3 of Chapter 8 of Title 42 or another
 182 state's first offender laws;

183 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
 184 16-13-2;

185 (E) Sentence for such offense as a result of a plea of nolo contendere;

186 (F) Adjudication of guilt or sentence was otherwise withheld or not entered; or

187 (G) Being under supervision by a community supervision officer, as such term is
 188 defined in Code Section 42-3-1, for a conviction of any felony or any ~~crime involving~~
 189 ~~moral turpitude~~ covered misdemeanor, whether it occurred in the courts of this state or
 190 any other state, territory, or country or in the courts of the United States, so long as such
 191 individual was not convicted of a felony violation of Chapter 5 of Title 16 nor
 192 convicted of a crime requiring registration on the state sexual offender registry.

193 (2) In determining if a felony or ~~crime involving moral turpitude~~ covered misdemeanor
 194 directly relates to the occupation for which the license is sought or held, the professional
 195 licensing board shall consider:

196 (A) The nature and seriousness of such felony or ~~crime involving moral turpitude~~
 197 covered misdemeanor and the direct relationship of ~~such felony or crime involving~~
 198 ~~moral turpitude~~ the criminal conduct to the duties and responsibilities of the occupation
 199 for which the license is sought or held;

- 200 (B) The age of the individual at the time such felony or ~~crime involving moral~~
201 ~~turpitude~~ covered misdemeanor was committed;
- 202 (C) The length of time elapsed since such felony or ~~crime involving moral turpitude~~
203 ~~covered misdemeanor~~ was committed;
- 204 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
205 ~~covered misdemeanor~~, including, but not limited to, mitigating circumstances or social
206 conditions surrounding the commission of such felony or ~~crime involving moral~~
207 ~~turpitude~~ covered misdemeanor; and
- 208 (E) Evidence of rehabilitation and present fitness to perform the duties of the
209 occupation for which the license is sought or held-, including, but not limited to:
- 210 (i) The completion of the criminal sentence;
- 211 (ii) A program and treatment certificate issued by the Board of Corrections;
- 212 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
213 treatment program;
- 214 (iv) Testimonials and recommendations, which may include a progress report from
215 the individual's probation or parole officer;
- 216 (v) Education and training;
- 217 (vi) Employment history;
- 218 (vii) Employment aspirations;
- 219 (viii) The individual's current family or community responsibilities, or both;
- 220 (ix) Whether a bond is required to practice the occupation;
- 221 (x) Any affidavits or other written documents, including, but not limited to, character
222 references; and
- 223 (xi) Any other information regarding rehabilitation the individual submits to the
224 board.

225 (3) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
226 otherwise withhold a license, the professional licensing board shall not consider nor
227 require an individual to disclose:

228 (A) A deferred adjudication, first offender treatment, participation in a diversion
229 program, a conditional discharge, or an arrest not followed by a conviction;

230 (B) A conviction for which no sentence of incarceration can be imposed;

231 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
232 pardoned;

233 (D) A juvenile adjudication;

234 (E) A misdemeanor conviction older than five years, unless the offense of conviction
235 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

236 (F) A conviction older than five years for which the individual was not incarcerated,
237 or a conviction for which the individual's incarceration ended more than five years
238 before the date of the board's consideration, except for a felony conviction related to:

239 (i) A criminal sexual act;

240 (ii) Criminal fraud or embezzlement;

241 (iii) Aggravated assault;

242 (iv) Aggravated robbery;

243 (v) Aggravated abuse, neglect, or endangerment of a child;

244 (vi) Arson;

245 (vii) Carjacking;

246 (viii) Kidnapping; or

247 (ix) Manslaughter, homicide, or murder.

248 (4) Notwithstanding any other provision of law, no professional licensing board may
249 apply a vague character standard to licensure decisions or predeterminations, including,
250 but not limited to, 'good moral character,' 'moral turpitude,' or 'character and fitness.'

251 (5) Notwithstanding any other provision of law, a professional licensing board shall
252 provide individualized consideration of an individual's criminal record and shall not
253 automatically deny licensure on the basis of the individual's criminal record.

254 (6)(A) If an applicant's criminal record includes issues that will or may prevent the
255 board from issuing a license to the applicant, the board shall notify the applicant, in
256 writing, of the specific issues in sufficient time for the applicant to provide additional
257 documentation supporting the application before the board's final decision to deny the
258 application. After receiving notice of any potential issue with licensure due to his or
259 her criminal convictions, an applicant shall have 30 days to respond by correcting any
260 inaccuracy in the criminal record or by submitting additional evidence of mitigation or
261 rehabilitation for the board's consideration, or both.

262 (B) For the professional licensing board to deny a license on the basis of the applicant's
263 criminal convictions, the board shall first provide an opportunity for a hearing for such
264 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
265 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
266 written or oral testimony of character witnesses, including, but not limited to, family
267 members, friends, prospective employers, probation or parole officers, and
268 rehabilitation counselors. The professional licensing board shall issue a decision within
269 60 days of the complete submission of the issues for consideration or the hearing,
270 whichever is later.

271 (C) The professional licensing board shall have the burden of justifying by clear and
272 convincing evidence, after a hearing, that an applicant's criminal record supports any
273 adverse licensing decision. If the board denies an applicant a license by reason of the
274 applicant's criminal record, the board shall:

275 (i) Make written findings specifying any of the applicant's convictions and the factors
276 provided for in subparagraph (A) of paragraph (2) of this subsection the board
277 deemed directly relevant and explaining the basis and rationale for the denial. Such

278 written findings shall be signed by the board's presiding officer and shall note the
279 applicant's right to appeal and explain the applicant's ability to reapply. No applicant
280 shall be restricted from reapplying for licensure for more than two years from the date
281 of the most recent application;

282 (ii) Provide or serve a signed copy of the written findings to the applicant within 60
283 days of the denial; and

284 (iii) Retain a signed copy of the written findings for no less than five years.

285 (D) The denial of a license in part or in whole because of the applicant's criminal
286 record shall constitute a contested case as defined in Code Section 50-13-2. In an
287 administrative hearing or civil action reviewing the denial of a license, the professional
288 licensing board shall have the burden of proving that the applicant's criminal record
289 directly relates to the occupation for which the license is sought.

290 (7)(A) Notwithstanding any other provision of law, an individual with a criminal
291 record may petition a professional licensing board at any time, including while
292 incarcerated and before starting or completing any required professional qualifications
293 for licensure, for a predetermination as to whether such individual's criminal record will
294 disqualify him or her from obtaining a license.

295 (B) The petition for predetermination shall include the individual's criminal record or
296 authorize the board to obtain the individual's criminal record. The petitioning
297 individual need not disclose any offenses provided for in paragraph (3) of this
298 subsection. Such petition shall also include any information the petitioner chooses to
299 submit concerning the circumstances of their record and their rehabilitation.

300 (C) In considering predetermination petitions, the professional licensing board shall
301 apply the direct relationship standard provided for in paragraphs (1) and (2) of this
302 subsection and shall not consider any offenses falling under paragraph (3) of this
303 subsection. The board shall support any adverse predetermination with clear and
304 convincing evidence.

305 (D) A predetermination made under this subsection that a petitioner is eligible for a
306 license shall be binding on the professional licensing board only if the petitioner applies
307 for licensure, fulfills all other requirements for the occupational license, and the
308 petitioner's submitted criminal record was correct and remains unchanged at the time
309 of his or her application for a license.

310 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
311 from licensure, the board shall notify the petitioner of the potentially disqualifying
312 convictions. The letter of concern shall advise the petitioner of their opportunity to
313 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

314 (F) The professional licensing board may predetermine that the petitioner's criminal
315 record is likely grounds for denial of a license only after the board has held a hearing
316 on the petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
317 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
318 or by teleconference within 60 days of receipt of the predetermination petition. The
319 individual shall have the opportunity to offer written or oral testimony of character
320 witnesses at the hearing, including but not limited to family members, friends, past or
321 prospective employers, probation or parole officers, and rehabilitation counselors. The
322 professional licensing board shall not make an adverse inference by a petitioner's
323 decision to forgo a hearing or character witnesses. The board shall issue a final
324 decision within 60 days of complete submission of the issue for consideration or the
325 hearing, whichever is later.

326 (G) If the professional licensing board decides that a predetermination petitioner is
327 ineligible for a license, the board shall notify the petitioner of the following:

328 (i) The grounds and rationale for the predetermination, including any of the
329 petitioner's specific convictions and the factors provided for in subparagraph (A) of
330 paragraph (2) of this subsection the board deemed directly relevant;

331 (ii) An explanation of the process and right to appeal the board's predetermination
332 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
333 and

334 (iii) Any actions the petitioner may take to remedy the disqualification. An
335 individual who receives a predetermination of ineligibility may submit a revised
336 petition reflecting completion of the remedial actions. The individual may submit a
337 new petition to the board not before one year following a final judgment on their
338 initial petition or upon completing the remedial actions, whichever is earlier.

339 (H) The denial of a predetermination petition because of the applicant's criminal record
340 shall constitute a contested case as defined in Code Section 50-13-2. In an
341 administrative hearing or civil action reviewing the denial of a predetermination
342 petition, the professional licensing board shall have the burden of proving that the
343 applicant's criminal record directly relates to the licensed occupation.

344 (8) Each professional licensing board shall include in its application for licensure and on
345 its public website all of the following information:

346 (A) Whether the board requires applicants to consent to a criminal record check;

347 (B) The direct relationship standard provided for in paragraph (1) of this subsection
348 and those factors provided for in paragraph (2) of this subsection that the board shall
349 consider when making a determination of licensure;

350 (C) The criminal record disclosure provided for in paragraph (3) of this subsection;

351 (D) The appeals process pursuant to Chapter 13 of Title 50, the 'Georgia
352 Administrative Procedure Act,' if the board denies or revokes licensure in whole or in
353 part because of a criminal conviction; and

354 (E) The predetermination petition process, standards, and application, as well as the
355 process for appealing an adverse predetermination pursuant to Chapter 13 of Title 50,
356 the 'Georgia Administrative Procedure Act.'

357 (9) No later than March 31 each year, each occupational licensing board shall file with
 358 the Secretary of State an annual report containing information from the previous year as
 359 to:

360 (A) The number of applicants for a license and, of that number, the number of licenses
 361 granted;

362 (B) The number of applicants with a criminal record and, of that number, the number
 363 of licenses granted, denied a license for any reason, and denied due to a conviction or
 364 state supervision status;

365 (C) The number of predetermination petitioners and, of that number, the number
 366 deemed eligible for a license and the number deemed ineligible for a license;

367 (D) The racial and ethnic distribution of licensing applicants, including the racial and
 368 ethnic distribution of applicants with a criminal record; and

369 (E) The racial and ethnic distribution of licensing applicants with a criminal record
 370 granted a license, denied a license for any reason, and denied a license due to a
 371 conviction or state supervision status."

372 **SECTION 1-5.**

373 Said title is further amended by revising Code Section 43-1-27, relating to requirement that
 374 licensee notify licensing authority of felony conviction, as follows:

375 "43-1-27.

376 Any licensed individual who is convicted under the laws of this state, the United States, or
 377 any other state, territory, or country of a felony as defined in ~~paragraph (3) of subsection~~
 378 ~~(a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the appropriate licensing
 379 authority of the conviction within ten days of the conviction. The failure of a licensed
 380 individual to notify the appropriate licensing authority of a conviction shall be considered
 381 grounds for revocation of his or her license, permit, registration, certification, or other
 382 authorization to conduct a licensed profession."

383

PART II

384

SECTION 2-1.

385 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 386 is amended in Code Section 43-3-21, relating to revocation or refusal to grant or renew
 387 accountant's licenses, by revising paragraphs (3) and (4) of subsection (a) as follows:

388 "(3) Had been convicted of any directly related felony or ~~crime involving moral turpitude~~
 389 directly related covered misdemeanor as defined in Code Section 43-1-1 in the courts of
 390 this state, any other state, a territory, or a country or in the courts of the United States.

391 As used in this paragraph, the term:

392 (A) 'Conviction' means and includes a finding or verdict of guilty or a plea of guilty,
 393 regardless of whether an appeal of the conviction has been sought;

394 (B) 'Felony' means and includes any offense which, if committed in this state, would
 395 be deemed a felony, without regard to its designation elsewhere.

396 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
 397 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
 398 43-1-1 when:

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

401 (ii) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 402 charge, except with respect to a plea of nolo contendere.

403 (B) An order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42
 404 or other first offender treatment shall be conclusive evidence of arrest and sentencing
 405 for such crime.

406 (C) As used in this paragraph, the term 'felony' shall include any offense which, if
 407 committed in this state, would be deemed a felony, without regard to its designation
 408 elsewhere;"

409 **SECTION 2-2.**

410 Said title is further amended by adding two new Code sections to read as follows:

411 "43-3-21.1.

412 (a) Notwithstanding paragraphs (3) and (4) of subsection (a) of Code Section 43-3-21, the
413 board of accountancy shall refuse to grant a license to an individual or shall revoke a
414 license only if a conviction directly relates to the occupation for which the license is sought
415 or held and granting the license would pose a direct and substantial risk to public safety
416 because the individual has not been rehabilitated to safely perform the duties and
417 responsibilities of the practice of public accountancy. In determining if a conviction
418 directly relates to the occupation for which the license is sought or held, the board of
419 accountancy shall consider:

420 (1) The nature and seriousness of the offense and the direct relationship of the criminal
421 conduct to the duties and responsibilities of the occupation for which the license is sought
422 or held;

423 (2) The age of the individual at the time the offense was committed;

424 (3) The length of time elapsed since the offense was committed;

425 (4) All circumstances relative to the offense, including, but not limited to, mitigating
426 circumstances or social conditions surrounding the commission of the offense; and

427 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
428 for which the license is sought or held, including, but not limited to:

429 (A) The completion of the criminal sentence;

430 (B) A program and treatment certificate issued by the Board of Corrections;

431 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
432 program;

433 (D) Testimonials and recommendations, which may include a progress report from the
434 individual's probation or parole officer;

435 (E) Education and training;

- 436 (F) Employment history;
437 (G) Employment aspirations;
438 (H) The individual's current family or community responsibilities, or both;
439 (I) Whether a bond is required to practice the occupation;
440 (J) Any affidavits or other written documents, including, but not limited to, character
441 references; and
442 (K) Any other information regarding rehabilitation the individual submits to the board.
443 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
444 otherwise withhold a license due to criminal record, the accountancy board shall not
445 consider nor require an individual to disclose:
446 (1) A deferred adjudication, first offender treatment, participation in a diversion
447 program, a conditional discharge, or an arrest not followed by a conviction;
448 (2) A conviction for which no sentence of incarceration can be imposed;
449 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
450 pardoned;
451 (4) A juvenile adjudication;
452 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
453 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
454 (6) A conviction older than five years for which the individual was not incarcerated, or
455 a conviction for which the individual's incarceration ended more than five years before
456 the date of the board's consideration, except for a felony conviction related to:
457 (A) A criminal sexual act;
458 (B) Criminal fraud or embezzlement;
459 (C) Aggravated assault;
460 (D) Aggravated robbery;
461 (E) Aggravated abuse, neglect, or endangerment of a child;
462 (F) Arson;

- 463 (G) Carjacking;
464 (H) Kidnapping; or
465 (I) Manslaughter, homicide, or murder.

466 43-3-21.2.

467 (a) Notwithstanding any other provision of law, an individual with a criminal record may
468 petition the accountancy board at any time, including while incarcerated and before starting
469 or completing any required professional qualifications for licensure, for a predetermination
470 as to whether the individual's criminal record will disqualify him or her from obtaining a
471 license.

472 (b) The petition for predetermination shall include the individual's criminal record or
473 authorize the board to obtain the individual's criminal record. The petitioning individual
474 need not disclose any offenses falling under subsection (b) of Code Section 43-3-21.1. The
475 petition shall also include any information the petitioner chooses to submit concerning the
476 circumstances of their record and their rehabilitation.

477 (c) In considering predetermination petitions, the board shall apply the direct relationship
478 standard in subsection (a) of Code Section 43-3-21.1. The board shall support any adverse
479 predetermination with clear and convincing evidence.

480 (d) A predetermination made under this subsection that a petitioner is eligible for a license
481 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
482 requirements for the licensure, and the petitioner's submitted criminal record was correct
483 and remains unchanged at the time of his or her application for a license.

484 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
485 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
486 The letter of concern shall advise the petitioner of their opportunity to submit additional
487 evidence of rehabilitation and mitigation or for a hearing, or both.

488 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
489 denial of a license only after the board has held a hearing on the petitioner's eligibility in
490 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
491 hearing shall be held in person, by remote video, or by teleconference within 60 days of
492 receipt of the predetermination petition. The individual shall have the opportunity to
493 include character witnesses at the hearing, including but not limited to family members,
494 friends, past or prospective employers, probation or parole officers, and rehabilitation
495 counselors, who may offer their verbal or written support. The board shall not make an
496 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
497 board shall issue a final decision within 60 days of complete submission of the issue for
498 consideration or the hearing, whichever is later.

499 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
500 board shall notify the petitioner of the following:

501 (1) The grounds and rationale for the predetermination, including the specific
502 convictions and the factors in subsection (a) of Code Section 43-3-21.1 the board deemed
503 directly relevant;

504 (2) An explanation of the process and right to appeal the board's predetermination
505 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

506 (3) Any actions the petitioner may take to remedy the disqualification. An individual
507 who receives a predetermination of ineligibility may submit a revised petition reflecting
508 completion of the remedial actions. The individual may submit a new petition to the
509 board not before one year following a final judgment on their initial petition or upon
510 completing the remedial actions, whichever is earlier.

511 (h) The denial of a predetermination petition because of the applicant's criminal record
512 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
513 hearing or civil action reviewing the denial of a predetermination petition, the board shall

514 have the burden of proving that the applicant's criminal record directly relates to the
 515 licensed occupation."

516 **SECTION 2-3.**

517 Said title is further amended in Code Section 43-3-27, relating to notification by an
 518 individual issued a license or certification as an accountant of conviction, time limit, and
 519 suspension, by revising subsection (a) as follows:

520 "(a) Any individual issued a license or certification under this chapter or providing services
 521 under substantial equivalency practice privileges and convicted under the laws of this state,
 522 the United States, any other state, or any other country of a felony as defined in ~~paragraph~~
 523 ~~(3) of subsection (a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the board
 524 of such conviction within 30 days of such conviction. The failure of such individual to
 525 notify the board of a conviction shall be considered grounds for revocation of his or her
 526 license or other authorization issued pursuant to this chapter."

527 **SECTION 2-4.**

528 Said title is further amended in Code Section 43-10-20, relating to the teaching of barbering
 529 or the practice of a cosmetologist in prisons and certification of registration, by revising
 530 subsection (b) as follows:

531 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
 532 registration under this chapter who has completed successfully a barber or cosmetologist
 533 training program operated by the Department of Corrections and who meets the
 534 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
 535 and practical examinations, the board may issue the appropriate certificate of registration
 536 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
 537 43-1-19; provided, however, that the board shall not apply the provisions of paragraph ~~(4)~~
 538 (3) of subsection (a) of Code Section 43-1-19 to such inmate based solely upon such

539 person's status as an inmate and shall apply such provisions in the same manner as would
 540 otherwise be applicable to an applicant who is not an inmate."

541 **SECTION 2-5.**

542 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
 543 revocation of licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
 544 review, investigations, immunity, failure to appear, and voluntary surrender, by revising
 545 paragraph (4) of subsection (a) as follows:

546 "(4) Been arrested, charged, and sentenced for the commission of any felony, or any
 547 ~~crime involving moral turpitude~~ covered misdemeanor, where:

548 (A) ~~A~~ a plea of nolo contendere was entered to the charge;

549 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 550 ~~granted; or~~

551 (C) ~~An adjudication or sentence was otherwise withheld or not entered on the charge.~~

552 The plea of nolo contendere ~~or the order entered pursuant to the provisions of Article 3~~
 553 ~~of Chapter 8 of Title 42 or other first offender treatment~~ shall be conclusive evidence of
 554 arrest and sentencing for such crime;"

555 **SECTION 2-6.**

556 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
 557 revocation of, licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
 558 review, investigations, immunity, failure to appear, and voluntary surrender, by adding two
 559 new subsections to read as follows:

560 "(a.1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section, the
 561 board of dentistry shall refuse to grant a license to an individual or shall revoke a license
 562 only if a conviction directly relates to the occupation for which the license is sought or held
 563 and granting the license would pose a direct and substantial risk to public safety because

564 the individual has not been rehabilitated to safely perform the duties and responsibilities
565 of the practice of dentistry. In determining if a conviction directly relates to the occupation
566 for which the license is sought or held, the board of dentistry shall consider:

567 (1) The nature and seriousness of the offense and the direct relationship of the criminal
568 conduct to the duties and responsibilities of the occupation for which the license is sought
569 or held;

570 (2) The age of the individual at the time the offense was committed;

571 (3) The length of time elapsed since the offense was committed;

572 (4) All circumstances relative to the offense, including, but not limited to, mitigating
573 circumstances or social conditions surrounding the commission of the offense; and

574 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
575 for which the license is sought or held, including, but not limited to:

576 (A) The completion of the criminal sentence;

577 (B) A program and treatment certificate issued by the Board of Corrections;

578 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
579 program;

580 (D) Testimonials and recommendations, which may include a progress report from the
581 individual's probation or parole officer;

582 (E) Education and training;

583 (F) Employment history;

584 (G) Employment aspirations;

585 (H) The individual's current family or community responsibilities, or both;

586 (I) Whether a bond is required to practice the occupation;

587 (J) Any affidavits or other written documents, including, but not limited to, character
588 references; and

589 (K) Any other information regarding rehabilitation the individual submits to the board.

590 (6) In determining whether to terminate and revoke a license, the board shall not consider
591 nor require an individual to disclose:

592 (A) A deferred adjudication, a first offender adjudication, participation in a diversion
593 program, a conditional discharge, or an arrest not followed by a conviction;

594 (B) A conviction for which no sentence of incarceration can be imposed;

595 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
596 pardoned;

597 (D) A juvenile adjudication;

598 (E) A misdemeanor conviction older than five years, unless the offense of conviction
599 is listed in Code section 35-3-37(j)(4); or

600 (F) A conviction older than five years for which the individual was not incarcerated,
601 or a conviction for which the individual's incarceration ended more than five years
602 before the date of the board's consideration, except for a felony conviction related to:

603 (i) A criminal sexual act;

604 (ii) Criminal fraud or embezzlement;

605 (iii) Aggravated assault;

606 (iv) Aggravated robbery;

607 (v) Aggravated abuse, neglect, or endangerment of a child;

608 (vi) Arson;

609 (vii) Carjacking;

610 (viii) Kidnapping; or

611 (ix) Manslaughter, homicide, or murder.

612 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
613 may petition the board of dentistry at any time, including while incarcerated and before
614 starting or completing any required professional qualifications for licensure, for a
615 predetermination as to whether the individual's criminal record will disqualify him or her
616 from obtaining a license.

617 (2) The petition for predetermination shall include the individual's criminal record or
618 authorize the board to obtain the individual's criminal record. The petitioning individual
619 need not disclose any offenses falling under paragraph (6) subsection (a.1) of this Code
620 section. The petition shall also include any information the petitioner chooses to submit
621 concerning the circumstances of their record and their rehabilitation.

622 (3) In considering predetermination petitions, the board shall apply the direct relationship
623 standard in subsection (a.1) of this Code section and shall not consider any offenses
624 falling under paragraph (6) of subsection (a.1) of this Code section. The board shall
625 support any adverse predetermination with clear and convincing evidence.

626 (4) A predetermination made under this subsection that a petitioner is eligible for a
627 license shall be binding on the board only if the petitioner applies for licensure, fulfills
628 all other requirements for the occupational licensure, and the petitioner's submitted
629 criminal record was correct and remains unchanged at the time of his or her application
630 for a license.

631 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
632 from licensure, the board shall notify the petitioner of the potentially disqualifying
633 convictions. The letter of concern shall advise the petitioner of their opportunity to
634 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

635 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
636 denial of a license only after the board has held a hearing on the petitioner's eligibility in
637 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
638 hearing shall be held in person, by remote video, or by teleconference within 60 days of
639 receipt of the predetermination petition. The individual shall have the opportunity to
640 include character witnesses at the hearing, including but not limited to family members,
641 friends, past or prospective employers, probation or parole officers, and rehabilitation
642 counselors, who may offer their verbal or written support. The professional licensing
643 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or

644 character witnesses. The board shall issue a final decision within 60 days of complete
645 submission of the issue for consideration or the hearing, whichever is later.

646 (7) If the professional licensing board decides that a predetermination petitioner is
647 ineligible for a license, the board shall notify the petitioner of the following:

648 (A) The grounds and rationale for the predetermination, including the specific
649 convictions and the factors in subsection (a.1) of this Code section the board deemed
650 directly relevant;

651 (B) An explanation of the process and right to appeal the board's predetermination
652 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

653 (C) Any actions the petitioner may take to remedy the disqualification. An individual
654 who receives a predetermination of ineligibility may submit a revised petition reflecting
655 completion of the remedial actions. The individual may submit a new petition to the
656 board not before one year following a final judgment on their initial petition or upon
657 completing the remedial actions, whichever is earlier.

658 (8) The denial of a predetermination petition because of the applicant's criminal record
659 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
660 hearing or civil action reviewing the denial of a predetermination petition, the board shall
661 have the burden of proving that the applicant's criminal record directly relates to the
662 licensed occupation."

663 **SECTION 2-7.**

664 Said title is further amended in Code Section 43-11-71, relating to qualifications of
665 applicants for license and criminal background check, by revising subsection (a) and by
666 adding two new subsections to read as follows:

667 "(a) No person shall be entitled to or be issued such license as set out in Code Section
668 43-11-70 unless such person is at least 18 years of age, ~~of good moral character,~~ and a
669 graduate of a dental hygiene program recognized by the board and accredited by the

670 Commission on Dental Accreditation of the American Dental Association (ADA) or its
671 successor agency which is operated by a school or college accredited by an institutional
672 accrediting agency recognized by the United States Department of Education whose
673 curriculum is at least two academic years of courses at the appropriate level and at the
674 completion of which an associate or baccalaureate degree is awarded.

675 (b) Application for a license under Code Section 43-11-70 shall constitute consent for
676 performance of a criminal background check. Each applicant who submits an application
677 to the board for licensure agrees to provide the board with any and all information
678 necessary to run a criminal background check, including but not limited to classifiable sets
679 of fingerprints. The applicant shall be responsible for all fees associated with the
680 performance of a background check.

681 (c) Notwithstanding subsections (a) and (b) of this Code section, the board of dentistry
682 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
683 directly relates to the occupation for which the license is sought or held and granting the
684 license would pose a direct and substantial risk to public safety because the individual has
685 not been rehabilitated to safely perform the duties and responsibilities of the practice of a
686 dental hygienist. In determining if a conviction directly relates to the occupation for which
687 the license is sought or held, the board of dentistry shall consider:

688 (1) The nature and seriousness of the offense and the direct relationship of the criminal
689 conduct to the duties and responsibilities of the occupation for which the license is sought
690 or held;

691 (2) The age of the individual at the time the offense was committed;

692 (3) The length of time elapsed since the offense was committed;

693 (4) All circumstances relative to the offense, including, but not limited to, mitigating
694 circumstances or social conditions surrounding the commission of the offense; and

695 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
696 for which the license is sought or held, including, but not limited to:

- 697 (A) The completion of the criminal sentence;
698 (B) A program and treatment certificate issued by the Board of Corrections;
699 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
700 program;
701 (D) Testimonials and recommendations, which may include a progress report from the
702 individual's probation or parole officer;
703 (E) Education and training;
704 (F) Employment history;
705 (G) Employment aspirations;
706 (H) The individual's current family or community responsibilities, or both;
707 (I) Whether a bond is required to practice the occupation;
708 (J) Any affidavits or other written documents, including, but not limited to, character
709 references; and
710 (K) Any other information regarding rehabilitation the individual submits to the board.
711 (6) In determining whether to terminate and revoke a license, the board shall not consider
712 nor require an individual to disclose:
713 (A) A deferred adjudication, first offender treatment, participation in a diversion
714 program, a conditional discharge, or an arrest not followed by a conviction;
715 (B) A conviction for which no sentence of incarceration can be imposed;
716 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
717 pardoned;
718 (D) A juvenile adjudication;
719 (E) A misdemeanor conviction older than five years, unless the offense of conviction
720 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
721 (F) A conviction older than five years for which the individual was not incarcerated,
722 or a conviction for which the individual's incarceration ended more than five years
723 before the date of the board's consideration, except for a felony conviction related to:

- 724 (i) A criminal sexual act;
725 (ii) Criminal fraud or embezzlement;
726 (iii) Aggravated assault;
727 (iv) Aggravated robbery;
728 (v) Aggravated abuse, neglect, or endangerment of a child;
729 (vi) Arson;
730 (vii) Carjacking;
731 (viii) Kidnapping; or
732 (ix) Manslaughter, homicide, or murder.

733 (d)(1) Notwithstanding any other provision of law, an individual with a criminal record
734 may petition the board of dentistry at any time, including while incarcerated and before
735 starting or completing any required professional qualifications for licensure, for a
736 predetermination as to whether the individual's criminal record will disqualify him or her
737 from obtaining a license.

738 (2) The petition for predetermination shall include the individual's criminal record or
739 authorize the board to obtain the individual's criminal record. The petitioning individual
740 need not disclose any offenses falling under subparagraph (c)(6)(F) of this Code section.
741 The petition shall also include any information the petitioner chooses to submit
742 concerning the circumstances of their record and their rehabilitation.

743 (3) In considering predetermination petitions, the professional licensing board shall apply
744 the direct relationship standard in subsection (c) of this Code section and shall not
745 consider any offenses falling under subparagraph (c)(6)(F) of this Code section. The
746 board shall support any adverse predetermination with clear and convincing evidence.

747 (4) A predetermination made under this subsection that a petitioner is eligible for a
748 license shall be binding on the professional licensing board only if the petitioner applies
749 for licensure, fulfills all other requirements for the occupational licensure, and the

750 petitioner's submitted criminal record was correct and remains unchanged at the time of
751 his or her application for a license.

752 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
753 from licensure, the board shall notify the petitioner of the potentially disqualifying
754 convictions. The letter of concern shall advise the petitioner of their opportunity to
755 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

756 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
757 denial of a license only after the board has held a hearing on the petitioner's eligibility in
758 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
759 hearing shall be held in person, by remote video, or by teleconference within 60 days of
760 receipt of the predetermination petition. The individual shall have the opportunity to
761 include character witnesses at the hearing, including but not limited to family members,
762 friends, past or prospective employers, probation or parole officers, and rehabilitation
763 counselors, who may offer their verbal or written support. The professional licensing
764 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
765 character witnesses. The board shall issue a final decision within 60 days of complete
766 submission of the issue for consideration or the hearing, whichever is later.

767 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
768 board shall notify the petitioner of the following:

769 (A) The grounds and rationale for the predetermination, including the specific
770 convictions and the factors in subsection (c) of this Code section the board deemed
771 directly relevant;

772 (B) An explanation of the process and right to appeal the board's predetermination
773 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

774 (C) Any actions the petitioner may take to remedy the disqualification. An individual
775 who receives a predetermination of ineligibility may submit a revised petition reflecting
776 completion of the remedial actions. The individual may submit a new petition to the

777 board not before one year following a final judgment on their initial petition or upon
 778 completing the remedial actions, whichever is earlier.
 779 (8) The denial of a predetermination petition because of the applicant's criminal record
 780 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 781 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 782 have the burden of proving that the applicant's criminal record directly relates to the
 783 licensed occupation."

784 **SECTION 2-8.**

785 Said title is further amended by revising Code Section 43-18-46, relating to grounds for
 786 denial or revocation of license or registration and other discipline for funeral directors and
 787 embalmers, as follows:

788 "43-18-46.

789 In addition to the authority and provided in Code Section 43-1-19, the board may refuse
 790 to grant a license to operate a funeral establishment or to practice embalming or funeral
 791 directing, may refuse to grant a registration to serve as an apprentice, or may revoke,
 792 suspend, fine, or otherwise discipline a licensee or registrant upon any of the following
 793 grounds:

- 794 (1) The employment of fraud or deception in applying for a license or registration or in
 795 passing the examination provided for in this article;
 796 (2) Issuance of a license or registration through error;
 797 ~~(3) Conviction of a crime involving moral turpitude;~~
 798 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
 799 impersonation of another embalmer, funeral director, or apprentice of a like or different
 800 name;
 801 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
 802 training, or experience of any applicant;

- 803 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;
- 804 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
- 805 business or paying a commission or making gifts, directly or indirectly, for the purpose
- 806 of securing business to any physician or hospital, or to any institution where death occurs,
- 807 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
- 808 home, or other institution where death occurs; or to any coroner or other government
- 809 official;
- 810 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
- 811 directing, or cremating;
- 812 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
- 813 preservation when in fact someone else performed such embalming or preparation;
- 814 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
- 815 director having legal charge of a dead human body;
- 816 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
- 817 limited to, false or misleading statements regarding a legal or cemetery requirement,
- 818 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 819 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;
- 820 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
- 821 unless compelled by law to do otherwise;
- 822 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
- 823 body, or within the immediate hearing of the family or relatives of a deceased, whose
- 824 body has not yet been interred or otherwise disposed;
- 825 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
- 826 assignee of the deceased within ten working days of receipt of the assigned funds;
- 827 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
- 828 express order of the person lawfully entitled to the custody;

- 829 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
830 funeral establishment general price list, the casket price list, the outer burial container list,
831 or the funeral service contract price list;
- 832 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 833 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
834 certificate plan, or burial membership plan;
- 835 ~~(20)~~(19) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;
- 836 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
837 apprentice;
- 838 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
839 or regulation; Occupational Safety and Health Administration law or regulation;
840 Department of Public Health law or regulation; Environmental Protection Agency law
841 or regulation; or municipal or county ordinance or regulation that affects the handling,
842 custody, care, or transportation of dead human bodies, including, but not limited to, the
843 disposal of equipment, residual fluids, or medical wastes;
- 844 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
845 representation in the practice of funeral directing or embalming or in any document
846 connected therewith;
- 847 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
848 religion, gender, or national origin;
- 849 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
850 remains and failing to dispose of same as directed by a legally authorized person;
- 851 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
852 company or other third party;
- 853 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
854 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
855 affects the fitness of the licensee or registrant to practice in the funeral business, or is of

856 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
 857 and that need not have resulted in actual injury to any person or be directly related to the
 858 practice of funeral directing or embalming but shows that the person has committed any
 859 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
 860 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
 861 departure from or failure to conform to the minimal reasonable standards of acceptable
 862 and prevailing practice of funeral services;

863 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
 864 a coroner or who is both a funeral director and a minister presents that person as a funeral
 865 director to a legally authorized person when death is imminent or after death occurs prior
 866 to when the legally authorized person selects a funeral director or funeral establishment
 867 which will handle the dead human body;

868 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
 869 or crematory prior to the board's having approved an application for licensure; or

870 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
 871 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
 872 Code Section 43-18-70."

873 **SECTION 2-9.**

874 Said title is further amended in Code Section 43-24A-9, relating to provisional permits for
 875 massage therapists, by revising subsection (a) as follows:

876 "(a) A provisional permit to practice as a provisionally permitted massage therapist shall,
 877 upon proper application, be issued for a six-month period to an applicant who meets the
 878 following criteria:

- 879 (1) Holds and maintains a valid license as a massage therapist in another state;
- 880 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 881 defined in Code Section 50-36-2;

882 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
 883 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
 884 (4) Has not been convicted of a directly related felony in the courts of this state, any
 885 other state, territory, or country, or in the courts of the United States, including, but not
 886 limited to, a plea of nolo contendere entered to such charge ~~or the affording of first~~
 887 ~~offender treatment to any such charge~~ in the same manner as provided in paragraph (4)
 888 ~~of subsection (a) of~~ subsection (q) of Code Section 43-1-19. For purposes of this
 889 paragraph, the term 'felony' shall have the same meaning as provided in Code Section
 890 43-1-1."

891 **SECTION 2-10.**

892 Said title is further amended in Code Section 43-26-11, relating to denial or revocation of
 893 licenses and other discipline under the "Georgia Registered Professional Nurse Practice Act,"
 894 by revising paragraph (1) as follows:

895 "(1) Been convicted of any directly related felony, ~~crime involving moral turpitude,~~ or
 896 directly related crime violating a federal or state law relating to controlled substances or
 897 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
 898 courts of the United States, including but not limited to a plea of nolo contendere entered
 899 to the charge; provided, however, that such conviction shall be evaluated as provided by
 900 subsection (q) of Code Section 43-1-19; or"

901 **SECTION 2-11.**

902 Said title is further amended by revising Code Section 43-26-40, relating to refusal to grant
 903 license and revocation of registered practical nurses licenses and disciplining of licensees,
 904 as follows:

905 "43-26-40.

906 (a) In addition to the authority granted in Code Section 43-1-19, the board shall have the
907 authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or
908 to discipline a licensee upon a finding by the board that the applicant or licensee has:

909 (1) Been convicted of a directly related felony, ~~a crime involving moral turpitude~~, or any
910 directly related crime violating a federal or state law relating to controlled substances or
911 dangerous drugs or marijuana in the courts of this state, any other state, territory, or
912 country, or in the courts of the United States, including, but not limited to, a plea of nolo
913 contendere entered to the charge; provided, however, that such conviction shall be
914 evaluated as provided by subsection (q) of Code Section 43-1-19;

915 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
916 licensing authority, had other disciplinary action taken by any lawful licensing authority,
917 or was denied a license by any lawful licensing authority;

918 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
919 practice harmful to the public, which conduct or practice need not have resulted in actual
920 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
921 includes the improper charting of medication and any departure from, or the failure to
922 conform to, the minimal standards of acceptable and prevailing nursing practice;

923 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
924 of this state, any other state, the board, the United States, or any other lawful authority,
925 without regard to whether the violation is criminally punishable, which statute, law, or
926 rule or regulation relates to or in part regulates the practice of nursing, when the licensee
927 or applicant knows or should know that such action is violative of such law or rule;

928 (5) Violated a lawful order of the board previously entered by the board in a disciplinary
929 hearing; or

930 (6) Displayed an inability to practice nursing as a licensed practical nurse with
931 reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or
932 any other types of material, or as a result of any mental or physical condition:

933 (A) In enforcement of this paragraph, the board may, upon reasonable grounds, require
934 a licensee or applicant to submit to a mental or physical examination by a board
935 approved health care professional. The expense of such mental or physical examination
936 shall be borne by the licensee or applicant. The results of such examination shall be
937 admissible in any hearing before the board, notwithstanding any claim of privilege
938 under contrary law or rule. Every person who is licensed to practice practical nursing
939 as a licensed practical nurse in this state, or an applicant for examination, endorsement,
940 or reinstatement, shall be deemed to have given such person's consent to submit to such
941 mental or physical examination and to have waived all objections to the admissibility
942 of the results in any hearing before the board upon the grounds that the same constitutes
943 a privileged communication. If a licensee or applicant fails to submit to such an
944 examination when properly directed to do so by the board, unless such failure was due
945 to circumstances beyond that person's control, the board may enter a final order upon
946 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
947 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
948 an opportunity to demonstrate to the board that such person can resume or begin to
949 practice practical nursing as a licensed practical nurse with reasonable skill and safety;
950 and

951 (B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain
952 any and all records relating to the mental or physical condition of a licensee or
953 applicant, including psychiatric records; such records shall be admissible in any hearing
954 before the board, notwithstanding any privilege under a contrary rule, law, or statute.
955 Every person who is licensed in this state or who shall file an application for said
956 license shall be deemed to have given such person's consent to the board's obtaining

957 such records and to have waived all objections to the admissibility of such records in
 958 any hearing before the board upon the grounds that the same constitute a privileged
 959 communication.

960 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
 961 a license by endorsement under Code Section 43-26-38, nor the denial of a request for
 962 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
 963 the minimum requirements shall be considered a contested case within the meaning of
 964 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
 965 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
 966 licensee shall be allowed to appear before the board if he or she so requests.

967 (c) Notwithstanding any other provision of this Code section, the denial of an initial
 968 license or the denial of a request for reinstatement of a license on the grounds that the
 969 applicant or licensee is disqualified due to a criminal record shall be in accordance with
 970 subsection (a) of Code Section 43-1-19."

971 **SECTION 2-12.**

972 Said title is further amended in Code Section 43-34-8, relating to the authority of the
 973 Composite Medical Board to refuse license, certificate, or permit medical professionals or
 974 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
 975 publication of final disciplinary actions, by revising paragraph (3) of subsection (a) as
 976 follows:

977 "(3) Been convicted of a felony in the courts of this state or any other state, territory,
 978 country, or of the United States. As used in this paragraph, the term 'conviction of a
 979 felony' shall include a conviction of an offense which if committed in this state would be
 980 deemed a felony under either state or federal law, without regard to its designation
 981 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or
 982 verdict of guilt, ~~a plea of guilty resulting in first offender status~~, or a plea of nolo

- 1008 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1009 program;
- 1010 (D) Testimonials and recommendations, which may include a progress report from the
1011 individual's probation or parole officer;
- 1012 (E) Education and training;
- 1013 (F) Employment history;
- 1014 (G) Employment aspirations;
- 1015 (H) The individual's current family or community responsibilities, or both;
- 1016 (I) Whether a bond is required to practice the occupation;
- 1017 (J) Any affidavits or other written documents, including, but not limited to, character
1018 references; and
- 1019 (K) Any other information regarding rehabilitation the individual submits to the board.
- 1020 (6) In determining whether to terminate and revoke a license, the board shall not consider
1021 nor require an individual to disclose:
- 1022 (A) A deferred adjudication, first offender treatment, participation in a diversion
1023 program, a conditional discharge, or an arrest not followed by a conviction;
- 1024 (B) A conviction for which no sentence of incarceration can be imposed;
- 1025 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1026 pardoned;
- 1027 (D) A juvenile adjudication;
- 1028 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1029 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1030 (F) A conviction older than five years for which the individual was not incarcerated,
1031 or a conviction for which the individual's incarceration ended more than five years
1032 before the date of the board's consideration, except for a felony conviction related to:
- 1033 (i) A criminal sexual act;
- 1034 (ii) Criminal fraud or embezzlement;

1035 (iii) Aggravated assault;

1036 (iv) Aggravated robbery;

1037 (v) Aggravated abuse, neglect, or endangerment of a child;

1038 (vi) Arson;

1039 (vii) Carjacking;

1040 (viii) Kidnapping; or

1041 (ix) Manslaughter, homicide, or murder.

1042 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
1043 may petition the board at any time, including while incarcerated and before starting or
1044 completing any required professional qualifications for licensure, for a predetermination
1045 as to whether the individual's criminal record will disqualify him or her from obtaining
1046 a license.

1047 (2) The petition for predetermination shall include the individual's criminal record or
1048 authorize the board to obtain the individual's criminal record. The petitioning individual
1049 need not disclose any offenses falling under paragraph (a.1)(6) of this Code section. The
1050 petition shall also include any information the petitioner chooses to submit concerning
1051 the circumstances of their record and their rehabilitation.

1052 (3) In considering predetermination petitions, the professional licensing board shall apply
1053 the direct relationship standard in subsection (a.1) of this subsection and shall not
1054 consider any offenses falling under paragraph (a.1)(6) of this Code section. The board
1055 shall support any adverse predetermination with clear and convincing evidence.

1056 (4) A predetermination made under this subsection that a petitioner is eligible for a
1057 license shall be binding on the board only if the petitioner applies for licensure, fulfills
1058 all other requirements for the occupational license, and the petitioner's submitted criminal
1059 record was correct and remains unchanged at the time of his or her application for a
1060 license.

1061 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1062 from licensure, the board shall notify the petitioner of the potentially disqualifying
1063 convictions. The letter of concern shall advise the petitioner of their opportunity to
1064 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

1065 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1066 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1067 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1068 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1069 receipt of the predetermination petition. The individual shall have the opportunity to
1070 include character witnesses at the hearing, including but not limited to family members,
1071 friends, past or prospective employers, probation or parole officers, and rehabilitation
1072 counselors, who may offer their verbal or written support. The board shall not make an
1073 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1074 board shall issue a final decision within 60 days of complete submission of the issue for
1075 consideration or the hearing, whichever is later.

1076 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
1077 board shall notify the petitioner of the following:

1078 (A) The grounds and rationale for the predetermination, including any of the
1079 petitioner's specific convictions and the factors provided for in subsection (a.2) of this
1080 Code section the board deemed directly relevant;

1081 (B) An explanation of the process and right to appeal the board's predetermination
1082 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1083 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1084 who receives a predetermination of ineligibility may submit a revised petition reflecting
1085 completion of the remedial actions. The individual may submit a new petition to the
1086 board not before one year following a final judgment on their initial petition or upon
1087 completing the remedial actions, whichever is earlier.

1088 (8) The denial of a predetermination petition because of the applicant's criminal record
 1089 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1090 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 1091 have the burden of proving that the applicant's criminal record directly relates to the
 1092 licensed occupation."

1093 **SECTION 2-14.**

1094 Said title is further amended in Code Section 43-34-107, relating to termination of approval
 1095 and revocation of licenses of physician assistants by the Composite Medical Board, notice
 1096 and hearing, and sanctions, by revising subsection (a) as follows:

1097 "(a)(1) The approval of a physician's utilization of a physician assistant may be
 1098 terminated and the license revoked by the board when, after due notice and a hearing, in
 1099 accordance with this Code section, it shall find that the assistant is incompetent or has
 1100 committed unethical or immoral acts, including, but not limited to, holding himself or
 1101 herself out or permitting another to represent him or her as a licensed physician;
 1102 performing otherwise than at the direction of a physician approved by the board to utilize
 1103 the assistant's services; habitually using intoxicants or drugs to such an extent that he or
 1104 she is unable safely to perform as an assistant to the physician; or being convicted in any
 1105 court, state or federal, of any felony or other criminal offense involving moral turpitude
 1106 covered misdemeanor.

1107 (2) The board shall recommend action to terminate and revoke on the basis of a criminal
 1108 conviction or adjudication only if the conviction or adjudication directly relates to the
 1109 role of a physician assistant. In determining if a criminal conviction or adjudication
 1110 directly relates to the role of a physician assistant, the board shall consider:

1111 (A) The nature and seriousness of the crime and the direct relationship of the criminal
 1112 conduct to the duties and responsibilities of the physician assistant;

1113 (B) The age of the individual at the time such crime was committed;

- 1114 (C) The length of time elapsed since such crime was committed;
1115 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1116 circumstances or social conditions surrounding the commission of the offense; and
1117 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1118 occupation for which the certificate is sought or held, including, but not limited to:
1119 (i) The completion of the criminal sentence;
1120 (ii) A program and treatment certificate issued by the Board of Corrections;
1121 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1122 treatment program;
1123 (iv) Testimonials and recommendations, which may include a progress report from
1124 the individual's probation or parole officer;
1125 (v) Education and training;
1126 (vi) Employment history;
1127 (vii) Employment aspirations;
1128 (viii) The individual's current family or community responsibilities, or both;
1129 (ix) Whether a bond is required to practice the occupation;
1130 (x) Any affidavits or other written documents, including, but not limited to, character
1131 references; and
1132 (xi) Any other information regarding rehabilitation the individual submits to the
1133 board.
- 1134 (3) In determining whether to terminate and revoke a license, the board or investigator
1135 shall not consider nor require an individual to disclose:
1136 (A) A deferred adjudication, first offender treatment, participation in a diversion
1137 program, a conditional discharge, or an arrest not followed by a conviction;
1138 (B) A conviction for which no sentence of incarceration can be imposed;
1139 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1140 pardoned;

- 1141 (D) A juvenile adjudication;
 1142 (E) A misdemeanor conviction older than five years, unless the offense of conviction
 1143 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
 1144 (F) A conviction older than five years for which the individual was not incarcerated,
 1145 or a conviction for which the individual's incarceration ended more than five years
 1146 before the date of the board's consideration, except for a felony conviction related to:
- 1147 (i) A criminal sexual act;
 - 1148 (ii) Criminal fraud or embezzlement;
 - 1149 (iii) Aggravated assault;
 - 1150 (iv) Aggravated robbery;
 - 1151 (v) Aggravated abuse, neglect, or endangerment of a child;
 - 1152 (vi) Arson;
 - 1153 (vii) Carjacking;
 - 1154 (viii) Kidnapping; or
 - 1155 (ix) Manslaughter, homicide, or murder."

1156 **SECTION 2-15.**

1157 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
 1158 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
 1159 follows:

1160 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
 1161 investigation of the applicant to be made and such investigation may include a criminal
 1162 background check; provided, however, that the board shall cause a thorough investigation
 1163 of a new applicant to be made, and such investigation shall include a background check.
 1164 If satisfied that the applicant possesses the necessary qualifications, the board shall issue
 1165 a license. However, the board may issue licenses with varying restrictions to such

1166 persons where the board deems it necessary for the purpose of safeguarding the public
1167 health, safety, and welfare.

1168 (2) The board shall recommend action to deny licensure on the basis of a criminal
1169 conviction or adjudication only if the conviction or adjudication directly relates to the
1170 administration of a pain management clinic. In determining if a criminal conviction or
1171 adjudication directly relates to the administration of a pain management clinic, the board
1172 shall consider:

1173 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1174 conduct to the duties and responsibilities of the licensee;

1175 (B) The age of the individual at the time such crime was committed;

1176 (C) The length of time elapsed since such crime was committed;

1177 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1178 circumstances or social conditions surrounding the commission of the offense; and

1179 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1180 occupation for which the certificate is sought or held, including, but not limited to:

1181 (i) The completion of the criminal sentence;

1182 (ii) A program and treatment certificate issued by the Board of Corrections;

1183 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1184 treatment program;

1185 (iv) Testimonials and recommendations, which may include a progress report from
1186 the individual's probation or parole officer;

1187 (v) Education and training;

1188 (vi) Employment history;

1189 (vii) Employment aspirations;

1190 (viii) The individual's current family or community responsibilities, or both;

1191 (ix) Whether a bond is required to practice the occupation;

- 1192 (x) Any affidavits or other written documents, including, but not limited to, character
1193 references; and
1194 (xi) Any other information regarding rehabilitation the individual submits to the
1195 board."

1196 **SECTION 2-16.**

1197 Said title is further amended by revising Code Section 43-34-284, relating to denial,
1198 suspension, and revocation of licenses of pain management clinics by the Composite Medical
1199 Board, as follows:

1200 "43-34-284.

1201 (a) In addition to the authority granted in Code Section 43-34-8, a license obtained
1202 pursuant to this article may be denied, suspended, or revoked by the board upon finding
1203 that the licensee or a physician practicing at a licensed pain management clinic has:

- 1204 (1) Furnished false or fraudulent material information in any application filed under this
1205 chapter;
1206 (2) Been convicted of a crime under any state or federal law relating to any controlled
1207 substance;
1208 (3) Had his or her federal registration to prescribe, distribute, or dispense controlled
1209 substances suspended or revoked; or
1210 (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title
1211 26.

1212 (b) In determining whether to deny, suspend, or revoke a license based upon a criminal
1213 conviction or adjudication, the board shall consider:

- 1214 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1215 conduct to the duties and responsibilities of the physician practicing at a licensed pain
1216 management clinic;
1217 (2) The age of the individual at the time such crime was committed;

- 1218 (3) The length of time elapsed since such crime was committed;
 1219 (4) All circumstances relative to such crime, including, but not limited to, mitigating
 1220 circumstances or social conditions surrounding the commission of the offense; and
 1221 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
 1222 for which the license is sought or held, including, but not limited to:
 1223 (A) The completion of the criminal sentence;
 1224 (B) A program treatment certificate issued by the Board of Corrections;
 1225 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
 1226 program;
 1227 (D) Testimonials and recommendations, which may include a progress report from the
 1228 individual's probation or parole officer;
 1229 (E) Education and training;
 1230 (F) Employment history;
 1231 (G) Employment aspirations;
 1232 (H) The individual's current family or community responsibilities, or both;
 1233 (I) Whether a bond is required to practice the occupation;
 1234 (J) Any affidavits or other written documents, including, but not limited to, character
 1235 references; and
 1236 (K) Any other information regarding rehabilitation the individual submits to the board."

1237 **SECTION 2-17.**

1238 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
 1239 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
 1240 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
 1241 subsection (b) as follows:

1242 "(b)(1) As used in this subsection, the term:

1243 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1244 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
1245 whether an appeal of the conviction has been brought; a sentencing to first offender
1246 treatment without an adjudication of guilt pursuant to a charge of a felony or any ~~crime~~
1247 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
1248 charge of a felony or any ~~crime involving moral turpitude~~ covered misdemeanor. The
1249 commission shall have the burden of justifying by clear and convincing evidence that
1250 a conviction supports an adverse licensing decision.

1251 (B) 'Felony' means any offense committed:

1252 (i) Within this state and deemed a felony under the laws of this state or under the
1253 laws of the United States; or

1254 (ii) In another state and deemed a felony under the laws of that state or the laws of
1255 the United States.

1256 (1.1) No person who has a directly related conviction shall be eligible to become an
1257 applicant for a license or an approval authorized by this chapter unless such person has
1258 successfully completed all terms and conditions of any sentence imposed for such
1259 conviction, provided that if such individual has multiple convictions, at least five years
1260 shall have passed since the individual satisfied all terms and conditions of any sentence
1261 imposed for the last conviction before making application for licensure or approval; and
1262 provided, further, that if such individual has a single conviction, at least two years shall
1263 have passed since the individual satisfied all terms and conditions of any sentence
1264 imposed for the last conviction before making application for licensure or approval.

1265 (1.2) The board shall recommend disciplinary action or denial of an application for a
1266 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1267 adjudication only if the conviction or adjudication directly relates to the role of an
1268 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1269 role of an appraiser, the board shall consider:

- 1270 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1271 conduct to the duties and responsibilities of the appraiser;
- 1272 (B) The age of the individual at the time such crime was committed;
- 1273 (C) The length of time elapsed since such crime was committed;
- 1274 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1275 circumstances or social conditions surrounding the commission of the offense; and
- 1276 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1277 occupation for which the license is sought or held, including, but not limited to:
- 1278 (i) The completion of the criminal sentence;
- 1279 (ii) A program and treatment certificate issued by the Board of Corrections;
- 1280 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1281 treatment program;
- 1282 (iv) Testimonials and recommendations, which may include a progress report from
1283 the individual's probation or parole officer;
- 1284 (v) Education and training;
- 1285 (vi) Employment history;
- 1286 (vii) Employment aspirations;
- 1287 (viii) The individual's current family or community responsibilities, or both;
- 1288 (ix) Any affidavits or other written documents, including, but not limited to, character
1289 references; and
- 1290 (x) Any other information regarding rehabilitation the individual submits to the
1291 board.
- 1292 (F) In determining whether to terminate and revoke a license, the board shall not
1293 consider nor require an individual to disclose:
- 1294 (i) A deferred adjudication, first offender treatment, participation in a diversion
1295 program, a conditional discharge, or an arrest not followed by a conviction;
- 1296 (ii) A conviction for which no sentence of incarceration can be imposed;

1297 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1298 pardoned; or

1299 (iv) A juvenile adjudication.

1300 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
 1301 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1302 licensure or an approval authorized by this chapter only if:

1303 (A) Such person has satisfied all terms and conditions of any conviction such person
 1304 may have had before making application for licensure or approval, provided that if such
 1305 individual has multiple convictions, at least five years shall have passed since the
 1306 individual satisfied all terms and conditions of any sentence imposed for the last
 1307 conviction before making application for licensure or approval; and provided, further,
 1308 that if such individual has been convicted of a single felony or of ~~a single crime of~~
 1309 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1310 individual satisfied all terms and conditions of any sentence imposed for the last
 1311 conviction before making application for licensure or approval;

1312 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1313 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1314 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1315 against the person; and

1316 (C) Such person presents to the commission satisfactory proof that the person now
 1317 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1318 transact the business of a licensee in such a manner as to safeguard the interest of the
 1319 public."

1320 **SECTION 2-18.**

1321 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
 1322 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for

1323 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
1324 revising subsection (b) as follows:

1325 "(b)(1) As used in this Code section, the term:

1326 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1327 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
1328 whether an appeal of the conviction has been brought; a sentencing to first offender
1329 treatment without an adjudication of guilt pursuant to a charge of a felony or any crime
1330 involving ~~moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
1331 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
1332 commission shall have the burden of justifying by clear and convincing evidence that
1333 a conviction supports an adverse licensing decision.

1334 (B) 'Felony' means any offense committed:

1335 (i) Within this state and deemed a felony under the laws of this state or under the
1336 laws of the United States; or

1337 (ii) In another state and deemed a felony under the laws of that state or the laws of
1338 the United States.

1339 (1.1) No person who has a directly related conviction shall be eligible to become an
1340 applicant for a license or an approval authorized by this chapter unless such person has
1341 successfully completed all terms and conditions of any sentence imposed for such
1342 conviction, provided that if such individual has multiple convictions, at least five years
1343 shall have passed since the individual satisfied all terms and conditions of any sentence
1344 imposed for the last conviction before making application for licensure or approval; and
1345 provided, further, that if such individual has a single conviction, at least two years shall
1346 have passed since the individual satisfied all terms and conditions of any sentence
1347 imposed for the last conviction before making application for licensure or approval.

1348 (1.2) The commission shall recommend disciplinary action or denial of an application
1349 for a licensure or approval authorized by this chapter on the basis of a criminal conviction

1350 or adjudication only if the conviction or adjudication directly relates to the role of the
1351 license sought. In determining if a criminal conviction or adjudication directly relates to
1352 the role of a broker or real estate salesperson, the commission shall consider:

1353 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1354 conduct to the duties and responsibilities of the licensee;

1355 (B) The age of the individual at the time such crime was committed;

1356 (C) The length of time elapsed since such crime was committed;

1357 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1358 circumstances or social conditions surrounding the commission of the offense; and

1359 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1360 occupation for which the license is sought or held, including, but not limited to:

1361 (i) The completion of the criminal sentence;

1362 (ii) A program and treatment certificate issued by the Board of Corrections;

1363 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1364 treatment program;

1365 (iv) Testimonials and recommendations, which may include a progress report from
1366 the individual's probation or parole officer;

1367 (v) Education and training;

1368 (vi) Employment history;

1369 (vii) Employment aspirations;

1370 (viii) The individual's current family or community responsibilities, or both;

1371 (ix) Any affidavits or other written documents, including, but not limited to, character
1372 references; and

1373 (x) Any other information regarding rehabilitation the individual submits to the
1374 commission.

1375 (F) In determining whether to terminate and revoke a license, the board shall not
1376 consider nor require an individual to disclose:

1377 (i) A deferred adjudication, first offender treatment, participation in a diversion
 1378 program, a conditional discharge, or an arrest not followed by a conviction;

1379 (ii) A conviction for which no sentence of incarceration can be imposed;

1380 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1381 pardoned; or

1382 (iv) A juvenile adjudication.

1383 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
 1384 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1385 licensure or an approval authorized by this chapter only if:

1386 (A) Such person has satisfied all terms and conditions of any conviction such person
 1387 may have had before making application for licensure or approval, provided that if such
 1388 individual has multiple convictions, at least five years shall have passed since the
 1389 individual satisfied all terms and conditions of any sentence imposed for the last
 1390 conviction before making application for licensure or approval; and provided, further,
 1391 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1392 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1393 individual satisfied all terms and conditions of any sentence imposed for the last
 1394 conviction before making application for licensure or approval;

1395 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1396 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1397 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1398 against the person; and

1399 (C) Such person presents to the commission satisfactory proof that the person now
 1400 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1401 transact the business of a licensee in such a manner as to safeguard the interest of the
 1402 public."

SECTION 2-19.

1403

1404 Said title is further amended in Code Section 43-45-9, relating to examination for structural
1405 pest control operator certification by the Structural Pest Control Commission, by revising
1406 subsection (a) as follows:

1407 "(a)(1) All applicants for examination for certification as an operator must have a
1408 knowledge of the practical and scientific facts underlying the practice of structural pest
1409 control, control of wood-destroying organisms, and fumigation and the necessary
1410 knowledge and ability to recognize and control those hazardous conditions which may
1411 affect human life and health. The commission may refuse to examine anyone convicted
1412 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
1413 misdemeanor.

1414 (2) The commission shall refuse to examine an applicant on the basis of a criminal
1415 conviction or adjudication only if the conviction or adjudication directly relates to the
1416 role of an operator. In determining if a criminal conviction or adjudication directly
1417 relates to the role of a pest control operator, the commission shall consider:

1418 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1419 conduct to the duties and responsibilities of the operator;

1420 (B) The age of the individual at the time such crime was committed;

1421 (C) The length of time elapsed since such crime was committed;

1422 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1423 circumstances or social conditions surrounding the commission of the offense; and

1424 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1425 occupation for which the certificate is sought or held, including, but not limited to:

1426 (i) The completion of the criminal sentence;

1427 (ii) A program and treatment certificate issued by the Board of Corrections;

1428 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1429 treatment program;

- 1430 (iv) Testimonials and recommendations, which may include a progress report from
1431 the individual's probation or parole officer;
- 1432 (v) Education and training;
- 1433 (vi) Employment history;
- 1434 (vii) Employment aspirations;
- 1435 (viii) The individual's current family or community responsibilities, or both;
- 1436 (ix) Whether a bond is required to practice the occupation;
- 1437 (x) Any affidavits or other written documents, including, but not limited to, character
1438 references; and
- 1439 (xi) Any other information regarding rehabilitation the individual submits to the
1440 commission.
- 1441 (3) In determining whether to refuse to examine an applicant, the commission shall not
1442 consider nor require an individual to disclose:
- 1443 (A) A deferred adjudication, first offender treatment, participation in a diversion
1444 program, a conditional discharge, or an arrest not followed by a conviction;
- 1445 (B) A conviction for which no sentence of incarceration can be imposed;
- 1446 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1447 pardoned;
- 1448 (D) A juvenile adjudication;
- 1449 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1450 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1451 (F) A conviction older than five years for which the individual was not incarcerated,
1452 or a conviction for which the individual's incarceration ended more than five years
1453 before the date of the commission's consideration, except for a felony conviction related
1454 to:
- 1455 (i) A criminal sexual act;
- 1456 (ii) Criminal fraud or embezzlement;

- 1457 (iii) Aggravated assault;
1458 (iv) Aggravated robbery;
1459 (v) Aggravated abuse, neglect, or endangerment of a child;
1460 (vi) Arson;
1461 (vii) Carjacking;
1462 (viii) Kidnapping; or
1463 (ix) Manslaughter, homicide, or murder.
- 1464 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1465 record may petition the commission at any time, including while incarcerated and
1466 before starting or completing any required professional qualifications for certification,
1467 for a predetermination as to whether the individual's criminal record will disqualify
1468 such individual from obtaining a certification as an operator.
- 1469 (B) The petition for predetermination shall include the individual's criminal record or
1470 authorize the commission to obtain the individual's criminal record. The petitioning
1471 individual need not disclose any offenses falling under paragraph (3) of this subsection.
1472 The petition shall also include any information the petitioner chooses to submit
1473 concerning the circumstances of their record and their rehabilitation.
- 1474 (C) In considering predetermination petitions, the commission shall apply the direct
1475 relationship standard in paragraph (2) of this subsection and shall not consider any
1476 offenses falling under paragraph (3) of this subsection. The commission shall support
1477 any adverse predetermination with clear and convincing evidence.
- 1478 (D) A predetermination made under this subsection that a petitioner is eligible for a
1479 license shall be binding on the commission only if the petitioner applies for
1480 certification, fulfills all other requirements for operator certification, and the petitioner's
1481 submitted criminal record was correct and remains unchanged at the time of his or her
1482 application for certification.

1483 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1484 from certification, the commission shall notify the petitioner of the potentially
1485 disqualifying convictions. The letter of concern shall advise the petitioner of their
1486 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1487 hearing, or both.

1488 (F) The commission may predetermine that the petitioner's criminal record is likely
1489 grounds for denial of certification only after the commission has held a hearing on the
1490 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1491 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1492 or by teleconference within 60 days of receipt of the predetermination petition. The
1493 individual shall have the opportunity to include character witnesses at the hearing,
1494 including but not limited to family members, friends, past or prospective employers,
1495 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1496 or written support. The commission shall not make an adverse inference by a
1497 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1498 issue a final decision within 60 days of complete submission of the issue for
1499 consideration or the hearing, whichever is later.

1500 (G) If the commission decides that a predetermination petitioner is ineligible for a
1501 license, the board shall notify the petitioner of the following:

1502 (i) The grounds and rationale for the predetermination, including any of the
1503 petitioner's specific convictions and the factors provided for in paragraph (3) of this
1504 subsection the commission deemed directly relevant;

1505 (ii) An explanation of the process and right to appeal the commission's
1506 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1507 Procedure Act'; and

1508 (iii) Any actions the petitioner may take to remedy the disqualification. An
1509 individual who receives a predetermination of ineligibility may submit a revised

1510 petition reflecting completion of the remedial actions. The individual may submit a
 1511 new petition to the commission not before one year following a final judgment on
 1512 their initial petition or upon completing the remedial actions, whichever is earlier.
 1513 (H) The denial of a predetermination petition because of the applicant's criminal record
 1514 shall constitute a contested case as defined in Code Section 50-13-2. In an
 1515 administrative hearing or civil action reviewing the denial of a predetermination
 1516 petition, the commission shall have the burden of proving that the applicant's criminal
 1517 record directly relates to the licensed occupation."

1518

PART III

1519

SECTION 3-1.

1520 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 1521 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
 1522 professional standards of teachers and other school personnel, to read as follows:

1523 "(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
 1524 whether an appeal of such finding, verdict, or plea has been sought."

1525

SECTION 3-2.

1526 Said title is further is amended by revising Code Section 20-2-984.3, relating to preliminary
 1527 investigation of violations by the Professional Standards Commission, requirement for
 1528 automatic investigation, and investigation of sexual offenses, as follows:

1529 "20-2-984.3.

1530 (a) Upon receipt of a written request from a local board, the state board, or one or more
 1531 individual residents of this state, the commission shall be authorized to investigate:

1532 (1) Alleged violations by an educator of any law of this state pertaining to educators or
 1533 the profession of education;

- 1534 (2) Alleged violations by an educator of the code of ethics of the commission;
- 1535 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
1536 or the commission;
- 1537 (4) Complaints alleging a failure by an educator to meet or comply with standards of
1538 performance of the commission or the state board; or
- 1539 (5) Complaints alleging that an educator has been convicted of any directly related
1540 felony, of any ~~crime involving moral turpitude~~ directly related covered misdemeanor as
1541 defined in Code Section 43-1-1, of any other criminal offense involving the manufacture,
1542 distribution, trafficking, sale, or possession of a controlled substance or marijuana as
1543 provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in
1544 Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100
1545 in the courts of this state or any other state, territory, or country or in the courts of the
1546 United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or~~
1547 ~~verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the~~
1548 ~~conviction has been sought; a situation where first offender treatment without~~
1549 ~~adjudication of guilt pursuant to the charge was granted; and a situation where an~~
1550 ~~adjudication of guilt or sentence was otherwise withheld or not entered on the charge or~~
1551 ~~the charge was otherwise disposed of in a similar manner in any jurisdiction.~~
- 1552 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1553 to this Code section within 30 days of the request unless an extension is granted pursuant
1554 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1555 may appoint a committee of its membership with the power to transact and carry out the
1556 business and duties of the commission when deciding whether to conduct a preliminary
1557 investigation.
- 1558 (b.1) In investigating whether to deny, diminish, limit, suspect, revoke, refuse to renew,
1559 or otherwise withhold a certificate, the commission shall not consider nor require an
1560 educator to disclose:

- 1561 (1) A deferred adjudication, first offender treatment, participation in a diversion
 1562 program, a conditional discharge, or an arrest not followed by a conviction;
 1563 (2) A conviction for which no sentence of incarceration can be imposed;
 1564 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1565 pardoned;
 1566 (4) A juvenile adjudication;
 1567 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
 1568 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
 1569 (6) A conviction older than five years for which the individual was not incarcerated, or
 1570 a conviction for which the individual's incarceration ended more than five years before
 1571 the date of the commission's consideration, except for a felony conviction related to:
 1572 (A) A criminal sexual act;
 1573 (B) Criminal fraud or embezzlement;
 1574 (C) Aggravated assault;
 1575 (D) Aggravated robbery;
 1576 (E) Aggravated abuse, neglect, or endangerment of a child;
 1577 (F) Arson;
 1578 (G) Carjacking;
 1579 (H) Kidnapping; or
 1580 (I) Manslaughter, homicide, or murder.
- 1581 (c) When an educator admits on a Professional Standards Commission application to
 1582 having resigned or being discharged for committing a felony or ~~misdemeanor involving~~
 1583 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
 1584 investigation by law enforcement authorities for such conduct or for committing a breach
 1585 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
 1586 record or having had a surrender, denial, revocation, or suspension of a certificate or being
 1587 the subject of an investigation or adverse action regarding a certificate, an investigation

1588 will automatically open without notification to the commission and with written
1589 notification to the educator.

1590 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
1591 consider nor require an educator to disclose on a Professional Standards Commission
1592 application:

1593 (1) A deferred adjudication, first offender treatment, participation in a diversion
1594 program, a conditional discharge, or an arrest not followed by a conviction;

1595 (2) A conviction for which no sentence of incarceration can be imposed;

1596 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1597 pardoned;

1598 (4) A juvenile adjudication;

1599 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1600 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1601 (6) A conviction older than five years for which the individual was not incarcerated, or
1602 a conviction for which the individual's incarceration ended more than five years before
1603 the date of the commission's consideration, except for a felony conviction related to:

1604 (A) A criminal sexual act;

1605 (B) Criminal fraud or embezzlement;

1606 (C) Aggravated assault;

1607 (D) Aggravated robbery;

1608 (E) Aggravated abuse, neglect, or endangerment of a child;

1609 (F) Arson;

1610 (G) Carjacking;

1611 (H) Kidnapping; or

1612 (I) Manslaughter, homicide, or murder.

1613 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1614 shall be authorized, without notification to the commission, to immediately open an

1615 investigation submitted to the commission by a local school superintendent, with approval
1616 of the local board of education, of a complaint by a student against an educator alleging a
1617 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1618 16-6-20, 16-6-22.2, or 16-12-100.

1619 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1620 may petition the commission at any time, including while incarcerated and before starting
1621 or completing any required professional qualifications for certification, for a
1622 predetermination as to whether the individual's criminal record will disqualify him or her
1623 from obtaining a certificate.

1624 (2) The petition for predetermination shall include the individual's criminal record or
1625 authorize the board to obtain the individual's criminal record. The petitioning individual
1626 need not disclose any offenses falling under subsection (c.1) of this Code section. The
1627 petition shall also include any information the petitioner chooses to submit concerning
1628 the circumstances of their record and their rehabilitation.

1629 (3) In considering predetermination petitions, the commission shall apply the direct
1630 relationship standard provided for in subsection (a.1) of Code Section 20-2-984.5 and
1631 shall not consider any offenses falling under subsection (c.1) of this Code section. The
1632 commission shall support any adverse predetermination with clear and convincing
1633 evidence.

1634 (4) A predetermination made under this subsection that a petitioner is eligible for a
1635 certificate shall be binding on the commission only if the petitioner applies for
1636 certification, fulfills all other requirements for the certificate, and the petitioner's
1637 submitted criminal record was correct and remains unchanged at the time of his or her
1638 application for a certificate.

1639 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1640 from certification, the commission shall notify the petitioner of the potentially
1641 disqualifying convictions. The letter of concern shall advise the petitioner of their

1642 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1643 hearing, or both.

1644 (6) The commission may predetermine that the petitioner's criminal record is likely
1645 grounds for denial of a license only after the commission has held a hearing on the
1646 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1647 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1648 by teleconference within 60 days of receipt of the predetermination petition. The
1649 individual shall have the opportunity to include character witnesses at the hearing,
1650 including but not limited to family members, friends, past or prospective employers,
1651 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1652 written support. The commission shall not make an adverse inference by a petitioner's
1653 decision to forgo a hearing or character witnesses. The commission shall issue a final
1654 decision within 60 days of complete submission of the issue for consideration or the
1655 hearing, whichever is later.

1656 (7) If the commission decides that a predetermination petitioner is ineligible for a
1657 certificate, the board shall notify the petitioner of the following:

1658 (A) The grounds and rationale for the predetermination, including any specific
1659 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
1660 commission deemed directly relevant;

1661 (B) An explanation of the process and right to appeal the commission's
1662 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1663 Procedure Act'; and

1664 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1665 who receives a predetermination of ineligibility may submit a revised petition reflecting
1666 completion of the remedial actions. The individual may submit a new petition to the
1667 commission not before one year following a final judgment on their initial petition or
1668 upon completing the remedial actions, whichever is earlier.

1669 (8) The denial of a predetermination petition because of the applicant's criminal record
1670 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1671 hearing or civil action reviewing the denial of a predetermination petition, the
1672 commission shall have the burden of proving that the applicant's criminal record directly
1673 relates to the licensed occupation."

1674 **SECTION 3-3.**

1675 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
1676 investigations of educators, disciplinary actions, and hearings by the Professional Standards
1677 Commission, by adding two new subsections to read as follows:

1678 "(a.1) The commission shall recommend disciplinary action on the basis of a criminal
1679 conviction only if the conviction or adjudication directly relates to the role of an educator.
1680 In determining if a criminal conviction directly relates to the role of an educator, the
1681 commission shall consider:

1682 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1683 conduct to the duties and responsibilities of the educator;

1684 (2) The age of the individual at the time such crime was committed;

1685 (3) The length of time elapsed since such crime was committed;

1686 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1687 circumstances or social conditions surrounding the commission of the offense; and

1688 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1689 for which the certificate is sought or held, including, but not limited to:

1690 (A) The completion of the criminal sentence;

1691 (B) A program and treatment certificate issued by the Board of Corrections;

1692 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1693 program;

- 1694 (D) Testimonials and recommendations, which may include a progress report from the
1695 individual's probation or parole officer;
- 1696 (E) Education and training;
- 1697 (F) Employment history;
- 1698 (G) Employment aspirations;
- 1699 (H) The individual's current family or community responsibilities, or both;
- 1700 (I) Whether a bond is required to practice the occupation;
- 1701 (J) Any affidavits or other written documents, including, but not limited to, character
1702 references; and
- 1703 (K) Any other information regarding rehabilitation the individual submits to the
1704 commission.
- 1705 (a.2) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1706 otherwise withhold a license, the commission or investigator shall not consider nor require
1707 an individual to disclose:
- 1708 (1) A deferred adjudication, first offender treatment, participation in a diversion
1709 program, a conditional discharge, or an arrest not followed by a conviction;
- 1710 (2) A conviction for which no sentence of incarceration can be imposed;
- 1711 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1712 pardoned;
- 1713 (4) A juvenile adjudication;
- 1714 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1715 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1716 (6) A conviction older than five years for which the individual was not incarcerated, or
1717 a conviction for which the individual's incarceration ended more than five years before
1718 the date of the commission's consideration, except for a felony conviction related to:
- 1719 (A) A criminal sexual act;
- 1720 (B) Criminal fraud or embezzlement;

- 1721 (C) Aggravated assault;
 1722 (D) Aggravated robbery;
 1723 (E) Aggravated abuse, neglect, or endangerment of a child;
 1724 (F) Arson;
 1725 (G) Carjacking;
 1726 (H) Kidnapping; or
 1727 (I) Manslaughter, homicide, or murder."

1728 **PART IV**
 1729 **SECTION 4-1.**

1730 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
 1731 is amended by revising subsection (a) of Code Section 26-4-41, relating to qualifications for
 1732 pharmacist licenses, examination, and internships and other training programs, as follows:

1733 "(a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an
 1734 applicant for licensure by examination shall:

1735 (1) Have submitted an application in the form prescribed by the board;

1736 (2) Have attained the age of majority;

1737 ~~(3) Be of good moral character;~~

1738 ~~(4)~~(3) Have graduated and received a professional undergraduate degree from a college
 1739 or school of pharmacy as the same may be approved by the board; provided, however,
 1740 that, since it would be impractical for the board to evaluate a school or college of
 1741 pharmacy located in another country, the board may accept a graduate from such a school
 1742 or college so long as the graduate has completed all requirements of the Foreign
 1743 Pharmacy Equivalency Certification Program administered by the National Association
 1744 of Boards of Pharmacy. This shall include successful completion of all required
 1745 examinations and the issuance of the equivalency certificate and be based upon an

1746 individual evaluation by the board of the applicant's educational experience, professional
 1747 background, and proficiency in the English language;
 1748 ~~(5)~~(4) Have completed an internship or other program that has been approved by the
 1749 board or demonstrated to the board's satisfaction that experience in the practice of
 1750 pharmacy which meets or exceeds the minimum internship requirements of the board;
 1751 ~~(6)~~(5) Have successfully passed an examination or examinations approved by the board;
 1752 and
 1753 ~~(7)~~(6) Have paid the fees specified by the board for the examination and any related
 1754 materials and have paid for the issuance of the license."

1755 SECTION 4-2.

1756 Said title is further amended in Code Section 26-4-60, relating to grounds for suspension,
 1757 revocation or refusal to grant pharmacist licenses, by revising paragraph (3) of subsection (a)
 1758 as follows:

1759 "(3) Except as prohibited in Code Section 26-4-60.1, for being ~~Being~~:

1760 (A) Convicted of a felony;

1761 (B) Convicted of any ~~crime involving moral turpitude~~ covered misdemeanor, as
 1762 defined in Code Section 43-1-1, in this state or any other state, territory, or country or
 1763 in the courts of the United States; or

1764 (C) Convicted or guilty of violations of the pharmacy or drug laws of this state, or rules
 1765 and regulations pertaining thereto, or of laws, rules, and regulations of any other state,
 1766 or of the federal government;"

1767 SECTION 4-3.

1768 Said title is further amended by adding two new Code sections to read as follows:

1769 "26-4-60.1.

1770 (a) Notwithstanding paragraph (3) of subsection (a) of Code Section 26-4-60, the board
1771 of pharmacy shall refuse to grant a license to an individual or shall revoke a license only
1772 if a conviction directly relates to the occupation for which the license is sought or held and
1773 granting the license would pose a direct and substantial risk to public safety because the
1774 individual has not been rehabilitated to safely perform the duties and responsibilities of the
1775 practice of pharmacy. In determining if a conviction directly relates to the occupation for
1776 which the license is sought or held, the board of pharmacy shall consider:

1777 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1778 conduct to the duties and responsibilities of the occupation for which the license is sought
1779 or held;

1780 (2) The age of the individual at the time the offense was committed;

1781 (3) The length of time elapsed since the offense was committed;

1782 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1783 circumstances or social conditions surrounding the commission of the offense; and

1784 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1785 for which the license is sought or held, including, but not limited to:

1786 (A) The completion of the criminal sentence;

1787 (B) A program and treatment certificate issued by the Board of Corrections;

1788 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1789 program;

1790 (D) Testimonials and recommendations, which may include a progress report from the
1791 individual's probation or parole officer;

1792 (E) Education and training;

1793 (F) Employment history;

1794 (G) Employment aspirations;

1795 (H) The individual's current family or community responsibilities, or both;

- 1796 (I) Whether a bond is required to practice the occupation;
1797 (J) Any affidavits or other written documents, including, but not limited to, character
1798 references; and
1799 (K) Any other information regarding rehabilitation the individual submits to the board.
1800 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
1801 otherwise withhold a license due to criminal record, the board of pharmacy shall not
1802 consider nor require an individual to disclose:
1803 (1) A deferred adjudication, first offender treatment, participation in a diversion
1804 program, a conditional discharge, or an arrest not followed by a conviction;
1805 (2) A conviction for which no sentence of incarceration can be imposed;
1806 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1807 pardoned;
1808 (4) A juvenile adjudication;
1809 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1810 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1811 (6) A conviction older than five years for which the individual was not incarcerated, or
1812 a conviction for which the individual's incarceration ended more than five years before
1813 the date of the board's consideration, except for a felony conviction related to:
1814 (A) A criminal sexual act;
1815 (B) Criminal fraud or embezzlement;
1816 (C) Aggravated assault;
1817 (D) Aggravated robbery;
1818 (E) Aggravated abuse, neglect, or endangerment of a child;
1819 (F) Arson;
1820 (G) Carjacking;
1821 (H) Kidnapping;
1822 (I) Manslaughter, homicide, or murder; or

1823 (J) Distribution, manufacturing, or possession of a controlled substance.

1824 26-4-60.2.

1825 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1826 petition the board of pharmacy at any time, including while incarcerated and before starting
1827 or completing any required professional qualifications for licensure, for a predetermination
1828 as to whether the individual's criminal record will disqualify him or her from obtaining a
1829 license.

1830 (b) The petition for predetermination shall include the individual's criminal record or
1831 authorize the board to obtain the individual's criminal record. The petitioning individual
1832 need not disclose any offenses falling under subsection (b) of Code Section 20-4-60.1. The
1833 petition shall also include any information the petitioner chooses to submit concerning the
1834 circumstances of their record and their rehabilitation.

1835 (c) In considering predetermination petitions, the board shall apply the direct relationship
1836 standard in subsection (a) of Code Section 26-4-60.1 and shall not consider any offenses
1837 falling under subsection (b) of Code Section 26-4-60.1. The board shall support any
1838 adverse predetermination with clear and convincing evidence.

1839 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1840 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
1841 requirements for the licensure, and the petitioner's submitted criminal record was correct
1842 and remains unchanged at the time of his or her application for a license.

1843 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1844 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
1845 The letter of concern shall advise the petitioner of their opportunity to submit additional
1846 evidence of rehabilitation and mitigation or for a hearing, or both.

1847 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
1848 denial of a license only after the board has held a hearing on the petitioner's eligibility in

1849 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1850 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1851 receipt of the predetermination petition. The individual shall have the opportunity to
1852 include character witnesses at the hearing, including but not limited to family members,
1853 friends, past or prospective employers, probation or parole officers, and rehabilitation
1854 counselors, who may offer their verbal or written support. The board shall not make an
1855 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1856 board shall issue a final decision within 60 days of complete submission of the issue for
1857 consideration or the hearing, whichever is later.

1858 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
1859 board shall notify the petitioner of the following:

1860 (1) The grounds and rationale for the predetermination, including the specific
1861 convictions and the factors in paragraph (1) of subsection (a) of this Code section the
1862 board deemed directly relevant;

1863 (2) An explanation of the process and right to appeal the board's predetermination
1864 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1865 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1866 who receives a predetermination of ineligibility may submit a revised petition reflecting
1867 completion of the remedial actions. The individual may submit a new petition to the
1868 board not before one year following a final judgment on their initial petition or upon
1869 completing the remedial actions, whichever is earlier.

1870 (h) The denial of a predetermination petition because of the applicant's criminal record
1871 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1872 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1873 have the burden of proving that the applicant's criminal record directly relates to the
1874 licensed occupation."

1875 **PART V**

1876 **SECTION 5-1.**

1877 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
 1878 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
 1879 check program, by revising paragraph (5) as follows:

1880 "(5)(A) 'Criminal record' means any of the following:

1881 (i) Conviction of a crime;

1882 (ii) Arrest, charge, and sentencing for a crime when:

1883 (I) A plea of nolo contendere was entered to the crime;

1884 (II) First offender treatment without adjudication of guilt was granted to the crime;

1885 or

1886 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;

1887 or

1888 (iii) Arrest and charges for a crime if the charge is pending, unless the time for
 1889 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

1890 (B) Such term shall not include an owner, applicant, or employee for which at least ten
 1891 years have elapsed from the date of his or her criminal background check since the
 1892 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;
 1893 such term also shall not include an owner, applicant, or employee who has received a
 1894 general pardon from the State Board of Pardons and Paroles for the convictions;
 1895 provided, however, that such ten-year period exemption or and pardon exemption shall
 1896 never apply to any crime identified in subsection (j) of Code Section 42-8-60."

1897

PART VI

1898

SECTION 6-1.

1899 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
 1900 Section 33-23-21, relating to grounds for refusal, suspension, or revocation of insurance
 1901 agent licenses, by revising paragraphs (15) and (16) as follows:

1902 "(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted
 1903 of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined
 1904 in Code Section 43-1-1 in the courts of this state or any other state, territory, or country
 1905 or in the courts of the United States; as used in this paragraph and paragraph (16) of this
 1906 subsection, the term 'felony' shall include any offense which, if committed in this state,
 1907 would be deemed a felony, without regard to its designation elsewhere; and, as used in
 1908 this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea
 1909 of guilty, regardless of whether an appeal of the conviction has been sought;

1910 (16) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been arrested,
 1911 charged, and sentenced for the commission of any directly related felony, or any ~~crime~~
 1912 ~~involving moral turpitude~~ directly related covered misdemeanor as defined in Code
 1913 Section 43-1-1, where:

1914 (A) First offender treatment without adjudication of guilt pursuant to the charge was
 1915 granted; or

1916 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 1917 charge.

1918 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
 1919 to probation of first offenders, or other first offender treatment shall be conclusive
 1920 evidence of arrest and sentencing for such crime;"

SECTION 6-2.

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Said title is further amended by adding two new Code sections to read as follows:

"33-23-21.2.

Notwithstanding paragraphs (15) and (16) of Code Section 33-23-21, the Commissioner shall refuse to grant a license to an individual or shall revoke a license only if a conviction directly relates to the occupation for which the license is sought or held and granting the license would pose a direct and substantial risk to public safety because the individual has not been rehabilitated to safely perform the duties and responsibilities of a licensee. In determining if a conviction directly relates to the occupation for which the license is sought or held, the Commissioner shall consider:

(1) The nature and seriousness of the offense and the direct relationship of the criminal conduct to the duties and responsibilities of the occupation for which the license is sought or held;

(2) The age of the individual at the time the offense was committed;

(3) The length of time elapsed since the offense was committed;

(4) All circumstances relative to the offense, including, but not limited to, mitigating circumstances or social conditions surrounding the commission of the offense; and

(5) Evidence of rehabilitation and present fitness to perform the duties of the occupation for which the license is sought or held, including, but not limited to:

(A) The completion of the criminal sentence;

(B) A program and treatment certificate issued by the Board of Corrections;

(C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment program;

(D) Testimonials and recommendations, which may include a progress report from the individual's probation or parole officer;

(E) Education and training;

(F) Employment history;

- 1948 (G) Employment aspirations;
1949 (H) The individual's current family or community responsibilities, or both;
1950 (I) Whether a bond is required to practice the occupation;
1951 (J) Any affidavits or other written documents, including, but not limited to, character
1952 references; and
1953 (K) Any other information regarding rehabilitation the individual submits to the
1954 Commissioner.

1955 33-23-21.3.

1956 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1957 petition the Commissioner at any time, including while incarcerated and before starting or
1958 completing any required professional qualifications for licensure, for a predetermination
1959 as to whether the individual's criminal record will disqualify him or her from obtaining a
1960 license.

1961 (b) The petition for predetermination shall include the individual's criminal record or
1962 authorize the Commissioner to obtain the individual's criminal record. The petition shall
1963 also include information submitted by the petitioner concerning the circumstances of their
1964 record and their rehabilitation.

1965 (c) In considering predetermination petitions, the Commissioner shall apply the direct
1966 relationship standard in Code Section 33-23-21.2.

1967 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1968 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
1969 all other requirements for the licensure, and the petitioner's submitted criminal record was
1970 correct and remains unchanged at the time of his or her application for a license.

1971 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1972 licensure, the Commissioner shall provide notice and opportunity for a hearing in
1973 accordance with Chapter 2 of this title.

1974 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
1975 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
1976 petitioner of the following:

1977 (1) The grounds and rationale for the predetermination, including the factors in Code
1978 Section 33-23-21.2 the Commissioner deemed directly relevant;

1979 (2) An explanation of the process and right to appeal the Commissioner's
1980 predetermination decision; and

1981 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1982 who receives a predetermination of ineligibility may submit a revised petition reflecting
1983 completion of the remedial actions. The individual may submit a new petition to the
1984 Commissioner not before one year following a final judgment on their initial petition or
1985 upon completing the remedial actions, whichever is earlier."

1986 **SECTION 6-3.**

1987 Said title is further amended by adding two new Code sections to read as follows:

1988 "33-23-43.11.

1989 Notwithstanding paragraph (9) of subsection (a) of Code Section 33-23-43.10, the
1990 Commissioner shall refuse to grant a license to an individual or shall revoke a license only
1991 if a conviction directly relates to the occupation for which the license is sought or held and
1992 granting the license would pose a direct and substantial risk to public safety because the
1993 individual has not been rehabilitated to safely perform the duties and responsibilities of a
1994 licensee. In determining if a conviction directly relates to the occupation for which the
1995 license is sought or held, the Commissioner shall consider:

1996 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1997 conduct to the duties and responsibilities of the occupation for which the license is sought
1998 or held;

1999 (2) The age of the individual at the time the offense was committed;

- 2000 (3) The length of time elapsed since the offense was committed;
2001 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2002 circumstances or social conditions surrounding the commission of the offense; and
2003 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2004 for which the license is sought or held, including, but not limited to:
2005 (A) The completion of the criminal sentence;
2006 (B) A program and treatment certificate issued by the Board of Corrections;
2007 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2008 program;
2009 (D) Testimonials and recommendations, which may include a progress report from the
2010 individual's probation or parole officer;
2011 (E) Education and training;
2012 (F) Employment history;
2013 (G) Employment aspirations;
2014 (H) The individual's current family or community responsibilities, or both;
2015 (I) Whether a bond is required to practice the occupation;
2016 (J) Any affidavits or other written documents, including, but not limited to, character
2017 references; and
2018 (K) Any other information regarding rehabilitation the individual submits to the
2019 Commissioner.

2020 33-23-43.12.

- 2021 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2022 petition the Commissioner at any time, including while incarcerated and before starting or
2023 completing any required professional qualifications for licensure, for a predetermination
2024 as to whether the individual's criminal record will disqualify him or her from obtaining a
2025 public adjuster's license.

2026 (b) The petition for predetermination shall include the individual's criminal record or
2027 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2028 also include information submitted by the petitioner concerning the circumstances of their
2029 record and their rehabilitation.

2030 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2031 relationship standard in subsection (a) of Code Section 33-23-43.11.

2032 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2033 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2034 all other requirements for the licensure, and the petitioner's submitted criminal record was
2035 correct and remains unchanged at the time of his or her application for a license.

2036 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2037 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2038 accordance with Chapter 2 of this title.

2039 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2040 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2041 petitioner of the following:

2042 (1) The grounds and rationale for the predetermination, including the specific
2043 convictions and the factors in subsection (a) of Code Section 33-23-43.11 the
2044 Commissioner deemed directly relevant;

2045 (2) An explanation of the process and right to appeal the Commissioner's
2046 predetermination decision; and

2047 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2048 who receives a predetermination of ineligibility may submit a revised petition reflecting
2049 completion of the remedial actions. The individual may submit a new petition to the
2050 Commissioner not before one year following a final judgment on their initial petition or
2051 upon completing the remedial actions, whichever is earlier."

PART VII**SECTION 7-1.**

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2053
2054 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
2055 standards and training is amended by adding a new subsection to Code Section 25-4-8,
2056 relating to qualifications of firefighters generally, to read as follows:

2057 "(d) A person who pleaded guilty to a felony offense under the 'Georgia First Offender Act'
2058 and successfully completed the terms of his or her sentence pursuant to Article 3 of Chapter
2059 8 of Title 42 may, at the council's discretion, be certified and employed as a firefighter if
2060 such person otherwise meets the qualifications set forth in this Code section. Such person
2061 shall provide information on the circumstances underlying the plea of guilty, as requested
2062 by the council, to enable the council to make an informed decision on such individual's
2063 qualification status."

PART VIII**SECTION 8-1.**

2066 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
2067 Georgia Crime Information Center, is amended in Code Section 35-3-37, relating to review
2068 of individual's criminal history record information, definitions, privacy considerations,
2069 written application requesting review, and inspection, by revising divisions (j)(4)(B)(xvi),
2070 (j)(4)(B)(xvii), and (j)(4)(B)(xviii), subparagraph (j)(4)(C), paragraph (7) of subsection (j),
2071 and subsections (m) and (v) as follows:

2072 "(xvi) Any offense related to minors generally in violation of Part 2 of Article 3 of
2073 Chapter 12 of Title 16; or

2074 ~~(xvii) Theft in violation of Chapter 8 of Title 16; provided, however, that such~~
2075 ~~prohibition shall not apply to a misdemeanor conviction of shoplifting or refund fraud~~
2076 ~~in violation of Code Section 16-8-14 or 16-8-14.1, as applicable; or~~
2077 ~~(xviii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.~~
2078 (C) An individual shall be limited to filing a petition under this paragraph to a lifetime
2079 maximum of requesting record restriction on two convictions for a misdemeanor or a
2080 series of misdemeanors arising from a single incident. ~~For the purposes of this~~
2081 ~~subparagraph, the conviction of two or more offenses charged in separate counts of one~~
2082 ~~or more accusations consolidated for trial shall be deemed to be one conviction. If a~~
2083 petition under this subsection has been denied, an individual may file a subsequent
2084 petition on the same conviction for a misdemeanor or series of misdemeanors arising
2085 from a single incident after the expiration of two years from the date of the final order
2086 from the previous petition.”

2087 “(7) When an individual was convicted in this state of an offense for which that
2088 individual has been granted a pardon from the State Board of Pardons and Paroles as
2089 provided in the Constitution and Code Section 42-9-42, provided that the offense was not
2090 a serious violent felony as such term is defined in Code Section 17-10-6.1 or a sexual
2091 offense as such term is defined in Code Section 17-10-6.2, and provided, further, that
2092 such individual has not been convicted of any crime in any jurisdiction, excluding any
2093 conviction for a nonserious traffic offense, since the pardon was granted, and provided,
2094 further, that he or she has no pending charged offenses, he or she may petition the court
2095 in which the conviction occurred to restrict access to criminal history record information.
2096 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
2097 Such petition shall be served on the prosecuting attorney. If a hearing is requested, such
2098 hearing shall be held within 90 days of the filing of the petition. If the court finds that the
2099 criteria for such petition are met, the court shall grant an order restricting such criminal
2100 history record information. ~~The court shall hear evidence and shall grant an order~~

2101 ~~restricting such criminal history record information if it determines that the harm~~
2102 ~~otherwise resulting to the individual clearly outweighs the public's interest in the criminal~~
2103 ~~history record information being publicly available."~~

2104 "(m)(1) For criminal history record information maintained by the clerk of court, an
2105 individual who has a record restricted pursuant to Code Section 17-10-21 or this Code
2106 section or an individual who has been cited for a criminal offense but was not arrested
2107 and the charged offense was subsequently dismissed, nolle prossed, or reduced to a
2108 violation of a local ordinance may petition the court with original jurisdiction over the
2109 offenses in the county where the clerk of court is located for an order to seal all criminal
2110 history record information maintained by the clerk of court for such individual's charged
2111 offense. Notice of such petition shall be sent to the clerk of court and the prosecuting
2112 attorney. A notice sent by registered or certified mail or statutory overnight delivery shall
2113 be sufficient notice.

2114 (2) The court shall order all criminal history record information in the custody of the
2115 clerk of court, including within any index, to be restricted and unavailable to the public
2116 if the court finds by a preponderance of the evidence that:

2117 (A) The criminal history record information has been restricted pursuant to this Code
2118 section; and

2119 (B) The harm otherwise resulting to the privacy of the individual clearly outweighs the
2120 public interest in the criminal history record information being publicly available.

2121 (3) Notwithstanding paragraph (2) of this subsection, the court shall order all criminal
2122 history record information in the custody of the clerk of court, including within any
2123 index, to be restricted and unavailable to the public if the criminal history record has been
2124 restricted pursuant to paragraph (7) of subsection (j) of this Code section.

2125 (4) Within 60 days of the court's order, the clerk of court shall cause every document,
2126 physical or electronic, in its custody, possession, or control to be restricted."

2127 "(v)(1) Information restricted and sealed pursuant to this Code section shall always be
2128 available for inspection, copying, and use:

2129 (A) For the purpose of imposing a sentence under Article 3 of Chapter 8 of Title 42;

2130 (B) By the Judicial Qualifications Commission;

2131 (C) By an attorney representing an accused individual who submits a sworn affidavit
2132 to the clerk of court attesting that such information is relevant to a criminal proceeding;

2133 (D) By a prosecuting attorney or a public defender;

2134 (E) Pursuant to a court order; ~~and~~

2135 (F) By an individual who is the subject of restricted criminal history record information
2136 or sealed court files; and

2137 (G) By criminal justice agencies for law enforcement or criminal investigative
2138 purposes.

2139 (2) The confidentiality of such information shall be maintained insofar as practicable."

2140

PART IX

2141

SECTION 9-1.

2142 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
2143 offenders, is amended in Code Section 42-8-66, relating to petition for exoneration and
2144 discharge, hearing, retroactive grant of first offender status, and no filing fee, by revising
2145 paragraph (1) of subsection (a) and subsection (d) as follows:

2146 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
2147 not informed of his or her eligibility for first offender treatment may, ~~with the consent of~~
2148 ~~the prosecuting attorney,~~ petition the court in which he or she was convicted for
2149 exoneration of guilt and discharge pursuant to this article."

2150 "(d) The court may issue an order retroactively granting first offender treatment and
2151 discharge the defendant pursuant to this article if the court finds by a preponderance of the

2152 evidence that the defendant was eligible for sentencing under the terms of this article at the
2153 time he or she was originally sentenced or that he or she qualifies for sentencing under
2154 paragraph (2) of subsection (a) of this Code section and the ends of justice and the welfare
2155 of society are served by granting such petition; provided, however, that no relief pursuant
2156 to this subsection may be given on a conviction that was used as the underlying conviction
2157 for a conviction for violating Code Section 16-11-131 or if the conviction was used to
2158 enhance a sentence pursuant to Code Section 17-10-7."

2159 **PART X**

2160 **SECTION 10-1.**

2161 This Act shall become effective on January 1, 2024, and shall apply to all applications for
2162 licensure submitted on or after such date.

2163 **SECTION 10-2.**

2164 All laws and parts of laws in conflict with this Act are repealed.