

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 first offender treatment to obtain employment as a firefighter; to
18 amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating

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19 to Georgia Crime Information Center, so as to provide for criminal history record
 20 information restrictions for certain persons charged with or convicted of certain criminal
 21 offenses; to provide that restricted criminal history record information shall be available to
 22 criminal justice agencies; to provide for petitions; to provide for criminal history record
 23 information restriction for persons granted a pardon for certain offenses; to amend Article
 24 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 effective dates 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 by revising subsection (a) of Code Section 43-1-19, relating to
57 a professional licensing board's authority to refuse, grant, revoke, and reinstate licenses,
58 surrender of licenses, and probationary licenses, and adding a new subsection to read as
59 follows:

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

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

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

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

76 (3) Been convicted of ~~any a directly related felony or a directly related covered~~
77 ~~misdemeanor or of any crime involving moral turpitude~~ in the courts of this state or any
78 other state, territory, or country or in the courts of the United States; ~~as used in this~~
79 ~~paragraph, paragraph (4) of this subsection, and subsection (q) of this Code section, the~~
80 ~~term 'felony' shall include any offense which, if committed in this state, would be deemed~~
81 ~~a felony, without regard to its designation elsewhere; and, as used in this paragraph and~~
82 ~~subsection (q) of this Code section, the term 'conviction' shall include a finding or verdict~~
83 ~~of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been~~
84 ~~sought;~~

85 (4)(A) Been arrested, charged, and ~~sentenced~~ is currently serving a sentence for the
86 commission of any felony, ~~or any crime involving moral turpitude,~~ when:

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

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

91 ~~(iii) A sentence for such offense was imposed as a result of a plea of nolo contendere;~~
92 ~~or~~

93 ~~(iv) An adjudication of guilt or sentence was otherwise withheld or not entered on the~~
94 ~~charge.~~

95 (B) An order entered pursuant to subsection (a) or (c) of Code Section 16-13-2, Article
96 3 of Chapter 8 of Title 42, or another state's first offender treatment order shall be
97 conclusive evidence of an arrest and sentencing for such offense;

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

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

116 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
117 encourages any unlicensed person or any licensee whose license has been suspended or
118 revoked by a professional licensing board to practice a business or profession licensed
119 under this title or to practice outside the scope of any disciplinary limitation placed upon
120 the licensee by the board;

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

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

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

138 (11) Failed to comply with an order for child support as defined by Code Section
139 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
140 release to the board from the child support agency within the Department of Human
141 Services indicating that the applicant or licensee has come into compliance with an order
142 for child support so that a license may be issued or granted if all other conditions for
143 licensure are met.

144 (a.1) A professional licensing board shall have the burden of justifying that it is
145 substantially more likely than not that a criminal record supports an adverse licensing
146 decision. Before the professional licensing board may deny an applicant a license under
147 subsection (a) of this Code section due to his or her criminal record, such applicant shall

148 be entitled to a hearing before the professional licensing board in accordance with
149 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

150 **SECTION 1-3.**

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

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

163 **SECTION 1-4.**

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

167 "(q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or
168 any other provision of law, ~~and unless~~ the professional licensing board shall refuse to
169 grant a license to an individual or shall revoke a license only if a felony or ~~crime~~
170 ~~involving moral turpitude~~ covered misdemeanor directly relates to the occupation for
171 which the license is sought or held and granting the license would pose a direct and
172 substantial risk to public safety because the individual has not been rehabilitated to safely

173 perform the duties and responsibilities of such occupation, after considering the criteria
174 in paragraph (2) of this subsection. Without finding a direct and substantial risk to public
175 safety and a direct relationship between the conviction and the licensed occupation, no
176 professional licensing board shall refuse to grant a license to an applicant therefor or shall
177 revoke the license of an individual licensed by that board due solely or in part to such
178 applicant's or licensee's:

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

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

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

185 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
186 16-13-2;

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

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

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

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

198 (A) The nature and seriousness of such felony or ~~crime involving moral turpitude~~
199 covered misdemeanor and the direct relationship of ~~such felony or crime involving~~

200 ~~moral turpitude~~ the criminal conduct to the duties and responsibilities of the occupation
201 for which the license is sought or held;

202 (B) The age of the individual at the time such felony or ~~crime involving moral~~
203 ~~turpitude~~ covered misdemeanor was committed;

204 (C) The length of time elapsed since such felony or ~~crime involving moral turpitude~~
205 covered misdemeanor was committed;

206 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
207 covered misdemeanor, including, but not limited to, mitigating circumstances or social
208 conditions surrounding the commission of such felony or ~~crime involving moral~~
209 ~~turpitude~~ covered misdemeanor; and

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

212 (i) The completion of the criminal sentence;
213 (ii) A program and treatment certificate issued by the Board of Corrections;
214 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
215 treatment program;
216 (iv) Testimonials and recommendations, which may include a progress report from
217 the individual's probation or parole officer;
218 (v) Education and training;
219 (vi) Employment history;
220 (vii) Employment aspirations;
221 (viii) The individual's current family or community responsibilities, or both;
222 (ix) Whether a bond is required to practice the occupation;
223 (x) Any affidavits or other written documents, including, but not limited to, character
224 references; and
225 (xi) Any other information regarding rehabilitation the individual submits to the
226 board.

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

230 (A) A deferred adjudication, discharged first offender treatment, completed diversion
231 program, completed conditional discharge, or an arrest not followed by a conviction;

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

233 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
234 pardoned, provided that the board may consider a plea for which an individual is
235 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
236 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

237 (D) A juvenile adjudication;

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

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

243 (i) A criminal sexual act;

244 (ii) Criminal fraud or embezzlement;

245 (iii) Aggravated assault;

246 (iv) Aggravated robbery;

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

248 (vi) Arson;

249 (vii) Carjacking;

250 (viii) Kidnapping; or

251 (ix) Manslaughter, homicide, or murder.

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

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

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

266 (B) For the professional licensing board to deny a license on the basis of the applicant's
267 criminal convictions, the board shall first provide an opportunity for a hearing for such
268 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
269 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
270 written or oral testimony of character witnesses, including, but not limited to, family
271 members, friends, prospective employers, probation or parole officers, and
272 rehabilitation counselors. The professional licensing board shall issue a decision within
273 60 days of the complete submission of the issues for consideration or the hearing,
274 whichever is later.

275 (C) The professional licensing board shall have the burden of justifying that it is
276 substantially more likely than not, after a hearing, that an applicant's criminal record
277 supports any adverse licensing decision. If the board denies an applicant a license by
278 reason of the applicant's criminal record, the board shall:

279 (i) Make written findings specifying any of the applicant's convictions and the factors
280 provided for in subparagraph (A) of paragraph (2) of this subsection the board
281 deemed directly relevant and explaining the basis and rationale for the denial. Such
282 written findings shall be signed by the board's presiding officer and shall note the
283 applicant's right to appeal and explain the applicant's ability to reapply. No applicant
284 shall be restricted from reapplying for licensure for more than two years from the date
285 of the most recent application;

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

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

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

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

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

304 (C) In considering predetermination petitions, the professional licensing board shall
305 apply the direct relationship standard in paragraphs (1) and (2) of this subsection and

306 shall not consider any offenses falling under paragraph (3) of this subsection. The
307 board shall support any adverse predetermination by justifying that it is substantially
308 more likely than not that a criminal record supports an adverse licensing decision.

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

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

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

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

- 332 (i) The grounds and rationale for the predetermination, including any of the
333 petitioner's specific convictions and the factors provided for in subparagraph (A) of
334 paragraph (2) of this subsection the board deemed directly relevant;
- 335 (ii) An explanation of the process and right to appeal the board's predetermination
336 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
337 and
- 338 (iii) Any actions the petitioner may take to remedy the disqualification. An
339 individual who receives a predetermination of ineligibility may submit a revised
340 petition reflecting completion of the remedial actions. The individual may submit a
341 new petition to the board not before one year following a final judgment on their
342 initial petition or upon completing the remedial actions, whichever is earlier.
- 343 (H) The denial of a predetermination petition because of the applicant's criminal record
344 shall constitute a contested case as defined in Code Section 50-13-2. In an
345 administrative hearing or civil action reviewing the denial of a predetermination
346 petition, the professional licensing board shall have the burden of proving that the
347 applicant's criminal record directly relates to the licensed occupation.
- 348 (8) Each professional licensing board shall include in its application for licensure and on
349 its public website all of the following information:
- 350 (A) Whether the board requires applicants to consent to a criminal record check;
351 (B) The direct relationship standard in paragraph (1) of this subsection and those
352 factors in paragraph (2) of this subsection that the board shall consider when making
353 a determination of licensure;
- 354 (C) The criminal record disclosure provided for in paragraph (3) of this subsection;
355 (D) The appeals process pursuant to Chapter 13 of Title 50, the 'Georgia
356 Administrative Procedure Act,' if the board denies or revokes licensure in whole or in
357 part because of a criminal conviction; and

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

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

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

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

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

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

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

376 **SECTION 1-5.**

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

379 "43-1-27.

380 Any licensed individual who is convicted under the laws of this state, the United States, or
 381 any other state, territory, or country of a felony as defined in ~~paragraph (3) of subsection~~
 382 ~~(a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the appropriate licensing
 383 authority of the conviction within ten days of the conviction. The failure of a licensed

384 individual to notify the appropriate licensing authority of a conviction shall be considered
 385 grounds for revocation of his or her license, permit, registration, certification, or other
 386 authorization to conduct a licensed profession."

387 **SECTION 1-6.**

388 Said title is further amended by revising Code Section 43-15-19, relating to revocation,
 389 suspension, or denial of certificates, certificates of registration, or licenses, and reprimands,
 390 as follows:

391 "43-15-19.

392 (a) The board shall have the power, after notice and hearing, to deny any application made
 393 to it, to revoke or suspend any certificate, certificate of registration, or license issued by it,
 394 or to reprimand any individual holding a certificate, certificate of registration, or license
 395 issued by it, upon the following grounds:

396 (1) Commission of any fraud or deceit in obtaining a certificate, certificate of
 397 registration, or license;

398 (2) Any gross negligence, incompetency, or unprofessional conduct in the practice of
 399 professional engineering or land surveying as a professional engineer or a professional
 400 land surveyor, respectively;

401 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
 402 43-15-22;

403 (4) Conviction of a felony or ~~crime involving moral turpitude~~ covered misdemeanor as
 404 defined in Code Section 43-1-1 in the courts of this state, the United States, or any state
 405 or territory of the United States or the conviction of an offense in another jurisdiction
 406 which, if committed in this state, would be deemed a felony. 'Conviction' shall include
 407 a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal
 408 proceeding, ~~regardless of whether the adjudication of guilt or sentence is withheld or not~~
 409 ~~entered thereon pursuant to Article 3 of Chapter 8 of Title 42 or any comparable rule or~~

410 statute but shall not include a conviction that has been restricted, sealed, annulled,
 411 dismissed, vacated, or pardoned; provided, however, that the board may consider a plea
 412 for which an individual is currently serving a sentence pursuant to Article 3 of Chapter 8
 413 of Title 42, another state's first offender laws, or subsection (a) or (c) of Code Section
 414 16-13-2; or

415 (5) Any violation of this chapter or any rule or regulation promulgated by the board
 416 pursuant to the powers conferred on it by this chapter.

417 (b) 'Unprofessional conduct,' as referred to in paragraph (2) of subsection (a) of this Code
 418 section, includes a violation of those standards of professional conduct for professional
 419 engineers and professional land surveyors adopted by the board pursuant to the power
 420 conferred upon it to promulgate rules and regulations to effectuate the duties and powers
 421 conferred on it by this chapter."

422 SECTION 1-7.

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

424 "43-15-19.1.

425 (a) Notwithstanding paragraph (4) of subsection (a) of Code Section 43-15-19, the board
 426 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
 427 directly relates to the occupation for which the license is sought or held and granting the
 428 license would pose a direct and substantial risk to public safety because the individual has
 429 not been rehabilitated to safely perform the duties and responsibilities of the occupation for
 430 which the license is sought or held. In determining if a conviction directly relates to the
 431 occupation for which the license is sought or held, the board shall consider:

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

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

- 436 (3) The length of time elapsed since the offense was committed;
437 (4) All circumstances relative to the offense, including, but not limited to, mitigating
438 circumstances or social conditions surrounding the commission of the offense; and
439 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
440 for which the license is sought or held, including, but not limited to:
441 (A) The completion of the criminal sentence;
442 (B) A program and treatment certificate issued by the Board of Corrections;
443 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
444 program;
445 (D) Testimonials and recommendations, which may include a progress report from the
446 individual's probation or parole officer;
447 (E) Education and training;
448 (F) Employment history;
449 (G) Employment aspirations;
450 (H) The individual's current family or community responsibilities, or both;
451 (I) Whether a bond is required to practice the occupation;
452 (J) Any affidavits or other written documents, including, but not limited to, character
453 references; and
454 (K) Any other information regarding rehabilitation the individual submits to the board.
455 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
456 otherwise withhold a license, the board shall not consider nor require an individual to
457 disclose:
458 (1) A deferred adjudication, discharged first offender treatment, completed diversion
459 program, a completed conditional discharge, or an arrest not followed by a conviction;
460 (2) A conviction for which no sentence of incarceration can be imposed;
461 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
462 pardoned, provided that the board may consider a plea for which an individual is

463 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
464 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

465 (4) A juvenile adjudication;

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

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

471 (A) A criminal sexual act;

472 (B) Criminal fraud or embezzlement;

473 (C) Aggravated assault;

474 (D) Aggravated robbery;

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

476 (F) Arson;

477 (G) Carjacking;

478 (H) Kidnapping; or

479 (I) Manslaughter, homicide, or murder.

480 42-15-19.2.

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

486 (b) The petition for predetermination shall include the individual's criminal record or
487 authorize the board to obtain the individual's criminal record. The petitioning individual
488 need not disclose any offenses falling under subsection (b) of Code Section 43-15-19.1.

489 The petition shall also include any information the petitioner chooses to submit concerning
490 the circumstances of their record and their rehabilitation.

491 (c) In considering predetermination petitions, the board shall apply the direct relationship
492 standard in subsection (a) of Code Section 43-15-19.1. The board shall support any
493 adverse predetermination by justifying that it is substantially more likely than not that a
494 criminal record supports an adverse licensing decision.

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

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

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

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

516 (1) The grounds and rationale for the predetermination, including the specific
 517 convictions and the factors in subsection (a) of Code Section 43-15-19.1 the board
 518 deemed directly relevant;

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

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

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

531

PART II

532

SECTION 2-1.

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

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

539 As used in this paragraph, the term:

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- 540 (A) 'Conviction' means and includes a finding or verdict of guilty or a plea of guilty,
 541 regardless of whether an appeal of the conviction has been sought;
- 542 (B) 'Felony' means and includes any offense which, if committed in this state, would
 543 be deemed a felony, without regard to its designation elsewhere.
- 544 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
 545 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
 546 43-1-1 when:
- 547 (i) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 548 ~~granted~~ The licensee or applicant is currently serving a sentence pursuant to Article 3
 549 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
 550 Code Section 16-13-2; or
- 551 (ii) An adjudication of guilt or sentence was otherwise withheld or not entered on the
 552 charge, except with respect to a plea of nolo contendere.
- 553 (B) An order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42
 554 or other first offender treatment shall be conclusive evidence of arrest and sentencing
 555 for such crime.
- 556 (C) As used in this paragraph, the term 'felony' shall include any offense which, if
 557 committed in this state, would be deemed a felony, without regard to its designation
 558 elsewhere;"

559 **SECTION 2-2.**

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

561 "43-3-21.1.

562 (a) Notwithstanding paragraphs (3) and (4) of subsection (a) of Code Section 43-3-21, the
 563 board of accountancy shall refuse to grant a license to an individual or shall revoke a
 564 license only if a criminal record directly relates to the occupation for which the license is
 565 sought or held and granting the license would pose a direct and substantial risk to public

566 safety because the individual has not been rehabilitated to safely perform the duties and
567 responsibilities of the practice of public accountancy. In determining if a criminal record
568 directly relates to the occupation for which the license is sought or held, the board of
569 accountancy shall consider:

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

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

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

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

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

579 (A) The completion of the criminal sentence;

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

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

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

585 (E) Education and training;

586 (F) Employment history;

587 (G) Employment aspirations;

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

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

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

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

593 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
594 otherwise withhold a license, the accountancy board shall not consider nor require an
595 individual to disclose:

596 (1) A deferred adjudication, discharged first offender treatment, completed diversion
597 program, completed conditional discharge, or an arrest not followed by a conviction;

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

599 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
600 pardoned, provided that the board may consider a plea for which an individual is
601 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
602 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

603 (4) A juvenile adjudication;

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

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

609 (A) A criminal sexual act;

610 (B) Criminal fraud or embezzlement;

611 (C) Aggravated assault;

612 (D) Aggravated robbery;

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

614 (F) Arson;

615 (G) Carjacking;

616 (H) Kidnapping;

617 (I) Manslaughter, homicide, or murder; or

618 (J) Theft.

619 43-3-21.2.

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

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

630 (c) In considering predetermination petitions, the board shall apply the direct relationship
631 standard in subsection (a) of Code Section 43-3-21.1. The board shall support any adverse
632 predetermination by justifying that it is substantially more likely than not that a criminal
633 record supports an adverse licensing decision.

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

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

642 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
643 denial of a license only after the board has held a hearing on the petitioner's eligibility in
644 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
645 hearing shall be held in person, by remote video, or by teleconference within 60 days of

646 receipt of the predetermination petition. The individual shall have the opportunity to
647 include character witnesses at the hearing, including but not limited to family members,
648 friends, past or prospective employers, probation or parole officers, and rehabilitation
649 counselors, who may offer their verbal or written support. The board shall not make an
650 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
651 board shall issue a final decision within 60 days of complete submission of the issue for
652 consideration or the hearing, whichever is later.

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

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

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

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

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

670 **SECTION 2-3.**

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

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

681 **SECTION 2-4.**

682 Said title is further amended in Code Section 43-9-12, relating to refusal, suspension, or
 683 revocation of chiropractor licenses, subpoenas, other discipline, judicial review,
 684 reinstatement, voluntary surrender of license, injunctions, and statement of complaint, by
 685 revising paragraphs (3) and (4) of subsection (a) as follows:

686 "(3) Been convicted of any felony or covered misdemeanors ~~of any crime involving~~
 687 ~~moral turpitude~~ in the courts of this state or any other state, territory, or country or in the
 688 courts of the United States; as used in this paragraph and paragraph (4) of this subsection,
 689 the term 'felony' shall include any offense which, if committed in this state, would be
 690 deemed a felony, without regard to its designation elsewhere; and, as used in this
 691 paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of
 692 guilty, regardless of whether an appeal of the conviction has been sought. Any such
 693 record shall be considered in the manner prescribed by subsection (q) of Code Section
 694 43-1-19;

695 (4) Been arrested, charged, and sentenced for the commission of any felony; or ~~any crime~~
 696 ~~involving moral turpitude~~; covered misdemeanor where such record is considered in the
 697 manner prescribed by subsection (q) of Code Section 43-1-19 and:

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

699 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 700 ~~granted~~ The licensee or applicant is currently serving a sentence pursuant to Article 3
 701 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
 702 Code Section 16-13-2; or

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

704 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 705 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
 706 treatment shall be conclusive evidence of arrest and sentencing for such crime;"

707 **SECTION 2-5.**

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

711 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
 712 registration under this chapter who has completed successfully a barber or cosmetologist
 713 training program operated by the Department of Corrections and who meets the
 714 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
 715 and practical examinations, the board may issue the appropriate certificate of registration
 716 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
 717 43-1-19; provided, however, that the board shall not apply the provisions of ~~paragraph (4)~~
 718 ~~of~~ subsection (a) of Code Section 43-1-19 to such inmate based solely upon such person's
 719 status as an inmate and shall apply such provisions in the same manner as would otherwise
 720 be applicable to an applicant who is not an inmate."

721 **SECTION 2-6.**

722 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
 723 revocation of licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
 724 review, investigations, immunity, failure to appear, and voluntary surrender, by revising
 725 paragraphs (3) and (4) of subsection (a) as follows:

726 "~~(3) Been convicted of any felony or of any crime involving moral turpitude~~ covered
 727 misdemeanor as defined in Code Section 43-1-1 in the courts of this state or any other
 728 state, territory, or country or in the courts of the United States; as used in this subsection,
 729 the term 'felony' shall include any offense which, if committed in this state, would be
 730 deemed a felony without regard to its designation elsewhere; and, as used in this
 731 subsection, the term 'conviction' shall include a finding or verdict of guilty or a plea of
 732 guilty, regardless of whether an appeal of the conviction has been sought. Any licensee
 733 who is convicted under the laws of this state, the United States, or any other state,
 734 territory, or country of a felony shall be required to notify the board of conviction within
 735 ten days of the conviction. The failure to notify the board of a conviction shall be
 736 considered grounds for revocation of his or her license;

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

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

740 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~
 741 ~~granted; or~~ The licensee or applicant is currently serving a sentence pursuant to Article
 742 3 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
 743 Code Section 16-13-2.

744 ~~(C) An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 745 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
 746 of Chapter 8 of Title 42 or other first offender treatment shall be conclusive evidence of
 747 arrest and sentencing for such crime;"

748 **SECTION 2-7.**

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

753 "(a.1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section, the
754 board of dentistry shall refuse to grant a license to an individual or shall revoke a license
755 only if a conviction directly relates to the occupation for which the license is sought or held
756 and granting the license would pose a direct and substantial risk to public safety because
757 the individual has not been rehabilitated to safely perform the duties and responsibilities
758 of the practice of dentistry. In determining if a conviction directly relates to the occupation
759 for which the license is sought or held, the board of dentistry shall consider:

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

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

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

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

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

769 (A) The completion of the criminal sentence;

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

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

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

- 775 (E) Education and training;
776 (F) Employment history;
777 (G) Employment aspirations;
778 (H) The individual's current family or community responsibilities, or both;
779 (I) Whether a bond is required to practice the occupation;
780 (J) Any affidavits or other written documents, including, but not limited to, character
781 references; and
782 (K) Any other information regarding rehabilitation the individual submits to the board.
783 (6) In determining whether to terminate and revoke a license, the board shall not consider
784 nor require an individual to disclose:
785 (A) A deferred adjudication, discharged first offender adjudication, completed
786 diversion program, completed conditional discharge, or an arrest not followed by a
787 conviction;
788 (B) A conviction for which no sentence of incarceration can be imposed;
789 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
790 pardoned, provided that the board may consider a plea for which an individual is
791 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
792 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
793 (D) A juvenile adjudication;
794 (E) A misdemeanor conviction older than five years, unless the offense of conviction
795 is listed in Code section 35-3-37(j)(4); or
796 (F) A conviction older than five years for which the individual was not incarcerated,
797 or a conviction for which the individual's incarceration ended more than five years
798 before the date of the board's consideration, except for a felony conviction related to:
799 (i) A criminal sexual act;
800 (ii) Criminal fraud or embezzlement;
801 (iii) Aggravated assault;

- 802 (iv) Aggravated robbery;
803 (v) Aggravated abuse, neglect, or endangerment of a child;
804 (vi) Arson;
805 (vii) Carjacking;
806 (viii) Kidnapping; or
807 (ix) Manslaughter, homicide, or murder.

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

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

818 (3) In considering predetermination petitions, the board shall apply the direct relationship
819 standard in subsection (a.1) of this Code section and shall not consider any offenses
820 falling under paragraph (6) of subsection (a.1) of this Code section. The board shall
821 support any adverse predetermination by justifying that it is substantially more likely than
822 not that a criminal record supports an adverse licensing decision.

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

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

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

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

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

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

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

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

860 **SECTION 2-8.**

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

864 "(a) No person shall be entitled to or be issued such license as set out in Code Section
865 43-11-70 unless such person is at least 18 years of age, ~~of good moral character,~~ and a
866 graduate of a dental hygiene program recognized by the board and accredited by the
867 Commission on Dental Accreditation of the American Dental Association (ADA) or its
868 successor agency which is operated by a school or college accredited by an institutional
869 accrediting agency recognized by the United States Department of Education whose
870 curriculum is at least two academic years of courses at the appropriate level and at the
871 completion of which an associate or baccalaureate degree is awarded.

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

878 (c) Notwithstanding subsections (a) and (b) of this Code section, the board of dentistry
879 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
880 directly relates to the occupation for which the license is sought or held and granting the

881 license would pose a direct and substantial risk to public safety because the individual has
882 not been rehabilitated to safely perform the duties and responsibilities of the practice of a
883 dental hygienist. In determining if a conviction directly relates to the occupation for which
884 the license is sought or held, the board of dentistry shall consider:

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

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

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

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

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

894 (A) The completion of the criminal sentence;

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

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

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

900 (E) Education and training;

901 (F) Employment history;

902 (G) Employment aspirations;

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

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

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

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

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

910 (A) A deferred adjudication, discharged first offender treatment, completed diversion
911 program, completed conditional discharge, or an arrest not followed by a conviction;

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

913 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
914 pardoned, provided that the board may consider a plea for which an individual is
915 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
916 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

917 (D) A juvenile adjudication;

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

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

923 (i) A criminal sexual act;

924 (ii) Criminal fraud or embezzlement;

925 (iii) Aggravated assault;

926 (iv) Aggravated robbery;

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

928 (vi) Arson;

929 (vii) Carjacking;

930 (viii) Kidnapping; or

931 (ix) Manslaughter, homicide, or murder.

932 (d)(1) Notwithstanding any other provision of law, an individual with a criminal record
933 may petition the board of dentistry at any time, including while incarcerated and before
934 starting or completing any required professional qualifications for licensure, for a

935 predetermination as to whether the individual's criminal record will disqualify him or her
936 from obtaining a license.

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

942 (3) In considering predetermination petitions, the professional licensing board shall apply
943 the direct relationship standard in subsection (c) of this Code section and shall not
944 consider any offenses falling under subparagraph (c)(6)(F) of this Code section. The
945 board shall support any adverse predetermination by justifying that it is substantially
946 more likely than not that a criminal record supports an adverse licensing decision.

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

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

956 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
957 denial of a license only after the board has held a hearing on the petitioner's eligibility in
958 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
959 hearing shall be held in person, by remote video, or by teleconference within 60 days of
960 receipt of the predetermination petition. The individual shall have the opportunity to
961 include character witnesses at the hearing, including but not limited to family members,

962 friends, past or prospective employers, probation or parole officers, and rehabilitation
 963 counselors, who may offer their verbal or written support. The professional licensing
 964 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
 965 character witnesses. The board shall issue a final decision within 60 days of complete
 966 submission of the issue for consideration or the hearing, whichever is later.

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

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

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

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

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

984 **SECTION 2-9.**

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

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988 "43-18-46.

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

994 (1) The employment of fraud or deception in applying for a license or registration or in
995 passing the examination provided for in this article;

996 (2) Issuance of a license or registration through error;

997 ~~(3) Conviction of a crime involving moral turpitude;~~

998 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
999 impersonation of another embalmer, funeral director, or apprentice of a like or different
1000 name;

1001 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
1002 training, or experience of any applicant;

1003 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;

1004 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
1005 business or paying a commission or making gifts, directly or indirectly, for the purpose
1006 of securing business to any physician or hospital, or to any institution where death occurs,
1007 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
1008 home, or other institution where death occurs; or to any coroner or other government
1009 official;

1010 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
1011 directing, or cremating;

1012 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
1013 preservation when in fact someone else performed such embalming or preparation;

- 1014 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
1015 director having legal charge of a dead human body;
- 1016 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
1017 limited to, false or misleading statements regarding a legal or cemetery requirement,
1018 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 1019 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;
- 1020 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
1021 unless compelled by law to do otherwise;
- 1022 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
1023 body, or within the immediate hearing of the family or relatives of a deceased, whose
1024 body has not yet been interred or otherwise disposed;
- 1025 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
1026 assignee of the deceased within ten working days of receipt of the assigned funds;
- 1027 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
1028 express order of the person lawfully entitled to the custody;
- 1029 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
1030 funeral establishment general price list, the casket price list, the outer burial container list,
1031 or the funeral service contract price list;
- 1032 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 1033 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
1034 certificate plan, or burial membership plan;
- 1035 ~~(20)~~(19) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;
- 1036 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
1037 apprentice;
- 1038 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
1039 or regulation; Occupational Safety and Health Administration law or regulation;
1040 Department of Public Health law or regulation; Environmental Protection Agency law

1041 or regulation; or municipal or county ordinance or regulation that affects the handling,
1042 custody, care, or transportation of dead human bodies, including, but not limited to, the
1043 disposal of equipment, residual fluids, or medical wastes;

1044 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
1045 representation in the practice of funeral directing or embalming or in any document
1046 connected therewith;

1047 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
1048 religion, gender, or national origin;

1049 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
1050 remains and failing to dispose of same as directed by a legally authorized person;

1051 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
1052 company or other third party;

1053 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
1054 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
1055 affects the fitness of the licensee or registrant to practice in the funeral business, or is of
1056 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
1057 and that need not have resulted in actual injury to any person or be directly related to the
1058 practice of funeral directing or embalming but shows that the person has committed any
1059 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
1060 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
1061 departure from or failure to conform to the minimal reasonable standards of acceptable
1062 and prevailing practice of funeral services;

1063 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
1064 a coroner or who is both a funeral director and a minister presents that person as a funeral
1065 director to a legally authorized person when death is imminent or after death occurs prior
1066 to when the legally authorized person selects a funeral director or funeral establishment
1067 which will handle the dead human body;

1068 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
 1069 or crematory prior to the board's having approved an application for licensure; or
 1070 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
 1071 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
 1072 Code Section 43-18-70."

1073 **SECTION 2-10.**

1074 Said title is further amended in Code Section 43-24A-9, relating to provisional permits for
 1075 massage therapists, by revising subsection (a) as follows:

1076 "(a) A provisional permit to practice as a provisionally permitted massage therapist shall,
 1077 upon proper application, be issued for a six-month period to an applicant who meets the
 1078 following criteria:

- 1079 (1) Holds and maintains a valid license as a massage therapist in another state;
 1080 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 1081 defined in Code Section 50-36-2;
 1082 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
 1083 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
 1084 (4) Has not been convicted of a directly related felony in the courts of this state, any
 1085 other state, territory, or country, or in the courts of the United States, including, but not
 1086 limited to, a plea of nolo contendere entered to such charge or ~~the affording of first~~
 1087 ~~offender treatment to any such charge~~ a plea to such charge for which an individual is
 1088 currently serving a first offender sentence in the same manner as provided in ~~paragraph~~
 1089 ~~(4) of subsection (a) of subsection (q) of Code Section 43-1-19. For purposes of this~~
 1090 paragraph, the term 'felony' shall have the same meaning as provided in Code Section
 1091 43-1-1."

SECTION 2-11.

1092

1093 Said title is further amended in Code Section 43-26-11, relating to denial or revocation of
1094 licenses and other discipline under the "Georgia Registered Professional Nurse Practice Act,"
1095 by revising paragraph (1) as follows:

1096 "(1) Been convicted of any directly related felony, ~~crime involving moral turpitude~~, or
1097 directly related crime violating a federal or state law relating to controlled substances or
1098 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
1099 courts of the United States, including but not limited to a plea of nolo contendere entered
1100 to the charge; provided, however, that such conviction shall be evaluated as provided by
1101 subsection (q) of Code Section 43-1-19; or"

SECTION 2-12.

1102

1103 Said title is further amended by revising Code Section 43-26-40, relating to refusal to grant
1104 license and revocation of registered practical nurses licenses and disciplining of licensees,
1105 as follows:

1106 "43-26-40.

1107 (a) In addition to the authority granted in Code Section 43-1-19, the board shall have the
1108 authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or
1109 to discipline a licensee upon a finding by the board that the applicant or licensee has:

1110 (1) Been convicted of a directly related felony, ~~a crime involving moral turpitude~~, or any
1111 directly related crime violating a federal or state law relating to controlled substances or
1112 dangerous drugs or marijuana in the courts of this state, any other state, territory, or
1113 country, or in the courts of the United States, including, but not limited to, a plea of nolo
1114 contendere entered to the charge; provided, however, that such conviction shall be
1115 evaluated as provided by subsection (q) of Code Section 43-1-19;

- 1116 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
1117 licensing authority, had other disciplinary action taken by any lawful licensing authority,
1118 or was denied a license by any lawful licensing authority;
- 1119 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
1120 practice harmful to the public, which conduct or practice need not have resulted in actual
1121 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
1122 includes the improper charting of medication and any departure from, or the failure to
1123 conform to, the minimal standards of acceptable and prevailing nursing practice;
- 1124 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
1125 of this state, any other state, the board, the United States, or any other lawful authority,
1126 without regard to whether the violation is criminally punishable, which statute, law, or
1127 rule or regulation relates to or in part regulates the practice of nursing, when the licensee
1128 or applicant knows or should know that such action is violative of such law or rule;
- 1129 (5) Violated a lawful order of the board previously entered by the board in a disciplinary
1130 hearing; or
- 1131 (6) Displayed an inability to practice nursing as a licensed practical nurse with
1132 reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or
1133 any other types of material, or as a result of any mental or physical condition:
- 1134 (A) In enforcement of this paragraph, the board may, upon reasonable grounds, require
1135 a licensee or applicant to submit to a mental or physical examination by a board
1136 approved health care professional. The expense of such mental or physical examination
1137 shall be borne by the licensee or applicant. The results of such examination shall be
1138 admissible in any hearing before the board, notwithstanding any claim of privilege
1139 under contrary law or rule. Every person who is licensed to practice practical nursing
1140 as a licensed practical nurse in this state, or an applicant for examination, endorsement,
1141 or reinstatement, shall be deemed to have given such person's consent to submit to such
1142 mental or physical examination and to have waived all objections to the admissibility

1143 of the results in any hearing before the board upon the grounds that the same constitutes
1144 a privileged communication. If a licensee or applicant fails to submit to such an
1145 examination when properly directed to do so by the board, unless such failure was due
1146 to circumstances beyond that person's control, the board may enter a final order upon
1147 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
1148 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
1149 an opportunity to demonstrate to the board that such person can resume or begin to
1150 practice practical nursing as a licensed practical nurse with reasonable skill and safety;
1151 and

1152 (B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain
1153 any and all records relating to the mental or physical condition of a licensee or
1154 applicant, including psychiatric records; such records shall be admissible in any hearing
1155 before the board, notwithstanding any privilege under a contrary rule, law, or statute.
1156 Every person who is licensed in this state or who shall file an application for said
1157 license shall be deemed to have given such person's consent to the board's obtaining
1158 such records and to have waived all objections to the admissibility of such records in
1159 any hearing before the board upon the grounds that the same constitute a privileged
1160 communication.

1161 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
1162 a license by endorsement under Code Section 43-26-38, nor the denial of a request for
1163 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
1164 the minimum requirements shall be considered a contested case within the meaning of
1165 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
1166 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
1167 licensee shall be allowed to appear before the board if he or she so requests.

1168 (c) Notwithstanding any other provision of this Code section, the denial of an initial
1169 license or the denial of a request for reinstatement of a license on the grounds that the

1170 applicant or licensee is disqualified due to a criminal record shall be in accordance with
1171 subsection (a) of Code Section 43-1-19."

1172 **SECTION 2-13.**

1173 Said title is further amended in Code Section 43-34-8, relating to the authority of the
1174 Composite Medical Board to refuse license, certificate, or permit medical professionals or
1175 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
1176 publication of final disciplinary actions, by revising paragraph (3) of subsection (a) as
1177 follows:

1178 "(3) Been convicted of a felony in the courts of this state or any other state, territory,
1179 country, or of the United States. As used in this paragraph, the term 'conviction of a
1180 felony' shall include a conviction of an offense which if committed in this state would be
1181 deemed a felony under either state or federal law, without regard to its designation
1182 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or
1183 verdict of guilt, ~~a plea of guilty resulting in first offender status,~~ or a plea of nolo
1184 contendere in a criminal proceeding, ~~regardless of whether the adjudication of guilt or~~
1185 ~~sentence is withheld or not entered thereon;~~ It shall also include a plea for which an
1186 individual is currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42,
1187 another state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1188 (3.1) Been convicted of any directly related felony or directly related crime violating a
1189 federal or state law relating to controlled substances or dangerous drugs in the courts of
1190 this state, any other state, territory, or country, or in the courts of the United States,
1191 including but not limited to a plea of nolo contendere entered to the charge; provided,
1192 however, that such conviction shall be considered in the manner prescribed by subsection
1193 (q) of Code Section 43-1-19;"

SECTION 2-14.

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Said title is further amended in Code Section 43-34-8, relating to the authority of the Composite Medical Board to refuse license, certificate, or permit medical professionals or to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and publication of final disciplinary actions, by adding two new subsections to read as follows:

"(a.1) Notwithstanding paragraphs (3), (3.1), (4), and (11) of subsection (a) of this Code section, the medical board 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 the practice of medicine. In determining if a conviction directly relates to the occupation for which the license is sought or held, the medical board 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;

- 1221 (E) Education and training;
1222 (F) Employment history;
1223 (G) Employment aspirations;
1224 (H) The individual's current family or community responsibilities, or both;
1225 (I) Whether a bond is required to practice the occupation;
1226 (J) Any affidavits or other written documents, including, but not limited to, character
1227 references; and
1228 (K) Any other information regarding rehabilitation the individual submits to the board.
1229 (6) In determining whether to terminate and revoke a license, the board shall not consider
1230 nor require an individual to disclose:
1231 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1232 program, completed conditional discharge, or an arrest not followed by a conviction;
1233 (B) A conviction for which no sentence of incarceration can be imposed;
1234 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1235 pardoned, provided that the board may consider a plea for which an individual is
1236 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1237 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1238 (D) A juvenile adjudication;
1239 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1240 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1241 (F) A conviction older than five years for which the individual was not incarcerated,
1242 or a conviction for which the individual's incarceration ended more than five years
1243 before the date of the board's consideration, except for a felony conviction related to:
1244 (i) A criminal sexual act;
1245 (ii) Criminal fraud or embezzlement;
1246 (iii) Aggravated assault;
1247 (iv) Aggravated robbery;

1248 (v) Aggravated abuse, neglect, or endangerment of a child;

1249 (vi) Arson;

1250 (vii) Carjacking;

1251 (viii) Kidnapping; or

1252 (ix) Manslaughter, homicide, or murder.

1253 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
1254 may petition the board at any time, including while incarcerated and before starting or
1255 completing any required professional qualifications for licensure, for a predetermination
1256 as to whether the individual's criminal record will disqualify him or her from obtaining
1257 a license.

1258 (2) The petition for predetermination shall include the individual's criminal record or
1259 authorize the board to obtain the individual's criminal record. The petitioning individual
1260 need not disclose any offenses falling under paragraph (a.1)(6) of this Code section. The
1261 petition shall also include any information the petitioner chooses to submit concerning
1262 the circumstances of their record and their rehabilitation.

1263 (3) In considering predetermination petitions, the professional licensing board shall apply
1264 the direct relationship standard in subsection (a.1) of this subsection and shall not
1265 consider any offenses falling under paragraph (a.1)(6) of this Code section. The board
1266 shall support any adverse predetermination by justifying that it is substantially more
1267 likely than not that a criminal record supports an adverse licensing decision.

1268 (4) A predetermination made under this subsection that a petitioner is eligible for a
1269 license shall be binding on the board only if the petitioner applies for licensure, fulfills
1270 all other requirements for the occupational license, and the petitioner's submitted criminal
1271 record was correct and remains unchanged at the time of his or her application for a
1272 license.

1273 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1274 from licensure, the board shall notify the petitioner of the potentially disqualifying

1275 convictions. The letter of concern shall advise the petitioner of their opportunity to
1276 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.
1277 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1278 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1279 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1280 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1281 receipt of the predetermination petition. The individual shall have the opportunity to
1282 include character witnesses at the hearing, including but not limited to family members,
1283 friends, past or prospective employers, probation or parole officers, and rehabilitation
1284 counselors, who may offer their verbal or written support. The board shall not make an
1285 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1286 board shall issue a final decision within 60 days of complete submission of the issue for
1287 consideration or the hearing, whichever is later.
1288 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
1289 board shall notify the petitioner of the following:
1290 (A) The grounds and rationale for the predetermination, including any of the
1291 petitioner's specific convictions and the factors provided for in subsection (a.2) of this
1292 Code section the board deemed directly relevant;
1293 (B) An explanation of the process and right to appeal the board's predetermination
1294 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and
1295 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1296 who receives a predetermination of ineligibility may submit a revised petition reflecting
1297 completion of the remedial actions. The individual may submit a new petition to the
1298 board not before one year following a final judgment on their initial petition or upon
1299 completing the remedial actions, whichever is earlier.
1300 (8) The denial of a predetermination petition because of the applicant's criminal record
1301 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative

1302 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1303 have the burden of proving that the applicant's criminal record directly relates to the
1304 licensed occupation."

1305 **SECTION 2-15.**

1306 Said title is further amended in Code Section 43-34-107, relating to termination of approval
1307 and revocation of licenses of physician assistants by the Composite Medical Board, notice
1308 and hearing, and sanctions, by revising subsection (a) as follows:

1309 "(a)(1) The approval of a physician's utilization of a physician assistant may be
1310 terminated and the license revoked by the board when, after due notice and a hearing, in
1311 accordance with this Code section, it shall find that the assistant is incompetent or has
1312 committed unethical or immoral acts, including, but not limited to, holding himself or
1313 herself out or permitting another to represent him or her as a licensed physician;
1314 performing otherwise than at the direction of a physician approved by the board to utilize
1315 the assistant's services; habitually using intoxicants or drugs to such an extent that he or
1316 she is unable safely to perform as an assistant to the physician; or being convicted in any
1317 court, state or federal, of any felony or other ~~criminal offense involving moral turpitude~~
1318 covered misdemeanor.

1319 (2) The board shall recommend action to terminate and revoke on the basis of a criminal
1320 conviction or adjudication only if the conviction or adjudication directly relates to the
1321 role of a physician assistant. In determining if a criminal conviction or adjudication
1322 directly relates to the role of a physician assistant, the board shall consider:

1323 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1324 conduct to the duties and responsibilities of the physician assistant;

1325 (B) The age of the individual at the time such crime was committed;

1326 (C) The length of time elapsed since such crime was committed;

- 1327 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1328 circumstances or social conditions surrounding the commission of the offense; and
1329 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1330 occupation for which the certificate is sought or held, including, but not limited to:
1331 (i) The completion of the criminal sentence;
1332 (ii) A program and treatment certificate issued by the Board of Corrections;
1333 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1334 treatment program;
1335 (iv) Testimonials and recommendations, which may include a progress report from
1336 the individual's probation or parole officer;
1337 (v) Education and training;
1338 (vi) Employment history;
1339 (vii) Employment aspirations;
1340 (viii) The individual's current family or community responsibilities, or both;
1341 (ix) Whether a bond is required to practice the occupation;
1342 (x) Any affidavits or other written documents, including, but not limited to, character
1343 references; and
1344 (xi) Any other information regarding rehabilitation the individual submits to the
1345 board.
- 1346 (3) In determining whether to terminate and revoke a license, the board or investigator
1347 shall not consider nor require an individual to disclose:
1348 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1349 program, completed conditional discharge, or an arrest not followed by a conviction;
1350 (B) A conviction for which no sentence of incarceration can be imposed;
1351 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1352 pardoned, provided that the board may consider a plea for which an individual is

1353 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
 1354 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
 1355 (D) A juvenile adjudication;
 1356 (E) A misdemeanor conviction older than five years, unless the offense of conviction
 1357 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
 1358 (F) A conviction older than five years for which the individual was not incarcerated,
 1359 or a conviction for which the individual's incarceration ended more than five years
 1360 before the date of the board's consideration, except for a felony conviction related to:
 1361 (i) A criminal sexual act;
 1362 (ii) Criminal fraud or embezzlement;
 1363 (iii) Aggravated assault;
 1364 (iv) Aggravated robbery;
 1365 (v) Aggravated abuse, neglect, or endangerment of a child;
 1366 (vi) Arson;
 1367 (vii) Carjacking;
 1368 (viii) Kidnapping; or
 1369 (ix) Manslaughter, homicide, or murder."

1370 **SECTION 2-16.**

1371 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
 1372 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
 1373 follows:

1374 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
 1375 investigation of the applicant to be made and such investigation may include a criminal
 1376 background check; provided, however, that the board shall cause a thorough investigation
 1377 of a new applicant to be made, and such investigation shall include a background check.
 1378 If satisfied that the applicant possesses the necessary qualifications, the board shall issue

1379 a license. However, the board may issue licenses with varying restrictions to such
1380 persons where the board deems it necessary for the purpose of safeguarding the public
1381 health, safety, and welfare.

1382 (2) The board shall recommend action to deny licensure on the basis of a criminal
1383 conviction or adjudication only if the conviction or adjudication directly relates to the
1384 administration of a pain management clinic. In determining if a criminal conviction or
1385 adjudication directly relates to the administration of a pain management clinic, the board
1386 shall consider:

1387 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1388 conduct to the duties and responsibilities of the licensee;

1389 (B) The age of the individual at the time such crime was committed;

1390 (C) The length of time elapsed since such crime was committed;

1391 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1392 circumstances or social conditions surrounding the commission of the offense; and

1393 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1394 occupation for which the certificate is sought or held, including, but not limited to:

1395 (i) The completion of the criminal sentence;

1396 (ii) A program and treatment certificate issued by the Board of Corrections;

1397 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1398 treatment program;

1399 (iv) Testimonials and recommendations, which may include a progress report from
1400 the individual's probation or parole officer;

1401 (v) Education and training;

1402 (vi) Employment history;

1403 (vii) Employment aspirations;

1404 (viii) The individual's current family or community responsibilities, or both;

1405 (ix) Whether a bond is required to practice the occupation;

1406 (x) Any affidavits or other written documents, including, but not limited to, character
1407 references; and
1408 (xi) Any other information regarding rehabilitation the individual submits to the
1409 board."

1410 **SECTION 2-17.**

1411 Said title is further amended by revising Code Section 43-34-284, relating to denial,
1412 suspension, and revocation of licenses of pain management clinics by the Composite Medical
1413 Board, as follows:

1414 "43-34-284.

1415 (a) In addition to the authority granted in Code Section 43-34-8, a license obtained
1416 pursuant to this article may be denied, suspended, or revoked by the board upon finding
1417 that the licensee or a physician practicing at a licensed pain management clinic has:

1418 (1) Furnished false or fraudulent material information in any application filed under this
1419 chapter;

1420 (2) Been convicted of a crime under any state or federal law relating to any controlled
1421 substance;

1422 (3) Had his or her federal registration to prescribe, distribute, or dispense controlled
1423 substances suspended or revoked; or

1424 (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title
1425 26.

1426 (b) In determining whether to deny, suspend, or revoke a license based upon a criminal
1427 conviction or adjudication, the board shall consider:

1428 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1429 conduct to the duties and responsibilities of the physician practicing at a licensed pain
1430 management clinic;

1431 (2) The age of the individual at the time such crime was committed;

- 1432 (3) The length of time elapsed since such crime was committed;
 1433 (4) All circumstances relative to such crime, including, but not limited to, mitigating
 1434 circumstances or social conditions surrounding the commission of the offense; and
 1435 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
 1436 for which the license is sought or held, including, but not limited to:
 1437 (A) The completion of the criminal sentence;
 1438 (B) A program treatment certificate issued by the Board of Corrections;
 1439 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
 1440 program;
 1441 (D) Testimonials and recommendations, which may include a progress report from the
 1442 individual's probation or parole officer;
 1443 (E) Education and training;
 1444 (F) Employment history;
 1445 (G) Employment aspirations;
 1446 (H) The individual's current family or community responsibilities, or both;
 1447 (I) Whether a bond is required to practice the occupation;
 1448 (J) Any affidavits or other written documents, including, but not limited to, character
 1449 references; and
 1450 (K) Any other information regarding rehabilitation the individual submits to the board."

1451 **SECTION 2-18.**

1452 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
 1453 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
 1454 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
 1455 subsection (b) as follows:

1456 "(b)(1) As used in this subsection, the term:

1457 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1458 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
1459 whether an appeal of the conviction has been brought; a sentencing to first offender
1460 treatment without an adjudication of guilt pursuant to a charge of a felony or any ~~crime~~
1461 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
1462 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
1463 commission shall have the burden of justifying that it is substantially more likely than
1464 not that a criminal record supports an adverse licensing decision.

1465 (B) 'Felony' means any offense committed:

1466 (i) Within this state and deemed a felony under the laws of this state or under the
1467 laws of the United States; or

1468 (ii) In another state and deemed a felony under the laws of that state or the laws of
1469 the United States.

1470 (1.1) No person who has a directly related conviction shall be eligible to become an
1471 applicant for a license or an approval authorized by this chapter unless such person has
1472 successfully completed all terms and conditions of any sentence imposed for such
1473 conviction, provided that if such individual has multiple convictions, at least five years
1474 shall have passed since the individual satisfied all terms and conditions of any sentence
1475 imposed for the last conviction before making application for licensure or approval; and
1476 provided, further, that if such individual has a single conviction, at least two years shall
1477 have passed since the individual satisfied all terms and conditions of any sentence
1478 imposed for the last conviction before making application for licensure or approval.

1479 (1.2) The board shall recommend disciplinary action or denial of an application for a
1480 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1481 adjudication only if the conviction or adjudication directly relates to the role of an

1482 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1483 role of an appraiser, the board shall consider:

1484 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1485 conduct to the duties and responsibilities of the appraiser;

1486 (B) The age of the individual at the time such crime was committed;

1487 (C) The length of time elapsed since such crime was committed;

1488 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1489 circumstances or social conditions surrounding the commission of the offense; and

1490 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1491 occupation for which the license is sought or held, including, but not limited to:

1492 (i) The completion of the criminal sentence;

1493 (ii) A program and treatment certificate issued by the Board of Corrections;

1494 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1495 treatment program;

1496 (iv) Testimonials and recommendations, which may include a progress report from
1497 the individual's probation or parole officer;

1498 (v) Education and training;

1499 (vi) Employment history;

1500 (vii) Employment aspirations;

1501 (viii) The individual's current family or community responsibilities, or both;

1502 (ix) Any affidavits or other written documents, including, but not limited to, character
1503 references; and

1504 (x) Any other information regarding rehabilitation the individual submits to the
1505 board.

1506 (F) In determining whether to terminate and revoke a license, the board shall not
1507 consider nor require an individual to disclose:

- 1508 (i) A deferred adjudication, discharged first offender treatment, completed diversion
 1509 program, completed conditional discharge, or an arrest not followed by a conviction;
 1510 (ii) A conviction for which no sentence of incarceration can be imposed;
 1511 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1512 pardoned, provided that the board may consider a plea for which an individual is
 1513 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
 1514 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2; or
 1515 (iv) A juvenile adjudication.

1516 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
 1517 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1518 licensure or an approval authorized by this chapter only if:

1519 (A) Such person has satisfied all terms and conditions of any conviction such person
 1520 may have had before making application for licensure or approval, provided that if such
 1521 individual has multiple convictions, at least five years shall have passed since the
 1522 individual satisfied all terms and conditions of any sentence imposed for the last
 1523 conviction before making application for licensure or approval; and provided, further,
 1524 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1525 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1526 individual satisfied all terms and conditions of any sentence imposed for the last
 1527 conviction before making application for licensure or approval;

1528 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1529 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1530 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1531 against the person; and

1532 (C) Such person presents to the commission satisfactory proof that the person now
 1533 bears a good reputation for honesty, trustworthiness, integrity, and competence to

1534 transact the business of a licensee in such a manner as to safeguard the interest of the
1535 public."

1536 **SECTION 2-19.**

1537 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
1538 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for
1539 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
1540 revising subsection (b) as follows:

1541 "(b)(1) As used in this Code section, the term:

1542 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1543 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
1544 whether an appeal of the conviction has been brought; a sentencing to first offender
1545 treatment without an adjudication of guilt pursuant to a charge of a felony or any crime
1546 involving ~~moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
1547 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
1548 commission shall have the burden of justifying that it is substantially more likely than
1549 not that a criminal record supports an adverse licensing decision.

1550 (B) 'Felony' means any offense committed:

1551 (i) Within this state and deemed a felony under the laws of this state or under the
1552 laws of the United States; or

1553 (ii) In another state and deemed a felony under the laws of that state or the laws of
1554 the United States.

1555 (1.1) No person who has a directly related conviction shall be eligible to become an
1556 applicant for a license or an approval authorized by this chapter unless such person has
1557 successfully completed all terms and conditions of any sentence imposed for such
1558 conviction, provided that if such individual has multiple convictions, at least five years
1559 shall have passed since the individual satisfied all terms and conditions of any sentence

1560 imposed for the last conviction before making application for licensure or approval; and
1561 provided, further, that if such individual has a single conviction, at least two years shall
1562 have passed since the individual satisfied all terms and conditions of any sentence
1563 imposed for the last conviction before making application for licensure or approval.

1564 (1.2) The commission shall recommend disciplinary action or denial of an application
1565 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
1566 or adjudication only if the conviction or adjudication directly relates to the role of the
1567 license sought. In determining if a criminal conviction or adjudication directly relates to
1568 the role of a broker or real estate salesperson, the commission shall consider:

1569 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1570 conduct to the duties and responsibilities of the licensee;

1571 (B) The age of the individual at the time such crime was committed;

1572 (C) The length of time elapsed since such crime was committed;

1573 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1574 circumstances or social conditions surrounding the commission of the offense; and

1575 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1576 occupation for which the license is sought or held, including, but not limited to:

1577 (i) The completion of the criminal sentence;

1578 (ii) A program and treatment certificate issued by the Board of Corrections;

1579 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1580 treatment program;

1581 (iv) Testimonials and recommendations, which may include a progress report from
1582 the individual's probation or parole officer;

1583 (v) Education and training;

1584 (vi) Employment history;

1585 (vii) Employment aspirations;

1586 (viii) The individual's current family or community responsibilities, or both;

1587 (ix) Any affidavits or other written documents, including, but not limited to, character
 1588 references; and

1589 (x) Any other information regarding rehabilitation the individual submits to the
 1590 commission.

1591 (F) In determining whether to terminate and revoke a license, the board shall not
 1592 consider nor require an individual to disclose:

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

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

1596 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1597 pardoned, provided that the board may consider a plea for which an individual is
 1598 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
 1599 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2; or

1600 (iv) A juvenile adjudication.

1601 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
 1602 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1603 licensure or an approval authorized by this chapter only if:

1604 (A) Such person has satisfied all terms and conditions of any conviction such person
 1605 may have had before making application for licensure or approval, provided that if such
 1606 individual has multiple convictions, at least five years shall have passed since the
 1607 individual satisfied all terms and conditions of any sentence imposed for the last
 1608 conviction before making application for licensure or approval; and provided, further,
 1609 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1610 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1611 individual satisfied all terms and conditions of any sentence imposed for the last
 1612 conviction before making application for licensure or approval;

1613 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1614 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1615 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1616 against the person; and

1617 (C) Such person presents to the commission satisfactory proof that the person now
 1618 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1619 transact the business of a licensee in such a manner as to safeguard the interest of the
 1620 public."

1621 SECTION 2-20.

1622 Said title is further amended in Code Section 43-45-9, relating to examination for structural
 1623 pest control operator certification by the Structural Pest Control Commission, by revising
 1624 subsection (a) as follows:

1625 "(a)(1) All applicants for examination for certification as an operator must have a
 1626 knowledge of the practical and scientific facts underlying the practice of structural pest
 1627 control, control of wood-destroying organisms, and fumigation and the necessary
 1628 knowledge and ability to recognize and control those hazardous conditions which may
 1629 affect human life and health. The commission may refuse to examine anyone convicted
 1630 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
 1631 misdemeanor.

1632 (2) The commission shall refuse to examine an applicant on the basis of a criminal
 1633 conviction or adjudication only if the conviction or adjudication directly relates to the
 1634 role of an operator. In determining if a criminal conviction or adjudication directly
 1635 relates to the role of a pest control operator, the commission shall consider:

1636 (A) The nature and seriousness of the crime and the direct relationship of the criminal
 1637 conduct to the duties and responsibilities of the operator;

1638 (B) The age of the individual at the time such crime was committed;

- 1639 (C) The length of time elapsed since such crime was committed;
1640 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1641 circumstances or social conditions surrounding the commission of the offense; and
1642 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1643 occupation for which the certificate is sought or held, including, but not limited to:
1644 (i) The completion of the criminal sentence;
1645 (ii) A program and treatment certificate issued by the Board of Corrections;
1646 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1647 treatment program;
1648 (iv) Testimonials and recommendations, which may include a progress report from
1649 the individual's probation or parole officer;
1650 (v) Education and training;
1651 (vi) Employment history;
1652 (vii) Employment aspirations;
1653 (viii) The individual's current family or community responsibilities, or both;
1654 (ix) Whether a bond is required to practice the occupation;
1655 (x) Any affidavits or other written documents, including, but not limited to, character
1656 references; and
1657 (xi) Any other information regarding rehabilitation the individual submits to the
1658 commission.
- 1659 (3) In determining whether to refuse to examine an applicant, the commission shall not
1660 consider nor require an individual to disclose:
1661 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1662 program, completed conditional discharge, or an arrest not followed by a conviction;
1663 (B) A conviction for which no sentence of incarceration can be imposed;
1664 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1665 pardoned, provided that the board may consider a plea for which an individual is

1666 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1667 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1668 (D) A juvenile adjudication;
1669 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1670 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1671 (F) A conviction older than five years for which the individual was not incarcerated,
1672 or a conviction for which the individual's incarceration ended more than five years
1673 before the date of the commission's consideration, except for a felony conviction related
1674 to:

- 1675 (i) A criminal sexual act;
- 1676 (ii) Criminal fraud or embezzlement;
- 1677 (iii) Aggravated assault;
- 1678 (iv) Aggravated robbery;
- 1679 (v) Aggravated abuse, neglect, or endangerment of a child;
- 1680 (vi) Arson;
- 1681 (vii) Carjacking;
- 1682 (viii) Kidnapping; or
- 1683 (ix) Manslaughter, homicide, or murder.

1684 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1685 record may petition the commission at any time, including while incarcerated and
1686 before starting or completing any required professional qualifications for certification,
1687 for a predetermination as to whether the individual's criminal record will disqualify
1688 such individual from obtaining a certification as an operator.

1689 (B) The petition for predetermination shall include the individual's criminal record or
1690 authorize the commission to obtain the individual's criminal record. The petitioning
1691 individual need not disclose any offenses falling under paragraph (3) of this subsection.

1692 The petition shall also include any information the petitioner chooses to submit
1693 concerning the circumstances of their record and their rehabilitation.

1694 (C) In considering predetermination petitions, the commission shall apply the direct
1695 relationship standard in paragraph (2) of this subsection and shall not consider any
1696 offenses falling under paragraph (3) of this subsection. The commission shall support
1697 any adverse predetermination by justifying that it is substantially more likely than not
1698 that a criminal record supports an adverse licensing decision.

1699 (D) A predetermination made under this subsection that a petitioner is eligible for a
1700 license shall be binding on the commission only if the petitioner applies for
1701 certification, fulfills all other requirements for operator certification, and the petitioner's
1702 submitted criminal record was correct and remains unchanged at the time of his or her
1703 application for certification.

1704 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1705 from certification, the commission shall notify the petitioner of the potentially
1706 disqualifying convictions. The letter of concern shall advise the petitioner of their
1707 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1708 hearing, or both.

1709 (F) The commission may predetermine that the petitioner's criminal record is likely
1710 grounds for denial of certification only after the commission has held a hearing on the
1711 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1712 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1713 or by teleconference within 60 days of receipt of the predetermination petition. The
1714 individual shall have the opportunity to include character witnesses at the hearing,
1715 including but not limited to family members, friends, past or prospective employers,
1716 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1717 or written support. The commission shall not make an adverse inference by a
1718 petitioner's decision to forgo a hearing or character witnesses. The commission shall

1719 issue a final decision within 60 days of complete submission of the issue for
 1720 consideration or the hearing, whichever is later.

1721 (G) If the commission decides that a predetermination petitioner is ineligible for a
 1722 license, the board shall notify the petitioner of the following:

1723 (i) The grounds and rationale for the predetermination, including any of the
 1724 petitioner's specific convictions and the factors provided for in paragraph (3) of this
 1725 subsection the commission deemed directly relevant;

1726 (ii) An explanation of the process and right to appeal the commission's
 1727 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
 1728 Procedure Act'; and

1729 (iii) Any actions the petitioner may take to remedy the disqualification. An
 1730 individual who receives a predetermination of ineligibility may submit a revised
 1731 petition reflecting completion of the remedial actions. The individual may submit a
 1732 new petition to the commission not before one year following a final judgment on
 1733 their initial petition or upon completing the remedial actions, whichever is earlier.

1734 (H) The denial of a predetermination petition because of the applicant's criminal record
 1735 shall constitute a contested case as defined in Code Section 50-13-2. In an
 1736 administrative hearing or civil action reviewing the denial of a predetermination
 1737 petition, the commission shall have the burden of proving that the applicant's criminal
 1738 record directly relates to the licensed occupation."

1739

PART III

1740

SECTION 3-1.

1741 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 1742 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
 1743 professional standards of teachers and other school personnel, to read as follows:

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1744 "(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
 1745 whether an appeal of such finding, verdict, or plea has been sought."

1746 **SECTION 3-2.**

1747 Said title is further is amended by revising Code Section 20-2-984.3, relating to preliminary
 1748 investigation of violations by the Professional Standards Commission, requirement for
 1749 automatic investigation, and investigation of sexual offenses, as follows:

1750 "20-2-984.3.

1751 (a) Upon receipt of a written request from a local board, the state board, or one or more
 1752 individual residents of this state, the commission shall be authorized to investigate:

1753 (1) Alleged violations by an educator of any law of this state pertaining to educators or
 1754 the profession of education;

1755 (2) Alleged violations by an educator of the code of ethics of the commission;

1756 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
 1757 or the commission;

1758 (4) Complaints alleging a failure by an educator to meet or comply with standards of
 1759 performance of the commission or the state board; or

1760 (5) Complaints alleging that an educator has been convicted of any directly related
 1761 felony, of any ~~crime involving moral turpitude~~ directly related covered misdemeanor as
 1762 defined in Code Section 43-1-1, of any other criminal offense involving the manufacture,
 1763 distribution, trafficking, sale, or possession of a controlled substance or marijuana as
 1764 provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in
 1765 Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100
 1766 in the courts of this state or any other state, territory, or country or in the courts of the
 1767 United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or~~
 1768 ~~verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the~~
 1769 ~~conviction has been sought; a situation where first offender treatment without~~

1770 ~~adjudication of guilt pursuant to the charge was granted; and a situation where an~~
1771 ~~adjudication of guilt or sentence was otherwise withheld or not entered on the charge or~~
1772 ~~the charge was otherwise disposed of in a similar manner in any jurisdiction.~~

1773 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1774 to this Code section within 30 days of the request unless an extension is granted pursuant
1775 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1776 may appoint a committee of its membership with the power to transact and carry out the
1777 business and duties of the commission when deciding whether to conduct a preliminary
1778 investigation.

1779 (b.1) In investigating whether to deny, diminish, limit, suspend, revoke, refuse to renew,
1780 or otherwise withhold a certificate, the commission shall not consider nor require an
1781 educator to disclose:

1782 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1783 program, completed conditional discharge, or an arrest not followed by a conviction;

1784 (2) A conviction for which no sentence of incarceration can be imposed;

1785 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1786 pardoned, provided that the board may consider a plea for which an individual is
1787 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
1788 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1789 (4) A juvenile adjudication;

1790 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1791 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1792 (6) A conviction older than five years for which the individual was not incarcerated, or
1793 a conviction for which the individual's incarceration ended more than five years before
1794 the date of the commission's consideration, except for a felony conviction related to:

1795 (A) A criminal sexual act;

1796 (B) Criminal fraud or embezzlement;

1797 (C) Aggravated assault;

1798 (D) Aggravated robbery;

1799 (E) Aggravated abuse, neglect, or endangerment of a child;

1800 (F) Arson;

1801 (G) Carjacking;

1802 (H) Kidnapping; or

1803 (I) Manslaughter, homicide, or murder.

1804 (c) When an educator admits on a Professional Standards Commission application to
 1805 having resigned or being discharged for committing a felony or ~~misdemeanor~~ involving
 1806 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
 1807 investigation by law enforcement authorities for such conduct or for committing a breach
 1808 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
 1809 record or having had a surrender, denial, revocation, or suspension of a certificate or being
 1810 the subject of an investigation or adverse action regarding a certificate, an investigation
 1811 will automatically open without notification to the commission and with written
 1812 notification to the educator.

1813 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
 1814 consider nor require an educator to disclose on a Professional Standards Commission
 1815 application:

1816 (1) A deferred adjudication, discharged first offender treatment, completed diversion
 1817 program, completed conditional discharge, or an arrest not followed by a conviction;

1818 (2) A conviction for which no sentence of incarceration can be imposed;

1819 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1820 pardoned, provided that the board may consider a plea for which an individual is
 1821 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
 1822 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1823 (4) A juvenile adjudication;

- 1824 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1825 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1826 (6) A conviction older than five years for which the individual was not incarcerated, or
1827 a conviction for which the individual's incarceration ended more than five years before
1828 the date of the commission's consideration, except for a felony conviction related to:
- 1829 (A) A criminal sexual act;
 - 1830 (B) Criminal fraud or embezzlement;
 - 1831 (C) Aggravated assault;
 - 1832 (D) Aggravated robbery;
 - 1833 (E) Aggravated abuse, neglect, or endangerment of a child;
 - 1834 (F) Arson;
 - 1835 (G) Carjacking;
 - 1836 (H) Kidnapping; or
 - 1837 (I) Manslaughter, homicide, or murder.
- 1838 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1839 shall be authorized, without notification to the commission, to immediately open an
1840 investigation submitted to the commission by a local school superintendent, with approval
1841 of the local board of education, of a complaint by a student against an educator alleging a
1842 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1843 16-6-20, 16-6-22.2, or 16-12-100.
- 1844 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1845 may petition the commission at any time, including while incarcerated and before starting
1846 or completing any required professional qualifications for certification, for a
1847 predetermination as to whether the individual's criminal record will disqualify him or her
1848 from obtaining a certificate.
- 1849 (2) The petition for predetermination shall include the individual's criminal record or
1850 authorize the board to obtain the individual's criminal record. The petitioning individual

1851 need not disclose any offenses falling under subsection (c.1) of this Code section. The
1852 petition shall also include any information the petitioner chooses to submit concerning
1853 the circumstances of their record and their rehabilitation.

1854 (3) In considering predetermination petitions, the commission shall apply the direct
1855 relationship standard in subsection (a.1) of Code Section 20-2-984.5 and shall not
1856 consider any offenses falling under subsection (c.1) of this Code section. The
1857 commission shall support any adverse predetermination by justifying that it is
1858 substantially more likely than not that a criminal record supports an adverse licensing
1859 decision.

1860 (4) A predetermination made under this subsection that a petitioner is eligible for a
1861 certificate shall be binding on the commission only if the petitioner applies for
1862 certification, fulfills all other requirements for the certificate, and the petitioner's
1863 submitted criminal record was correct and remains unchanged at the time of his or her
1864 application for a certificate.

1865 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1866 from certification, the commission shall notify the petitioner of the potentially
1867 disqualifying convictions. The letter of concern shall advise the petitioner of their
1868 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1869 hearing, or both.

1870 (6) The commission may predetermine that the petitioner's criminal record is likely
1871 grounds for denial of a license only after the commission has held a hearing on the
1872 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1873 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1874 by teleconference within 60 days of receipt of the predetermination petition. The
1875 individual shall have the opportunity to include character witnesses at the hearing,
1876 including but not limited to family members, friends, past or prospective employers,
1877 probation or parole officers, and rehabilitation counselors, who may offer their verbal or

1878 written support. The commission shall not make an adverse inference by a petitioner's
 1879 decision to forgo a hearing or character witnesses. The commission shall issue a final
 1880 decision within 60 days of complete submission of the issue for consideration or the
 1881 hearing, whichever is later.

1882 (7) If the commission decides that a predetermination petitioner is ineligible for a
 1883 certificate, the board shall notify the petitioner of the following:

1884 (A) The grounds and rationale for the predetermination, including any specific
 1885 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
 1886 commission deemed directly relevant;

1887 (B) An explanation of the process and right to appeal the commission's
 1888 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
 1889 Procedure Act'; and

1890 (C) Any actions the petitioner may take to remedy the disqualification. An individual
 1891 who receives a predetermination of ineligibility may submit a revised petition reflecting
 1892 completion of the remedial actions. The individual may submit a new petition to the
 1893 commission not before one year following a final judgment on their initial petition or
 1894 upon completing the remedial actions, whichever is earlier.

1895 (8) The denial of a predetermination petition because of the applicant's criminal record
 1896 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1897 hearing or civil action reviewing the denial of a predetermination petition, the
 1898 commission shall have the burden of proving that the applicant's criminal record directly
 1899 relates to the licensed occupation."

1900 **SECTION 3-3.**

1901 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
 1902 investigations of educators, disciplinary actions, and hearings by the Professional Standards
 1903 Commission, by adding two new subsections to read as follows:

S. B. 157 (SUB)

1904 “(a.1) The commission shall recommend disciplinary action on the basis of a criminal
1905 conviction only if the conviction or adjudication directly relates to the role of an educator.
1906 In determining if a criminal conviction directly relates to the role of an educator, the
1907 commission shall consider:

1908 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1909 conduct to the duties and responsibilities of the educator;

1910 (2) The age of the individual at the time such crime was committed;

1911 (3) The length of time elapsed since such crime was committed;

1912 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1913 circumstances or social conditions surrounding the commission of the offense; and

1914 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1915 for which the certificate is sought or held, including, but not limited to:

1916 (A) The completion of the criminal sentence;

1917 (B) A program and treatment certificate issued by the Board of Corrections;

1918 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1919 program;

1920 (D) Testimonials and recommendations, which may include a progress report from the
1921 individual's probation or parole officer;

1922 (E) Education and training;

1923 (F) Employment history;

1924 (G) Employment aspirations;

1925 (H) The individual's current family or community responsibilities, or both;

1926 (I) Whether a bond is required to practice the occupation;

1927 (J) Any affidavits or other written documents, including, but not limited to, character
1928 references; and

1929 (K) Any other information regarding rehabilitation the individual submits to the
1930 commission.

- 1931 (a.2) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew,
1932 or otherwise withhold a license, the commission or investigator shall not consider nor
1933 require an individual to disclose:
- 1934 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1935 program, completed conditional discharge, or an arrest not followed by a conviction;
- 1936 (2) A conviction for which no sentence of incarceration can be imposed;
- 1937 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1938 pardoned, provided that the board may consider a plea for which an individual is
1939 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
1940 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
- 1941 (4) A juvenile adjudication;
- 1942 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1943 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1944 (6) A conviction older than five years for which the individual was not incarcerated, or
1945 a conviction for which the individual's incarceration ended more than five years before
1946 the date of the commission's consideration, except for a felony conviction related to:
- 1947 (A) A criminal sexual act;
- 1948 (B) Criminal fraud or embezzlement;
- 1949 (C) Aggravated assault;
- 1950 (D) Aggravated robbery;
- 1951 (E) Aggravated abuse, neglect, or endangerment of a child;
- 1952 (F) Arson;
- 1953 (G) Carjacking;
- 1954 (H) Kidnapping; or
- 1955 (I) Manslaughter, homicide, or murder."

1956

PART IV

1957

SECTION 4-1.

1958 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
 1959 is amended by revising subsection (a) of Code Section 26-4-41, relating to qualifications for
 1960 pharmacist licenses, examination, and internships and other training programs, as follows:

1961 "(a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an
 1962 applicant for licensure by examination shall:

1963 (1) Have submitted an application in the form prescribed by the board;

1964 (2) Have attained the age of majority;

1965 ~~(3) Be of good moral character;~~

1966 ~~(4)~~(3) Have graduated and received a professional undergraduate degree from a college
 1967 or school of pharmacy as the same may be approved by the board; provided, however,
 1968 that, since it would be impractical for the board to evaluate a school or college of
 1969 pharmacy located in another country, the board may accept a graduate from such a school
 1970 or college so long as the graduate has completed all requirements of the Foreign
 1971 Pharmacy Equivalency Certification Program administered by the National Association
 1972 of Boards of Pharmacy. This shall include successful completion of all required
 1973 examinations and the issuance of the equivalency certificate and be based upon an
 1974 individual evaluation by the board of the applicant's educational experience, professional
 1975 background, and proficiency in the English language;

1976 ~~(5)~~(4) Have completed an internship or other program that has been approved by the
 1977 board or demonstrated to the board's satisfaction that experience in the practice of
 1978 pharmacy which meets or exceeds the minimum internship requirements of the board;

1979 ~~(6)~~(5) Have successfully passed an examination or examinations approved by the board;
 1980 and

1981 ~~(7)~~(6) Have paid the fees specified by the board for the examination and any related
 1982 materials and have paid for the issuance of the license."

1983 **SECTION 4-2.**

1984 Said title is further amended in Code Section 26-4-60, relating to grounds for suspension,
 1985 revocation or refusal to grant pharmacist licenses, by revising paragraph (3) of subsection (a)
 1986 as follows:

1987 "(3) Except as prohibited in Code Section 26-4-60.1, for being ~~Being~~:

1988 (A) Convicted of a felony;

1989 (B) Convicted of any ~~crime involving moral turpitude~~ covered misdemeanor, as
 1990 defined in Code Section 43-1-1, in this state or any other state, territory, or country or
 1991 in the courts of the United States; or

1992 (C) Convicted or guilty of violations of the pharmacy or drug laws of this state, or rules
 1993 and regulations pertaining thereto, or of laws, rules, and regulations of any other state,
 1994 or of the federal government;"

1995 **SECTION 4-3.**

1996 Said title is further amended by adding two new Code sections to read as follows:

1997 "26-4-60.1.

1998 (a) Notwithstanding paragraph (3) of subsection (a) of Code Section 26-4-60, the board
 1999 of pharmacy shall refuse to grant a license to an individual or shall revoke a license only
 2000 if a conviction directly relates to the occupation for which the license is sought or held and
 2001 granting the license would pose a direct and substantial risk to public safety because the
 2002 individual has not been rehabilitated to safely perform the duties and responsibilities of the
 2003 practice of pharmacy. In determining if a conviction directly relates to the occupation for
 2004 which the license is sought or held, the board of pharmacy shall consider:

- 2005 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2006 conduct to the duties and responsibilities of the occupation for which the license is sought
2007 or held;
- 2008 (2) The age of the individual at the time the offense was committed;
- 2009 (3) The length of time elapsed since the offense was committed;
- 2010 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2011 circumstances or social conditions surrounding the commission of the offense; and
- 2012 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2013 for which the license is sought or held, including, but not limited to:
- 2014 (A) The completion of the criminal sentence;
- 2015 (B) A program and treatment certificate issued by the Board of Corrections;
- 2016 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2017 program;
- 2018 (D) Testimonials and recommendations, which may include a progress report from the
2019 individual's probation or parole officer;
- 2020 (E) Education and training;
- 2021 (F) Employment history;
- 2022 (G) Employment aspirations;
- 2023 (H) The individual's current family or community responsibilities, or both;
- 2024 (I) Whether a bond is required to practice the occupation;
- 2025 (J) Any affidavits or other written documents, including, but not limited to, character
2026 references; and
- 2027 (K) Any other information regarding rehabilitation the individual submits to the board.
- 2028 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
2029 otherwise withhold a license, the board of pharmacy shall not consider nor require an
2030 individual to disclose:

- 2031 (1) A deferred adjudication, discharged first offender treatment, completed diversion
2032 program, completed conditional discharge, or an arrest not followed by a conviction;
2033 (2) A conviction for which no sentence of incarceration can be imposed;
2034 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
2035 pardoned, provided that the board may consider a plea for which an individual is
2036 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
2037 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
2038 (4) A juvenile adjudication;
2039 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
2040 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
2041 (6) A conviction older than five years for which the individual was not incarcerated, or
2042 a conviction for which the individual's incarceration ended more than five years before
2043 the date of the board's consideration, except for a felony conviction related to:
2044 (A) A criminal sexual act;
2045 (B) Criminal fraud or embezzlement;
2046 (C) Aggravated assault;
2047 (D) Aggravated robbery;
2048 (E) Aggravated abuse, neglect, or endangerment of a child;
2049 (F) Arson;
2050 (G) Carjacking;
2051 (H) Kidnapping;
2052 (I) Manslaughter, homicide, or murder; or
2053 (J) Distribution, manufacturing, or possession of a controlled substance.
- 2054 26-4-60.2.
2055 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2056 petition the board of pharmacy at any time, including while incarcerated and before starting

2057 or completing any required professional qualifications for licensure, for a predetermination
2058 as to whether the individual's criminal record will disqualify him or her from obtaining a
2059 license.

2060 (b) The petition for predetermination shall include the individual's criminal record or
2061 authorize the board to obtain the individual's criminal record. The petitioning individual
2062 need not disclose any offenses falling under subsection (b) of Code Section 20-4-60.1. The
2063 petition shall also include any information the petitioner chooses to submit concerning the
2064 circumstances of their record and their rehabilitation.

2065 (c) In considering predetermination petitions, the board shall apply the direct relationship
2066 standard in subsection (a) of Code Section 26-4-60.1 and shall not consider any offenses
2067 falling under subsection (b) of Code Section 26-4-60.1. The board shall support any
2068 adverse predetermination by justifying that it is substantially more likely than not that a
2069 criminal record supports an adverse licensing decision.

2070 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2071 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
2072 requirements for the licensure, and the petitioner's submitted criminal record was correct
2073 and remains unchanged at the time of his or her application for a license.

2074 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2075 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
2076 The letter of concern shall advise the petitioner of their opportunity to submit additional
2077 evidence of rehabilitation and mitigation or for a hearing, or both.

2078 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
2079 denial of a license only after the board has held a hearing on the petitioner's eligibility in
2080 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
2081 hearing shall be held in person, by remote video, or by teleconference within 60 days of
2082 receipt of the predetermination petition. The individual shall have the opportunity to
2083 include character witnesses at the hearing, including but not limited to family members,

2084 friends, past or prospective employers, probation or parole officers, and rehabilitation
2085 counselors, who may offer their verbal or written support. The board shall not make an
2086 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
2087 board shall issue a final decision within 60 days of complete submission of the issue for
2088 consideration or the hearing, whichever is later.

2089 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
2090 board shall notify the petitioner of the following:

2091 (1) The grounds and rationale for the predetermination, including the specific
2092 convictions and the factors in paragraph (1) of subsection (a) of this Code section the
2093 board deemed directly relevant;

2094 (2) An explanation of the process and right to appeal the board's predetermination
2095 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

2096 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2097 who receives a predetermination of ineligibility may submit a revised petition reflecting
2098 completion of the remedial actions. The individual may submit a new petition to the
2099 board not before one year following a final judgment on their initial petition or upon
2100 completing the remedial actions, whichever is earlier.

2101 (h) The denial of a predetermination petition because of the applicant's criminal record
2102 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
2103 hearing or civil action reviewing the denial of a predetermination petition, the board shall
2104 have the burden of proving that the applicant's criminal record directly relates to the
2105 licensed occupation."

2106 **PART V**

2107 **SECTION 5-1.**

2108 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
 2109 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
 2110 check program, by revising paragraph (5) as follows:

2111 "(5)(A) 'Criminal record' means any of the following:

2112 (i) Conviction of a crime;

2113 (ii) Arrest, charge, and sentencing for a crime when:

2114 (I) A plea of nolo contendere was entered to the crime;

2115 (II) First offender treatment without adjudication of guilt was granted to the crime;

2116 or

2117 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;

2118 or

2119 (iii) Arrest and charges for a crime if the charge is pending, unless the time for
 2120 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

2121 (B) Such term shall not include an owner, applicant, or employee for which at least ten
 2122 years have elapsed from the date of his or her criminal background check since the
 2123 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;
 2124 such term also shall not include an owner, applicant, or employee who has received a
 2125 general pardon from the State Board of Pardons and Paroles for the convictions;
 2126 provided, however, that such ten-year period exemption or and pardon exemption shall
 2127 never apply to any crime identified in subsection (j) of Code Section 42-8-60."

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2129

PART VI
SECTION 6-1.

2130 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
2131 Section 33-23-21, relating to grounds for refusal, suspension, or revocation of insurance
2132 agent licenses, by revising paragraphs (15) and (16) as follows:

2133 “(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted
2134 of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined
2135 in Code Section 43-1-1 in the courts of this state or any other state, territory, or country
2136 or in the courts of the United States; as used in this paragraph and paragraph (16) of this
2137 subsection, the term 'felony' shall include any offense which, if committed in this state,
2138 would be deemed a felony, without regard to its designation elsewhere; and, as used in
2139 this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea
2140 of guilty, regardless of whether an appeal of the conviction has been sought;

2141 (16) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been arrested,
2142 charged, and sentenced for the commission of any directly related felony, or any ~~crime~~
2143 ~~involving moral turpitude~~ directly related covered misdemeanor as defined in Code
2144 Section 43-1-1, where:

2145 (A) First offender treatment without adjudication of guilt pursuant to the charge was
2146 granted; or

2147 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
2148 charge.

2149 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
2150 to probation of first offenders, or other first offender treatment shall be conclusive
2151 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 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;

- 2179 (G) Employment aspirations;
2180 (H) The individual's current family or community responsibilities, or both;
2181 (I) Whether a bond is required to practice the occupation;
2182 (J) Any affidavits or other written documents, including, but not limited to, character
2183 references; and
2184 (K) Any other information regarding rehabilitation the individual submits to the
2185 Commissioner.

2186 33-23-21.3.

2187 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2188 petition the Commissioner at any time, including while incarcerated and before starting or
2189 completing any required professional qualifications for licensure, for a predetermination
2190 as to whether the individual's criminal record will disqualify him or her from obtaining a
2191 license.

2192 (b) The petition for predetermination shall include the individual's criminal record or
2193 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2194 also include information submitted by the petitioner concerning the circumstances of their
2195 record and their rehabilitation.

2196 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2197 relationship standard in Code Section 33-23-21.2.

2198 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2199 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2200 all other requirements for the licensure, and the petitioner's submitted criminal record was
2201 correct and remains unchanged at the time of his or her application for a license.

2202 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2203 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2204 accordance with Chapter 2 of this title.

2205 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2206 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2207 petitioner of the following:

2208 (1) The grounds and rationale for the predetermination, including the factors in Code
2209 Section 33-23-21.2 the Commissioner deemed directly relevant;

2210 (2) An explanation of the process and right to appeal the Commissioner's
2211 predetermination decision; and

2212 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2213 who receives a predetermination of ineligibility may submit a revised petition reflecting
2214 completion of the remedial actions. The individual may submit a new petition to the
2215 Commissioner not before one year following a final judgment on their initial petition or
2216 upon completing the remedial actions, whichever is earlier."

2217 **SECTION 6-3.**

2218 Said title is further amended by adding two new Code sections to read as follows:

2219 "33-23-43.11.

2220 Notwithstanding Code Section 33-23-43.10, the Commissioner shall refuse to grant a
2221 license to an individual or shall revoke a license only if a conviction directly relates to the
2222 occupation for which the license is sought or held and granting the license would pose a
2223 direct and substantial risk to public safety because the individual has not been rehabilitated
2224 to safely perform the duties and responsibilities of a licensee. In determining if a
2225 conviction directly relates to the occupation for which the license is sought or held, the
2226 Commissioner shall consider:

2227 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2228 conduct to the duties and responsibilities of the occupation for which the license is sought
2229 or held;

2230 (2) The age of the individual at the time the offense was committed;

- 2231 (3) The length of time elapsed since the offense was committed;
2232 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2233 circumstances or social conditions surrounding the commission of the offense; and
2234 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2235 for which the license is sought or held, including, but not limited to:
2236 (A) The completion of the criminal sentence;
2237 (B) A program and treatment certificate issued by the Board of Corrections;
2238 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2239 program;
2240 (D) Testimonials and recommendations, which may include a progress report from the
2241 individual's probation or parole officer;
2242 (E) Education and training;
2243 (F) Employment history;
2244 (G) Employment aspirations;
2245 (H) The individual's current family or community responsibilities, or both;
2246 (I) Whether a bond is required to practice the occupation;
2247 (J) Any affidavits or other written documents, including, but not limited to, character
2248 references; and
2249 (K) Any other information regarding rehabilitation the individual submits to the
2250 Commissioner.

2251 33-23-43.12.

- 2252 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2253 petition the Commissioner at any time, including while incarcerated and before starting or
2254 completing any required professional qualifications for licensure, for a predetermination
2255 as to whether the individual's criminal record will disqualify him or her from obtaining a
2256 public adjuster's license.

2257 (b) The petition for predetermination shall include the individual's criminal record or
2258 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2259 also include information submitted by the petitioner concerning the circumstances of their
2260 record and their rehabilitation.

2261 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2262 relationship standard in Code Section 33-23-43.11.

2263 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2264 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2265 all other requirements for the licensure, and the petitioner's submitted criminal record was
2266 correct and remains unchanged at the time of his or her application for a license.

2267 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2268 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2269 accordance with Chapter 2 of this title.

2270 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2271 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2272 petitioner of the following:

2273 (1) The grounds and rationale for the predetermination, including the specific
2274 convictions and the factors in Code Section 33-23-43.11 the Commissioner deemed
2275 directly relevant;

2276 (2) An explanation of the process and right to appeal the Commissioner's
2277 predetermination decision; and

2278 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2279 who receives a predetermination of ineligibility may submit a revised petition reflecting
2280 completion of the remedial actions. The individual may submit a new petition to the
2281 Commissioner not before one year following a final judgment on their initial petition or
2282 upon completing the remedial actions, whichever is earlier."

PART VII**SECTION 7-1.**2283
2284

2285 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
2286 standards and training is amended by adding a new subsection to Code Section 25-4-8,
2287 relating to qualifications of firefighters generally, to read as follows:

2288 "(d) A person who pleaded guilty to a felony offense under the 'Georgia First Offender Act'
2289 and successfully completed the terms of his or her sentence pursuant to Article 3 of Chapter
2290 8 of Title 42 may, at the council's discretion, be certified and employed as a firefighter if
2291 such person otherwise meets the qualifications set forth in this Code section. Such person
2292 shall provide information on the circumstances underlying the plea of guilty, as requested
2293 by the council, to enable the council to make an informed decision on such individual's
2294 qualification status."

PART VIII**SECTION 8-1.**2295
2296

2297 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
2298 Georgia Crime Information Center, is amended in Code Section 35-3-37, relating to review
2299 of individual's criminal history record information, definitions, privacy considerations,
2300 written application requesting review, and inspection, by revising divisions (j)(4)(B)(xvi),
2301 (j)(4)(B)(xvii), and (j)(4)(B)(xviii), subparagraph (j)(4)(C), paragraph (7) of subsection (j),
2302 and subsections (m) and (v) as follows:

2303 "(xvi) Any offense related to minors generally in violation of Part 2 of Article 3 of
2304 Chapter 12 of Title 16; or

2305 ~~(xvii) Theft in violation of Chapter 8 of Title 16; provided, however, that such~~
 2306 ~~prohibition shall not apply to a misdemeanor conviction of shoplifting or refund fraud~~
 2307 ~~in violation of Code Section 16-8-14 or 16-8-14.1, as applicable; or~~

2308 ~~(xviii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.~~

2309 (C) ~~An individual shall be limited to filing a petition under this paragraph to a lifetime~~
 2310 ~~maximum of requesting record restriction on two convictions for a misdemeanor or a~~
 2311 ~~series of misdemeanors arising from a single incident. For the purposes of this~~
 2312 ~~subparagraph, the conviction of two or more offenses charged in separate counts of one~~
 2313 ~~or more accusations consolidated for trial shall be deemed to be one conviction. If a~~
 2314 ~~petition under this subsection has been denied, an individual may file a subsequent~~
 2315 ~~petition on the same conviction for a misdemeanor or series of misdemeanors arising~~
 2316 ~~from a single incident after the expiration of two years from the date of the final order~~
 2317 ~~from the previous petition."~~

2318 "(7) When an individual was convicted in this state of an offense for which that
 2319 individual has been granted a pardon from the State Board of Pardons and Paroles as
 2320 provided in the Constitution and Code Section 42-9-42, provided that the offense was not
 2321 a serious violent felony as such term is defined in Code Section 17-10-6.1 or a sexual
 2322 offense as such term is defined in Code Section 17-10-6.2, and provided, further, that
 2323 such individual has not been convicted of any crime in any jurisdiction, excluding any
 2324 conviction for a nonserious traffic offense, since the pardon was granted, and provided,
 2325 further, that he or she has no pending charged offenses, he or she may petition the court
 2326 in which the conviction occurred to restrict access to criminal history record information.
 2327 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
 2328 Such petition shall be served on the prosecuting attorney. If a hearing is requested, such
 2329 hearing shall be held within 90 days of the filing of the petition. If the court finds that the
 2330 criteria for such petition are met, the court shall grant an order restricting such criminal
 2331 history record information. ~~The court shall hear evidence and shall grant an order~~

2332 ~~restricting such criminal history record information if it determines that the harm~~
2333 ~~otherwise resulting to the individual clearly outweighs the public's interest in the criminal~~
2334 ~~history record information being publicly available."~~

2335 "(m)(1) For criminal history record information maintained by the clerk of court, an
2336 individual who has a record restricted pursuant to Code Section 17-10-21 or this Code
2337 section or an individual who has been cited for a criminal offense but was not arrested
2338 and the charged offense was subsequently dismissed, nolle prossed, or reduced to a
2339 violation of a local ordinance may petition the court with original jurisdiction over the
2340 offenses in the county where the clerk of court is located for an order to seal all criminal
2341 history record information maintained by the clerk of court for such individual's charged
2342 offense. Notice of such petition shall be sent to the clerk of court and the prosecuting
2343 attorney. A notice sent by registered or certified mail or statutory overnight delivery shall
2344 be sufficient notice.

2345 (2) The court shall order all criminal history record information in the custody of the
2346 clerk of court, including within any index, to be restricted and unavailable to the public
2347 if the court finds by a preponderance of the evidence that:

2348 (A) The criminal history record information has been restricted pursuant to this Code
2349 section; and

2350 (B) The harm otherwise resulting to the privacy of the individual clearly outweighs the
2351 public interest in the criminal history record information being publicly available.

2352 (3) Notwithstanding paragraph (2) of this subsection, the court shall order all criminal
2353 history record information in the custody of the clerk of court, including within any
2354 index, to be restricted and unavailable to the public if the criminal history record has been
2355 restricted pursuant to paragraph (7) of subsection (j) of this Code section.

2356 (4) Within 60 days of the court's order, the clerk of court shall cause every document,
2357 physical or electronic, in its custody, possession, or control to be restricted."

- 2358 "(v)(1) Information restricted and sealed pursuant to this Code section shall always be
2359 available for inspection, copying, and use:
- 2360 (A) For the purpose of imposing a sentence under Article 3 of Chapter 8 of Title 42;
 - 2361 (B) By the Judicial Qualifications Commission;
 - 2362 (C) By an attorney representing an accused individual who submits a sworn affidavit
2363 to the clerk of court attesting that such information is relevant to a criminal proceeding;
 - 2364 (D) By a prosecuting attorney or a public defender;
 - 2365 (E) Pursuant to a court order; ~~and~~
 - 2366 (F) By an individual who is the subject of restricted criminal history record information
2367 or sealed court files; and
 - 2368 (G) By criminal justice agencies for law enforcement or criminal investigative
2369 purposes.
- 2370 (2) The confidentiality of such information shall be maintained insofar as practicable."

2371 **PART IX**

2372 **SECTION 9-1.**

2373 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
2374 offenders, is amended in Code Section 42-8-66, relating to petition for exoneration and
2375 discharge, hearing, retroactive grant of first offender status, and no filing fee, by revising
2376 paragraph (1) of subsection (a) and subsection (d) as follows:

2377 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
2378 not informed of his or her eligibility for first offender treatment may, ~~with the consent of~~
2379 ~~the prosecuting attorney~~, petition the court in which he or she was convicted for
2380 exoneration of guilt and discharge pursuant to this article."

2381 "(d) The court may issue an order retroactively granting first offender treatment and
2382 discharge the defendant pursuant to this article if the court finds by a preponderance of the

2383 evidence that the defendant was eligible for sentencing under the terms of this article at the
2384 time he or she was originally sentenced or that he or she qualifies for sentencing under
2385 paragraph (2) of subsection (a) of this Code section and the ends of justice and the welfare
2386 of society are served by granting such petition; provided, however, that no relief pursuant
2387 to this subsection may be given on a conviction that was used as the underlying conviction
2388 for a conviction for violating Code Section 16-11-131 or if the conviction was used to
2389 enhance a sentence pursuant to Code Section 17-10-7."

2390 **PART X**

2391 **SECTION 10-1.**

2392 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
2393 July 1, 2024.

2394 (b) Parts 1 through 7 of this Act shall become effective on January 1, 2025, and shall apply
2395 to all applications for licensure submitted on or after such date.

2396 **SECTION 10-2.**

2397 All laws and parts of laws in conflict with this Act are repealed.