

House Bill 175

By: Representatives Jones of the 25<sup>th</sup>, Erwin of the 32<sup>nd</sup>, Dubnik of the 29<sup>th</sup>, Wilkerson of the 38<sup>th</sup>, and Dempsey of the 13<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1A Title 20 of the Official Code of Georgia Annotated, relating to early  
2 care and learning, so as to revise provisions regarding employee comprehensive background  
3 checks for early care and education programs and Head Start programs; to provide for  
4 definitions; to provide for revocation and nonissuance of licenses and commissions for early  
5 care and education programs; to provide for related matters; to provide for an effective date;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1A Title 20 of the Official Code of Georgia Annotated, relating to early care and  
10 learning, is amended by adding a new paragraph to Code Section 20-1A-2, relating to  
11 definitions, to read as follows:

12 "(8.1) 'Head Start program' means any program authorized under the federal Head Start  
13 Act, 42 U.S.C. Section 9801, et seq."

14 **SECTION 2.**

15 Said chapter is further amended by revising paragraph (1) of Code Section 20-1A-30, relating  
16 to definitions, as follows:

17 "(1) 'Comprehensive records check determination' means a satisfactory or unsatisfactory  
18 determination by the department, based upon a Federal Bureau of Investigation  
19 fingerprint check, ~~a search of the National Crime Information Center's National Sex~~  
20 ~~Offender Registry,~~ criminal history records check, including fingerprint check; a search  
21 of one or more available and appropriate child abuse and sex offender registries,  
22 repositories, or data bases as provided by rules and regulations promulgated by the  
23 department; and a search of the following registries, repositories, or data bases in the state  
24 where the actual or potential employee or director resides and in each state where such  
25 individual resided during the preceding five years: criminal registry or repository, with  
26 the use of fingerprints being required in the state where the individual resides and  
27 optional in other states; state sex offender registry or repository; and state based child  
28 abuse and neglect registry and data base."

29 **SECTION 3.**

30 Said chapter is further amended by revising subsection (a) of Code Section 20-1A-34,  
31 relating to check of fingerprints on national level, satisfactory determination prior to  
32 employment, additional records checks, and retention of fingerprints, as follows:

33 "(a) The department shall receive ~~a records check~~ an application for a comprehensive  
34 records check determination, as may be required by the department and allowed under  
35 federal law, for any ~~individual~~ current or potential director, employee, or other individual  
36 affiliated with any program that receives, either directly or indirectly, federal funds through  
37 the department for the care of children, including, but not limited to, early care and  
38 education programs and Head Start programs ~~that cares for children through a program~~  
39 ~~that receives, either directly or indirectly, federal funds through the department for the care~~

40 ~~of children.~~ Upon receipt of such ~~records check~~ application, the department shall comply  
41 with all rules of GCIC and the Federal Bureau of Investigation for the request and receipt  
42 of ~~national~~ fingerprint based criminal history reports. Such ~~individuals~~ directors,  
43 employees, and other affiliated individuals shall also submit all necessary applications,  
44 fees, and acceptable fingerprints to GCIC in order to determine the applicant's suitability  
45 for child care employment. If no criminal history record is identified at the state level, the  
46 applicant's fingerprints shall be forwarded by Georgia Bureau of Investigation to the  
47 Federal Bureau of Investigation for a national criminal history check. The Georgia Bureau  
48 of Investigation shall forward the results of the state and Federal Bureau of Investigation  
49 checks to the department. ~~Within ten days after receiving fingerprints acceptable to GCIC,~~  
50 ~~the application, and fee, GCIC shall notify the department in writing of any derogatory~~  
51 ~~finding, including, but not limited to, any criminal record, of the state fingerprint records~~  
52 ~~check or if there is no such finding.~~ GCIC shall also conduct a search of Federal Bureau  
53 of Investigation records and fingerprints and notify the department in writing of the results  
54 of such search. Upon receipt of the bureau's report such results from the Georgia Bureau  
55 of Investigation, the department shall ~~make a national fingerprint records check~~  
56 ~~determination~~ determine the applicant's suitability for child care employment. If the  
57 fingerprint records check determination is unsatisfactory for ~~an individual~~ a director,  
58 employee, or other affiliated individual, the department shall notify the provider and the  
59 director, employee, or other affiliated individual of such determination in writing, and no  
60 such ~~individual~~ director, employee, or other affiliated individual shall be allowed to be  
61 present at the facility when any child is present for care or to reside in the facility until he  
62 or she either has obtained a satisfactory comprehensive records check determination or has  
63 had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43,  
64 notwithstanding Code Section 20-1A-45. The department shall cease to issue funds, either  
65 directly or indirectly, to any ~~individual~~ director, employee, or other affiliated individual or

66 program that willfully and continually fails to comply with the requirements of this Code  
67 section."

68 **SECTION 4.**

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

72 "20-1A-39.

73 (a) Before a person may become an employee of any early care and education program  
74 after ~~that early care and education~~ such program has received a license or commission, ~~that~~  
75 ~~early care and education~~ such program shall require ~~that~~ such person to obtain a  
76 comprehensive records check determination that is satisfactory. All potential employees,  
77 excluding students currently enrolled in an early education curriculum through an  
78 accredited school of higher education, may submit evidence, satisfactory to the department,  
79 that the potential employee received a comprehensive records check determination that is  
80 satisfactory and that includes a records check clearance date that is no more than 12 months  
81 old, notwithstanding Code Section 20-1A-45, or that any potential employee whose  
82 comprehensive records check revealed a criminal record of any kind has either  
83 subsequently received a comprehensive records check determination that is satisfactory or  
84 has had the unsatisfactory determination reversed in accordance with Code Section  
85 20-1A-43, notwithstanding Code Section 20-1A-45. A student currently enrolled in an  
86 early education curriculum through an accredited school of higher education may submit  
87 evidence, satisfactory to the department, that the student received a comprehensive records  
88 check determination that is satisfactory and that includes a records check clearance date  
89 that is no more than 24 months old, notwithstanding Code Section 20-1A-45, or that such  
90 student whose comprehensive records check determination revealed a criminal record of  
91 any kind has either subsequently received a comprehensive records check determination

92 that is satisfactory or has had the unsatisfactory determination reversed in accordance with  
93 Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The licensed or  
94 commissioned early care and education program shall maintain documentation in the  
95 employee's personnel file, which is shall be available to the department upon request,  
96 which reflects that a comprehensive records check determination that is satisfactory was  
97 received before the employee is eligible to be present at a facility while children are present  
98 for care or to reside in a facility. If the comprehensive records check determination for any  
99 potential employee reveals a criminal record of any kind, such potential employee shall be  
100 ineligible to be present at a facility while children are present for care or to reside in a  
101 facility until such potential employee has either obtained a comprehensive records check  
102 determination that is satisfactory or has had the unsatisfactory comprehensive records  
103 check determination reversed in accordance with Code Section 20-1A-43, notwithstanding  
104 Code Section 20-1A-45. If the comprehensive records check determination is  
105 unsatisfactory, the licensed or commissioned early care and education program shall, after  
106 receiving notification of such unsatisfactory determination, take such immediate steps as  
107 are necessary so that such person is no longer present at the facility while children are  
108 present for care and no longer resides in the facility. The department shall revoke the  
109 license or commission of an early care and education program if ~~the early care and~~  
110 ~~education~~ such program fails to comply with the requirements of this Code section. The  
111 time frames set forth in this subsection shall not apply when fingerprints have been retained  
112 by the department due to its participation in the program described in subparagraph  
113 (a)(1)(F) of Code Section 35-3-33.

114 (b) ~~Effective January 1, 2019, every~~ Each employee and director of any licensed or  
115 commissioned early care and education program shall undergo additional comprehensive  
116 records check determinations such that the time between such additional comprehensive  
117 records check determinations and that employee's or director's previous comprehensive  
118 records check determination shall not exceed five years except when fingerprints have been

119 retained by the department due to its participation in the program described in  
120 subparagraph (a)(1)(F) of Code Section 35-3-33, notwithstanding Code Section 20-1A-45.  
121 The early care and education program shall maintain documentation in the appropriate  
122 personnel file, which is shall be available to the department immediately upon request,  
123 indicating that such person has obtained such current comprehensive records check  
124 determination that is satisfactory or has had an unsatisfactory comprehensive records check  
125 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code  
126 Section 20-1A-45. The department shall revoke the license or commission of an early care  
127 and education program if ~~the early care and education~~ such program fails to comply with  
128 the requirements of this Code section.

129 (c) A license or commission shall be ~~subject to revocation~~ revoked and the department  
130 ~~may~~ shall refuse to issue a license or commission to an early care and education program  
131 if a director or employee of such program does not undergo the comprehensive records  
132 check determination applicable to ~~that~~ such director or employee and receive acceptable  
133 determinations.

134 (d) After the issuance of a license, commission, or permit, the department may require  
135 additional comprehensive records check determinations on any director or employee of an  
136 early care and education program when the department has reason to believe ~~the~~ that such  
137 director or employee has a criminal record that renders ~~the~~ such director or employee  
138 ineligible to have contact with children in the early care and education program, or during  
139 the course of a child abuse investigation involving ~~the~~ such director or employee.

140 (e) No licensed or commissioned early care and education program may allow any person  
141 to be present at a facility while children are present for care or to reside in a facility as a  
142 director or an employee of such program unless there is on file ~~in the early care and~~  
143 ~~education~~ with such program an employment history and a satisfactory comprehensive  
144 records check determination or proof that an unsatisfactory determination has been  
145 reversed in accordance with Code Section 20-1A-43, notwithstanding Code Section

146 20-1A-45. The department shall revoke the license or commission of any early care and  
147 education program if ~~the early care and education~~ such program fails to comply with the  
148 requirements of this Code section.

149 (f) A license holder, commission holder, permit holder, or director of a licensed,  
150 commissioned, or permitted early care and education program that allows an employee or  
151 director about whom such license holder, commission holder, permit holder, or director  
152 knows or should reasonably know to have a criminal record that renders ~~the~~ such employee  
153 or director ineligible to have contact with children to be present at a facility while children  
154 are present for care or to reside in a facility shall be guilty of a misdemeanor."

155 **SECTION 5.**

156 This Act shall become effective on July 1, 2025.

157 **SECTION 6.**

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