

Senate Bill 207

By: Senators Strickland of the 42nd, Brass of the 6th, Anavitarte of the 31st, Cowsert of the 46th, Kirkpatrick of the 32nd and others

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 to 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 amend Code Section 17-10-21 of the
 28 Official Code of Georgia Annotated, relating to vacating of sentence for trafficking victim
 29 defendants, so as to provide for filing under seal; to provide for related matters; to provide
 30 for effective dates and applicability; to repeal conflicting laws; and for other purposes.

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

32 **PART I**
 33 **SECTION 1-1.**

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

36 "43-1-1.

37 As used in this title, the term:

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

40 (2) 'Covered misdemeanor' means any:

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

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

45 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
 46 Section 43-1-2.

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

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

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

57 **SECTION 1-2.**

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

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

66 (1) Failed to demonstrate the qualifications or standards for a license contained in this
 67 Code section, or under the laws, rules, or regulations under which licensure is sought or
 68 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the

69 board that he or she meets all the requirements for the issuance of a license, and, if the
70 board is not satisfied as to the applicant's qualifications, it may deny a license without a
71 prior hearing; provided, however, that the applicant shall be allowed to appear before the
72 board if he or she so desires;

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

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

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

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

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

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

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

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

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

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

116 Such conduct or practice shall also include any departure from, or the failure to conform
117 to, the minimal reasonable standards of acceptable and prevailing practice of the business
118 or profession licensed under this title;

119 (7) Knowingly performed any act which in any way aids, assists, procures, advises, or
120 encourages any unlicensed person or any licensee whose license has been suspended or
121 revoked by a professional licensing board to practice a business or profession licensed

122 under this title or to practice outside the scope of any disciplinary limitation placed upon
123 the licensee by the board;

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

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

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

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

147 (a.1) A professional licensing board shall have the burden of justifying that it is
148 substantially more likely than not that a criminal record supports an adverse licensing

149 decision. Before the professional licensing board may deny an applicant a license under
 150 subsection (a) of this Code section due to his or her criminal record, such applicant shall
 151 be entitled to a hearing before the professional licensing board in accordance with Chapter
 152 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

153 **SECTION 1-3.**

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

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

166 **SECTION 1-4.**

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

170 "(q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or
 171 any other provision of law, ~~and unless~~ the professional licensing board shall refuse to
 172 grant a license to an individual or shall revoke a license only if a felony or ~~crime~~
 173 ~~involving moral turpitude~~ covered misdemeanor directly relates to the occupation for

174 which the license is sought or held and granting the license would pose a direct and
 175 substantial risk to public safety because the individual has not been rehabilitated to safely
 176 perform the duties and responsibilities of such occupation, after considering the criteria
 177 in paragraph (2) of this subsection. Without finding a direct and substantial risk to public
 178 safety and a direct relationship between the conviction and the licensed occupation, no
 179 professional licensing board shall refuse to grant a license to an applicant therefor or shall
 180 revoke the license of an individual licensed by that board due solely or in part to such
 181 applicant's or licensee's:

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

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

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

188 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
 189 16-13-2;

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

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

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

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

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

228 (xi) Any other information regarding rehabilitation the individual submits to the
229 board.

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

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

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

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

240 (D) A juvenile adjudication;

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

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

246 (i) A criminal sexual act;

247 (ii) Criminal fraud or embezzlement;

248 (iii) Aggravated assault;

249 (iv) Aggravated robbery;

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

251 (vi) Arson;

252 (vii) Carjacking;

253 (viii) Kidnapping; or

254 (ix) Manslaughter, homicide, or murder.

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

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

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

269 (B) For the professional licensing board to deny a license on the basis of the applicant's
270 criminal convictions, the board shall first provide an opportunity for a hearing for such
271 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
272 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
273 written or oral testimony of character witnesses, including, but not limited to, family
274 members, friends, prospective employers, probation or parole officers, and
275 rehabilitation counselors. The professional licensing board shall issue a decision within
276 60 days of the complete submission of the issues for consideration or the hearing,
277 whichever is later.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

379 **SECTION 1-5.**

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

382 "43-1-27.

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

390

SECTION 1-6.

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

394 "43-15-19.

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

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

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

404 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
 405 43-15-22;

406 (4) Conviction of a felony or ~~crime involving moral turpitude~~ covered misdemeanor as
 407 defined in Code Section 43-1-1 in the courts of this state, the United States, or any state

408 or territory of the United States or the conviction of an offense in another jurisdiction
409 which, if committed in this state, would be deemed a felony. 'Conviction' shall include
410 a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal
411 proceeding, ~~regardless of whether the adjudication of guilt or sentence is withheld or not~~
412 ~~entered thereon pursuant to Article 3 of Chapter 8 of Title 42 or any comparable rule or~~
413 ~~statute~~ but shall not include a conviction that has been restricted, sealed, annulled,
414 dismissed, vacated, or pardoned; provided, however, that the board may consider a plea
415 for which an individual is currently serving a sentence pursuant to Article 3 of Chapter
416 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of Code Section
417 16-13-2; or

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

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

425 **SECTION 1-7.**

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

427 "43-15-19.1.

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

433 which the license is sought or held. In determining if a conviction directly relates to the
434 occupation for which the license is sought or held, the board shall consider:

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

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

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

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

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

444 (A) The completion of the criminal sentence;

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

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

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

450 (E) Education and training;

451 (F) Employment history;

452 (G) Employment aspirations;

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

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

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

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

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

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

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

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

468 (4) A juvenile adjudication;

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

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

474 (A) A criminal sexual act;

475 (B) Criminal fraud or embezzlement;

476 (C) Aggravated assault;

477 (D) Aggravated robbery;

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

479 (F) Arson;

480 (G) Carjacking;

481 (H) Kidnapping; or

482 (I) Manslaughter, homicide, or murder.

483 43-15-19.2.

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

489 (b) The petition for predetermination shall include the individual's criminal record or
490 authorize the board to obtain the individual's criminal record. The petitioning individual
491 need not disclose any offenses falling under subsection (b) of Code Section 43-15-19.1.
492 The petition shall also include any information the petitioner chooses to submit concerning
493 the circumstances of his or her record and his or her rehabilitation.

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

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

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

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

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

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

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

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

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

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

534 **PART II**
535 **SECTION 2-1.**

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

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

542 As used in this paragraph, the term:

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

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

547 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
548 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
549 43-1-1 when:

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

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

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

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

562 **SECTION 2-2.**

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

564 "43-3-21.1.

565 (a) Notwithstanding paragraphs (3) and (4) of subsection (a) of Code Section 43-3-21, the
566 board of accountancy shall refuse to grant a license to an individual or shall revoke a
567 license only if a criminal record directly relates to the occupation for which the license is
568 sought or held and granting the license would pose a direct and substantial risk to public
569 safety because the individual has not been rehabilitated to safely perform the duties and
570 responsibilities of the practice of public accountancy. In determining if a criminal record
571 directly relates to the occupation for which the license is sought or held, the board of
572 accountancy shall consider:

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

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

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

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

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

582 (A) The completion of the criminal sentence;

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

- 584 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
585 program;
- 586 (D) Testimonials and recommendations, which may include a progress report from the
587 individual's probation or parole officer;
- 588 (E) Education and training;
- 589 (F) Employment history;
- 590 (G) Employment aspirations;
- 591 (H) The individual's current family or community responsibilities, or both;
- 592 (I) Whether a bond is required to practice the occupation;
- 593 (J) Any affidavits or other written documents, including, but not limited to, character
594 references; and
- 595 (K) Any other information regarding rehabilitation the individual submits to the board.
- 596 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
597 otherwise withhold a license, the accountancy board shall not consider nor require an
598 individual to disclose:
- 599 (1) A deferred adjudication, discharged first offender treatment, completed diversion
600 program, completed conditional discharge, or arrest not followed by a conviction;
- 601 (2) A conviction for which no sentence of incarceration can be imposed;
- 602 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
603 pardoned, provided that the board may consider a plea for which an individual is
604 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
605 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
- 606 (4) A juvenile adjudication;
- 607 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
608 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 609 (6) A conviction older than five years for which the individual was not incarcerated, or
610 a conviction for which the individual's incarceration ended more than five years before
611 the date of the board's consideration, except for a felony conviction related to:
- 612 (A) A criminal sexual act;
 - 613 (B) Criminal fraud or embezzlement;
 - 614 (C) Aggravated assault;
 - 615 (D) Aggravated robbery;
 - 616 (E) Aggravated abuse, neglect, or endangerment of a child;
 - 617 (F) Arson;
 - 618 (G) Carjacking;
 - 619 (H) Kidnapping;
 - 620 (I) Manslaughter, homicide, or murder; or
 - 621 (J) Theft.

622 43-3-21.2.

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

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

633 (c) In considering predetermination petitions, the board shall apply the direct relationship
634 standard in subsection (a) of Code Section 43-3-21.1. The board shall support any adverse

635 predetermination by justifying that it is substantially more likely than not that a criminal
636 record supports an adverse licensing decision.

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

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

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

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

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

661 (2) An explanation of the process and right to appeal the board's predetermination
662 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and
663 (3) Any actions the petitioner may take to remedy the disqualification. An individual
664 who receives a predetermination of ineligibility may submit a revised petition reflecting
665 completion of the remedial actions. The individual may submit a new petition to the
666 board not before one year following a final judgment on his or her initial petition or upon
667 completing the remedial actions, whichever is earlier.
668 (h) The denial of a predetermination petition because of the applicant's criminal record
669 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
670 hearing or civil action reviewing the denial of a predetermination petition, the board shall
671 have the burden of proving that the applicant's criminal record directly relates to the
672 licensed occupation."

673

SECTION 2-3.

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

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

684

SECTION 2-4.

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

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

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

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

701 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 702 ~~granted; or~~ The licensee or applicant is currently serving a sentence pursuant to Article
 703 3 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
 704 Code Section 16-13-2.

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

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

709

SECTION 2-5.

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

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

723

SECTION 2-6.

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

728 "(3) Been convicted of any felony or ~~of any crime involving moral turpitude covered~~
729 misdemeanor as defined in Code Section 43-1-1 in the courts of this state or any other
730 state, territory, or country or in the courts of the United States; as used in this subsection,
731 the term 'felony' shall include any offense which, if committed in this state, would be
732 deemed a felony without regard to its designation elsewhere; and, as used in this
733 subsection, the term 'conviction' shall include a finding or verdict of guilty or a plea of
734 guilty, regardless of whether an appeal of the conviction has been sought. Any licensee

735 who is convicted under the laws of this state, the United States, or any other state,
 736 territory, or country of a felony shall be required to notify the board of conviction within
 737 ten days of the conviction. The failure to notify the board of a conviction shall be
 738 considered grounds for revocation of his or her license;

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

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

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

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

750 **SECTION 2-7.**

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

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

760 practice of dentistry. In determining if a criminal record directly relates to the occupation
761 for which the license is sought or held, the board shall consider:

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

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

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

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

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

771 (A) The completion of the criminal sentence;

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

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

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

777 (E) Education and training;

778 (F) Employment history;

779 (G) Employment aspirations;

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

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

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

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

785 (a.2) In determining whether to terminate and revoke a license, the board shall not consider
786 nor require an individual to disclose:

- 787 (1) A deferred adjudication, discharged first offender adjudication, completed diversion
788 program, completed conditional discharge, or arrest not followed by a conviction;
789 (2) A conviction for which no sentence of incarceration can be imposed;
790 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
791 pardoned, provided that the board may consider a plea for which an individual is
792 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
793 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
794 (4) A juvenile adjudication;
795 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
796 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
797 (6) A conviction older than five years for which the individual was not incarcerated, or
798 a conviction for which the individual's incarceration ended more than five years before
799 the date of the board's consideration, except for a felony conviction related to:
800 (A) A criminal sexual act;
801 (B) Criminal fraud or embezzlement;
802 (C) Aggravated assault;
803 (D) Aggravated robbery;
804 (E) Aggravated abuse, neglect, or endangerment of a child;
805 (F) Arson;
806 (G) Carjacking;
807 (H) Kidnapping; or
808 (I) Manslaughter, homicide, or murder.
809 (a.3)(1) Notwithstanding any other provision of law, an individual with a criminal record
810 may petition the board at any time, including while incarcerated and before starting or
811 completing any required professional qualifications for licensure, for a predetermination
812 as to whether the individual's criminal record will disqualify him or her from obtaining
813 a license.

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

819 (3) In considering predetermination petitions, the board shall apply the direct relationship
820 standard in subsection (a.1) of this Code section and shall not consider any offenses
821 falling under subsection (a.2) of this Code section. The board shall support any adverse
822 predetermination by justifying that it is substantially more likely than not that a criminal
823 record supports an adverse licensing decision.

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

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

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

841 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
842 board shall issue a final decision within 60 days of complete submission of the issue for
843 consideration or the hearing, whichever is later.

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

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

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

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

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

861 **SECTION 2-8.**

862 Said title is further amended by revising Code Section 43-11-71, relating to qualifications of
863 applicants for license and criminal background check, as follows:

864 "43-11-71.

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

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

879 (c) Notwithstanding subsections (a) and (b) of this Code section, the board shall refuse to
880 grant a license to an individual or shall revoke a license only if a criminal record directly
881 relates to the occupation for which the license is sought or held and granting the license
882 would pose a direct and substantial risk to public safety because the individual has not been
883 rehabilitated to safely perform the duties and responsibilities of the practice of a dental
884 hygienist. In determining if a criminal record directly relates to the occupation for which
885 the license is sought or held, the board shall consider:

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

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

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

- 891 (4) All circumstances relative to the offense, including, but not limited to, mitigating
892 circumstances or social conditions surrounding the commission of the offense; and
893 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
894 for which the license is sought or held, including, but not limited to:
- 895 (A) The completion of the criminal sentence;
 - 896 (B) A program and treatment certificate issued by the Board of Corrections;
 - 897 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
898 program;
 - 899 (D) Testimonials and recommendations, which may include a progress report from the
900 individual's probation or parole officer;
 - 901 (E) Education and training;
 - 902 (F) Employment history;
 - 903 (G) Employment aspirations;
 - 904 (H) The individual's current family or community responsibilities, or both;
 - 905 (I) Whether a bond is required to practice the occupation;
 - 906 (J) Any affidavits or other written documents, including, but not limited to, character
907 references; and
 - 908 (K) Any other information regarding rehabilitation the individual submits to the board.
- 909 (d) In determining whether to terminate and revoke a license, the board shall not consider
910 nor require an individual to disclose:
- 911 (1) A deferred adjudication, discharged first offender treatment, completed diversion
912 program, completed conditional discharge, or arrest not followed by a conviction;
 - 913 (2) A conviction for which no sentence of incarceration can be imposed;
 - 914 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
915 pardoned, provided that the board may consider a plea for which an individual is
916 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
917 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

- 918 (4) A juvenile adjudication;
919 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
920 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
921 (6) A conviction older than five years for which the individual was not incarcerated, or
922 a conviction for which the individual's incarceration ended more than five years before
923 the date of the board's consideration, except for a felony conviction related to:
924 (A) A criminal sexual act;
925 (B) Criminal fraud or embezzlement;
926 (C) Aggravated assault;
927 (D) Aggravated robbery;
928 (E) Aggravated abuse, neglect, or endangerment of a child;
929 (F) Arson;
930 (G) Carjacking;
931 (H) Kidnapping; or
932 (I) Manslaughter, homicide, or murder.
- 933 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
934 may petition the board at any time, including while incarcerated and before starting or
935 completing any required professional qualifications for licensure, for a predetermination
936 as to whether the individual's criminal record will disqualify him or her from obtaining
937 a license.
- 938 (2) The petition for predetermination shall include the individual's criminal record or
939 authorize the board to obtain the individual's criminal record. The petitioning individual
940 need not disclose any offenses falling under paragraph (6) of subsection (d) of this Code
941 section. The petition shall also include any information the petitioner chooses to submit
942 concerning the circumstances of his or her record and his or her rehabilitation.
- 943 (3) In considering predetermination petitions, the professional licensing board shall apply
944 the direct relationship standard in subsection (c) of this Code section and shall not

945 consider any offenses falling under paragraph (6) of subsection (d) of this Code section.
946 The board shall support any adverse predetermination by justifying that it is substantially
947 more likely than not that a criminal record supports an adverse licensing decision.

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

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

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

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

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

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

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

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

985 **SECTION 2-9.**

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

989 "43-18-46.

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

- 995 (1) The employment of fraud or deception in applying for a license or registration or in
996 passing the examination provided for in this article;
- 997 (2) Issuance of a license or registration through error;
- 998 ~~(3) Conviction of a crime involving moral turpitude;~~
- 999 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
1000 impersonation of another embalmer, funeral director, or apprentice of a like or different
1001 name;
- 1002 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
1003 training, or experience of any applicant;
- 1004 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;
- 1005 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
1006 business or paying a commission or making gifts, directly or indirectly, for the purpose
1007 of securing business to any physician or hospital, or to any institution where death occurs,
1008 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
1009 home, or other institution where death occurs; or to any coroner or other government
1010 official;
- 1011 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
1012 directing, or cremating;
- 1013 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
1014 preservation when in fact someone else performed such embalming or preparation;
- 1015 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
1016 director having legal charge of a dead human body;
- 1017 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
1018 limited to, false or misleading statements regarding a legal or cemetery requirement,
1019 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 1020 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;

- 1021 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
1022 unless compelled by law to do otherwise;
- 1023 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
1024 body, or within the immediate hearing of the family or relatives of a deceased, whose
1025 body has not yet been interred or otherwise disposed;
- 1026 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
1027 assignee of the deceased within ten working days of receipt of the assigned funds;
- 1028 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
1029 express order of the person lawfully entitled to the custody;
- 1030 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
1031 funeral establishment general price list, the casket price list, the outer burial container list,
1032 or the funeral service contract price list;
- 1033 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 1034 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
1035 certificate plan, or burial membership plan;
- 1036 ~~(20)~~(19) ~~Soliciting, as defined in paragraph (21) of Code Section 43-18-1; Soliciting;~~
1037 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
1038 apprentice;
- 1039 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
1040 or regulation; Occupational Safety and Health Administration law or regulation;
1041 Department of Public Health law or regulation; Environmental Protection Agency law
1042 or regulation; or municipal or county ordinance or regulation that affects the handling,
1043 custody, care, or transportation of dead human bodies, including, but not limited to, the
1044 disposal of equipment, residual fluids, or medical wastes;
- 1045 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
1046 representation in the practice of funeral directing or embalming or in any document
1047 connected therewith;

1048 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
1049 religion, gender, or national origin;

1050 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
1051 remains and failing to dispose of same as directed by a legally authorized person;

1052 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
1053 company or other third party;

1054 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
1055 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
1056 affects the fitness of the licensee or registrant to practice in the funeral business, or is of
1057 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
1058 and that need not have resulted in actual injury to any person or be directly related to the
1059 practice of funeral directing or embalming but shows that the person has committed any
1060 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
1061 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
1062 departure from or failure to conform to the minimal reasonable standards of acceptable
1063 and prevailing practice of funeral services;

1064 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
1065 a coroner or who is both a funeral director and a minister presents that person as a funeral
1066 director to a legally authorized person when death is imminent or after death occurs prior
1067 to when the legally authorized person selects a funeral director or funeral establishment
1068 which will handle the dead human body;

1069 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
1070 or crematory prior to the board's having approved an application for licensure; or

1071 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
1072 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
1073 Code Section 43-18-70."

1074

SECTION 2-10.

1075 Said title is further amended in Code Section 43-24A-9, relating to provisional permits for
1076 massage therapists, by revising subsection (a) as follows:

1077 "(a) A provisional permit to practice as a provisionally permitted massage therapist shall,
1078 upon proper application, be issued for a six-month period to an applicant who meets the
1079 following criteria:

- 1080 (1) Holds and maintains a valid license as a massage therapist in another state;
- 1081 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
1082 defined in Code Section 50-36-2;
- 1083 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
1084 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
- 1085 (4) Has not been convicted of a directly related felony in the courts of this state, any
1086 other state, territory, or country, or in the courts of the United States, including, but not
1087 limited to, a plea of nolo contendere entered to such charge or ~~the affording of first~~
1088 ~~offender treatment to any such charge~~ a plea to such charge for which an individual is
1089 currently serving a first offender sentence in the same manner as provided in ~~paragraph~~
1090 ~~(4) of subsection (a) of subsection (q) of~~ Code Section 43-1-19. For purposes of this
1091 paragraph, the term 'felony' shall have the same meaning a provided in Code Section
1092 43-1-1."

1093

SECTION 2-11.

1094 Said title is further amended in Code Section 43-26-11, relating to denial or revocation of
1095 licenses and other discipline under the "Georgia Registered Professional Nurse Practice Act,"
1096 by revising paragraph (1) as follows:

- 1097 "(1) Been convicted of any directly related felony, ~~crime involving moral turpitude~~
1098 directly related covered misdemeanor, or directly related crime violating a federal or state
1099 law relating to controlled substances or dangerous drugs in the courts of this state, any

1100 other state, territory, or country, or in the courts of the United States, including but not
 1101 limited to a plea of nolo contendere entered to the charge; provided, however, that such
 1102 conviction shall be evaluated as provided by subsection (q) of Code Section 43-1-19; or"

1103 **SECTION 2-12.**

1104 Said title is further amended by revising Code Section 43-26-40, relating to refusal to grant
 1105 license and revocation of registered practical nurses licenses and disciplining of licensees,
 1106 as follows:

1107 "43-26-40.

1108 (a) In addition to the authority granted in Code Section 43-1-19, the board shall have the
 1109 authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or
 1110 to discipline a licensee upon a finding by the board that the applicant or licensee has:

1111 (1) Been convicted of a directly related felony, a crime involving moral turpitude directly
 1112 related covered misdemeanor, or any directly related crime violating a federal or state law
 1113 relating to controlled substances or dangerous drugs or marijuana in the courts of this
 1114 state, any other state, territory, or country, or in the courts of the United States, including,
 1115 but not limited to, a plea of nolo contendere entered to the charge; provided, however,
 1116 that such conviction shall be evaluated as provided by subsection (q) of Code Section
 1117 43-1-19;

1118 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
 1119 licensing authority, had other disciplinary action taken by any lawful licensing authority,
 1120 or was denied a license by any lawful licensing authority;

1121 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
 1122 practice harmful to the public, ~~which conduct or practice~~ that need not have resulted in
 1123 actual injury to any person. As used in this paragraph, the term 'unprofessional conduct'
 1124 includes the improper charting of medication and any departure from, or the failure to
 1125 conform to, the minimal standards of acceptable and prevailing nursing practice;

1126 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
1127 of this state, any other state, the board, the United States, or any other lawful authority,
1128 without regard to whether the violation is criminally punishable, which statute, law, or
1129 rule or regulation relates to or in part regulates the practice of nursing, when the licensee
1130 or applicant knows or should know that such action ~~is violative of~~ violates such law or
1131 rule;

1132 (5) Violated a lawful order of the board previously entered by the board in a disciplinary
1133 hearing; or

1134 (6)~~(A)~~ Displayed an inability to practice nursing as a licensed practical nurse with
1135 reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals,
1136 or any other types of material, or as a result of any mental or physical condition;.

1137 ~~(A)~~(B) In enforcement of this paragraph, the board may, upon reasonable grounds,
1138 require a licensee or applicant to submit to a mental or physical examination by a board
1139 approved health care professional. The expense of such mental or physical examination
1140 shall be borne by the licensee or applicant. The results of such examination shall be
1141 admissible in any hearing before the board, notwithstanding any claim of privilege
1142 under contrary law or rule. Every person who is licensed to practice practical nursing
1143 as a licensed practical nurse in this state, or an applicant for examination, endorsement,
1144 or reinstatement, shall be deemed to have given such person's consent to submit to such
1145 mental or physical examination and to have waived all objections to the admissibility
1146 of the results in any hearing before the board upon the grounds that the same constitutes
1147 a privileged communication. If a licensee or applicant fails to submit to such an
1148 examination when properly directed to do so by the board, unless such failure was due
1149 to circumstances beyond that person's control, the board may enter a final order upon
1150 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
1151 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
1152 an opportunity to demonstrate to the board that such person can resume or begin to

1153 practice practical nursing as a licensed practical nurse with reasonable skill and safety;
1154 and.

1155 ~~(B)~~(C) In enforcement of this paragraph, the board may, upon reasonable grounds,
1156 obtain any and all records relating to the mental or physical condition of a licensee or
1157 applicant, including psychiatric records; such records shall be admissible in any hearing
1158 before the board, notwithstanding any privilege under a contrary rule, law, or statute.
1159 Every person who is licensed in this state or who shall file an application for said
1160 license shall be deemed to have given such person's consent to the board's obtaining
1161 such records and to have waived all objections to the admissibility of such records in
1162 any hearing before the board upon the grounds that the same constitute a privileged
1163 communication.

1164 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
1165 a license by endorsement under Code Section 43-26-38, nor the denial of a request for
1166 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
1167 the minimum requirements shall be considered a contested case within the meaning of
1168 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
1169 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
1170 licensee shall be allowed to appear before the board if he or she so requests.

1171 (c) Notwithstanding any other provision of this Code section, the denial of an initial
1172 license or the denial of a request for reinstatement of a license on the grounds that the
1173 applicant or licensee is disqualified due to a criminal record shall be in accordance with
1174 subsection (a.1) of Code Section 43-1-19."

1175 **SECTION 2-13.**

1176 Said title is further amended in Code Section 43-34-8, relating to the authority of the
1177 Composite Medical Board to refuse license, certificate, or permit medical professionals or
1178 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and

1179 publication of final disciplinary actions, by revising paragraph (3) of and adding a new
1180 paragraph to subsection (a) as follows:

1181 "(3) Been convicted of a felony in the courts of this state or any other state, territory,
1182 country, or of the United States. As used in this paragraph, the term 'conviction of a
1183 felony' shall include a conviction of an offense which if committed in this state would be
1184 deemed a felony under either state or federal law, without regard to its designation
1185 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or
1186 verdict of guilt, ~~a plea of guilty resulting in first offender status, or a plea of nolo~~
1187 ~~contendere in a criminal proceeding, regardless of whether the adjudication of guilt or~~
1188 ~~sentence is withheld or not entered thereon;.~~ Such term shall also include a plea for
1189 which an individual is currently serving a sentence pursuant to Article 3 of Chapter 8 of
1190 Title 42, another state's first offender laws, or subsection (a) or (c) of Code Section
1191 16-13-2;

1192 (3.1) Been convicted of any directly related felony, directly related misdemeanor, or
1193 directly related crime violating a federal or state law relating to controlled substances or
1194 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
1195 courts of the United States, including but not limited to a plea of nolo contendere entered
1196 to the charge; provided, however, that such conviction shall be considered in the manner
1197 prescribed by subsection (q) of Code Section 43-1-19;"

1198 **SECTION 2-14.**

1199 Said title is further amended in Code Section 43-34-8, relating to the authority of the
1200 Composite Medical Board to refuse license, certificate, or permit medical professionals or
1201 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
1202 publication of final disciplinary actions, by adding new subsections to read as follows:

1203 "(a.3) Notwithstanding paragraphs (3), (3.1), (4), and (11) of subsection (a) of this Code
1204 section, the board shall refuse to grant a license to an individual or shall revoke a license

1205 only if a criminal record directly relates to the occupation for which the license is sought
1206 or held and granting the license would pose a direct and substantial risk to public safety
1207 because the individual has not been rehabilitated to safely perform the duties and
1208 responsibilities of the practice of medicine. In determining if a criminal record directly
1209 relates to the occupation for which the license is sought or held, the board shall consider:
1210 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1211 conduct to the duties and responsibilities of the occupation for which the license is sought
1212 or held;
1213 (2) The age of the individual at the time the offense was committed;
1214 (3) The length of time elapsed since the offense was committed;
1215 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1216 circumstances or social conditions surrounding the commission of the offense; and
1217 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1218 for which the license is sought or held, including, but not limited to:
1219 (A) The completion of the criminal sentence;
1220 (B) A program and treatment certificate issued by the Board of Corrections;
1221 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1222 program;
1223 (D) Testimonials and recommendations, which may include a progress report from the
1224 individual's probation or parole officer;
1225 (E) Education and training;
1226 (F) Employment history;
1227 (G) Employment aspirations;
1228 (H) The individual's current family or community responsibilities, or both;
1229 (I) Whether a bond is required to practice the occupation;
1230 (J) Any affidavits or other written documents, including, but not limited to, character
1231 references; and

1232 (K) Any other information regarding rehabilitation the individual submits to the board.
1233 (a.4) In determining whether to terminate and revoke a license, the board shall not consider
1234 nor require an individual to disclose:

- 1235 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1236 program, completed conditional discharge, or arrest not followed by a conviction;
- 1237 (2) A conviction for which no sentence of incarceration can be imposed;
- 1238 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1239 pardoned, provided that the board may consider a plea for which an individual is
1240 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
1241 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
- 1242 (4) A juvenile adjudication;
- 1243 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1244 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1245 (6) A conviction older than five years for which the individual was not incarcerated, or
1246 a conviction for which the individual's incarceration ended more than five years before
1247 the date of the board's consideration, except for a felony conviction related to:

- 1248 (A) A criminal sexual act;
- 1249 (B) Criminal fraud or embezzlement;
- 1250 (C) Aggravated assault;
- 1251 (D) Aggravated robbery;
- 1252 (E) Aggravated abuse, neglect, or endangerment of a child;
- 1253 (F) Arson;
- 1254 (G) Carjacking;
- 1255 (H) Kidnapping; or
- 1256 (I) Manslaughter, homicide, or murder.

1257 (a.5)(1) Notwithstanding any other provision of law, an individual with a criminal record
1258 may petition the board at any time, including while incarcerated and before starting or

1259 completing any required professional qualifications for licensure, for a predetermination
1260 as to whether the individual's criminal record will disqualify him or her from obtaining
1261 a license.

1262 (2) The petition for predetermination shall include the individual's criminal record or
1263 authorize the board to obtain the individual's criminal record. The petitioning individual
1264 need not disclose any offenses falling under paragraph (6) of subsection (a.2) of this Code
1265 section. The petition shall also include any information the petitioner chooses to submit
1266 concerning the circumstances of his or her record and his or her rehabilitation.

1267 (3) In considering predetermination petitions, the board shall apply the direct relationship
1268 standard in subsection (a.1) of this Code section and shall not consider any offenses
1269 falling under paragraph (6) of subsection (a.2) of this Code section. The board shall
1270 support any adverse predetermination by justifying that it is substantially more likely than
1271 not that a criminal record supports an adverse licensing decision.

1272 (4) A predetermination made under this subsection that a petitioner is eligible for a
1273 license shall be binding on the board only if the petitioner applies for licensure and
1274 fulfills all other requirements for the occupational license and the petitioner's submitted
1275 criminal record was correct and remains unchanged at the time of his or her application
1276 for a license.

1277 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1278 from licensure, the board shall notify the petitioner of the potentially disqualifying
1279 convictions. The letter of concern shall advise the petitioner of his or her opportunity to
1280 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

1281 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1282 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1283 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1284 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1285 receipt of the predetermination petition. The individual shall have the opportunity to

1286 include character witnesses at the hearing, including but not limited to family members,
1287 friends, past or prospective employers, probation or parole officers, and rehabilitation
1288 counselors, who may offer their verbal or written support. The board shall not make an
1289 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1290 board shall issue a final decision within 60 days of complete submission of the issue for
1291 consideration or the hearing, whichever is later.

1292 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
1293 board shall notify the petitioner of the following:

1294 (A) The grounds and rationale for the predetermination, including any of the
1295 petitioner's specific convictions and the factors provided for in subsection (a.1) of this
1296 Code section the board deemed directly relevant;

1297 (B) An explanation of the process and right to appeal the board's predetermination
1298 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1299 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1300 who receives a predetermination of ineligibility may submit a revised petition reflecting
1301 completion of the remedial actions. The individual may submit a new petition to the
1302 board not before one year following a final judgment on his or her initial petition or
1303 upon completing the remedial actions, whichever is earlier.

1304 (8) The denial of a predetermination petition because of the applicant's criminal record
1305 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1306 hearing or civil action reviewing the denial of a predetermination petition, the board shall
1307 have the burden of proving that the applicant's criminal record directly relates to the
1308 licensed occupation."

1309

SECTION 2-15.

1310 Said title is further amended in Code Section 43-34-107, relating to termination of approval
1311 and revocation of licenses of physician assistants by the Composite Medical Board, notice
1312 and hearing, and sanctions, by revising subsection (a) as follows:

1313 "(a)(1) The approval of a physician's utilization of a physician assistant may be
1314 terminated and the license revoked by the board when, after due notice and a hearing, in
1315 accordance with this Code section, it shall find that the assistant is incompetent or has
1316 committed unethical or immoral acts, including, but not limited to, holding himself or
1317 herself out or permitting another to represent him or her as a licensed physician;
1318 performing otherwise than at the direction of a physician approved by the board to utilize
1319 the assistant's services; habitually using intoxicants or drugs to such an extent that he or
1320 she is unable safely to perform as an assistant to the physician; or being convicted in any
1321 court, state or federal, of any felony or other ~~criminal offense involving moral turpitude~~
1322 covered misdemeanor.

1323 (2) The board shall recommend action to terminate and revoke a license on the basis of
1324 a criminal record or adjudication only if the criminal record or adjudication directly
1325 relates to the role of a physician assistant. In determining if a criminal record or
1326 adjudication directly relates to the role of a physician assistant, the board shall consider:

1327 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1328 conduct to the duties and responsibilities of the physician assistant;

1329 (B) The age of the individual at the time such crime was committed;

1330 (C) The length of time elapsed since such crime was committed;

1331 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1332 circumstances or social conditions surrounding the commission of the offense; and

1333 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1334 occupation for which the license is sought or held, including, but not limited to:

1335 (i) The completion of the criminal sentence;

- 1336 (ii) A program and treatment certificate issued by the Board of Corrections;
1337 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1338 treatment program;
1339 (iv) Testimonials and recommendations, which may include a progress report from
1340 the individual's probation or parole officer;
1341 (v) Education and training;
1342 (vi) Employment history;
1343 (vii) Employment aspirations;
1344 (viii) The individual's current family or community responsibilities, or both;
1345 (ix) Whether a bond is required to practice the occupation;
1346 (x) Any affidavits or other written documents, including, but not limited to, character
1347 references; and
1348 (xi) Any other information regarding rehabilitation the individual submits to the
1349 board.
- 1350 (3) In determining whether to terminate and revoke a license, the board or investigator
1351 shall not consider nor require an individual to disclose:
- 1352 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1353 program, completed conditional discharge, or arrest not followed by a conviction;
1354 (B) A conviction for which no sentence of incarceration can be imposed;
1355 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1356 pardoned, provided that the board may consider a plea for which an individual is
1357 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1358 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1359 (D) A juvenile adjudication;
1360 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1361 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 1362 (F) A conviction older than five years for which the individual was not incarcerated,
 1363 or a conviction for which the individual's incarceration ended more than five years
 1364 before the date of the board's consideration, except for a felony conviction related to:
- 1365 (i) A criminal sexual act;
 - 1366 (ii) Criminal fraud or embezzlement;
 - 1367 (iii) Aggravated assault;
 - 1368 (iv) Aggravated robbery;
 - 1369 (v) Aggravated abuse, neglect, or endangerment of a child;
 - 1370 (vi) Arson;
 - 1371 (vii) Carjacking;
 - 1372 (viii) Kidnapping; or
 - 1373 (ix) Manslaughter, homicide, or murder."

1374 **SECTION 2-16.**

1375 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
 1376 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
 1377 follows:

1378 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
 1379 investigation of the applicant to be made and such investigation may include a criminal
 1380 background check; provided, however, that the board shall cause a thorough investigation
 1381 of a new applicant to be made, and such investigation shall include a background check.
 1382 If satisfied that the applicant possesses the necessary qualifications, the board shall issue
 1383 a license. However, the board may issue licenses with varying restrictions to such
 1384 persons where the board deems it necessary for the purpose of safeguarding the public
 1385 health, safety, and welfare.

1386 (2) The board shall recommend action to deny licensure on the basis of a criminal
 1387 conviction or adjudication only if the conviction or adjudication directly relates to the

1388 administration of a pain management clinic. In determining if a criminal conviction or
1389 adjudication directly relates to the administration of a pain management clinic, the board
1390 shall consider:

1391 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1392 conduct to the duties and responsibilities of the licensee;

1393 (B) The age of the individual at the time such crime was committed;

1394 (C) The length of time elapsed since such crime was committed;

1395 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1396 circumstances or social conditions surrounding the commission of the offense; and

1397 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1398 occupation for which the license is sought or held, including, but not limited to:

1399 (i) The completion of the criminal sentence;

1400 (ii) A program and treatment certificate issued by the Board of Corrections;

1401 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1402 treatment program;

1403 (iv) Testimonials and recommendations, which may include a progress report from
1404 the individual's probation or parole officer;

1405 (v) Education and training;

1406 (vi) Employment history;

1407 (vii) Employment aspirations;

1408 (viii) The individual's current family or community responsibilities, or both;

1409 (ix) Whether a bond is required to practice the occupation;

1410 (x) Any affidavits or other written documents, including, but not limited to, character
1411 references; and

1412 (xi) Any other information regarding rehabilitation the individual submits to the
1413 board."

1414

SECTION 2-17.

1415 Said title is further amended by revising Code Section 43-34-284, relating to denial,
1416 suspension, and revocation of licenses of pain management clinics by the Composite Medical
1417 Board, as follows:

1418 "43-34-284.

1419 (a) In addition to the authority granted in Code Section 43-34-8, a license obtained
1420 pursuant to this article may be denied, suspended, or revoked by the board upon finding
1421 that the licensee or a physician practicing at a licensed pain management clinic has:

1422 (1) Furnished false or fraudulent material information in any application filed under this
1423 chapter;

1424 (2) Been convicted of a crime under any state or federal law relating to any controlled
1425 substance;

1426 (3) Had his or her federal registration to prescribe, distribute, or dispense controlled
1427 substances suspended or revoked; or

1428 (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title
1429 26.

1430 (b) In determining whether to deny, suspend, or revoke a license based upon a criminal
1431 conviction or adjudication, the board shall consider:

1432 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1433 conduct to the duties and responsibilities of the physician practicing at a licensed pain
1434 management clinic;

1435 (2) The age of the individual at the time such crime was committed;

1436 (3) The length of time elapsed since such crime was committed;

1437 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1438 circumstances or social conditions surrounding the commission of the offense; and

1439 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1440 for which the license is sought or held, including, but not limited to:

- 1441 (A) The completion of the criminal sentence;
 1442 (B) A program treatment certificate issued by the Board of Corrections;
 1443 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
 1444 program;
 1445 (D) Testimonials and recommendations, which may include a progress report from the
 1446 individual's probation or parole officer;
 1447 (E) Education and training;
 1448 (F) Employment history;
 1449 (G) Employment aspirations;
 1450 (H) The individual's current family or community responsibilities, or both;
 1451 (I) Whether a bond is required to practice the occupation;
 1452 (J) Any affidavits or other written documents, including, but not limited to, character
 1453 references; and
 1454 (K) Any other information regarding rehabilitation the individual submits to the board."

1455 **SECTION 2-18.**

1456 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
 1457 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
 1458 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
 1459 subsection (b) as follows:

1460 "(b)(1) As used in this subsection, the term:

- 1461 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
 1462 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
 1463 whether an appeal of the conviction has been brought; a sentencing to first offender
 1464 treatment without an adjudication of guilt pursuant to a charge of a felony or ~~any crime~~
 1465 ~~involving moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
 1466 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor.

1467 (B) 'Felony' means any offense committed:

1468 (i) Within this state and deemed a felony under the laws of this state or under the
1469 laws of the United States; or

1470 (ii) In another state and deemed a felony under the laws of that state or the laws of
1471 the United States.

1472 (1.1) No person who has a directly related conviction shall be eligible to become an
1473 applicant for a license or an approval authorized by this chapter unless such person has
1474 successfully completed all terms and conditions of any sentence imposed for such
1475 conviction, provided that if such individual has multiple convictions, at least five years
1476 shall have passed since the individual satisfied all terms and conditions of any sentence
1477 imposed for the last conviction before making application for licensure or approval; and
1478 provided, further, that if such individual has a single conviction, at least two years shall
1479 have passed since the individual satisfied all terms and conditions of any sentence
1480 imposed for the last conviction before making application for licensure or approval.

1481 (1.2) The board shall recommend disciplinary action or denial of an application for
1482 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1483 adjudication only if the conviction or adjudication directly relates to the role of an
1484 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1485 role of an appraiser, the board shall consider:

1486 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1487 conduct to the duties and responsibilities of the appraiser;

1488 (B) The age of the individual at the time such crime was committed;

1489 (C) The length of time elapsed since such crime was committed;

1490 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1491 circumstances or social conditions surrounding the commission of the offense; and

1492 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1493 occupation for which the license is sought or held, including, but not limited to:

- 1494 (i) The completion of the criminal sentence;
1495 (ii) A program and treatment certificate issued by the Board of Corrections;
1496 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1497 treatment program;
1498 (iv) Testimonials and recommendations, which may include a progress report from
1499 the individual's probation or parole officer;
1500 (v) Education and training;
1501 (vi) Employment history;
1502 (vii) Employment aspirations;
1503 (viii) The individual's current family or community responsibilities, or both;
1504 (ix) Any affidavits or other written documents, including, but not limited to, character
1505 references; and
1506 (x) Any other information regarding rehabilitation the individual submits to the
1507 board.

1508 The board shall have the burden of justifying that it is substantially more likely than not
1509 that a criminal record supports an adverse licensing decision.

1510 (1.3) In determining whether to terminate and revoke a license, the board shall not
1511 consider nor require an individual to disclose:

1512 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1513 program, completed conditional discharge, or arrest not followed by a conviction;

1514 (B) A conviction for which no sentence of incarceration can be imposed;

1515 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1516 pardoned, provided that the board may consider a plea for which an individual is
1517 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1518 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2; or

1519 (D) A juvenile adjudication.

1520 ~~(1.2)~~(1.4) A person who has a directly related conviction in a court of competent
 1521 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1522 licensure or an approval authorized by this chapter only if:

1523 (A) Such person has satisfied all terms and conditions of any conviction such person
 1524 may have had before making application for licensure or approval, provided that if such
 1525 individual has multiple convictions, at least five 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; and provided, further,
 1528 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1529 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1530 individual satisfied all terms and conditions of any sentence imposed for the last
 1531 conviction before making application for licensure or approval;

1532 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1533 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1534 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1535 against the person; and

1536 (C) Such person presents to the commission satisfactory proof that the person now
 1537 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1538 transact the business of a licensee in such a manner as to safeguard the interest of the
 1539 public."

1540 **SECTION 2-19.**

1541 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
 1542 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for
 1543 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
 1544 revising subsection (b) as follows:

1545 "(b)(1) As used in this Code section, the term:

1546 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1547 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
1548 whether an appeal of the conviction has been brought; a sentencing to first offender
1549 treatment without an adjudication of guilt pursuant to a charge of a felony or ~~any crime~~
1550 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
1551 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor.

1552 (B) 'Felony' means any offense committed:

1553 (i) Within this state and deemed a felony under the laws of this state or under the
1554 laws of the United States; or

1555 (ii) In another state and deemed a felony under the laws of that state or the laws of
1556 the United States.

1557 (1.1) No person who has a directly related conviction shall be eligible to become an
1558 applicant for a license or an approval authorized by this chapter unless such person has
1559 successfully completed all terms and conditions of any sentence imposed for such
1560 conviction, provided that if such individual has multiple convictions, at least five years
1561 shall have passed since the individual satisfied all terms and conditions of any sentence
1562 imposed for the last conviction before making application for licensure or approval; and
1563 provided, further, that if such individual has a single conviction, at least two years shall
1564 have passed since the individual satisfied all terms and conditions of any sentence
1565 imposed for the last conviction before making application for licensure or approval.

1566 (1.2) The commission shall recommend disciplinary action or denial of an application
1567 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
1568 or adjudication only if the conviction or adjudication directly relates to the role of the
1569 license sought. In determining if a criminal conviction or adjudication directly relates to
1570 the role of a broker or real estate salesperson, the commission shall consider:

- 1571 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1572 conduct to the duties and responsibilities of the licensee;
- 1573 (B) The age of the individual at the time such crime was committed;
- 1574 (C) The length of time elapsed since such crime was committed;
- 1575 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1576 circumstances or social conditions surrounding the commission of the offense; and
- 1577 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1578 occupation for which the license is sought or held, including, but not limited to:
- 1579 (i) The completion of the criminal sentence;
- 1580 (ii) A program and treatment certificate issued by the Board of Corrections;
- 1581 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1582 treatment program;
- 1583 (iv) Testimonials and recommendations, which may include a progress report from
1584 the individual's probation or parole officer;
- 1585 (v) Education and training;
- 1586 (vi) Employment history;
- 1587 (vii) Employment aspirations;
- 1588 (viii) The individual's current family or community responsibilities, or both;
- 1589 (ix) Any affidavits or other written documents, including, but not limited to, character
1590 references; and
- 1591 (x) Any other information regarding rehabilitation the individual submits to the
1592 commission.
- 1593 The commission shall have the burden of justifying that it is substantially more likely
1594 than not that a conviction supports an adverse licensing decision.
- 1595 (1.3) In determining whether to terminate and revoke a license, the commission shall not
1596 consider nor require an individual to disclose:

1597 (A) A deferred adjudication, discharged first offender treatment, completed diversion
 1598 program, completed conditional discharge, or arrest not followed by a conviction;

1599 (B) A conviction for which no sentence of incarceration can be imposed;

1600 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1601 pardoned, provided that the commission may consider a plea for which an individual
 1602 is currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
 1603 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2; or

1604 (D) A juvenile adjudication.

1605 ~~(1.2)~~(1.4) A person who has a directly related conviction in a court of competent
 1606 jurisdiction of this state or any other state shall be eligible to become an applicant for a
 1607 licensure or an approval authorized by this chapter only if:

1608 (A) Such person has satisfied all terms and conditions of any conviction such person
 1609 may have had before making application for licensure or approval, provided that if such
 1610 individual has multiple convictions, at least five 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; and provided, further,
 1613 that if such individual has been convicted of a single felony or of a ~~single crime of~~
 1614 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
 1615 individual satisfied all terms and conditions of any sentence imposed for the last
 1616 conviction before making application for licensure or approval;

1617 (B) No criminal charges for forgery, embezzlement, obtaining money under false
 1618 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
 1619 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
 1620 against the person; and

1621 (C) Such person presents to the commission satisfactory proof that the person now
 1622 bears a good reputation for honesty, trustworthiness, integrity, and competence to

1623 transact the business of a licensee in such a manner as to safeguard the interest of the
1624 public."

1625 **SECTION 2-20.**

1626 Said title is further amended in Code Section 43-45-9, relating to examination for structural
1627 pest control operator certification by the Structural Pest Control Commission, by revising
1628 subsection (a) as follows:

1629 "(a)(1) All applicants for examination for certification as an operator must have a
1630 knowledge of the practical and scientific facts underlying the practice of structural pest
1631 control, control of wood-destroying organisms, and fumigation and the necessary
1632 knowledge and ability to recognize and control those hazardous conditions which may
1633 affect human life and health. The commission may refuse to examine anyone convicted
1634 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
1635 misdemeanor.

1636 (2) The commission shall refuse to examine an applicant on the basis of a criminal record
1637 only if the criminal record directly relates to the role of an operator. In determining if a
1638 criminal record directly relates to the role of a pest control operator, the commission shall
1639 consider:

1640 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1641 conduct to the duties and responsibilities of the operator;

1642 (B) The age of the individual at the time such crime was committed;

1643 (C) The length of time elapsed since such crime was committed;

1644 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1645 circumstances or social conditions surrounding the commission of the offense; and

1646 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1647 occupation for which the certificate is sought or held, including, but not limited to:

1648 (i) The completion of the criminal sentence;

- 1649 (ii) A program and treatment certificate issued by the Board of Corrections;
1650 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1651 treatment program;
1652 (iv) Testimonials and recommendations, which may include a progress report from
1653 the individual's probation or parole officer;
1654 (v) Education and training;
1655 (vi) Employment history;
1656 (vii) Employment aspirations;
1657 (viii) The individual's current family or community responsibilities, or both;
1658 (ix) Whether a bond is required to practice the occupation;
1659 (x) Any affidavits or other written documents, including, but not limited to, character
1660 references; and
1661 (xi) Any other information regarding rehabilitation the individual submits to the
1662 commission.
- 1663 (3) In determining whether to refuse to examine an applicant, the commission shall not
1664 consider nor require an individual to disclose:
- 1665 (A) A deferred adjudication, discharged first offender treatment, completed diversion
1666 program, completed conditional discharge, or arrest not followed by a conviction;
1667 (B) A conviction for which no sentence of incarceration can be imposed;
1668 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1669 pardoned, provided that the commission may consider a plea for which an individual
1670 is currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
1671 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
1672 (D) A juvenile adjudication;
1673 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1674 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1675 (F) A conviction older than five years for which the individual was not incarcerated,
1676 or a conviction for which the individual's incarceration ended more than five years
1677 before the date of the commission's consideration, except for a felony conviction related
1678 to:

- 1679 (i) A criminal sexual act;
- 1680 (ii) Criminal fraud or embezzlement;
- 1681 (iii) Aggravated assault;
- 1682 (iv) Aggravated robbery;
- 1683 (v) Aggravated abuse, neglect, or endangerment of a child;
- 1684 (vi) Arson;
- 1685 (vii) Carjacking;
- 1686 (viii) Kidnapping; or
- 1687 (ix) Manslaughter, homicide, or murder.

1688 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1689 record may petition the commission at any time, including while incarcerated and
1690 before starting or completing any required professional qualifications for certification,
1691 for a predetermination as to whether the individual's criminal record will disqualify
1692 such individual from obtaining a certification as an operator.

1693 (B) The petition for predetermination shall include the individual's criminal record or
1694 authorize the commission to obtain the individual's criminal record. The petitioning
1695 individual need not disclose any offenses falling under paragraph (3) of this subsection.
1696 The petition shall also include any information the petitioner chooses to submit
1697 concerning the circumstances of his or her record and his or her rehabilitation.

1698 (C) In considering predetermination petitions, the commission shall apply the direct
1699 relationship standard in paragraph (2) of this subsection and shall not consider any
1700 offenses falling under paragraph (3) of this subsection. The commission shall support

1701 any adverse predetermination by justifying that it is substantially more likely than not
1702 that a criminal record supports an adverse certification decision.

1703 (D) A predetermination made under this paragraph that a petitioner is eligible for a
1704 certification shall be binding on the commission only if the petitioner applies for
1705 certification and fulfills all other requirements for operator certification and the
1706 petitioner's submitted criminal record was correct and remains unchanged at the time
1707 of his or her application for certification.

1708 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1709 from certification, the commission shall notify the petitioner of the potentially
1710 disqualifying convictions. The letter of concern shall advise the petitioner of his or her
1711 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1712 hearing, or both.

1713 (F) The commission may predetermine that the petitioner's criminal record is likely
1714 grounds for denial of certification only after the commission has held a hearing on the
1715 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1716 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1717 or by teleconference within 60 days of receipt of the predetermination petition. The
1718 individual shall have the opportunity to include character witnesses at the hearing,
1719 including but not limited to family members, friends, past or prospective employers,
1720 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1721 or written support. The commission shall not make an adverse inference by a
1722 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1723 issue a final decision within 60 days of complete submission of the issue for
1724 consideration or the hearing, whichever is later.

1725 (G) If the commission decides that a predetermination petitioner is ineligible for a
1726 license, the commission shall notify the petitioner of the following:

1727 (i) The grounds and rationale for the predetermination, including any of the
1728 petitioner's specific convictions and the factors provided for in paragraph (2) of this
1729 subsection the commission deemed directly relevant;
1730 (ii) An explanation of the process and right to appeal the commission's
1731 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1732 Procedure Act'; and
1733 (iii) Any actions the petitioner may take to remedy the disqualification. An
1734 individual who receives a predetermination of ineligibility may submit a revised
1735 petition reflecting completion of the remedial actions. The individual may submit a
1736 new petition to the commission not before one year following a final judgment on his
1737 or her initial petition or upon completing the remedial actions, whichever is earlier.
1738 (H) The denial of a predetermination petition because of the applicant's criminal record
1739 shall constitute a contested case as defined in Code Section 50-13-2. In an
1740 administrative hearing or civil action reviewing the denial of a predetermination
1741 petition, the commission shall have the burden of proving that the applicant's criminal
1742 record directly relates to the licensed occupation."

1743

PART III

1744

SECTION 3-1.

1745 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
1746 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
1747 professional standards of teachers and other school personnel, to read as follows:

1748 "(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
1749 whether an appeal of such finding, verdict, or plea has been sought."

1750

SECTION 3-2.

1751 Said title is further is amended by revising Code Section 20-2-984.3, relating to preliminary
 1752 investigation of violations by the Professional Standards Commission, requirement for
 1753 automatic investigation, and investigation of sexual offenses, as follows:

1754 "20-2-984.3.

1755 (a) Upon receipt of a written request from a local board, the state board, or one or more
 1756 individual residents of this state, the commission shall be authorized to investigate:

1757 (1) Alleged violations by an educator of any law of this state pertaining to educators or
 1758 the profession of education;

1759 (2) Alleged violations by an educator of the code of ethics of the commission;

1760 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
 1761 or the commission;

1762 (4) Complaints alleging a failure by an educator to meet or comply with standards of
 1763 performance of the commission or the state board; or

1764 (5) Complaints alleging that an educator has been convicted of any directly related
 1765 felony, of any ~~crime involving moral turpitude~~ directly related covered misdemeanor as
 1766 defined in Code Section 43-1-1, of any other criminal offense involving the manufacture,
 1767 distribution, trafficking, sale, or possession of a controlled substance or marijuana as
 1768 provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in
 1769 Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100
 1770 in the courts of this state or any other state, territory, or country or in the courts of the
 1771 United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or~~
 1772 ~~verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the~~
 1773 ~~conviction has been sought; a situation where first offender treatment without~~
 1774 ~~adjudication of guilt pursuant to the charge was granted; and a situation where an~~
 1775 ~~adjudication of guilt or sentence was otherwise withheld or not entered on the charge or~~
 1776 ~~the charge was otherwise disposed of in a similar manner in any jurisdiction.~~

1777 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1778 to this Code section within 30 days of the request unless an extension is granted pursuant
1779 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1780 may appoint a committee of its membership with the power to transact and carry out the
1781 business and duties of the commission when deciding whether to conduct a preliminary
1782 investigation.

1783 (b.1) In investigating whether to deny, diminish, limit, suspend, revoke, refuse to renew,
1784 or otherwise withhold a certificate, the commission shall not consider nor require an
1785 educator to disclose:

1786 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1787 program, completed conditional discharge, or arrest not followed by a conviction;

1788 (2) A conviction for which no sentence of incarceration can be imposed;

1789 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1790 pardoned, provided that the commission may consider a plea for which an individual is
1791 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
1792 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1793 (4) A juvenile adjudication;

1794 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1795 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1796 (6) A conviction older than five years for which the individual was not incarcerated, or
1797 a conviction for which the individual's incarceration ended more than five years before
1798 the date of the commission's consideration, except for a felony conviction related to:

1799 (A) A criminal sexual act;

1800 (B) Criminal fraud or embezzlement;

1801 (C) Aggravated assault;

1802 (D) Aggravated robbery;

1803 (E) Aggravated abuse, neglect, or endangerment of a child;

1804 (F) Arson;

1805 (G) Carjacking;

1806 (H) Kidnapping; or

1807 (I) Manslaughter, homicide, or murder.

1808 (c) When an educator admits on a Professional Standards Commission application to
 1809 having resigned or being discharged for committing a felony or ~~misdemeanor involving~~
 1810 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
 1811 investigation by law enforcement authorities for such conduct or for committing a breach
 1812 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
 1813 ~~record~~ or having had a surrender, denial, revocation, or suspension of a certificate or being
 1814 the subject of an investigation or adverse action regarding a certificate, an investigation
 1815 will automatically open without notification to the commission and with written
 1816 notification to the educator.

1817 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
 1818 consider nor require an educator to disclose on a Professional Standards Commission
 1819 application:

1820 (1) A deferred adjudication, discharged first offender treatment, completed diversion
 1821 program, completed conditional discharge, or arrest not followed by a conviction;

1822 (2) A conviction for which no sentence of incarceration can be imposed;

1823 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
 1824 pardoned, provided that the commission may consider a plea for which an individual is
 1825 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
 1826 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1827 (4) A juvenile adjudication;

1828 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
 1829 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1830 (6) A conviction older than five years for which the individual was not incarcerated, or
1831 a conviction for which the individual's incarceration ended more than five years before
1832 the date of the commission's consideration, except for a felony conviction related to:

1833 (A) A criminal sexual act;

1834 (B) Criminal fraud or embezzlement;

1835 (C) Aggravated assault;

1836 (D) Aggravated robbery;

1837 (E) Aggravated abuse, neglect, or endangerment of a child;

1838 (F) Arson;

1839 (G) Carjacking;

1840 (H) Kidnapping; or

1841 (I) Manslaughter, homicide, or murder.

1842 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1843 shall be authorized, without notification to the commission, to immediately open an
1844 investigation submitted to the commission by a local school superintendent, with approval
1845 of the local board of education, of a complaint by a student against an educator alleging a
1846 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1847 16-6-20, 16-6-22.2, or 16-12-100.

1848 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1849 may petition the commission at any time, including while incarcerated and before starting
1850 or completing any required professional qualifications for certification, for a
1851 predetermination as to whether the individual's criminal record will disqualify him or her
1852 from obtaining a certificate.

1853 (2) The petition for predetermination shall include the individual's criminal record or
1854 authorize the commission to obtain the individual's criminal record. The petitioning
1855 individual need not disclose any offenses falling under subsection (c.1) of this Code

1856 section. The petition shall also include any information the petitioner chooses to submit
1857 concerning the circumstances of his or her record and his or her rehabilitation.

1858 (3) In considering predetermination petitions, the commission shall apply the direct
1859 relationship standard in subsection (a.1) of Code Section 20-2-984.5 and shall not
1860 consider any offenses falling under subsection (c.1) of this Code section. The
1861 commission shall support any adverse predetermination by justifying that it is
1862 substantially more likely than not that a criminal record supports an adverse certification
1863 decision.

1864 (4) A predetermination made under this subsection that a petitioner is eligible for a
1865 certificate shall be binding on the commission only if the petitioner applies for
1866 certification and fulfills all other requirements for the certificate and the petitioner's
1867 submitted criminal record was correct and remains unchanged at the time of his or her
1868 application for a certificate.

1869 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1870 from certification, the commission shall notify the petitioner of the potentially
1871 disqualifying convictions. The letter of concern shall advise the petitioner of his or her
1872 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1873 hearing, or both.

1874 (6) The commission may predetermine that the petitioner's criminal record is likely
1875 grounds for denial of a license only after the commission has held a hearing on the
1876 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1877 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1878 by teleconference within 60 days of receipt of the predetermination petition. The
1879 individual shall have the opportunity to include character witnesses at the hearing,
1880 including but not limited to family members, friends, past or prospective employers,
1881 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1882 written support. The commission shall not make an adverse inference by a petitioner's

1883 decision to forgo a hearing or character witnesses. The commission shall issue a final
1884 decision within 60 days of complete submission of the issue for consideration or the
1885 hearing, whichever is later.

1886 (7) If the commission decides that a predetermination petitioner is ineligible for a
1887 certificate, the commission shall notify the petitioner of the following:

1888 (A) The grounds and rationale for the predetermination, including any specific
1889 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
1890 commission deemed directly relevant;

1891 (B) An explanation of the process and right to appeal the commission's
1892 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1893 Procedure Act'; and

1894 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1895 who receives a predetermination of ineligibility may submit a revised petition reflecting
1896 completion of the remedial actions. The individual may submit a new petition to the
1897 commission not before one year following a final judgment on his or her initial petition
1898 or upon completing the remedial actions, whichever is earlier.

1899 (8) The denial of a predetermination petition because of the applicant's criminal record
1900 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1901 hearing or civil action reviewing the denial of a predetermination petition, the
1902 commission shall have the burden of proving that the applicant's criminal record directly
1903 relates to the licensed occupation."

1904 **SECTION 3-3.**

1905 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
1906 investigations of educators, disciplinary actions, and hearings by the Professional Standards
1907 Commission, by adding two new subsections to read as follows:

1908 “(a.1) The commission shall recommend disciplinary action on the basis of a criminal
1909 record only if the criminal record directly relates to the role of an educator. In determining
1910 if a criminal record directly relates to the role of an educator, the commission shall
1911 consider:

1912 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1913 conduct to the duties and responsibilities of the educator;

1914 (2) The age of the individual at the time such crime was committed;

1915 (3) The length of time elapsed since such crime was committed;

1916 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1917 circumstances or social conditions surrounding the commission of the offense; and

1918 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1919 for which the certificate is sought or held, including, but not limited to:

1920 (A) The completion of the criminal sentence;

1921 (B) A program and treatment certificate issued by the Board of Corrections;

1922 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1923 program;

1924 (D) Testimonials and recommendations, which may include a progress report from the
1925 individual's probation or parole officer;

1926 (E) Education and training;

1927 (F) Employment history;

1928 (G) Employment aspirations;

1929 (H) The individual's current family or community responsibilities, or both;

1930 (I) Whether a bond is required to practice the occupation;

1931 (J) Any affidavits or other written documents, including, but not limited to, character
1932 references; and

1933 (K) Any other information regarding rehabilitation the individual submits to the
1934 commission.

1935 (a.2) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew,
1936 or otherwise withhold a certificate, the commission or investigator shall not consider nor
1937 require an individual to disclose:

1938 (1) A deferred adjudication, discharged first offender treatment, completed diversion
1939 program, completed conditional discharge, or arrest not followed by a conviction;

1940 (2) A conviction for which no sentence of incarceration can be imposed;

1941 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1942 pardoned, provided that the commission or investigator may consider a plea for which an
1943 individual is currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42,
1944 another state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;

1945 (4) A juvenile adjudication;

1946 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1947 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1948 (6) A conviction older than five years for which the individual was not incarcerated, or
1949 a conviction for which the individual's incarceration ended more than five years before
1950 the date of the commission's consideration, except for a felony conviction related to:

1951 (A) A criminal sexual act;

1952 (B) Criminal fraud or embezzlement;

1953 (C) Aggravated assault;

1954 (D) Aggravated robbery;

1955 (E) Aggravated abuse, neglect, or endangerment of a child;

1956 (F) Arson;

1957 (G) Carjacking;

1958 (H) Kidnapping; or

1959 (I) Manslaughter, homicide, or murder."

1960
1961

PART IV
SECTION 4-1.

1962 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
1963 is amended by revising subsection (a) of Code Section 26-4-41, relating to qualifications for
1964 pharmacist licenses, examination, and internships and other training programs, as follows:

1965 "(a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an
1966 applicant for licensure by examination shall:

1967 (1) Have submitted an application in the form prescribed by the board;

1968 (2) Have attained the age of majority;

1969 ~~(3) Be of good moral character;~~

1970 ~~(4)~~(3) Have graduated and received a professional undergraduate degree from a college
1971 or school of pharmacy as the same may be approved by the board; provided, however,
1972 that, since it would be impractical for the board to evaluate a school or college of
1973 pharmacy located in another country, the board may accept a graduate from such a school
1974 or college so long as the graduate has completed all requirements of the Foreign
1975 Pharmacy Equivalency Certification Program administered by the National Association
1976 of Boards of Pharmacy. This shall include successful completion of all required
1977 examinations and the issuance of the equivalency certificate and be based upon an
1978 individual evaluation by the board of the applicant's educational experience, professional
1979 background, and proficiency in the English language;

1980 ~~(5)~~(4) Have completed an internship or other program that has been approved by the
1981 board or demonstrated to the board's satisfaction that experience in the practice of
1982 pharmacy which meets or exceeds the minimum internship requirements of the board;

1983 ~~(6)~~(5) Have successfully passed an examination or examinations approved by the board;
1984 and

1985 ~~(7)~~(6) Have paid the fees specified by the board for the examination and any related
 1986 materials and have paid for the issuance of the license."

1987 **SECTION 4-2.**

1988 Said title is further amended in Code Section 26-4-60, relating to grounds for suspension,
 1989 revocation or refusal to grant pharmacist licenses, by revising paragraph (3) of subsection (a)
 1990 as follows:

1991 "(3) Except as prohibited in Code Section 26-4-60.1, being ~~Being~~:

1992 (A) Convicted of a felony;

1993 (B) Convicted of any ~~crime involving moral turpitude~~ covered misdemeanor, as
 1994 defined in Code Section 43-1-1, in this state or any other state, territory, or country or
 1995 in the courts of the United States; or

1996 (C) Convicted or guilty of violations of the pharmacy or drug laws of this state, or rules
 1997 and regulations pertaining thereto, or of laws, rules, and regulations of any other state,
 1998 or of the federal government;"

1999 **SECTION 4-3.**

2000 Said title is further amended by adding two new Code sections to read as follows:

2001 "26-4-60.1.

2002 (a) Notwithstanding paragraph (3) of subsection (a) of Code Section 26-4-60, the board
 2003 of pharmacy shall refuse to grant a license to an individual or shall revoke a license only
 2004 if a criminal record directly relates to the occupation for which the license is sought or held
 2005 and granting the license would pose a direct and substantial risk to public safety because
 2006 the individual has not been rehabilitated to safely perform the duties and responsibilities
 2007 of the practice of pharmacy. In determining if a criminal record directly relates to the
 2008 occupation for which the license is sought or held, the board of pharmacy shall consider:

- 2009 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2010 conduct to the duties and responsibilities of the occupation for which the license is sought
2011 or held;
- 2012 (2) The age of the individual at the time the offense was committed;
- 2013 (3) The length of time elapsed since the offense was committed;
- 2014 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2015 circumstances or social conditions surrounding the commission of the offense; and
- 2016 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2017 for which the license is sought or held, including, but not limited to:
- 2018 (A) The completion of the criminal sentence;
- 2019 (B) A program and treatment certificate issued by the Board of Corrections;
- 2020 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2021 program;
- 2022 (D) Testimonials and recommendations, which may include a progress report from the
2023 individual's probation or parole officer;
- 2024 (E) Education and training;
- 2025 (F) Employment history;
- 2026 (G) Employment aspirations;
- 2027 (H) The individual's current family or community responsibilities, or both;
- 2028 (I) Whether a bond is required to practice the occupation;
- 2029 (J) Any affidavits or other written documents, including, but not limited to, character
2030 references; and
- 2031 (K) Any other information regarding rehabilitation the individual submits to the board.
- 2032 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
2033 otherwise withhold a license, the board of pharmacy shall not consider nor require an
2034 individual to disclose:

- 2035 (1) A deferred adjudication, discharged first offender treatment, completed diversion
2036 program, completed conditional discharge, or arrest not followed by a conviction;
2037 (2) A conviction for which no sentence of incarceration can be imposed;
2038 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
2039 pardoned, provided that the board may consider a plea for which an individual is
2040 currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another state's
2041 first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
2042 (4) A juvenile adjudication;
2043 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
2044 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
2045 (6) A conviction older than five years for which the individual was not incarcerated, or
2046 a conviction for which the individual's incarceration ended more than five years before
2047 the date of the board's consideration, except for a felony conviction related to:
2048 (A) A criminal sexual act;
2049 (B) Criminal fraud or embezzlement;
2050 (C) Aggravated assault;
2051 (D) Aggravated robbery;
2052 (E) Aggravated abuse, neglect, or endangerment of a child;
2053 (F) Arson;
2054 (G) Carjacking;
2055 (H) Kidnapping;
2056 (I) Manslaughter, homicide, or murder; or
2057 (J) Distribution, manufacturing, or possession of a controlled substance.

2058 26-4-60.2.

2059 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2060 petition the board of pharmacy at any time, including while incarcerated and before starting

2061 or completing any required professional qualifications for licensure, for a predetermination
2062 as to whether the individual's criminal record will disqualify him or her from obtaining a
2063 license.

2064 (b) The petition for predetermination shall include the individual's criminal record or
2065 authorize the board to obtain the individual's criminal record. The petitioning individual
2066 need not disclose any offenses falling under subsection (b) of Code Section 20-4-60.1. The
2067 petition shall also include any information the petitioner chooses to submit concerning the
2068 circumstances of his or her record and his or her rehabilitation.

2069 (c) In considering predetermination petitions, the board shall apply the direct relationship
2070 standard in subsection (a) of Code Section 26-4-60.1 and shall not consider any offenses
2071 falling under subsection (b) of Code Section 26-4-60.1. The board shall support any
2072 adverse predetermination by justifying that it is substantially more likely than not that a
2073 criminal record supports an adverse licensing decision.

2074 (d) A predetermination made under this Code section that a petitioner is eligible for a
2075 license shall be binding on the board only if the petitioner applies for licensure and fulfills
2076 all other requirements for the licensure and the petitioner's submitted criminal record was
2077 correct and remains unchanged at the time of his or her application for a license.

2078 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2079 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
2080 The letter of concern shall advise the petitioner of his or her opportunity to submit
2081 additional evidence of rehabilitation and mitigation or for a hearing, or both.

2082 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
2083 denial of a license only after the board has held a hearing on the petitioner's eligibility in
2084 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
2085 hearing shall be held in person, by remote video, or by teleconference within 60 days of
2086 receipt of the predetermination petition. The individual shall have the opportunity to
2087 include character witnesses at the hearing, including but not limited to family members,

2088 friends, past or prospective employers, probation or parole officers, and rehabilitation
2089 counselors, who may offer their verbal or written support. The board shall not make an
2090 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
2091 board shall issue a final decision within 60 days of complete submission of the issue for
2092 consideration or the hearing, whichever is later.

2093 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
2094 board shall notify the petitioner of the following:

2095 (1) The grounds and rationale for the predetermination, including the specific
2096 convictions and the factors in subsection (a) of Code Section 26-4-60.1 the board deemed
2097 directly relevant;

2098 (2) An explanation of the process and right to appeal the board's predetermination
2099 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

2100 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2101 who receives a predetermination of ineligibility may submit a revised petition reflecting
2102 completion of the remedial actions. The individual may submit a new petition to the
2103 board not before one year following a final judgment on his or her initial petition or upon
2104 completing the remedial actions, whichever is earlier.

2105 (h) The denial of a predetermination petition because of the applicant's criminal record
2106 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
2107 hearing or civil action reviewing the denial of a predetermination petition, the board shall
2108 have the burden of proving that the applicant's criminal record directly relates to the
2109 licensed occupation."

2110

PART V

2111

SECTION 5-1.

2112 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
 2113 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
 2114 check program, by revising paragraph (5) as follows:

2115 “(5)(A) 'Criminal record' means any of the following:

2116 (i) Conviction of a crime;

2117 (ii) Arrest, charge, and sentencing for a crime when:

2118 (I) A plea of nolo contendere was entered to the crime;

2119 (II) First offender treatment without adjudication of guilt was granted to the crime;

2120 or

2121 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;

2122 or

2123 (iii) Arrest and charges for a crime if the charge is pending, unless the time for
 2124 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

2125 (B) Such term shall not include an owner, applicant, or employee for which at least ten
 2126 years have elapsed from the date of his or her criminal background check since the
 2127 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;
 2128 such term also shall not include an owner, applicant, or employee who has received a
 2129 general pardon from the State Board of Pardons and Paroles for the convictions;
 2130 provided, however, that such ten-year period ~~exemption or and pardon~~ exemption shall
 2131 never apply to any crime identified in subsection (j) of Code Section 42-8-60.”

2132
2133

PART VI
SECTION 6-1.

2134 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
2135 Section 33-23-21, relating to grounds for refusal, suspension, or revocation of insurance
2136 agent licenses, by revising paragraphs (15) and (16) as follows:

2137 “(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted
2138 of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined
2139 in Code Section 43-1-1 in the courts of this state or any other state, territory, or country
2140 or in the courts of the United States; as used in this paragraph and paragraph (16) of this
2141 subsection, the term 'felony' shall include any offense which, if committed in this state,
2142 would be deemed a felony, without regard to its designation elsewhere; and, as used in
2143 this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea
2144 of guilty, regardless of whether an appeal of the conviction has been sought;

2145 (16) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been arrested,
2146 charged, and sentenced for the commission of any directly related felony, or any ~~crime~~
2147 ~~involving moral turpitude~~ directly related covered misdemeanor as defined in Code
2148 Section 43-1-1, where:

2149 (A) First offender treatment without adjudication of guilt pursuant to the charge was
2150 granted; or

2151 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
2152 charge.

2153 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
2154 to probation of first offenders, or other first offender treatment shall be conclusive
2155 evidence of arrest and sentencing for such crime;”

2156 **SECTION 6-2.**

2157 Said title is further amended by adding two new Code sections to read as follows:

2158 "33-23-21.2.

2159 Notwithstanding Code Section 33-23-21, the Commissioner shall refuse to grant a license
2160 to an individual or shall revoke a license on the basis of a criminal record only if said
2161 criminal record directly relates to the occupation for which the license is sought or held and
2162 granting the license would pose a direct and substantial risk to public safety because the
2163 individual has not been rehabilitated to safely perform the duties and responsibilities of a
2164 licensee. In determining if a criminal record directly relates to the occupation for which
2165 the license is sought or held, the Commissioner shall consider:

2166 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2167 conduct to the duties and responsibilities of the occupation for which the license is sought
2168 or held;

2169 (2) The age of the individual at the time the offense was committed;

2170 (3) The length of time elapsed since the offense was committed;

2171 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2172 circumstances or social conditions surrounding the commission of the offense; and

2173 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2174 for which the license is sought or held, including, but not limited to:

2175 (A) The completion of the criminal sentence;

2176 (B) A program and treatment certificate issued by the Board of Corrections;

2177 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2178 program;

2179 (D) Testimonials and recommendations, which may include a progress report from the
2180 individual's probation or parole officer;

2181 (E) Education and training;

2182 (F) Employment history;

- 2183 (G) Employment aspirations;
2184 (H) The individual's current family or community responsibilities, or both;
2185 (I) Whether a bond is required to practice the occupation;
2186 (J) Any affidavits or other written documents, including, but not limited to, character
2187 references; and
2188 (K) Any other information regarding rehabilitation the individual submits to the
2189 Commissioner.

2190 33-23-21.3.

2191 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2192 petition the Commissioner at any time, including while incarcerated and before starting or
2193 completing any required professional qualifications for licensure, for a predetermination
2194 as to whether the individual's criminal record will disqualify him or her from obtaining a
2195 license.

2196 (b) The petition for predetermination shall include the individual's criminal record or
2197 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2198 also include information submitted by the petitioner concerning the circumstances of his
2199 or her record and his or her rehabilitation.

2200 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2201 relationship standard in Code Section 33-23-21.2.

2202 (d) A predetermination made under this Code section that a petitioner is eligible for a
2203 license shall be binding on the Commissioner only if the petitioner applies for licensure and
2204 fulfills all other requirements for the licensure and the petitioner's submitted criminal
2205 record was correct and remains unchanged at the time of his or her application for a license.

2206 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2207 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2208 accordance with Chapter 2 of this title.

2209 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2210 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2211 petitioner of the following:

2212 (1) The grounds and rationale for the predetermination, including the factors in Code
2213 Section 33-23-21.2 the Commissioner deemed directly relevant;

2214 (2) An explanation of the process and right to appeal the Commissioner's
2215 predetermination decision; and

2216 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2217 who receives a predetermination of ineligibility may submit a revised petition reflecting
2218 completion of the remedial actions. The individual may submit a new petition to the
2219 Commissioner not before one year following a final judgment on his or her initial petition
2220 or upon completing the remedial actions, whichever is earlier."

2221 **SECTION 6-3.**

2222 Said title is further amended by adding two new Code sections to read as follows:

2223 "33-23-43.11.

2224 Notwithstanding Code Section 33-23-43.10, the Commissioner shall refuse to grant a
2225 license to an individual or shall revoke a license on the basis of a criminal record only if
2226 said criminal record directly relates to the occupation for which the license is sought or
2227 held and granting the license would pose a direct and substantial risk to public safety
2228 because the individual has not been rehabilitated to safely perform the duties and
2229 responsibilities of a licensee. In determining if a criminal record directly relates to the
2230 occupation for which the license is sought or held, the Commissioner shall consider:

2231 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2232 conduct to the duties and responsibilities of the occupation for which the license is sought
2233 or held;

2234 (2) The age of the individual at the time the offense was committed;

- 2235 (3) The length of time elapsed since the offense was committed;
2236 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2237 circumstances or social conditions surrounding the commission of the offense; and
2238 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2239 for which the license is sought or held, including, but not limited to:
2240 (A) The completion of the criminal sentence;
2241 (B) A program and treatment certificate issued by the Board of Corrections;
2242 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2243 program;
2244 (D) Testimonials and recommendations, which may include a progress report from the
2245 individual's probation or parole officer;
2246 (E) Education and training;
2247 (F) Employment history;
2248 (G) Employment aspirations;
2249 (H) The individual's current family or community responsibilities, or both;
2250 (I) Whether a bond is required to practice the occupation;
2251 (J) Any affidavits or other written documents, including, but not limited to, character
2252 references; and
2253 (K) Any other information regarding rehabilitation the individual submits to the
2254 Commissioner.

2255 33-23-43.12.

- 2256 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2257 petition the Commissioner at any time, including while incarcerated and before starting or
2258 completing any required professional qualifications for licensure, for a predetermination
2259 as to whether the individual's criminal record will disqualify him or her from obtaining a
2260 public adjuster's license.

2261 (b) The petition for predetermination shall include the individual's criminal record or
2262 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2263 also include information submitted by the petitioner concerning the circumstances of his
2264 or her record and his or her rehabilitation.

2265 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2266 relationship standard in Code Section 33-23-43.11.

2267 (d) A predetermination made under this Code section that a petitioner is eligible for a
2268 license shall be binding on the Commissioner only if the petitioner applies for licensure and
2269 fulfills all other requirements for the licensure and the petitioner's submitted criminal
2270 record was correct and remains unchanged at the time of his or her application for a
2271 license.

2272 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2273 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2274 accordance with Chapter 2 of this title.

2275 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2276 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2277 petitioner of the following:

2278 (1) The grounds and rationale for the predetermination, including the specific
2279 convictions and the factors in Code Section 33-23-43.11 the Commissioner deemed
2280 directly relevant;

2281 (2) An explanation of the process and right to appeal the Commissioner's
2282 predetermination decision; and

2283 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2284 who receives a predetermination of ineligibility may submit a revised petition reflecting
2285 completion of the remedial actions. The individual may submit a new petition to the
2286 Commissioner not before one year following a final judgment on his or her initial petition
2287 or upon completing the remedial actions, whichever is earlier."

2288

PART VII

2289

SECTION 7-1.

2290 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
 2291 standards and training, is amended by adding a new subsection to Code Section 25-4-8,
 2292 relating to qualifications of firefighters generally, to read as follows:

2293 "(d) A person who pleaded guilty to a felony offense under Article 3 of Chapter 8 of Title
 2294 42 and successfully completed the terms of his or her sentence pursuant to Article 3 of
 2295 Chapter 8 of Title 42 may, at the council's discretion, be certified and employed as a
 2296 firefighter if such person otherwise meets the qualifications set forth in this Code section.
 2297 Such person shall provide information on the circumstances underlying the plea of guilty,
 2298 as requested by the council, to enable the council to make an informed decision on such
 2299 individual's qualification status."

2300

PART VIII

2301

SECTION 8-1.

2302 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
 2303 Georgia Crime Information Center, is amended in Code Section 35-3-37, relating to review
 2304 of individual's criminal history record information, definitions, privacy considerations,
 2305 written application requesting review, and inspection, by revising paragraph (2) of subsection
 2306 (a), divisions (j)(4)(B)(xvi), (j)(4)(B)(xvii), and (j)(4)(B)(xviii), subparagraphs (j)(4)(C) and
 2307 (j)(6)(E), paragraph (7) of subsection (j), and subsections (m) and (v), and by redesignating
 2308 paragraphs (1) through (3) of subsection (k) as paragraphs (2) through (4), respectively, and
 2309 adding a new paragraph to read as follows:

2310 "(2) 'Entity' means the arresting law enforcement agency, including county and municipal
2311 jails and detention centers, and the Department of Corrections."

2312 "(xvi) Any offense related to minors generally in violation of Part 2 of Article 3 of
2313 Chapter 12 of Title 16; or

2314 ~~(xvii) Theft in violation of Chapter 8 of Title 16; provided, however, that such~~
2315 ~~prohibition shall not apply to a misdemeanor conviction of shoplifting or refund fraud~~
2316 ~~in violation of Code Section 16-8-14 or 16-8-14.1, as applicable; or~~

2317 ~~(xviii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.~~

2318 (C) ~~An individual shall be limited to filing a petition under this paragraph to a lifetime~~
2319 ~~maximum of requesting record restriction on two convictions for a misdemeanor or a~~
2320 ~~series of misdemeanors arising from a single incident. For the purposes of this~~
2321 ~~subparagraph, the conviction of two or more offenses charged in separate counts of one~~
2322 ~~or more accusations consolidated for trial shall be deemed to be one conviction. If a~~
2323 ~~petition under this subsection has been denied, an individual may file a subsequent~~
2324 ~~petition on the same conviction for a misdemeanor or series of misdemeanors arising~~
2325 ~~from a single incident after the expiration of two years from the date of the final order~~
2326 ~~from the previous petition."~~

2327 "(E) When the petition provided for under subparagraph (A) of this paragraph is filed,
2328 it shall be filed under seal. The clerk of court shall accept a defendant's filing under
2329 seal without need of a court order for any petition provided for under subparagraph (A)
2330 of this paragraph. All subsequent filings, motions, hearings, court recordings, court
2331 transcripts, orders, and related court documents related to such petition shall remain
2332 under seal without need for any additional court order."

2333 "(7) When an individual was convicted in this state of an offense for which that
2334 individual has been granted a pardon from the State Board of Pardons and Paroles as
2335 provided in the Constitution and Code Section 42-9-42, provided that the offense was not
2336 a serious violent felony as such term is defined in Code Section 17-10-6.1 or a sexual

2337 offense as such term is defined in Code Section 17-10-6.2, and provided, further, that
2338 such individual has not been convicted of any crime in any jurisdiction, excluding any
2339 conviction for a nonserious traffic offense, since the pardon was granted, and provided,
2340 further, that he or she has no pending charged offenses, he or she may petition the court
2341 in which the conviction occurred to restrict access to criminal history record information.
2342 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
2343 Such petition shall be served on the prosecuting attorney. If a hearing is requested, such
2344 hearing shall be held within 90 days of the filing of the petition. If the court finds that the
2345 criteria for such petition are met, the court shall grant an order restricting such criminal
2346 history record information. The court shall hear evidence and shall grant an order
2347 restricting such criminal history record information if it determines that the harm
2348 otherwise resulting to the individual clearly outweighs the public's interest in the criminal
2349 history record information being publicly available."
2350 "(k)(1) Upon an approved restriction, by order or application, pursuant to this Code
2351 section, the prosecuting attorney of the relevant case shall, within 30 days, restrict access
2352 to all such information maintained by the prosecuting attorney for such individual's
2353 offense that has been restricted."
2354 "(m)(1) For criminal history record information maintained by the clerk of court, an
2355 individual who has a record restricted pursuant to Code Section 17-10-21 or this Code
2356 section or an individual who has been cited for a criminal offense but was not arrested
2357 and the charged offense was subsequently dismissed, nolle prossed, or adjudicated as a
2358 violation of a local ordinance may petition the court with original jurisdiction over the
2359 offenses in the county where the clerk of court is located for an order to seal all criminal
2360 history record information maintained by the clerk of court for such individual's charged
2361 offense. Notice of such petition shall be sent to the clerk of court and the prosecuting
2362 attorney. A notice sent by registered or certified mail or statutory overnight delivery shall
2363 be sufficient notice.

2364 (2) The court shall order all criminal history record information in the custody of the
2365 clerk of court, including within any index, to be restricted and unavailable to the public
2366 if the court finds by a preponderance of the evidence that:

2367 (A) The criminal history record information has been restricted pursuant to this Code
2368 section; and

2369 (B) The harm otherwise resulting to the privacy of the individual clearly outweighs the
2370 public interest in the criminal history record information being publicly available.

2371 (3) Notwithstanding paragraph (2) of this subsection, the court shall order all criminal
2372 history record information in the custody of the clerk of court, including within any
2373 index, to be restricted and unavailable to the public if the criminal history record has been
2374 restricted pursuant to paragraph (7) of subsection (j) of this Code section.

2375 (4) Within 60 days of the court's order, the clerk of court shall cause every document,
2376 physical or electronic, in its custody, possession, or control to be restricted."

2377 "(v)(1) Information restricted and sealed pursuant to this Code section shall always be
2378 available for inspection, copying, and use:

2379 (A) For the purpose of imposing a sentence under Article 3 of Chapter 8 of Title 42;

2380 (B) By the Judicial Qualifications Commission;

2381 (C) By an attorney representing an accused individual who submits a sworn affidavit
2382 to the clerk of court attesting that such information is relevant to a criminal proceeding;

2383 (D) By a prosecuting attorney or a public defender;

2384 (E) Pursuant to a court order; ~~and~~

2385 (F) By an individual who is the subject of restricted criminal history record information
2386 or sealed court files; and

2387 (G) By criminal justice agencies for law enforcement or criminal investigative
2388 purposes.

2389 (2) The confidentiality of such information shall be maintained insofar as practicable."

2390

PART IX

2391

SECTION 9-1.

2392 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
 2393 offenders, is amended in Code Section 42-8-66, relating to petition for exoneration and
 2394 discharge, hearing, retroactive grant of first offender status, and no filing fee, by revising
 2395 paragraph (1) of subsection (a) as follows:

2396 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
 2397 not informed of his or her eligibility for first offender treatment may, ~~with the consent of~~
 2398 ~~the prosecuting attorney,~~ petition the court in which he or she was convicted for
 2399 exoneration of guilt and discharge pursuant to this article."

2400

PART X

2401

SECTION 10-1.

2402 Code Section 17-10-21 of the Official Code of Georgia Annotated, relating to vacating of
 2403 sentence for trafficking victim defendants, is amend by revising subparagraph (a)(2)(C) and
 2404 subsection (b) as follows:

2405 "(C) Shall be submitted with a copy of his or her criminal history background check
 2406 report conducted by the Georgia Crime Information Center that has been completed no
 2407 more than ~~three~~ ten business days prior to the filing of the petition; provided, however,
 2408 that the defendant shall not be charged a fee by the Georgia Crime Information Center
 2409 for a report produced for purposes of this Code section; and"

2410 "(b) When a petition provided for under subsection (a) of this Code section is filed, it shall
 2411 be filed under seal. The clerk of court shall accept defendant's filing under seal without
 2412 need of a court order for any petition provided for under subsection (a) of this Code
 2413 section. All subsequent filings, motions, hearings, court recordings, court transcripts,

2414 orders, and other court documents related to such petition shall remain under seal without
2415 need for any additional court order."

2416 **PART XI**

2417 **SECTION 11-1.**

2418 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
2419 July 1, 2025.

2420 (b) Parts 1 through 7 of this Act shall become effective on January 1, 2026, and shall apply
2421 to all applications for licensure submitted on or after such date.

2422 **SECTION 11-2.**

2423 All laws and parts of laws in conflict with this Act are repealed.