

ADOPTED

Senator Strickland of the 42nd offered the following amendment #1:

1 *Amend the House substitute to SB 207 (LC 59 0181S) by replacing lines 1 through the end*
2 *with the following:*

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

24 criminal justice agencies; to provide for petitions; to provide for criminal history record
25 information restriction for persons granted a pardon for certain offenses; to amend Article
26 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
27 offenders, so as to revise the procedure for petitioning for exoneration and discharge when
28 an individual has qualified for sentencing as a first offender; to provide for exceptions to
29 retroactively granting first offender treatment; to amend Code Section 17-10-21 of the
30 Official Code of Georgia Annotated, relating to vacating of sentence for trafficking victim
31 defendants, so as to provide for filing under seal; to provide for related matters; to provide
32 for effective dates and applicability; to repeal conflicting laws; and for other purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **PART I**
35 **SECTION 1-1.**

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

38 "43-1-1.

39 As used in this title, the term:

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

42 (2) 'Covered misdemeanor' means any:

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

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

47 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
48 Section 43-1-2.

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

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

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

59 **SECTION 1-2.**

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

63 "(a.1) Before the professional licensing board may deny an applicant a license under
64 subsection (a) of this Code section due to his or her criminal record, such applicant shall
65 be entitled to a hearing before the professional licensing board in accordance with
66 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

67 **SECTION 1-3.**

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

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

80

SECTION 1-4.

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

84 "(q)(1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section or
 85 any other provision of law, ~~and unless~~ the professional licensing board shall refuse to
 86 grant a license to an individual or shall revoke a license only if a felony or ~~crime~~
 87 ~~involving moral turpitude~~ covered misdemeanor directly relates to the occupation for
 88 which the license is sought or held, no professional licensing board shall refuse to grant
 89 a license to an applicant therefor or shall revoke the license of an individual licensed by
 90 that board due solely or in part to such applicant's or licensee's:

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

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

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

- 97 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
98 16-13-2;
- 99 (E) Sentence for such offense as a result of a plea of nolo contendere;
- 100 (F) Adjudication of guilt or sentence was otherwise withheld or not entered; or
- 101 (G) Being under supervision by a community supervision officer, as such term is
102 defined in Code Section 42-3-1, for a conviction of any felony or any ~~crime involving~~
103 ~~moral turpitude~~ covered misdemeanor, whether it occurred in the courts of this state or
104 any other state, territory, or country or in the courts of the United States, so long as such
105 individual was not convicted of a felony violation of Chapter 5 of Title 16 nor
106 convicted of a crime requiring registration on the state sexual offender registry.
- 107 (2) In determining if a felony or ~~crime involving moral turpitude~~ covered misdemeanor
108 directly relates to the occupation for which the license is sought or held, the professional
109 licensing board shall consider:
- 110 (A) The nature and seriousness of such felony or ~~crime involving moral turpitude~~
111 covered misdemeanor and the relationship of ~~such felony or crime involving moral~~
112 ~~turpitude~~ the criminal conduct to the duties and responsibilities of the occupation for
113 which the license is sought or held;
- 114 (B) The age of the individual at the time such felony or ~~crime involving moral~~
115 ~~turpitude~~ covered misdemeanor was committed;
- 116 (C) The length of time elapsed since such felony or ~~crime involving moral turpitude~~
117 covered misdemeanor was committed;
- 118 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
119 covered misdemeanor, including, but not limited to, mitigating circumstances or social
120 conditions surrounding the commission of such felony or ~~crime involving moral~~
121 ~~turpitude~~ covered misdemeanor; and
- 122 (E) Evidence of rehabilitation and present fitness to perform the duties of the
123 occupation for which the license is sought or held; including, but not limited to:

- 124 (i) The completion of the criminal sentence;
125 (ii) A program and treatment certificate issued by the Board of Corrections;
126 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
127 treatment program;
128 (iv) Testimonials and recommendations, which may include a progress report from
129 the individual's probation or parole officer;
130 (v) Education and training;
131 (vi) Employment history;
132 (vii) Employment aspirations;
133 (viii) The individual's current family or community responsibilities, or both;
134 (ix) Whether a bond is required to practice the occupation;
135 (x) Any affidavits or other written documents, including, but not limited to, character
136 references; and
137 (xi) Any other information regarding rehabilitation the individual submits to the
138 board.
- 139 (3) Notwithstanding any other provision of law, a professional licensing board shall
140 provide individualized consideration of an individual's criminal record and shall not
141 automatically deny licensure on the basis of the individual's criminal record.
- 142 (4)(A) If an applicant's criminal record includes issues that will or may prevent the
143 board from issuing a license to the applicant, the board shall notify the applicant, in
144 writing, of the specific issues in sufficient time for the applicant to provide additional
145 documentation supporting the application before the board's final decision to deny the
146 application. After receiving notice of any potential issue with licensure due to his or
147 her criminal convictions, an applicant shall have 30 days to respond by correcting any
148 inaccuracy in the criminal record or by submitting additional evidence of mitigation or
149 rehabilitation for the board's consideration, or both.

150 (B) For the professional licensing board to deny a license on the basis of the applicant's
151 criminal convictions, the board shall first provide an opportunity for a hearing for such
152 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
153 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
154 written or oral testimony of character witnesses, including, but not limited to, family
155 members, friends, prospective employers, probation or parole officers, and
156 rehabilitation counselors. The professional licensing board shall issue a decision within
157 60 days of the complete submission of the issues for consideration or the hearing,
158 whichever is later.

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

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

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

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

173 (D) The denial of a license in part or in whole because of the applicant's criminal
174 record shall constitute a contested case as defined in Code Section 50-13-2. In an
175 administrative hearing or civil action reviewing the denial of a license, the professional

176 licensing board shall have the burden of proving that the applicant's criminal record
177 directly relates to the occupation for which the license is sought.

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

183 (B) The petition for predetermination shall include the individual's criminal record or
184 authorize the board to obtain the individual's criminal record. Such petition shall also
185 include any information the petitioner chooses to submit concerning the circumstances
186 of his or her record and his or her rehabilitation.

187 (C) In considering predetermination petitions, the professional licensing board shall
188 apply the direct relationship standard in paragraphs (1) and (2) of this subsection. The
189 board shall support any adverse predetermination by justifying that it is more likely
190 than not that a criminal record supports an adverse licensing decision.

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

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

200 (F) The professional licensing board may predetermine that the petitioner's criminal
201 record is likely grounds for denial of a license only after the board has held a hearing
202 on the petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia

203 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
204 or by teleconference within 60 days of receipt of the predetermination petition. The
205 individual shall have the opportunity to offer written or oral testimony of character
206 witnesses at the hearing, including but not limited to family members, friends, past or
207 prospective employers, probation or parole officers, and rehabilitation counselors. The
208 professional licensing board shall not make an adverse inference by a petitioner's
209 decision to forgo a hearing or character witnesses. The board shall issue a final
210 decision within 60 days of complete submission of the issue for consideration or the
211 hearing, whichever is later.

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

214 (i) The grounds and rationale for the predetermination, including any of the
215 petitioner's specific convictions and the factors in paragraph (2) of this subsection the
216 board deemed directly relevant;

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

220 (iii) Any actions the petitioner may take to remedy the disqualification. An
221 individual who receives a predetermination of ineligibility may submit a revised
222 petition reflecting completion of the remedial actions. The individual may submit a
223 new petition to the board not before one year following a final judgment on his or her
224 initial petition or upon completing the remedial actions, whichever is earlier.

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

230 (6) Each professional licensing board shall include in its application for licensure and on
231 its public website all of the following information:

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

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

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

239 (D) The predetermination petition process, standards, and application, as well as the
240 process for appealing an adverse predetermination pursuant to Chapter 13 of Title 50,
241 the 'Georgia Administrative Procedure Act.'

242 (7) No later than March 31 each year, each occupational licensing board shall file with
243 the Secretary of State an annual report containing information from the previous year as
244 to:

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

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

250 (C) The number of predetermination petitioners and, of that number, the number
251 deemed eligible for a license and the number deemed ineligible for a license."

252 **SECTION 1-5.**

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

255 "43-1-27.

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

263

SECTION 1-6.

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

267 "43-15-19.

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

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

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

277 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
278 43-15-22;

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

281 or territory of the United States or the conviction of an offense in another jurisdiction
282 which, if committed in this state, would be deemed a felony. 'Conviction' shall include
283 a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal
284 proceeding, ~~regardless of whether the adjudication of guilt or sentence is withheld or not~~
285 ~~entered thereon pursuant to Article 3 of Chapter 8 of Title 42 or any comparable rule or~~
286 statute but shall not include a conviction that has been pardoned; or

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

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

294

SECTION 1-7.

295 Said title is further amended by adding a new Code section to read as follows:

296 "43-15-19.1.

297 (a) Notwithstanding any other provision of law, an individual with a criminal record may
298 petition the board at any time, including while incarcerated and before starting or
299 completing any required professional qualifications for licensure, for a predetermination
300 as to whether the individual's criminal record will disqualify him or her from obtaining a
301 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 petition shall also
304 include any information the petitioner chooses to submit concerning the circumstances of
305 his or her record and his or her rehabilitation.

306 (c) The board shall support any adverse predetermination by justifying that it is more likely
307 than not that a criminal record supports an adverse licensing decision.

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

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

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

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

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

332 (2) An explanation of the process and right to appeal the board's predetermination
333 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and
334 (3) Any actions the petitioner may take to remedy the disqualification. An individual
335 who receives a predetermination of ineligibility may submit a revised petition reflecting
336 completion of the remedial actions. The individual may submit a new petition to the
337 board not before one year following a final judgment on his or her initial petition or upon
338 completing the remedial actions, whichever is earlier.

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

344 **PART II**

345 **SECTION 2-1.**

346 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
347 is amended in Chapter 3, relating to accountants, by adding a new Code section to read as
348 follows:

349 "43-3-21.1.

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

355 (b) The petition for predetermination shall include the individual's criminal record or
356 authorize the board to obtain the individual's criminal record. The petition shall also

357 include any information the petitioner chooses to submit concerning the circumstances of
358 his or her record and his or her rehabilitation.

359 (c) The board shall support any adverse predetermination by justifying that it is more
360 likely than not that a criminal record supports an adverse licensing decision.

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

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

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

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

382 (1) The grounds and rationale for the predetermination, including the specific
 383 convictions and the factors in subsection (a) of Code Section 43-3-21.1 the board deemed
 384 directly relevant;
 385 (2) An explanation of the process and right to appeal the board's predetermination
 386 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and
 387 (3) Any actions the petitioner may take to remedy the disqualification. An individual
 388 who receives a predetermination of ineligibility may submit a revised petition reflecting
 389 completion of the remedial actions. The individual may submit a new petition to the
 390 board not before one year following a final judgment on his or her initial petition or upon
 391 completing the remedial actions, whichever is earlier.
 392 (h) The denial of a predetermination petition because of the applicant's criminal record
 393 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 394 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 395 have the burden of proving that the applicant's criminal record directly relates to the
 396 licensed occupation."

397 **SECTION 2-2.**

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

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

408

SECTION 2-3.

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

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

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

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

425 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
426 ~~granted; or~~ The licensee or applicant is currently serving a sentence pursuant to Article
427 3 of Chapter 8 of Title 42, another state's first offender laws, or subsection (a) or (c) of
428 Code Section 16-13-2.

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

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

433

SECTION 2-4.

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

437 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
438 registration under this chapter who has completed successfully a barber or cosmetologist
439 training program operated by the Department of Corrections and who meets the
440 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
441 and practical examinations, the board may issue the appropriate certificate of registration
442 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
443 43-1-19; provided, however, that the board shall not apply the provisions of ~~paragraph (4)~~
444 of subsection (a) of Code Section 43-1-19 to such inmate based solely upon such person's
445 status as an inmate and shall apply such provisions in the same manner as would otherwise
446 be applicable to an applicant who is not an inmate."

447

SECTION 2-5.

448 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
449 revocation of, licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
450 review, investigations, immunity, failure to appear, and voluntary surrender, by adding a new
451 subsection to read as follows:

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

457 (2) The petition for predetermination shall include the individual's criminal record or
458 authorize the board to obtain the individual's criminal record. The petition shall also

459 include any information the petitioner chooses to submit concerning the circumstances
460 of his or her record and his or her rehabilitation.

461 (3) The board shall support any adverse predetermination by justifying that it is more
462 likely than not that a criminal record supports an adverse licensing decision.

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

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

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

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

485 (A) The grounds and rationale for the predetermination, including the specific
486 convictions and the factors in subsection (a) of this Code section the board deemed
487 directly relevant;

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

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

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

500 **SECTION 2-6.**

501 Said title is further amended by adding a new subsection to Code Section 43-11-71, relating
502 to qualifications of applicants for license and criminal background check, to read as follows:

503 "(c)(1) Notwithstanding any other provision of law, an individual with a criminal record
504 may petition the board at any time, including while incarcerated and before starting or
505 completing any required professional qualifications for licensure, for a predetermination
506 as to whether the individual's criminal record will disqualify him or her from obtaining
507 a license.

508 (2) The petition for predetermination shall include the individual's criminal record or
509 authorize the board to obtain the individual's criminal record. The petition shall also

510 include any information the petitioner chooses to submit concerning the circumstances
511 of his or her record and his or her rehabilitation.

512 (3) The board shall support any adverse predetermination by justifying that it is more
513 likely than not that a criminal record supports an adverse licensing decision.

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

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

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

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

536 (A) The grounds and rationale for the predetermination, including the specific
537 convictions and the factors in subsection (a) of this Code section the board deemed
538 directly relevant;

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

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

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

551 **SECTION 2-7.**

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

555 "43-18-46.

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

- 561 (1) The employment of fraud or deception in applying for a license or registration or in
562 passing the examination provided for in this article;
- 563 (2) Issuance of a license or registration through error;
- 564 ~~(3) Conviction of a crime involving moral turpitude;~~
- 565 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
566 impersonation of another embalmer, funeral director, or apprentice of a like or different
567 name;
- 568 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
569 training, or experience of any applicant;
- 570 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;
- 571 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
572 business or paying a commission or making gifts, directly or indirectly, for the purpose
573 of securing business to any physician or hospital, or to any institution where death occurs,
574 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
575 home, or other institution where death occurs; or to any coroner or other government
576 official;
- 577 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
578 directing, or cremating;
- 579 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
580 preservation when in fact someone else performed such embalming or preparation;
- 581 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
582 director having legal charge of a dead human body;
- 583 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
584 limited to, false or misleading statements regarding a legal or cemetery requirement,
585 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 586 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;

- 587 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
588 unless compelled by law to do otherwise;
- 589 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
590 body, or within the immediate hearing of the family or relatives of a deceased, whose
591 body has not yet been interred or otherwise disposed;
- 592 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
593 assignee of the deceased within ten working days of receipt of the assigned funds;
- 594 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
595 express order of the person lawfully entitled to the custody;
- 596 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
597 funeral establishment general price list, the casket price list, the outer burial container list,
598 or the funeral service contract price list;
- 599 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;
- 600 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
601 certificate plan, or burial membership plan;
- 602 ~~(20)~~(19) ~~Soliciting, as defined in paragraph (21) of Code Section 43-18-1; Soliciting;~~
603 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
604 apprentice;
- 605 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
606 or regulation; Occupational Safety and Health Administration law or regulation;
607 Department of Public Health law or regulation; Environmental Protection Agency law
608 or regulation; or municipal or county ordinance or regulation that affects the handling,
609 custody, care, or transportation of dead human bodies, including, but not limited to, the
610 disposal of equipment, residual fluids, or medical wastes;
- 611 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
612 representation in the practice of funeral directing or embalming or in any document
613 connected therewith;

614 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
615 religion, gender, or national origin;

616 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
617 remains and failing to dispose of same as directed by a legally authorized person;

618 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
619 company or other third party;

620 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
621 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
622 affects the fitness of the licensee or registrant to practice in the funeral business, or is of
623 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
624 and that need not have resulted in actual injury to any person or be directly related to the
625 practice of funeral directing or embalming but shows that the person has committed any
626 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
627 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
628 departure from or failure to conform to the minimal reasonable standards of acceptable
629 and prevailing practice of funeral services;

630 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
631 a coroner or who is both a funeral director and a minister presents that person as a funeral
632 director to a legally authorized person when death is imminent or after death occurs prior
633 to when the legally authorized person selects a funeral director or funeral establishment
634 which will handle the dead human body;

635 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
636 or crematory prior to the board's having approved an application for licensure; or

637 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
638 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
639 Code Section 43-18-70."

640

SECTION 2-8.

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

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

- 646 (1) Holds and maintains a valid license as a massage therapist in another state;
- 647 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
648 defined in Code Section 50-36-2;
- 649 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
650 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
- 651 (4) Has not been convicted of a directly related felony in the courts of this state, any
652 other state, territory, or country, or in the courts of the United States, including, but not
653 limited to, a plea of nolo contendere entered to such charge or ~~the affording of first~~
654 ~~offender treatment to any such charge~~ a plea to such charge for which an individual is
655 currently serving a first offender sentence in the same manner as provided in ~~paragraph~~
656 ~~(4) of subsection (a) of subsection (q) of~~ Code Section 43-1-19. For purposes of this
657 paragraph, the term 'felony' shall have the same meaning a provided in Code Section
658 43-1-1."

659

SECTION 2-9.

660 Said title is further amended in Code Section 43-26-40, relating to refusal to grant license and
661 revocation of registered practical nurses and disciplining of licensees, by adding a new
662 subsection to read as follows:

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

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

667 **SECTION 2-10.**

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

672 "(a.3)(1) Notwithstanding any other provision of law, an individual with a criminal
673 record may petition the board at any time, including while incarcerated and before
674 starting or completing any required professional qualifications for licensure, for a
675 predetermination as to whether the individual's criminal record will disqualify him or her
676 from obtaining a license.

677 (2) The petition for predetermination shall include the individual's criminal record or
678 authorize the board to obtain the individual's criminal record. The petition shall also
679 include any information the petitioner chooses to submit concerning the circumstances
680 of his or her record and his or her rehabilitation.

681 (3) The board shall support any adverse predetermination by justifying that it is more
682 likely than not that a criminal record supports an adverse licensing decision.

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

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

690 convictions. The letter of concern shall advise the petitioner of his or her opportunity to
691 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

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

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

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

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

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

715 (8) The denial of a predetermination petition because of the applicant's criminal record
716 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative

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

720

SECTION 2-11.

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

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

726 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
 727 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
 728 whether an appeal of the conviction has been brought; a sentencing to first offender
 729 treatment without an adjudication of guilt pursuant to a charge of a felony or ~~any crime~~
 730 ~~involving moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
 731 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor.

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

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

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

737 (1.1) No person who has a directly related conviction shall be eligible to become an
 738 applicant for a license or an approval authorized by this chapter unless such person has
 739 successfully completed all terms and conditions of any sentence imposed for such
 740 conviction, provided that if such individual has multiple convictions, at least five years
 741 shall have passed since the individual satisfied all terms and conditions of any sentence
 742 imposed for the last conviction before making application for licensure or approval; and

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

746 (1.2) The board shall recommend disciplinary action or denial of an application for
747 licensure or approval authorized by this chapter on the basis of a criminal conviction or
748 adjudication only if the conviction or adjudication directly relates to the role of an
749 appraiser. In determining if a criminal conviction or adjudication directly relates to the
750 role of an appraiser, the board shall consider:

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

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

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

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

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

759 (i) The completion of the criminal sentence;

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

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

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

765 (v) Education and training;

766 (vi) Employment history;

767 (vii) Employment aspirations;

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

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

771 (x) Any other information regarding rehabilitation the individual submits to the
772 board.

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

775 (1.3) In determining whether to terminate and revoke a license, the board shall not
776 consider nor require an individual to disclose:

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

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

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

784 (D) A juvenile adjudication.

785 ~~(1.2)~~(1.4) A person who has a directly related conviction in a court of competent
786 jurisdiction of this state or any other state shall be eligible to become an applicant for a
787 licensure or an approval authorized by this chapter only if:

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

795 individual satisfied all terms and conditions of any sentence imposed for the last
796 conviction before making application for licensure or approval;

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

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

805 (2) Where an applicant for any classification or approval authorized by this chapter has
806 been convicted in a court of competent jurisdiction of this state or any other state of the
807 offense of forgery, embezzlement, obtaining money under false pretenses, theft,
808 extortion, or conspiracy to defraud or other like offense or offenses or has been convicted
809 of a felony, a sexual offense, a probation violation, or a crime involving moral turpitude,
810 such conviction in itself may be a sufficient ground for refusal of a classification or
811 approval. An applicant for any classification or approval authorized by this chapter who
812 has been convicted of any offense enumerated in this paragraph may be issued a
813 classification or approval by the board only if:

814 (A) The time periods identified in paragraph (1.1) of this subsection have passed since
815 the applicant was convicted, sentenced, or released from any incarceration, whichever
816 is later;

817 (B) No criminal charges are pending against the applicant; and

818 (C) The applicant presents to the board satisfactory proof that the applicant now bears
819 a good reputation for honesty, trustworthiness, integrity, and competence to transact
820 real estate appraisal activity in such a manner as to safeguard the interest of the public."

821

SECTION 2-12.

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

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

827 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
828 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
829 whether an appeal of the conviction has been brought; a sentencing to first offender
830 treatment without an adjudication of guilt pursuant to a charge of a felony or ~~any crime~~
831 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
832 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor.

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

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

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

838 (1.1) No person who has a directly related conviction shall be eligible to become an
839 applicant for a license or an approval authorized by this chapter unless such person has
840 successfully completed all terms and conditions of any sentence imposed for such
841 conviction, provided that if such individual has multiple convictions, at least five years
842 shall have passed since the individual satisfied all terms and conditions of any sentence
843 imposed for the last conviction before making application for licensure or approval; and
844 provided, further, that if such individual has a single conviction, at least two years shall
845 have passed since the individual satisfied all terms and conditions of any sentence
846 imposed for the last conviction before making application for licensure or approval.

847 (1.2) The commission shall recommend disciplinary action or denial of an application
848 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
849 or adjudication only if the conviction or adjudication directly relates to the role of the
850 license sought. In determining if a criminal conviction or adjudication directly relates to
851 the role of a broker or real estate salesperson, the commission shall consider:

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

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

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

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

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

860 (i) The completion of the criminal sentence;

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

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

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

866 (v) Education and training;

867 (vi) Employment history;

868 (vii) Employment aspirations;

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

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

872 (x) Any other information regarding rehabilitation the individual submits to the
873 commission.

874 The commission shall have the burden of justifying that it is more likely than not that a
875 conviction supports an adverse licensing decision.

876 (1.3) In determining whether to terminate and revoke a license, the commission shall not
877 consider nor require an individual to disclose:

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

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

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

885 (D) A juvenile adjudication.

886 ~~(1.2)~~(1.4) A person who has a directly related conviction in a court of competent
887 jurisdiction of this state or any other state shall be eligible to become an applicant for a
888 licensure or an approval authorized by this chapter only if:

889 (A) Such person has satisfied all terms and conditions of any conviction such person
890 may have had before making application for licensure or approval, provided that if such
891 individual has multiple convictions, at least five years shall have passed since the
892 individual satisfied all terms and conditions of any sentence imposed for the last
893 conviction before making application for licensure or approval; and provided, further,
894 that if such individual has been convicted of a single felony or of a ~~single crime of~~
895 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
896 individual satisfied all terms and conditions of any sentence imposed for the last
897 conviction before making application for licensure or approval;

898 (B) No criminal charges for forgery, embezzlement, obtaining money under false
899 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation

900 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
901 against the person; and

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

906 (2) Where an applicant for any license or approval authorized by this chapter has been
907 convicted of forgery, embezzlement, obtaining money under false pretenses, theft,
908 extortion, conspiracy to defraud, or other like offense or offenses or has been convicted
909 of a felony, a sexual offense, a probation violation, or a crime involving moral turpitude
910 and has been convicted thereof in a court of competent jurisdiction of this state or any
911 other state such conviction in itself may be sufficient ground for refusal of a license or
912 approval authorized by this chapter. An applicant for licensure as an associate broker or
913 a broker who has been convicted of any offense enumerated in this paragraph may be
914 licensed by the commission as an associate broker or a broker only if:

915 (A) At least ten years have passed since the applicant was convicted, sentenced, or
916 released from any incarceration, whichever is later;

917 (B) No criminal charges are pending against the applicant; and

918 (C) The applicant presents to the commission satisfactory proof that the applicant now
919 bears a good reputation for honesty, trustworthiness, integrity, and competence to
920 transact the business of a licensee in such a manner as to safeguard the interest of the
921 public."

922 **SECTION 2-13.**

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

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

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

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

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

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

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

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

945 (i) The completion of the criminal sentence;

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

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

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

951 (v) Education and training;

952 (vi) Employment history;

- 953 (vii) Employment aspirations;
954 (viii) The individual's current family or community responsibilities, or both;
955 (ix) Whether a bond is required to practice the occupation;
956 (x) Any affidavits or other written documents, including, but not limited to, character
957 references; and
958 (xi) Any other information regarding rehabilitation the individual submits to the
959 commission.
- 960 (3) In determining whether to refuse to examine an applicant, the commission shall not
961 consider nor require an individual to disclose:
- 962 (A) A deferred adjudication, discharged first offender treatment, completed diversion
963 program, completed conditional discharge, or arrest not followed by a conviction;
964 (B) A conviction for which no sentence of incarceration can be imposed;
965 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
966 pardoned, provided that the commission may consider a plea for which an individual
967 is currently serving a sentence pursuant to Article 3 of Chapter 8 of Title 42, another
968 state's first offender laws, or subsection (a) or (c) of Code Section 16-13-2;
969 (D) A juvenile adjudication;
970 (E) A misdemeanor conviction older than five years, unless the offense of conviction
971 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
972 (F) A conviction older than five years for which the individual was not incarcerated,
973 or a conviction for which the individual's incarceration ended more than five years
974 before the date of the commission's consideration, except for a felony conviction related
975 to:
- 976 (i) A criminal sexual act;
977 (ii) Criminal fraud or embezzlement;
978 (iii) Aggravated assault;
979 (iv) Aggravated robbery;

- 980 (v) Aggravated abuse, neglect, or endangerment of a child;
981 (vi) Arson;
982 (vii) Carjacking;
983 (viii) Kidnapping; or
984 (ix) Manslaughter, homicide, or murder.
- 985 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
986 record may petition the commission at any time, including while incarcerated and
987 before starting or completing any required professional qualifications for certification,
988 for a predetermination as to whether the individual's criminal record will disqualify
989 such individual from obtaining a certification as an operator.
- 990 (B) The petition for predetermination shall include the individual's criminal record or
991 authorize the commission to obtain the individual's criminal record. The petitioning
992 individual need not disclose any offenses falling under paragraph (3) of this subsection.
993 The petition shall also include any information the petitioner chooses to submit
994 concerning the circumstances of his or her record and his or her rehabilitation.
- 995 (C) In considering predetermination petitions, the commission shall apply the direct
996 relationship standard in paragraph (2) of this subsection and shall not consider any
997 offenses falling under paragraph (3) of this subsection. The commission shall support
998 any adverse predetermination by justifying that it is more likely than not that a criminal
999 record supports an adverse certification decision.
- 1000 (D) A predetermination made under this paragraph that a petitioner is eligible for a
1001 certification shall be binding on the commission only if the petitioner applies for
1002 certification and fulfills all other requirements for operator certification and the
1003 petitioner's submitted criminal record was correct and remains unchanged at the time
1004 of his or her application for certification.
- 1005 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1006 from certification, the commission shall notify the petitioner of the potentially

1007 disqualifying convictions. The letter of concern shall advise the petitioner of his or her
1008 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1009 hearing, or both.

1010 (F) The commission may predetermine that the petitioner's criminal record is likely
1011 grounds for denial of certification only after the commission has held a hearing on the
1012 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1013 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1014 or by teleconference within 60 days of receipt of the predetermination petition. The
1015 individual shall have the opportunity to include character witnesses at the hearing,
1016 including but not limited to family members, friends, past or prospective employers,
1017 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1018 or written support. The commission shall not make an adverse inference by a
1019 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1020 issue a final decision within 60 days of complete submission of the issue for
1021 consideration or the hearing, whichever is later.

1022 (G) If the commission decides that a predetermination petitioner is ineligible for a
1023 license, the commission shall notify the petitioner of the following:

1024 (i) The grounds and rationale for the predetermination, including any of the
1025 petitioner's specific convictions and the factors provided for in paragraph (2) of this
1026 subsection the commission deemed directly relevant;

1027 (ii) An explanation of the process and right to appeal the commission's
1028 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1029 Procedure Act'; and

1030 (iii) Any actions the petitioner may take to remedy the disqualification. An
1031 individual who receives a predetermination of ineligibility may submit a revised
1032 petition reflecting completion of the remedial actions. The individual may submit a

1033 new petition to the commission not before one year following a final judgment on his
1034 or her initial petition or upon completing the remedial actions, whichever is earlier.
1035 (H) The denial of a predetermination petition because of the applicant's criminal record
1036 shall constitute a contested case as defined in Code Section 50-13-2. In an
1037 administrative hearing or civil action reviewing the denial of a predetermination
1038 petition, the commission shall have the burden of proving that the applicant's criminal
1039 record directly relates to the licensed occupation."

1040 **PART III**
1041 **SECTION 3-1.**

1042 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in
1043 Part 10 of Article 17 of Chapter 2, relating to professional standards, by adding a new
1044 subsection to Code Section 20-2-984.3, relating to preliminary investigation of violations by
1045 the Professional Standards Commission, requirement for automatic investigation, and
1046 investigation of sexual offenses, to read as follows:

1047 "(e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1048 may petition the commission at any time, including while incarcerated and before starting
1049 or completing any required professional qualifications for certification, for a
1050 predetermination as to whether the individual's criminal record will disqualify him or her
1051 from obtaining a certificate.

1052 (2) The petition for predetermination shall include the individual's criminal record or
1053 authorize the commission to obtain the individual's criminal record. The petition shall
1054 also include any information the petitioner chooses to submit concerning the
1055 circumstances of his or her record and his or her rehabilitation.

1056 (3) The commission shall support any adverse predetermination by justifying that it is
1057 more likely than not that a criminal record supports an adverse certification decision.

1058 (4) A predetermination made under this subsection that a petitioner is eligible for a
1059 certificate shall be binding on the commission only if the petitioner applies for
1060 certification and fulfills all other requirements for the certificate and the petitioner's
1061 submitted criminal record was correct and remains unchanged at the time of his or her
1062 application for a certificate.

1063 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1064 from certification, the commission shall notify the petitioner of the potentially
1065 disqualifying convictions. The letter of concern shall advise the petitioner of his or her
1066 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1067 hearing, or both.

1068 (6) The commission may predetermine that the petitioner's criminal record is likely
1069 grounds for denial of a license only after the commission has held a hearing on the
1070 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1071 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1072 by teleconference within 60 days of receipt of the predetermination petition. The
1073 individual shall have the opportunity to include character witnesses at the hearing,
1074 including but not limited to family members, friends, past or prospective employers,
1075 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1076 written support. The commission shall not make an adverse inference by a petitioner's
1077 decision to forgo a hearing or character witnesses. The commission shall issue a final
1078 decision within 60 days of complete submission of the issue for consideration or the
1079 hearing, whichever is later.

1080 (7) If the commission decides that a predetermination petitioner is ineligible for a
1081 certificate, the commission shall notify the petitioner of the following:

1082 (A) The grounds and rationale for the predetermination, including any specific
1083 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
1084 commission deemed directly relevant;

1085 (B) An explanation of the process and right to appeal the commission's
1086 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1087 Procedure Act'; and

1088 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1089 who receives a predetermination of ineligibility may submit a revised petition reflecting
1090 completion of the remedial actions. The individual may submit a new petition to the
1091 commission not before one year following a final judgment on his or her initial petition
1092 or upon completing the remedial actions, whichever is earlier.

1093 (8) The denial of a predetermination petition because of the applicant's criminal record
1094 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
1095 hearing or civil action reviewing the denial of a predetermination petition, the
1096 commission shall have the burden of proving that the applicant's criminal record directly
1097 relates to the licensed occupation."

1098

PART IV

1099

SECTION 4-1.

1100 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
1101 is amended in Article 4 of Chapter 4, relating to discipline relative to pharmacists and
1102 pharmacies, by adding a new Code section to read as follows:

1103 "26-4-60.1.

1104 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1105 petition the board of pharmacy at any time, including while incarcerated and before starting
1106 or completing any required professional qualifications for licensure, for a predetermination
1107 as to whether the individual's criminal record will disqualify him or her from obtaining a
1108 license.

1109 (b) The petition for predetermination shall include the individual's criminal record or
1110 authorize the board to obtain the individual's criminal record. The petition shall also
1111 include any information the petitioner chooses to submit concerning the circumstances of
1112 his or her record and his or her rehabilitation.

1113 (c) The board shall support any adverse predetermination by justifying that it is more
1114 likely than not that a criminal record supports an adverse licensing decision.

1115 (d) A predetermination made under this Code section that a petitioner is eligible for a
1116 license shall be binding on the board only if the petitioner applies for licensure and fulfills
1117 all other requirements for the licensure and the petitioner's submitted criminal record was
1118 correct and remains unchanged at the time of his or her application for a license.

1119 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1120 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
1121 The letter of concern shall advise the petitioner of his or her opportunity to submit
1122 additional evidence of rehabilitation and mitigation or for a hearing, or both.

1123 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
1124 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1125 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1126 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1127 receipt of the predetermination petition. The individual shall have the opportunity to
1128 include character witnesses at the hearing, including but not limited to family members,
1129 friends, past or prospective employers, probation or parole officers, and rehabilitation
1130 counselors, who may offer their verbal or written support. The board shall not make an
1131 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1132 board shall issue a final decision within 60 days of complete submission of the issue for
1133 consideration or the hearing, whichever is later.

1134 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
1135 board shall notify the petitioner of the following:

1136 (1) The grounds and rationale for the predetermination, including the specific
 1137 convictions and the factors in subsection (a) of Code Section 26-4-60 the board deemed
 1138 directly relevant;

1139 (2) An explanation of the process and right to appeal the board's predetermination
 1140 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1141 (3) Any actions the petitioner may take to remedy the disqualification. An individual
 1142 who receives a predetermination of ineligibility may submit a revised petition reflecting
 1143 completion of the remedial actions. The individual may submit a new petition to the
 1144 board not before one year following a final judgment on his or her initial petition or upon
 1145 completing the remedial actions, whichever is earlier.

1146 (h) The denial of a predetermination petition because of the applicant's criminal record
 1147 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1148 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 1149 have the burden of proving that the applicant's criminal record directly relates to the
 1150 licensed occupation."

1151

PART V

1152

SECTION 5-1.

1153 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
 1154 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
 1155 check program, by revising paragraph (5) as follows:

1156 "(5)(A) 'Criminal record' means any of the following:

1157 (i) Conviction of a crime;

1158 (ii) Arrest, charge, and sentencing for a crime when:

1159 (I) A plea of nolo contendere was entered to the crime;

1160 (II) First offender treatment without adjudication of guilt was granted to the crime;
 1161 or
 1162 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;
 1163 or
 1164 (iii) Arrest and charges for a crime if the charge is pending, unless the time for
 1165 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
 1166 (B) Such term shall not include an owner, applicant, or employee for which at least ten
 1167 years have elapsed from the date of his or her criminal background check since the
 1168 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;
 1169 such term also shall not include an owner, applicant, or employee who has received a
 1170 general pardon from the State Board of Pardons and Paroles for the convictions;
 1171 provided, however, that such ten-year period ~~exemption or and pardon~~ exemption shall
 1172 never apply to any crime identified in subsection (j) of Code Section 42-8-60."

1173

PART VI

1174

SECTION 6-1.

1175 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in
 1176 Article 1 of Chapter 23, relating to agents, agencies, subagents, counselors, and adjusters, by
 1177 adding two new Code sections to read as follows:

1178 "33-23-21.2.

1179 (a) Notwithstanding any other provision of law, an individual with a criminal record may
 1180 petition the Commissioner at any time, including while incarcerated and before starting or
 1181 completing any required professional qualifications for licensure, for a predetermination
 1182 as to whether the individual's criminal record will disqualify him or her from obtaining a
 1183 license.

1184 (b) The petition for predetermination shall include the individual's criminal record or
1185 authorize the Commissioner to obtain the individual's criminal record. The petition shall
1186 also include information submitted by the petitioner concerning the circumstances of his
1187 or her record and his or her rehabilitation.

1188 (c) A predetermination made under this Code section that a petitioner is eligible for a
1189 license shall be binding on the Commissioner only if the petitioner applies for licensure and
1190 fulfills all other requirements for the licensure and the petitioner's submitted criminal
1191 record was correct and remains unchanged at the time of his or her application for a license.

1192 (d) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1193 licensure, the Commissioner shall provide notice and opportunity for a hearing in
1194 accordance with Chapter 2 of this title.

1195 (e) If, after notice and the opportunity for a hearing, the Commissioner decides that a
1196 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
1197 petitioner of the following:

1198 (1) The grounds and rationale for the predetermination, including the factors in Code
1199 Section 33-23-21.2 the Commissioner deemed directly relevant;

1200 (2) An explanation of the process and right to appeal the Commissioner's
1201 predetermination decision; and

1202 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1203 who receives a predetermination of ineligibility may submit a revised petition reflecting
1204 completion of the remedial actions. The individual may submit a new petition to the
1205 Commissioner not before one year following a final judgment on his or her initial petition
1206 or upon completing the remedial actions, whichever is earlier."

1207 "33-23-43.11.

1208 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1209 petition the Commissioner at any time, including while incarcerated and before starting or

1210 completing any required professional qualifications for licensure, for a predetermination
1211 as to whether the individual's criminal record will disqualify him or her from obtaining a
1212 public adjuster's license.

1213 (b) The petition for predetermination shall include the individual's criminal record or
1214 authorize the Commissioner to obtain the individual's criminal record. The petition shall
1215 also include information submitted by the petitioner concerning the circumstances of his
1216 or her record and his or her rehabilitation.

1217 (c) A predetermination made under this Code section that a petitioner is eligible for a
1218 license shall be binding on the Commissioner only if the petitioner applies for licensure and
1219 fulfills all other requirements for the licensure and the petitioner's submitted criminal
1220 record was correct and remains unchanged at the time of his or her application for a
1221 license.

1222 (d) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1223 licensure, the Commissioner shall provide notice and opportunity for a hearing in
1224 accordance with Chapter 2 of this title.

1225 (e) If, after notice and the opportunity for a hearing, the Commissioner decides that a
1226 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
1227 petitioner of the following:

1228 (1) The grounds and rationale for the predetermination, including the specific
1229 convictions and the factors in Code Section 33-23-43.11 the Commissioner deemed
1230 directly relevant;

1231 (2) An explanation of the process and right to appeal the Commissioner's
1232 predetermination decision; and

1233 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1234 who receives a predetermination of ineligibility may submit a revised petition reflecting
1235 completion of the remedial actions. The individual may submit a new petition to the

1236 Commissioner not before one year following a final judgment on his or her initial petition
 1237 or upon completing the remedial actions, whichever is earlier."

1238

PART VII

1239

SECTION 7-1.

1240 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
 1241 standards and training, is amended by adding a new subsection to Code Section 25-4-8,
 1242 relating to qualifications of firefighters generally, to read as follows:

1243 "(d) A person who pleaded guilty to a felony offense under Article 3 of Chapter 8 of Title
 1244 42 and successfully completed the terms of his or her sentence pursuant to Article 3 of
 1245 Chapter 8 of Title 42 may, at the council's discretion, be certified and employed as a
 1246 firefighter if such person otherwise meets the qualifications set forth in this Code section.
 1247 Such person shall provide information on the circumstances underlying the plea of guilty,
 1248 as requested by the council, to enable the council to make an informed decision on such
 1249 individual's qualification status."

1250

PART VIII

1251

SECTION 8-1.

1252 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
 1253 Georgia Crime Information Center, is amended in Code Section 35-3-37, relating to review
 1254 of individual's criminal history record information, definitions, privacy considerations,
 1255 written application requesting review, and inspection, by revising paragraph (2) of subsection
 1256 (a), divisions (j)(4)(B)(xvi), (j)(4)(B)(xvii), and (j)(4)(B)(xviii), subparagraphs (j)(4)(C) and
 1257 (j)(6)(E), paragraph (7) of subsection (j), and subsections (m) and (v), and by redesignating

1258 paragraphs (1) through (3) of subsection (k) as paragraphs (2) through (4), respectively, and
1259 adding a new paragraph to read as follows:

1260 "(2) 'Entity' means the arresting law enforcement agency, including county and municipal
1261 jails and detention centers, and the Department of Corrections."

1262 "(xvi) Any offense related to minors generally in violation of Part 2 of Article 3 of
1263 Chapter 12 of Title 16; or

1264 ~~(xvii) Theft in violation of Chapter 8 of Title 16, provided, however, that such~~
1265 ~~prohibition shall not apply to a misdemeanor conviction of shoplifting or refund fraud~~
1266 ~~in violation of Code Section 16-8-14 or 16-8-14.1, as applicable; or~~

1267 ~~(xviii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.~~

1268 (C) ~~An individual shall be limited to filing a petition under this paragraph to a lifetime~~
1269 ~~maximum of requesting record restriction on two convictions for a misdemeanor or a~~
1270 ~~series of misdemeanors arising from a single incident. For the purposes of this~~
1271 ~~subparagraph, the conviction of two or more offenses charged in separate counts of one~~
1272 ~~or more accusations consolidated for trial shall be deemed to be one conviction. If a~~
1273 ~~petition under this subsection has been denied, an individual may file a subsequent~~
1274 ~~petition on the same conviction for a misdemeanor or series of misdemeanors arising~~
1275 ~~from a single incident after the expiration of two years from the date of the final order~~
1276 ~~from the previous petition."~~

1277 "(E) When the petition provided for under subparagraph (A) of this paragraph is filed,
1278 it shall be filed under seal. The clerk of court shall accept a defendant's filing under
1279 seal without need of a court order for any petition provided for under subparagraph (A)
1280 of this paragraph. All subsequent filings, motions, hearings, court recordings, court
1281 transcripts, orders, and related court documents related to such petition shall remain
1282 under seal without need for any additional court order."

1283 "(7) When an individual was convicted in this state of an offense for which that
1284 individual has been granted a pardon from the State Board of Pardons and Paroles as

1285 provided in the Constitution and Code Section 42-9-42, provided that the offense was not
1286 a serious violent felony as such term is defined in Code Section 17-10-6.1 or a sexual
1287 offense as such term is defined in Code Section 17-10-6.2, and provided, further, that
1288 such individual has not been convicted of any crime in any jurisdiction, excluding any
1289 conviction for a nonserious traffic offense, since the pardon was granted, and provided,
1290 further, that he or she has no pending charged offenses, he or she may petition the court
1291 in which the conviction occurred to restrict access to criminal history record information.
1292 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
1293 Such petition shall be served on the prosecuting attorney. If a hearing is requested, such
1294 hearing shall be held within 90 days of the filing of the petition. If the court finds that the
1295 criteria for such petition are met, the court shall grant an order restricting such criminal
1296 history record information. ~~The court shall hear evidence and shall grant an order~~
1297 ~~restricting such criminal history record information if it determines that the harm~~
1298 ~~otherwise resulting to the individual clearly outweighs the public's interest in the criminal~~
1299 ~~history record information being publicly available."~~
1300 "(k)(1) Upon an approved restriction, by order or application, pursuant to this Code
1301 section, the prosecuting attorney of the relevant case shall, within 30 days, restrict access
1302 to all such information maintained by the prosecuting attorney for such individual's
1303 offense that has been restricted."
1304 "(m)(1) For criminal history record information maintained by the clerk of court, an
1305 individual who has a record restricted pursuant to Code Section 17-10-21 or this Code
1306 section or an individual who has been cited for a criminal offense but was not arrested
1307 and the charged offense was subsequently dismissed, nolle prossed, or adjudicated as a
1308 violation of a local ordinance may petition the court with original jurisdiction over the
1309 offenses in the county where the clerk of court is located for an order to seal all criminal
1310 history record information maintained by the clerk of court for such individual's charged
1311 offense. Notice of such petition shall be sent to the clerk of court and the prosecuting

1312 attorney. A notice sent by registered or certified mail or statutory overnight delivery shall
1313 be sufficient notice.

1314 (2) The court shall order all criminal history record information in the custody of the
1315 clerk of court, including within any index, to be restricted and unavailable to the public
1316 if the court finds by a preponderance of the evidence that:

1317 (A) The criminal history record information has been restricted pursuant to this Code
1318 section; and

1319 (B) The harm otherwise resulting to the privacy of the individual clearly outweighs the
1320 public interest in the criminal history record information being publicly available.

1321 (3) Notwithstanding paragraph (2) of this subsection, the court shall order all criminal
1322 history record information in the custody of the clerk of court, including within any
1323 index, to be restricted and unavailable to the public if the criminal history record has been
1324 restricted pursuant to paragraph (7) of subsection (j) of this Code section.

1325 (4) Within 60 days of the court's order, the clerk of court shall cause every document,
1326 physical or electronic, in its custody, possession, or control to be restricted."

1327 "(v)(1) Information restricted and sealed pursuant to this Code section shall always be
1328 available for inspection, copying, and use:

1329 (A) For the purpose of imposing a sentence under Article 3 of Chapter 8 of Title 42;

1330 (B) By the Judicial Qualifications Commission;

1331 (C) By an attorney representing an accused individual who submits a sworn affidavit
1332 to the clerk of court attesting that such information is relevant to a criminal proceeding;

1333 (D) By a prosecuting attorney or a public defender;

1334 (E) Pursuant to a court order; ~~and~~

1335 (F) By an individual who is the subject of restricted criminal history record information
1336 or sealed court files; and

1337 (G) By criminal justice agencies for law enforcement or criminal investigative
1338 purposes.

1339 (2) The confidentiality of such information shall be maintained insofar as practicable."

1340

PART IX

1341

SECTION 9-1.

1342 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
1343 offenders, is amended in Code Section 42-8-66, relating to petition for exoneration and
1344 discharge, hearing, retroactive grant of first offender status, and no filing fee, by revising
1345 paragraph (1) of subsection (a) as follows:

1346 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
1347 not informed of his or her eligibility for first offender treatment may, ~~with the consent of~~
1348 ~~the prosecuting attorney,~~ petition the court in which he or she was convicted for
1349 exoneration of guilt and discharge pursuant to this article."

1350

PART X

1351

SECTION 10-1.

1352 Code Section 17-10-21 of the Official Code of Georgia Annotated, relating to vacating of
1353 sentence for trafficking victim defendants, is amended by revising subparagraph (a)(2)(C)
1354 and subsection (b) as follows:

1355 "(C) Shall be submitted with a copy of his or her criminal history background check
1356 report conducted by the Georgia Crime Information Center that has been completed no
1357 more than ~~three~~ ten business days prior to the filing of the petition; provided, however,
1358 that the defendant shall not be charged a fee by the Georgia Crime Information Center
1359 for a report produced for purposes of this Code section; and"

1360 "(b) When a petition provided for under subsection (a) of this Code section is filed, it shall
1361 be filed under seal. The clerk of court shall accept defendant's filing under seal without

1362 need of a court order for any petition provided for under subsection (a) of this Code
1363 section. All subsequent filings, motions, hearings, court recordings, court transcripts,
1364 orders, and other court documents related to such petition shall remain under seal without
1365 need for any additional court order."

1366

PART XI

1367

SECTION 11-1.

1368 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
1369 July 1, 2025.

1370 (b) Parts I through VII of this Act shall become effective on January 1, 2026, and shall apply
1371 to all applications for licensure submitted on or after such date.

1372

SECTION 11-2.

1373 All laws and parts of laws in conflict with this Act are repealed.