

House Bill 175 (AS PASSED HOUSE AND SENATE)

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

A BILL TO BE ENTITLED
AN ACT

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

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

SECTION 2.

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

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

SECTION 3.

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

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

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

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

68 **SECTION 4.**

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

72 "20-1A-39.

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

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

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

retained by the department due to its participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33, notwithstanding Code Section 20-1A-45.

The early care and education program shall maintain documentation in the appropriate personnel file, which is shall be available to the department immediately upon request, indicating that such person has obtained such current comprehensive records check determination that is satisfactory or has had an unsatisfactory comprehensive records check determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The department shall revoke the license or commission of an early care and education program if ~~the early care and education~~ such program fails to comply with the requirements of this Code section.

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

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

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

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

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

155 **SECTION 5.**

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

157 **SECTION 6.**

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