

House Bill 91 (AS PASSED HOUSE AND SENATE)

By: Representatives Welch of the 110th, Ballinger of the 23rd, Oliver of the 82nd, and Petrea of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
2 regulation and construction of hospitals and other health care facilities, so as to allow the
3 Georgia Bureau of Investigation and, as authorized, the Federal Bureau of Investigation to
4 retain fingerprints when an agency or entity is participating in the Georgia Bureau of
5 Investigation's program; to provide for an effective date; to provide for related matters; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation and
10 construction of hospitals and other health care facilities, is amended by revising Code Section
11 31-7-353, as effective October 1, 2019, relating to records check application under the
12 Georgia Long-term Care Background Check Program, transmittal of fingerprints, and
13 penalties for unauthorized release or disclosure of information, as follows:

14 "31-7-353.

15 (a) Accompanying any application for a new license, the candidate facility shall furnish
16 to the department a records check application for each owner and each applicant and
17 employee. In lieu of such records check application, such facility may submit evidence,
18 satisfactory to the department, that within the immediately preceding 12 months each
19 owner; and each applicant; or employee received a satisfactory determination that includes
20 a records check clearance date that is no more than 12 months old, or that any owner,
21 applicant, or employee whose fingerprint records check determination revealed a criminal
22 record of any kind has subsequently received a satisfactory determination. The time frames
23 set forth in this subsection shall not apply when fingerprints have been retained by the
24 department due to its participation in the program described in subparagraph (a)(1)(F) of
25 Code Section 35-3-33.

26 (b) On or before January 1, 2021, each owner and employee of a currently licensed facility
27 shall furnish to the department a records check application. In lieu of such records check
28 application, a facility may submit evidence, satisfactory to the department, that within the
29 immediately preceding 12 months each owner and employee received a satisfactory
30 determination. The time frames set forth in this subsection shall not apply when
31 fingerprints have been retained by the department due to its participation in the program
32 described in subparagraph (a)(1)(F) of Code Section 35-3-33.

33 (c) Upon receipt of fingerprints submitted pursuant to a ~~record~~ records check application,
34 GCIC shall promptly transmit the fingerprints to the Federal Bureau of Investigation for
35 a search of bureau records and shall promptly conduct a search of its own records and
36 records to which it has access. Within ten days after receiving fingerprints acceptable to
37 GCIC, it shall notify the department in writing of any criminal record or if there is no such
38 finding. After a search of Federal Bureau of Investigation records and fingerprints and
39 upon receipt of the bureau's report, the department shall make a determination about an
40 owner's, applicant's, or employee's criminal record.

41 (d) Neither GCIC, the department, any law enforcement agency, nor the employees of any
42 such entities shall be responsible for the accuracy of information nor have any liability for
43 defamation, invasion of privacy, negligence, or any other claim in connection with any
44 dissemination of information or determination based thereon pursuant to this Code section.

45 (e) All information received from the Federal Bureau of Investigation or GCIC shall be
46 used exclusively for employment or licensure purposes and shall not be released or
47 otherwise disclosed to any other person or agency. All such information collected by the
48 department shall be maintained by the department pursuant to laws regarding and rules or
49 regulations of the Federal Bureau of Investigation and GCIC, as is applicable. Penalties
50 for the unauthorized release or disclosure of any such information shall be as prescribed
51 pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation
52 and GCIC, as is applicable.

53 (f) If the department is participating in the program described in subparagraph (a)(1)(F)
54 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of
55 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code
56 section for such program and the department shall notify the individual whose fingerprints
57 were taken of the parameters of such retention."

58 SECTION 2.

59 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section
60 31-7-355, as effective October 1, 2019, relating to personnel files regarding the Georgia

61 Long-term Care Background Check Program, when department may require background
62 check, and result of unsatisfactory determination, as follows:

63 "(2) The department may require a criminal background check on any owner of or
64 employee at a facility during the course of an abuse investigation involving such owner
65 or employee or if the department receives information that such owner or employee was
66 arrested for a crime. In such instances, the department shall require the owner or
67 employee to furnish two full sets of fingerprints which the department shall submit to
68 GCIC together with appropriate fees collected from the owner or employee. Upon receipt
69 thereof, GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of
70 Investigation for a search of bureau records and an appropriate report and shall retain the
71 other set and promptly conduct a search of its own records and records to which it has
72 access. GCIC shall notify the department in writing of any unsatisfactory finding,
73 including but not limited to any criminal record obtained through the fingerprint records
74 check determination or if there is no such finding. If the department is participating in
75 the program described in subparagraph (a)(1)(F) of Code Section 35-3-33, the Georgia
76 Bureau of Investigation and the Federal Bureau of Investigation shall be authorized to
77 retain fingerprints obtained pursuant to this Code section for such program and the
78 department shall notify the individual whose fingerprints were taken of the parameters
79 of such retention."

80

SECTION 3.

81 Said chapter is further amended by revising Code Section 31-7-382, as effective October 1,
82 2019, relating to establishment of central caregiver registry, as follows:

83 "31-7-382.

84 The department may establish and maintain a central caregiver registry which shall be
85 accessible to employers as a data base operated by the department that contains information
86 on eligible and ineligible applicants and employees as determined by the department from
87 criminal background checks and registry checks conducted on behalf of facilities as
88 provided in Article 14 of this chapter and criminal background checks and registry checks
89 conducted on behalf of employers as provided in this article. If the department is
90 participating in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33,
91 the Georgia Bureau of Investigation and the Federal Bureau of Investigation shall be
92 authorized to retain fingerprints obtained pursuant to this Code section for such program
93 and the department shall notify the individual whose fingerprints were taken of the
94 parameters of such retention."

95 **SECTION 4.**

96 This Act shall become effective on October 1, 2019.

97 **SECTION 5.**

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