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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

"31-7-353.  
(a) Accompanying any application for a new license, the candidate facility shall furnish to the department a records check application for each owner and each applicant and employee. In lieu of such records check application, such facility may submit evidence, satisfactory to the department, that within the immediately preceding 12 months each owner, and each applicant, or employee received a satisfactory determination that includes a records check clearance date that is no more than 12 months old, or that any owner, applicant, or employee whose fingerprint records check determination revealed a criminal record of any kind has subsequently received a satisfactory determination. 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."

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(b) On or before January 1, 2021, each owner and employee of a currently licensed facility shall furnish to the department a records check application. In lieu of such records check application, a facility may submit evidence, satisfactory to the department, that within the immediately preceding 12 months each owner and employee received a satisfactory determination. 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.

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

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

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

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

SECTION 2.

Said chapter is further amended by revising paragraph (2) of subsection (b) of Code Section 31-7-355, as effective October 1, 2019, relating to personnel files regarding the Georgia
Long-term Care Background Check Program, when department may require background check, and result of unsatisfactory determination, as follows:

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

SECTION 3.

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

"31-7-382.

The department may establish and maintain a central caregiver registry which shall be accessible to employers as a data base operated by the department that contains information on eligible and ineligible applicants and employees as determined by the department from criminal background checks and registry checks conducted on behalf of facilities as provided in Article 14 of this chapter and criminal background checks and registry checks conducted on behalf of employers as provided in this article. If the department is participating in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of Investigation shall be authorized to retain fingerprints obtained pursuant to this Code section for such program and the department shall notify the individual whose fingerprints were taken of the parameters of such retention."
SECTION 4.
This Act shall become effective on October 1, 2019.

SECTION 5.
All laws and parts of laws in conflict with this Act are repealed.