

Senate Bill 336

By: Senators Unterman of the 45th, Miller of the 49th, Butler of the 55th and McKoon of the 29th

**AS PASSED**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the  
2 Georgia Bureau of Investigation, so as to prevent the disclosure of a subpoena issued for  
3 production of electronic communication service records for computer or electronic devices  
4 that are used in furtherance of certain offenses against minors or involving trafficking of  
5 persons for labor or sexual servitude, to the subscriber or customer; to allow the Georgia  
6 Crime Information Center to retain fingerprints of certain individuals under certain  
7 circumstances and submit such fingerprints to the Federal Bureau of Investigation; to provide  
8 for an exchange of information to certain entities; to provide for removal of fingerprints  
9 under certain circumstances; to provide for fees; to amend Titles 20, 31, 37, and 49 of the  
10 Official Code of Georgia Annotated, relating to education, health, mental health, and social  
11 services, respectively, so as to allow the Georgia Bureau of Investigation and, as authorized,  
12 the Federal Bureau of Investigation to retain fingerprints when an agency or entity is  
13 participating in the bureau's program; to provide for related matters; to repeal conflicting  
14 laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **PART I**  
17 **SECTION 1-1.**

18 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia  
19 Bureau of Investigation, is amended in Code Section 35-3-4.1, relating to subpoena for  
20 production of electronic communication service records for computer or electronic device  
21 used in furtherance of certain offenses against minors, by revising subsection (a) as follows:

22 "(a)(1) In any investigation of a violation of Code Section 16-12-100, 16-12-100.1,  
23 or 16-12-100.2 involving the use of a computer or an electronic device in furtherance of  
24 an act related to a minor, or any investigation of a violation of Article 8 of Chapter 9 of  
25 Title 16, the director, assistant director, or deputy director for investigations shall be

26 authorized to issue a subpoena, with the consent of the Attorney General, to compel the  
 27 production of electronic communication service or remote communication service records  
 28 or other information pertaining to a subscriber or customer of such service, exclusive of  
 29 contents of communications.

30 (2) A provider of electronic communication service or remote computing service shall  
 31 disclose to the bureau the:

32 (A) Name;

33 (B) Address;

34 (C) Local and long distance telephone connection records, or records of session times  
 35 and durations;

36 (D) Length of service, including the start date, and types of service utilized;

37 (E) Telephone or instrument number or other subscriber number or identity, including  
 38 any temporarily assigned network address; and

39 (F) Means and source of payment for such service, including any credit card or bank  
 40 account number of a subscriber to or customer of such service.

41 (3) A provider of electronic communication service or remote computing service shall  
 42 not provide notification of the subpoena issued pursuant to paragraph (1) of this  
 43 subsection to the subscriber or customer of such service."

44 **SECTION 1-2.**

45 Said chapter is further amended by revising Code Section 35-3-4.3, relating to subpoena  
 46 power for investigations of violations involving trafficking of persons for labor or sexual  
 47 servitude, as follows:

48 "35-3-4.3.

49 (a) In any investigation of a violation of Code Section 16-5-46 involving trafficking of  
 50 persons for labor or sexual servitude, the director, assistant director, or deputy director for  
 51 investigations shall be authorized to issue a subpoena, with the consent of the Attorney  
 52 General, to compel the production of books, papers, documents, or other tangible things,  
 53 including records and documents contained within, or generated by, a computer or any  
 54 other electronic device.

55 (b) A provider of electronic communication service or remote computing service shall not  
 56 provide notification of the subpoena issued pursuant to subsection (a) of this Code section  
 57 to the subscriber or customer of such service.

58 ~~(b)~~(c) Upon the failure of a person without lawful excuse to obey a subpoena, the director,  
 59 assistant director, or the deputy director for investigations, through the Attorney General  
 60 or district attorney, may apply to a superior court having jurisdiction for an order  
 61 compelling compliance. Such person may object to the subpoena on grounds that it fails

62 to comply with this Code section or upon any constitutional or other legal right or privilege  
 63 of such person. The court may issue an order modifying or setting aside such subpoena or  
 64 directing compliance with the original subpoena. Failure to obey a subpoena issued under  
 65 this Code section may be punished by the court as contempt of court."

66 **PART IA**

67 **SECTION 1A-1.**

68 Said chapter is further amended in Code Section 35-3-33, relating to the powers and duties  
 69 of the Georgia Crime Information Center, by deleting "or" at the end of  
 70 subparagraph (a)(1)(D), by inserting "or" at the end of subparagraph (a)(1)(E), and by adding  
 71 a new subparagraph to read as follows:

72 "(F) Are individuals for whom fingerprint based criminal history checks are authorized  
 73 by this state's or federal law for the purpose of determining suitability or fitness for  
 74 employment, placement, registration, a permit, or a license for an agency or qualified  
 75 entity which is participating in the federal program that allows an ongoing and  
 76 continuing review of such individual's criminal history; provided, however, that such  
 77 fingerprints shall be retained and maintained securely and separately from records  
 78 relating to the identification of criminals, and provided, further, that the center shall not  
 79 file or retain fingerprints submitted for the purpose of obtaining or renewing a weapons  
 80 carry license, as such term is defined in Code Section 16-11-125.1;"

81 **SECTION 1A-2.**

82 Said chapter is further amended in subsection (a) of Code Section 35-3-33, relating to the  
 83 powers and duties of the Georgia Crime Information Center, by deleting "and" at the end of  
 84 paragraph (16), by replacing the period with a semicolon at the end of paragraph (17), and  
 85 by adding three new paragraphs to read as follows:

86 "(18) Submit fingerprints obtained pursuant to subparagraph (F) of paragraph (1) of this  
 87 subsection to the Federal Bureau of Investigation for retention under the rules established  
 88 by the United States Department of Justice for processing and identification of records.  
 89 Such fingerprints shall be searched by future submissions to the Federal Bureau of  
 90 Investigation and the center shall send appropriate responses to submitting and  
 91 subscribing entities;

92 (19) Remove fingerprints obtained pursuant to subparagraph (F) of paragraph (1) of this  
 93 subsection within ten days of being notified that an individual whose fingerprints were  
 94 retained under such program is no longer employed by, volunteering for, placed by, or  
 95 registered, licensed, or permitted by the participating agency or qualified entity. It shall

96 also remove such fingerprints when such agency or qualified entity is no longer  
 97 participating in such program. The center shall also notify the Federal Bureau of  
 98 Investigation of such information; and  
 99 (20) Be authorized to charge an annual subscriber fee not to exceed \$500.00 to any entity  
 100 which is not a state agency that desires to participate in the program described in  
 101 subparagraph (F) of paragraph (1) of this subsection."

102 **PART II**

103 **SECTION 2-1.**

104 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 105 revising Code Section 20-1A-31, relating to records check application for potential  
 106 employees and fingerprint records checks, as follows:

107 "20-1A-31.

108 (a) A support center may furnish to the department a records check application for each  
 109 potential employee of any licensed, commissioned, or permitted early care and education  
 110 program. Before a person affiliated with a support center may become an employee of any  
 111 licensed, commissioned, or permitted early care and education program, such person shall  
 112 obtain a ~~satisfactory~~ fingerprint records check determination that is satisfactory. All  
 113 potential employees, excluding students currently enrolled in an early education curriculum  
 114 through an accredited school of higher education, may submit evidence, satisfactory to the  
 115 department, that such potential employee received a ~~satisfactory~~ fingerprint records check  
 116 determination that is satisfactory and that includes a records check determination clearance  
 117 date that is no more than 12 months old, or that any employee whose fingerprint records  
 118 check determination revealed a criminal record of any kind has either subsequently  
 119 received a ~~satisfactory~~ fingerprint records check determination that is satisfactory or has  
 120 had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43.  
 121 A student currently enrolled in an early education curriculum through an accredited school  
 122 of higher education may submit evidence, satisfactory to the department, that such student  
 123 received a ~~satisfactory~~ fingerprint records check determination that is satisfactory and that  
 124 includes a records check clearance date that is no more than 24 months old, or that such  
 125 student whose fingerprint records check determination revealed a criminal record of any  
 126 kind has either subsequently received a ~~satisfactory~~ fingerprint records check determination  
 127 that is satisfactory or has had the unsatisfactory determination reversed in accordance with  
 128 Code Section 20-1A-43. The licensed, commissioned, or permitted early care and  
 129 education program shall maintain documentation in the employee's personnel file, which  
 130 is available to the department upon request, and which reflects that a ~~satisfactory~~

131 fingerprint records check determination that was satisfactory was received before the  
 132 employee is allowed to reside in an early care and education program or be present at an  
 133 early care and education program while children are present for care. If the fingerprint  
 134 records check determination for any potential employee reveals a criminal record of any  
 135 kind, such potential employee shall not be allowed to reside in an early care and education  
 136 program or be present at an early care and education program while children are present  
 137 for care until such potential employee has either obtained a ~~satisfactory~~ fingerprint records  
 138 check determination that is satisfactory or has had the unsatisfactory ~~fingerprint records~~  
 139 ~~check~~ determination reversed in accordance with Code Section 20-1A-43. If the fingerprint  
 140 records check determination is unsatisfactory, the licensed, commissioned, or permitted  
 141 early care and education program shall, after receiving notification of such unsatisfactory  
 142 determination, take such steps as are necessary so that such person no longer resides in the  
 143 early care and education program and no longer is present at an early care and education  
 144 program while children are present for care. The time frames set forth in this subsection  
 145 shall not apply when fingerprints have been retained by the department due to its  
 146 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33.  
 147 (b) Notwithstanding the limited period of portability, every person affiliated with a support  
 148 center as a potential employee of a licensed or commissioned early care and education  
 149 program shall undergo an additional fingerprint records ~~checks~~ check determination such  
 150 that the time between such additional fingerprint records ~~checks~~ check determination and  
 151 that person's previous fingerprint records check determination shall not exceed five years  
 152 except when fingerprints have been retained by the department due to its participation in  
 153 the program described in subparagraph (a)(1)(F) of Code Section 35-3-33.  
 154 (c) After the issuance of a registration, the department may require additional fingerprint  
 155 records check determinations on any person affiliated with a support center during the  
 156 course of a child abuse investigation involving such person or when the department has  
 157 reason to believe such person has a criminal record that renders such person ineligible to  
 158 reside at an early care and education program or be present at an early care and education  
 159 program while children are present for care."

## 160 SECTION 2-2.

161 Said title is further amended by adding a new subsection to Code Section 20-1A-32, relating  
 162 to program license or commission applicants, records check requirements, and change of  
 163 ownership, to read as follows:

164 "(d) The time frames set forth in this Code section shall not apply when fingerprints have  
 165 been retained by the department due to its participation in the program described in  
 166 subparagraph (a)(1)(F) of Code Section 35-3-33."

167 **SECTION 2-3.**

168 Said title is further amended by revising subsection (b) of Code Section 20-1A-34, relating  
 169 to check of fingerprints on national level, satisfactory determination prior to employment,  
 170 and additional records checks, and adding a new subsection to read as follows:

171 "(b) Every potential employee of the department or contractor performing duties on behalf  
 172 of the department who may have any reason to be present at a licensed or commissioned  
 173 early care and education program while any child is present for care must receive a  
 174 ~~satisfactory~~ fingerprint records check determination that is satisfactory or have had an  
 175 unsatisfactory ~~fingerprint records check~~ determination reversed in accordance with Code  
 176 Section 20-1A-43 prior to being present at a licensed or commissioned early care and  
 177 education program while children are present for care. Every current employee of the  
 178 department who may have any reason to be present at a licensed or commissioned early  
 179 care and education program while any child is present for care must receive a ~~satisfactory~~  
 180 fingerprint records check determination that is satisfactory or have had an unsatisfactory  
 181 ~~fingerprint records check~~ determination reversed in accordance with Code Section  
 182 20-1A-43. Every employee of the department shall undergo an additional fingerprint  
 183 records ~~checks~~ check determination such that the time between such additional fingerprint  
 184 records ~~checks~~ check determination and that employee's previous fingerprint records check  
 185 determination shall not exceed five years except when fingerprints have been retained by  
 186 the department due to its participation in the program described in subparagraph (a)(1)(F)  
 187 of Code Section 35-3-33. The department shall maintain documentation in the appropriate  
 188 personnel file indicating that such person has obtained such current ~~satisfactory~~ fingerprint  
 189 records check determination that is satisfactory or has had an unsatisfactory ~~fingerprint~~  
 190 records ~~check~~ determination reversed in accordance with Code Section 20-1A-43.

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

196 **SECTION 2-4.**

197 Said title is further amended by revising subsection (a) of Code Section 20-1A-38, relating  
 198 to change of directors and records check requirements, as follows:

199 "(a) If the director of a licensed, commissioned, or permitted early care and education  
 200 program ceases to be the director of that early care and education program, the license  
 201 holder, commission holder, or permit holder shall thereupon designate a new director.  
 202 After such change, the license holder, commission holder, or permit holder of that early

203 care and education program shall notify the department of such change and of any  
 204 additional information the department may require regarding the newly designated director  
 205 of that early care and education program, including a fingerprint records check application.  
 206 Such individuals shall also submit all necessary applications, fees, and acceptable  
 207 fingerprints to ~~the~~ GCIC. If the department determines that such newly designated director  
 208 has received a ~~satisfactory~~ fingerprint records check determination that is satisfactory and  
 209 that includes a records check clearance date that is no more than 12 months old or had an  
 210 unsatisfactory determination reversed pursuant to Code Section 20-1A-43 within the prior  
 211 12 months, such determination shall be deemed to be satisfactory for purposes of this  
 212 article. The time frames set forth in this subsection shall not apply when fingerprints have  
 213 been retained by the department due to its participation in the program described in  
 214 subparagraph (a)(1)(F) of Code Section 35-3-33."

215 **SECTION 2-5.**

216 Said title is further amended by revising subsections (a) and (c) of Code Section 20-1A-39,  
 217 relating to potential employees, current employees and directors, records check requirements,  
 218 satisfactory records check, and liability for hiring ineligible employee, as follows:

219 "(a) Before a person may become an employee of any early care and education program  
 220 after that early care and education program has received a license or commission, that early  
 221 care and education program shall require that person to obtain a ~~satisfactory~~ fingerprint  
 222 records check determination that is satisfactory. All potential employees, excluding  
 223 students currently enrolled in an early education curriculum through an accredited school  
 224 of higher education, may submit evidence, satisfactory to the department, that the potential  
 225 employee received a ~~satisfactory~~ fingerprint records check determination that is satisfactory  
 226 and that includes a records check clearance date that is no more than 12 months old, or that  
 227 any potential employee whose fingerprint records check revealed a criminal record of any  
 228 kind has either subsequently received a ~~satisfactory~~ fingerprint records check determination  
 229 that is satisfactory or has had the unsatisfactory determination reversed in accordance with  
 230 Code Section 20-1A-43. A student currently enrolled in an early education curriculum  
 231 through an accredited school of higher education may submit evidence, satisfactory to the  
 232 department, that the student received a ~~satisfactory~~ fingerprint records check determination  
 233 that is satisfactory and that includes a records check clearance date that is no more than 24  
 234 months old, or that such student whose fingerprint records check revealed a criminal record  
 235 of any kind has either subsequently received a ~~satisfactory~~ fingerprint records check  
 236 determination that is satisfactory or has had the unsatisfactory determination reversed in  
 237 accordance with Code Section 20-1A-43. The licensed or commissioned early care and  
 238 education program shall maintain documentation in the employee's personnel file, which

239 is available to the department upon request, which reflects that a ~~satisfactory~~ fingerprint  
 240 records check determination that is satisfactory was received before the employee is  
 241 eligible to reside at an early care and education program or be present at a licensed or  
 242 commissioned early care and education program while children are present for care. If the  
 243 fingerprint records check determination for any potential employee reveals a criminal  
 244 record of any kind, such potential employee shall be ineligible to reside at an early care and  
 245 education program or be present at an early care and education program while children are  
 246 present for care until such potential employee has either obtained a ~~satisfactory~~ fingerprint  
 247 records check determination that is satisfactory or has had the ~~unsatisfactory fingerprint~~  
 248 ~~records check~~ determination reversed in accordance with Code Section 20-1A-43. If the  
 249 fingerprint records check determination is unsatisfactory, the licensed or commissioned  
 250 early care and education program shall, after receiving notification of such unsatisfactory  
 251 determination, take such immediate steps as are necessary so that such person no longer  
 252 resides at the early care and education program or is no longer present at the early care and  
 253 education program while children are present for care. The department shall revoke the  
 254 license or commission of an early care and education program if the early care and  
 255 education program fails to comply with the requirements of this Code section. The time  
 256 frames set forth in this subsection shall not apply when fingerprints have been retained by  
 257 the department due to its participation in the program described in subparagraph (a)(1)(F)  
 258 of Code Section 35-3-33."

259 "(c) Effective January 1, 2019, every employee and director of any licensed or  
 260 commissioned early care and education program shall undergo an additional fingerprint  
 261 records ~~checks~~ check determination such that the time between such additional fingerprint  
 262 records ~~checks~~ check determination and that employee's or director's previous fingerprint  
 263 records check determination shall not exceed five years except when fingerprints have been  
 264 retained by the department due to its participation in the program described in  
 265 subparagraph (a)(1)(F) of Code Section 35-3-33. The early care and education program  
 266 shall maintain documentation in the appropriate personnel file, which is available to the  
 267 department immediately upon request, indicating that such person has obtained such  
 268 current ~~satisfactory~~ fingerprint records check determination that is satisfactory or has had  
 269 an unsatisfactory ~~fingerprint records check~~ determination reversed in accordance with Code  
 270 Section 20-1A-43. The department shall revoke the license or commission of an early care  
 271 and education program if the early care and education program fails to comply with the  
 272 requirements of this Code section."

273 **SECTION 2-6.**

274 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding  
 275 a new subsection to Code Section 31-2-9, relating to records check requirement for certain  
 276 health care facilities, definitions, use of information gathered in investigation, penalties for  
 277 unauthorized release or disclosure, and rules and regulations, to read as follows:

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

283 **SECTION 2-7.**

284 Said title is further amended by adding a new subsection to Code Section 31-2A-7, relating  
 285 to "conviction data" defined, department authorized to receive data from law enforcement  
 286 relevant to employment decisions, and criminal history information, to read as follows:

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

292 **SECTION 2-8.**

293 Said title is further amended by revising Code Section 31-7-254, relating to transmission of  
 294 director's fingerprints to Georgia Crime Information Center for review and notification to  
 295 department of findings, as follows:

296 "31-7-254.

297 After issuing a temporary license based upon a ~~satisfactory~~ preliminary records check  
 298 determination of the director that is satisfactory under Code Section 31-7-253, the  
 299 department shall transmit to GCIC both sets of fingerprints and the records search fee from  
 300 that director's records check application. Upon receipt thereof, GCIC shall promptly  
 301 transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau  
 302 records and an appropriate report and shall retain the other set and promptly conduct a  
 303 search of its records and records to which it has access. Within 75 days after receiving  
 304 fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department  
 305 in writing of any derogatory finding, including but not limited to any criminal record, of  
 306 the fingerprint records check or if there is no such finding. If the department is  
 307 participating in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33,

308 the Georgia Bureau of Investigation and the Federal Bureau of Investigation shall be  
 309 authorized to retain fingerprints obtained pursuant to this Code section for such program  
 310 and the department shall notify the individual whose fingerprints were taken of the  
 311 parameters of such retention."

312 **SECTION 2-9.**

313 Said title is further amended by revising Code Section 31-7-258, relating to change of facility  
 314 director, notification to department, and effect of department determination, as follows:

315 "31-7-258.

316 (a) If the director of a facility which has been issued a regular license ceases to be the  
 317 director of that facility, the licensee shall thereupon designate a new director. After such  
 318 change, the licensee of that facility shall notify the department of such change and of any  
 319 additional information the department may require regarding the newly designated director  
 320 of that facility. Such information shall include but not be limited to any information the  
 321 licensee may have regarding preliminary or fingerprint records check determinations  
 322 regarding that director. After receiving a change of director notification, the department  
 323 shall make a written determination from the information furnished with such notification  
 324 and the department's own records as to whether a satisfactory or unsatisfactory preliminary  
 325 or fingerprint records check determination has ever been made for the newly designated  
 326 director. If the department determines that such director within 12 months prior thereto has  
 327 had a ~~satisfactory~~ fingerprint records check determination that is satisfactory, such  
 328 determination shall be deemed to be a satisfactory fingerprint records check determination  
 329 as to that director. The license of that facility shall not be adversely affected by that change  
 330 in director and the licensee shall be so notified. The time frames set forth in this subsection  
 331 shall not apply when fingerprints have been retained by the department due to its  
 332 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33.

333 (b) If the department determines under subsection (a) of this Code section that there has  
 334 ever been an ~~unsatisfactory~~ a preliminary or fingerprint records check determination of the  
 335 newly designated director that was unsatisfactory, the personal care home and that director  
 336 shall be notified thereof. The license for that director's facility shall be indefinitely  
 337 suspended unless the personal care home designates another director for whom it has not  
 338 received or made an unsatisfactory ~~preliminary or fingerprint records check~~ determination  
 339 and proceeds pursuant to the provisions of this Code section relating to a change of  
 340 director.

341 (c) If the department determines under subsection (a) of this Code section that there has  
 342 been no fingerprint records check determination regarding the newly designated director  
 343 within the immediately preceding 12 months, the department shall so notify the personal

344 care home. The personal care home shall furnish to the department the records check  
 345 application of the newly designated director or the license of that facility shall be  
 346 indefinitely suspended. If that records check application is so received, unless the  
 347 department has within the immediately preceding 12 months made a ~~satisfactory~~  
 348 preliminary records check determination that is satisfactory regarding the newly designated  
 349 director, the department shall perform a preliminary records check and determination of  
 350 the newly designated director; and the applicant and that director shall be notified thereof.  
 351 If that determination is unsatisfactory, the provisions of subsection (b) of this Code section  
 352 regarding procedures after notification shall apply. If that determination is satisfactory, the  
 353 department shall perform a fingerprint records check and determination for that director as  
 354 provided in Code Sections 31-7-254 and 31-7-255. If that determination is satisfactory, the  
 355 personal care home and director for whom the determination was made shall be so notified,  
 356 and the license for the facility at which that person is the newly designated director shall  
 357 not be adversely affected by that change of director. If that determination is unsatisfactory,  
 358 the provisions of subsection (b) of this Code section shall apply. The time frames set forth  
 359 in this subsection shall not apply when fingerprints have been retained by the department  
 360 due to its participation in the program described in subparagraph (a)(1)(F) of Code Section  
 361 35-3-33."

362 **SECTION 2-10.**

363 Said title is further amended by adding a new subsection to Code Section 31-7-259, relating  
 364 to preliminary records check determination, suspension or revocation of license, refusal to  
 365 issue regular license, fingerprint check, employment history, director's criminal liability,  
 366 exempt employees, mitigating factors in criminal records check, and civil penalty, to read as  
 367 follows:

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

373 **SECTION 2-11.**

374 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 375 adding a new subsection to Code Section 37-1-28, relating to conviction data, to read as  
 376 follows:

377 "(g) If the department is participating in the program described in subparagraph (a)(1)(F)  
 378 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of

379 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code  
 380 section for such program and the department shall notify the individual whose fingerprints  
 381 were taken of the parameters of such retention."

382 **SECTION 2-12.**

383 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 384 by adding a new subsection to Code Section 49-2-14, relating to record search for conviction  
 385 data on prospective employees, to read as follows:

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

391 **SECTION 2-13.**

392 Said title is further amended by adding a new subsection to Code Section 49-2-14.1, relating  
 393 to definitions and records check requirement for licensing certain facilities, to read as  
 394 follows:

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

400 **SECTION 2-14.**

401 Said title is further amended by revising Code Section 49-5-62, relating to records check  
 402 application for director of new facility and preliminary records check for employees, as  
 403 follows:

404 "49-5-62.

405 (a) Accompanying any application for a new license for a facility, the applicant shall  
 406 furnish to the department a records check application for the director and a ~~satisfactory~~  
 407 preliminary records check for each employee of such facility ~~that is satisfactory~~. In lieu  
 408 of such records check applications, the applicant may submit evidence, satisfactory to the  
 409 department, that within the immediately preceding 12 months the director received  
 410 satisfactory state and national fingerprint records check determinations ~~that were~~  
 411 ~~satisfactory~~ and each employee received a ~~satisfactory~~ preliminary records check  
 412 determination ~~that was satisfactory~~, or that any employee other than the director whose

413 preliminary records check revealed a criminal record of any kind has either subsequently  
 414 received satisfactory state and national fingerprint records check determinations that were  
 415 satisfactory or has had the unsatisfactory determination reversed in accordance with Code  
 416 Section 49-5-73. The department may either perform preliminary records checks under  
 417 agreement with GCIC or contract with GCIC and appropriate law enforcement agencies  
 418 which have access to GCIC information to have those agencies perform for the department  
 419 a preliminary records check for each preliminary records check application submitted  
 420 thereto by the department. Either the department or the appropriate law enforcement  
 421 agencies may charge reasonable fees for performing preliminary records checks.

422 (b) If the department is participating in the program described in subparagraph (a)(1)(F)  
 423 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of  
 424 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code  
 425 section for such program and the department shall notify the individual whose fingerprints  
 426 were taken of the parameters of such retention. The time frames set forth in this Code  
 427 section shall not apply when fingerprints have been retained by the department due to its  
 428 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33."

429

#### SECTION 2-15.

430 Said title is further amended by revising Code Section 49-5-63, relating to notice of  
 431 determination, issue of license, and effect of unsatisfactory determination, as follows:

432 "49-5-63.

433 After being furnished the required records check application under Code Section 49-5-62,  
 434 the department shall notify in writing the license applicant as to each person for whom an  
 435 application was received regarding whether the department's determination as to that  
 436 person's state fingerprint records check was satisfactory or unsatisfactory. If the  
 437 preliminary records check determination was satisfactory as to each employee of an  
 438 applicant's facility and the state fingerprint records check was satisfactory as to the director,  
 439 that applicant may be issued a license for that facility if the applicant otherwise qualifies  
 440 for a license under Article 1 of this chapter. If the state or national fingerprint records  
 441 check determination was unsatisfactory as to the director of an applicant's facility, the  
 442 applicant shall designate another director for that facility after receiving notification of the  
 443 determination and proceed under Code Section 49-5-62 and this Code section to obtain  
 444 state and national fingerprint records checks for that newly designated director. If the  
 445 preliminary records check for any employee other than the director revealed a criminal  
 446 record of any kind, such employee shall not be allowed to work in the center until he or she  
 447 either has obtained satisfactory state and national fingerprint records check determinations  
 448 that are satisfactory or has had the unsatisfactory determination reversed in accordance

449 with Code Section 49-5-73. If the determination was unsatisfactory as to any employee of  
 450 an applicant's facility, the applicant shall, after receiving notification of that determination,  
 451 take such steps as are necessary so that such person is no longer an employee. Any  
 452 employee other than the director who receives a ~~satisfactory~~ preliminary records check  
 453 determination that is satisfactory shall not be required to obtain a fingerprint records check  
 454 when fingerprints have been retained by the department due to its participation in the  
 455 program described in subparagraph (a)(1)(F) of Code Section 35-3-33, unless such an  
 456 employee has been designated as a director or as permitted by the provisions of subsection  
 457 (c) of Code Section 49-5-69."

458 **SECTION 2-16.**

459 Said title is further amended by revising Code Section 49-5-64, relating to fingerprint records  
 460 check, as follows:

461 "49-5-64.

462 (a) The department shall transmit to GCIC both sets of fingerprints and the records search  
 463 fee from each fingerprint records check application. Upon receipt thereof, GCIC shall  
 464 promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search  
 465 of bureau records and an appropriate report and shall retain the other set and promptly  
 466 conduct a search of its records and records to which it has access. Within ten days after  
 467 receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the  
 468 department in writing of any derogatory finding, including but not limited to any criminal  
 469 record, of the state fingerprint records check or if there is no such finding. After a search  
 470 of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's  
 471 report, the department shall make a national fingerprint records determination.

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

477 **SECTION 2-17.**

478 Said title is further amended by adding a new subsection to Code Section 49-5-68, relating  
 479 to change of director, to read as follows:

480 "(d) The time frames set forth in this Code section shall not apply when fingerprints have  
 481 been retained by the department due to its participation in the program described in  
 482 subparagraph (a)(1)(F) of Code Section 35-3-33."

483 **SECTION 2-18.**

484 Said title is further amended by adding a new subsection to Code Section 49-5-69.1, relating  
485 to fingerprint and preliminary records check for foster homes, notice of results, violations,  
486 and foster parents known to have criminal records, to read as follows:

487 "(f) If the department is participating in the program described in subparagraph (a)(1)(F)  
488 of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of  
489 Investigation shall be authorized to retain fingerprints obtained pursuant to this Code  
490 section for such program and the department shall notify the individual whose fingerprints  
491 were taken of the parameters of such retention. The time frames set forth in this Code  
492 section shall not apply when fingerprints have been retained by the department due to its  
493 participation in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33."

494 **SECTION 2-19.**

495 Said title is further amended by revising subsection (c) of Code Section 49-5-111, relating  
496 to employers authorized to make records checks and procedure, as follows:

497 "(c) If the employer is participating in the program described in subparagraph (a)(1)(F) of  
498 Code Section 35-3-33, the Georgia Bureau of Investigation shall be authorized to retain  
499 fingerprints obtained pursuant to this article for such program and the employer shall notify  
500 the individual whose fingerprints were taken of the parameters of such retention."

501 **PART III**502 **SECTION 3-1.**

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