

House Bill 494 (AS PASSED HOUSE AND SENATE)

By: Representatives Dempsey of the 13th, Coleman of the 97th, Chandler of the 105th, Glanton of the 75th, and Carter of the 175th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early
2 care and learning, so as to revise certain provisions relating to the safety of children in early
3 care and education programs; to authorize hearsay in preliminary hearings regarding
4 emergency closure of a program or the emergency placement of a monitor or monitors; to
5 revise definitions and terminology relating to records check determinations; to provide that
6 background checks are not valid if an individual has been separated from employment for
7 more than 180 consecutive days from an early care and education program; to provide for
8 related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and
12 learning, is amended by revising subsection (h) of Code Section 20-1A-13, relating to
13 emergency placement of monitors, emergency closure upon minor's death, and requirements
14 and procedures, as follows:

15 "(h) If a hearing is requested, the preliminary hearing shall consist of a review of all oral
16 and written evidence introduced at the hearing and any arguments made. Hearsay shall be
17 admissible in a preliminary hearing in determining the issues relevant to emergency closure
18 of a program or the emergency placement of a monitor or monitors. A recording shall be
19 made of the hearing."

20 SECTION 2.

21 Said chapter is further amended by revising Code Section 20-1A-30, relating to definitions
22 relative to background checks, as follows:

23 "20-1A-30.

24 As used in this article, the term:

25 (1) 'Comprehensive records check determination' means a satisfactory or unsatisfactory
 26 determination by the department, based upon a Federal Bureau of Investigation
 27 fingerprint check, a search of the National Crime Information Center's National Sex
 28 Offender Registry, and a search of the following registries, repositories, or data bases in
 29 the state where the actual or potential employee or director resides and in each state
 30 where such individual resided during the preceding five years: criminal registry or
 31 repository, with the use of fingerprints being required in the state where the individual
 32 resides and optional in other states; state sex offender registry or repository; and state
 33 based child abuse and neglect registry and data base.

34 ~~(1)~~(2) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
 35 whether an appeal of the conviction has been sought.

36 ~~(2)~~(3) 'Crime' means:

37 (A) Any felony;

38 (B) A violation of Code Section 16-5-23 when the victim is a minor;

39 (C) A violation of Code Section 16-5-23.1 when the victim is a minor;

40 (D) A violation of Code Section 16-12-1;

41 (E) A violation of Chapter 6 of Title 16;

42 (F) A violation of Code Section 16-4-1; or

43 (G) A violation of Code Section 16-5-29;

44 (H) A violation of Code Section 16-5-60 when the victim is a minor;

45 (I) A violation of Code Section 16-5-70;

46 (J) A violation of Code Section 16-12-1.1;

47 (K) A violation of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, or 16-12-100.3;

48 (L) A violation of Code Section 40-6-391 when a child is endangered;

49 (M) A violation of Code Section 19-7-5; or

50 ~~(G)~~(N) Any other offenses committed in another jurisdiction which, if committed in
 51 this state, would be one of the enumerated crimes listed in this paragraph.

52 ~~(3)~~(4) 'Criminal record' means:

53 (A) Conviction of a crime;

54 (B) Arrest, charge, and sentencing for a crime where:

55 (i) A plea of nolo contendere was entered to the charge;

56 (ii) First offender treatment without adjudication of guilt pursuant to the charge was
 57 granted; provided, however, that this division shall not apply to a violation of Chapter
 58 13 of Title 16, relating to controlled substances, or any other offense committed in
 59 another jurisdiction which, if it were committed in this state, would be a violation of
 60 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;

61 or

62 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
 63 provided, however, that this division shall not apply to a violation of Chapter 13 of
 64 Title 16, relating to controlled substances, or any other offense committed in another
 65 jurisdiction which, if it were committed in this state, would be a violation of Chapter
 66 13 of Title 16 if such violation or offense constituted only simple possession; or

67 (C) Arrest and being charged for a crime if the charge is pending, unless the time for
 68 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

69 ~~(4)~~(5) 'Director' means the on-site manager of a facility, designated by the legal owner,
 70 who is responsible for the supervision, operation, and maintenance of an early care and
 71 education program and meets the minimum qualifications as determined by the
 72 department.

73 ~~(5)~~(6) 'Employee' means any person, other than a director, who is ~~17 years of age or~~
 74 ~~older and is employed compensated~~ by an early care and education program; or who cares
 75 for, supervises, or has unsupervised access to children at the facility; or who is 17 years
 76 of age or older and to perform any duties which involve personal contact between that
 77 ~~person and any child being cared for at the facility and also includes any adult person~~
 78 ~~who resides at the facility; or who, with or without compensation, performs duties or~~
 79 services that benefit for the early care and education program which involve personal
 80 contact between that person and any child being cared for by the early care and education
 81 program; however, a parent or legal guardian of a child in care shall not be considered
 82 an employee unless such parent or legal guardian is deemed an employee by the early
 83 care and education program or either resides at the early care and education program or
 84 is compensated in any fashion by the early care and education program except through
 85 appropriate state or federal funds.

86 ~~(6)~~(7) 'Employment history' means a record of where a person has worked for the past
 87 ten years.

88 ~~(7)~~(8) 'Facility' means an early care and education program's real property at which
 89 children are received for care.

90 ~~(8)~~(9) 'Fingerprint' means an inked fingerprint card or an electronic image of a person's
 91 fingerprint.

92 ~~(9)~~(10) 'Fingerprint records check determination' means a satisfactory or unsatisfactory
 93 determination by the department based upon fingerprint-based national criminal history
 94 record information.

95 ~~(10)~~(11) 'GCIC' means the Georgia Crime Information Center established under Article
 96 2 of Chapter 3 of Title 35.

97 ~~(11)~~(12) 'GCIC information' means criminal history record information, as defined in
 98 Code Section 35-3-30.

99 ~~(12) 'Preliminary records check determination' means a satisfactory or unsatisfactory~~
 100 ~~determination by the director based only upon a comparison of GCIC information~~
 101 ~~obtained solely from a law enforcement agency within the state with other than~~
 102 ~~fingerprint information regarding the person upon whom the records check is being~~
 103 ~~performed for purposes of this article.~~

104 (13) 'Provisional employee' means an individual other than a director whose duties
 105 involve personal contact between that person and any child being cared for at the facility
 106 and who is hired for a limited period of employment time.

107 (14) 'Records check application' means a document created by the department to be
 108 completed and submitted to the department by every actual and potential director and
 109 employee that indicates such ~~director's name, early care and education program name and~~
 110 ~~type, and such other~~ information as the department deems appropriate and which
 111 authorizes the department to receive ~~and render a fingerprint records check determination~~
 112 ~~pursuant to any~~ sex offender registry, child abuse and neglect registry, and criminal
 113 history record information pertaining to such individual from any local, state, or national
 114 ~~criminal justice or law enforcement agency or appropriate jurisdiction and render a~~
 115 fingerprint or comprehensive records check determination.

116 (15) 'Satisfactory determination' means a written declaration that a person for whom a
 117 ~~preliminary or fingerprint or comprehensive~~ records check determination was performed
 118 was found to have no criminal record.

119 (16) 'Unsatisfactory determination' means a written declaration that a person for whom
 120 a ~~preliminary or fingerprint or comprehensive~~ records check determination was
 121 performed was found to have a criminal record."

122 SECTION 3.

123 Said chapter is further amended by revising Code Section 20-1A-31, relating to records
 124 check application for potential employees and fingerprint records checks, as follows:

125 "20-1A-31.

126 (a) A support center may furnish to the department a records check application for each
 127 potential employee of any licensed, commissioned, or permitted early care and education
 128 program. Before a person affiliated with a support center may become an employee of any
 129 licensed, commissioned, or permitted early care and education program, such person shall
 130 obtain a satisfactory ~~fingerprint~~ comprehensive records check determination. All potential
 131 employees, excluding students currently enrolled in an early education curriculum through
 132 an accredited school of higher education, may submit evidence, satisfactory to the
 133 department, that such potential employee received a satisfactory ~~fingerprint~~ comprehensive
 134 records check determination that includes a records check clearance date that is no more

135 than 12 months old, notwithstanding Code Section 20-1A-45, or that any employee whose
 136 fingerprint records check revealed a criminal record of any kind has either subsequently
 137 received a satisfactory fingerprint comprehensive records check determination or has had
 138 the unsatisfactory determination reversed in accordance with Code Section 20-1A-43,
 139 notwithstanding Code Section 20-1A-45. A student currently enrolled in an early
 140 education curriculum through an accredited school of higher education may submit
 141 evidence, satisfactory to the department, that such student received a satisfactory
 142 fingerprint comprehensive records check determination that includes a records check
 143 clearance date that is no more than 24 months old, notwithstanding Code Section
 144 20-1A-45, or that such student whose fingerprint comprehensive records check
 145 determination revealed a criminal record of any kind has either subsequently received a
 146 satisfactory fingerprint comprehensive records check determination or has had the
 147 unsatisfactory determination reversed in accordance with Code Section 20-1A-43,
 148 notwithstanding Code Section 20-1A-45. The licensed, commissioned, or permitted early
 149 care and education program shall maintain documentation in the employee's personnel file,
 150 which is available to the department upon request, and which reflects that a satisfactory
 151 fingerprint comprehensive records check determination was received before the employee
 152 is allowed to ~~reside in an early care and education program or be present at an early care~~
 153 ~~and education program~~ a facility while children are present for care or to reside in a facility.
 154 If the fingerprint comprehensive records check determination for any potential employee
 155 reveals a criminal record of any kind, such potential employee shall not be allowed to
 156 ~~reside in an early care and education program or be present at an early care and education~~
 157 ~~program~~ a facility while children are present for care or to reside in a facility until such
 158 potential employee has either obtained a satisfactory fingerprint comprehensive records
 159 check determination or has had the unsatisfactory fingerprint comprehensive records check
 160 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code
 161 Section 20-1A-45. If the fingerprint comprehensive records check determination is
 162 unsatisfactory, the licensed, commissioned, or permitted early care and education program
 163 shall, after receiving notification of such unsatisfactory determination, take such steps as
 164 are necessary so that such ~~person no longer resides in the early care and education program~~
 165 ~~and employee is no longer is present at an early care and education program~~ a facility while
 166 children are present for care and no longer resides in the facility.
 167 (b) Notwithstanding the limited period of portability, every person affiliated with a support
 168 center as a potential employee of a licensed or commissioned early care and education
 169 program shall undergo additional fingerprint comprehensive records checks determinations
 170 such that the time between such additional fingerprint comprehensive records checks

171 determinations and that person's previous fingerprint comprehensive records check
 172 determination shall not exceed five years, notwithstanding Code Section 20-1A-45.
 173 (c) After the issuance of a registration, the department may require additional fingerprint
 174 comprehensive records check determinations on any person affiliated with a support center
 175 during the course of a child abuse investigation involving such person or when the
 176 department has reason to believe such person has a criminal record that renders such person
 177 ineligible to ~~reside at an early care and education program~~ or be present at an ~~early care and~~
 178 ~~education program~~ a facility while children are present for care or to reside in a facility."

179 SECTION 4.

180 Said chapter is further amended by revising subsections (a) and (b) of Code Section
 181 20-1A-32, relating to program license or commission applicants, records check requirements,
 182 and change of ownership, as follows:

183 "(a) Accompanying any application for a new license or commission for an early care and
 184 education program, the applicant shall furnish to the department a records check
 185 application for the director and each employee. In lieu of such records check applications,
 186 the license applicant may submit evidence, satisfactory to the department, that such
 187 individual received a satisfactory fingerprint comprehensive records check determination
 188 that includes a records check clearance date that is no more than 12 months old,
 189 notwithstanding Code Section 20-1A-45, or that any director or employee whose
 190 fingerprint comprehensive records check revealed a criminal record of any kind has either
 191 subsequently received a satisfactory fingerprint comprehensive records check
 192 determination or has had the unsatisfactory determination reversed in accordance with
 193 Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. Either the department
 194 or the appropriate ~~law enforcement~~ agencies may charge reasonable and additional
 195 processing fees for ~~performing fingerprint records checks~~ providing information pursuant
 196 to a records check application as required by statute, regulation, or policy or by GCIC.

197 (b) Each change of ownership applicant shall furnish to the department a records check
 198 application for the director and each employee. In lieu of such records check applications,
 199 the change of ownership applicant may submit evidence that the director and each
 200 employee at that facility received a satisfactory fingerprint comprehensive records check
 201 determination that includes a records check clearance date that is no more than 60 months
 202 old, notwithstanding Code Section 20-1A-45, or that any director or employee whose
 203 fingerprint comprehensive records check determination revealed a criminal record of any
 204 kind has either subsequently received a satisfactory fingerprint comprehensive records
 205 check determination or has had the unsatisfactory determination reversed in accordance

206 with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. Failure to comply
 207 with this provision shall prevent the department from issuing a license or commission."

208 **SECTION 5.**

209 Said chapter is further amended by revising Code Section 20-1A-33, relating to notification
 210 to applicant on records check, as follows:

211 "20-1A-33.

212 After being furnished the required records check application under Code Section 20-1A-32,
 213 the department shall notify the license, commission, or change of ownership applicant and
 214 the ~~finger~~ fingerprint records check applicant in writing whether the department's determination
 215 as to a potential director or potential employee is satisfactory or unsatisfactory. If the
 216 ~~finger~~ fingerprint comprehensive records check determination was satisfactory as to the potential
 217 director and each potential employee of a license applicant's facility, that applicant may be
 218 issued a license or commission for that facility if the applicant otherwise qualifies for a
 219 license or commission under Article 1 of this chapter. If the ~~finger~~ fingerprint comprehensive
 220 records check determination for a potential director or any potential employee revealed a
 221 criminal record, such potential director or potential employee shall not be allowed to ~~reside~~
 222 ~~at an early care and education program or be present in the early care and education~~
 223 ~~program at the facility~~ while any child is present for care or to reside in the facility until he
 224 or she either has obtained a satisfactory ~~finger~~ fingerprint comprehensive records check
 225 determination or has had the unsatisfactory determination reversed in accordance with
 226 Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The department shall
 227 revoke the license or commission of an early care and education program if the early care
 228 and education program fails to comply with the requirements of this Code section."

229 **SECTION 6.**

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

233 "20-1A-34.

234 (a) The department shall receive a records check application, as may be required by the
 235 department and allowed under federal law, for any individual that cares for children
 236 through a program that receives, either directly or indirectly, federal funds through the
 237 department for the care of children. Upon receipt of such records check application, the
 238 department shall comply with all rules of the GCIC and the Federal Bureau of Investigation
 239 for the request and receipt of national fingerprint based criminal history reports. Such
 240 individuals shall also submit all necessary applications, fees, and acceptable fingerprints

241 to the GCIC. Within ten days after receiving fingerprints acceptable to GCIC, the
242 application, and fee, GCIC shall notify the department in writing of any derogatory finding,
243 including, but not limited to, any criminal record, of the state fingerprint records check or
244 if there is no such finding. The GCIC shall also conduct a search of Federal Bureau of
245 Investigation records and fingerprints and notify the department in writing of the results
246 of such search. Upon receipt of the bureau's report, the department shall make a national
247 fingerprint records check determination. If the fingerprint records check determination is
248 unsatisfactory for an individual, the department shall notify the provider and the employee
249 of such determination in writing, and no such individual shall be allowed to ~~reside at the~~
250 ~~location~~ or be present at the ~~location~~ facility when any child is present for care or to reside
251 in the facility until he or she either has obtained a satisfactory fingerprint comprehensive
252 records check determination or has had the unsatisfactory determination reversed in
253 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The
254 department shall cease to issue funds, either directly or indirectly, to any individual or
255 program that willfully and continually fails to comply with the requirements of this Code
256 section.

257 (b) Every potential employee of the department or contractor performing duties on behalf
258 of the department who may have any reason to be present at a licensed or commissioned
259 early care and education program while any child is present for care must receive a
260 satisfactory fingerprint comprehensive records check determination or have had an
261 unsatisfactory fingerprint comprehensive records check determination reversed in
262 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45, prior
263 to being present at a licensed or commissioned early care and education program while
264 children are present for care. Every current employee of the department who may have any
265 reason to be present at a licensed or commissioned early care and education program while
266 any child is present for care must receive a satisfactory fingerprint comprehensive records
267 check determination or have had an unsatisfactory fingerprint comprehensive records check
268 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code
269 Section 20-1A-45. Every employee of the department shall undergo additional fingerprint
270 comprehensive records checks determinations such that the time between such additional
271 fingerprint comprehensive records checks determinations and that employee's previous
272 fingerprint comprehensive records check determination shall not exceed five years,
273 notwithstanding Code Section 20-1A-45. The department shall maintain documentation
274 in the appropriate personnel file indicating that such person has obtained such current
275 satisfactory fingerprint comprehensive records check determination or has had an
276 unsatisfactory fingerprint comprehensive records check determination reversed in
277 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45."

278 **SECTION 7.**

279 Said chapter is further amended by revising Code Section 20-1A-35, relating to provisional
 280 employees, records checks requirements, and revocation of license, commission, or permit
 281 for violations, as follows:

282 "20-1A-35.

283 (a) Where there is need for a provisional employee to work at a licensed, commissioned,
 284 or permitted early care and education program facility, such early care and education
 285 program may utilize an individual as a provisional employee only after the ~~director reviews~~
 286 ~~a preliminary records check and makes~~ individual receives a satisfactory determination
 287 pursuant to rules and regulations promulgated by the department in accordance with this
 288 article. No such provisional employee shall ~~reside in an early care and education program~~
 289 ~~or be present in the early care and education program at a facility~~ while any child is present
 290 for care or reside in a facility until such satisfactory ~~preliminary records check~~
 291 determination has been made ~~based upon GCIC information obtained from local law~~
 292 ~~enforcement within the prior ten days.~~ The board shall be authorized to define and enforce
 293 by all regulations, including, but not limited to, the length of time a provisional employee
 294 ~~may be present at a facility without a fingerprint records check determination~~ pertaining
 295 to provisional employees. The department may revoke the license, commission, or permit
 296 of an early care and education program if the early care and education program fails to
 297 comply with the ~~requirements of this Code section and allows a person with an~~
 298 ~~unsatisfactory preliminary records check determination to reside in an early care and~~
 299 ~~education program or be present at an early care and education program while children are~~
 300 ~~present for care~~ rules and regulations pertaining to provisional employees.

301 (b) If the department determines a licensed, commissioned, or permitted early care and
 302 education program knows or should reasonably know that a provisional employee has a
 303 criminal record and allows the provisional employee to ~~reside at an early care and~~
 304 ~~education program or be present at an early care and education program at a facility~~ while
 305 children are present for care or to reside at a facility, the department shall revoke the
 306 license, commission, or permit for that early care and education program."

307 **SECTION 8.**

308 Said chapter is further amended by revising Code Section 20-1A-36, relating to certain
 309 offenders prohibited as employees of facilities, as follows:

310 "20-1A-36.

311 No licensed, commissioned, or permitted facility operated as an early care and education
 312 program or similar facility or any operator of such a facility shall allow any person who has
 313 been convicted of or who has entered a plea of guilty or nolo contendere to any offense

314 specified in Code Section 16-12-1.1 to ~~reside in an early care and education program or be~~
 315 ~~present at an early care and education program~~ a facility while children are present for care
 316 or allow any such person to reside at in or be domiciled at such facility in violation of Code
 317 Section 16-12-1.1. The department shall either deny the issuance of or revoke the license,
 318 commission, or registration of any such facility violating the provisions of this Code
 319 section. The powers and duties set forth in this Code section are cumulative and not
 320 intended to limit the powers and duties set forth throughout this article."

321 **SECTION 9.**

322 Said chapter is further amended by revising Code Section 20-1A-37, relating to individuals
 323 residing in family child care learning home or at certain programs and records check
 324 requirements, as follows:

325 "20-1A-37.

326 Notwithstanding any other provision of this article, ~~an individual~~ a director or employee
 327 who resides in a family child care learning home, as defined by Code Section 20-1A-2, or
 328 at any program as determined by the department and allowed under federal law to receive,
 329 either directly or indirectly, federal funds through the department for the care of children
 330 shall be required to provide a ~~fingerprint~~ records check application to the department.
 331 Upon receipt of such records check application, the department shall comply with all the
 332 rules and regulations promulgated by the GCIC and the Federal Bureau of Investigation for
 333 the request and receipt of national fingerprint based criminal history reports. Such
 334 individuals shall also submit all necessary applications, fees, and acceptable fingerprints
 335 to the GCIC and appropriate agencies. If the ~~fingerprint~~ comprehensive records check
 336 determination is unsatisfactory, the department shall notify the provider and the employee
 337 of such determination in writing, and no such individual shall be allowed to ~~reside at the~~
 338 ~~location~~ or be present at the ~~location~~ facility when any child is present for care or to reside
 339 in the facility until he or she either has obtained a satisfactory ~~fingerprint~~ comprehensive
 340 records check determination or has had the unsatisfactory determination reversed in
 341 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The
 342 department shall revoke the license, commission, or permit of a family child care learning
 343 home if the family child care learning home fails to comply with the requirements of this
 344 Code section."

345 **SECTION 10.**

346 Said chapter is further amended by revising Code Section 20-1A-38, relating to change of
 347 directors and records check requirements, as follows:

348 "20-1A-38.

349 (a) If the director of a licensed, commissioned, or permitted early care and education
 350 program ceases to be the director of that early care and education program, the license
 351 holder, commission holder, or permit holder shall thereupon designate a new director.
 352 After such change, the license holder, commission holder, or permit holder of that early
 353 care and education program shall notify the department of such change and of any
 354 additional information the department may require regarding the newly designated director
 355 of that early care and education program, including a ~~fingerpr~~ fingerprint records check application.
 356 Such individuals shall also submit all necessary applications, fees, and acceptable
 357 fingerprints to ~~the GCIC and appropriate agencies~~. If the department determines that such
 358 newly designated director has received a satisfactory ~~fingerpr~~ fingerprint comprehensive records
 359 check determination that includes a records check clearance date that is no more than 12
 360 months old, notwithstanding Code Section 20-1A-45, or had an unsatisfactory
 361 determination reversed pursuant to Code Section 20-1A-43 within the prior 12 months,
 362 notwithstanding Code Section 20-1A-45, such determination shall be deemed to be
 363 satisfactory for purposes of this article.

364 (b) If the department determines under subsection (a) of this Code section that a licensed,
 365 commissioned, or permitted early care and education program knows or should reasonably
 366 know that the newly designated director has a criminal record or an unsatisfactory
 367 determination issued by the department that has not been reversed pursuant to Code Section
 368 20-1A-43, notwithstanding Code Section 20-1A-45, and allows the director to ~~reside at an~~
 369 ~~early care and education program~~ or be present at an ~~early care and education program a~~
 370 facility while children are present for care or to reside in the facility, then the license,
 371 commission, or permit for that facility program shall be revoked."

372 **SECTION 11.**

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

376 "20-1A-39.

377 (a) Before a person may become an employee of any early care and education program
 378 after that early care and education program has received a license or commission, that early
 379 care and education program shall require that person to obtain a satisfactory ~~fingerpr~~ fingerprint
 380 comprehensive records check determination. All potential employees, excluding students
 381 currently enrolled in an early education curriculum through an accredited school of higher
 382 education, may submit evidence, satisfactory to the department, that the potential employee
 383 received a satisfactory ~~fingerpr~~ fingerprint comprehensive records check determination that includes

384 a records check clearance date that is no more than 12 months old, notwithstanding Code
 385 Section 20-1A-45, or that any potential employee whose fingerprint comprehensive records
 386 check revealed a criminal record of any kind has either subsequently received a satisfactory
 387 fingerprint comprehensive records check determination or has had the unsatisfactory
 388 determination reversed in accordance with Code Section 20-1A-43, notwithstanding Code
 389 Section 20-1A-45. A student currently enrolled in an early education curriculum through
 390 an accredited school of higher education may submit evidence, satisfactory to the
 391 department, that the student received a satisfactory fingerprint comprehensive records
 392 check determination that includes a records check clearance date that is no more than 24
 393 months old, notwithstanding Code Section 20-1A-45, or that such student whose
 394 fingerprint comprehensive records check determination revealed a criminal record of any
 395 kind has either subsequently received a satisfactory fingerprint comprehensive records
 396 check determination or has had the unsatisfactory determination reversed in accordance
 397 with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The licensed or
 398 commissioned early care and education program shall maintain documentation in the
 399 employee's personnel file, which is available to the department upon request, which reflects
 400 that a satisfactory fingerprint comprehensive records check determination was received
 401 before the employee is eligible to ~~reside at an early care and education program~~ or be
 402 present at a ~~licensed or commissioned early care and education program~~ facility while
 403 children are present for care ~~or to reside in a facility~~. If the fingerprint comprehensive
 404 records check determination for any potential employee reveals a criminal record of any
 405 kind, such potential employee shall be ineligible to ~~reside at an early care and education~~
 406 ~~program~~ or be present at an ~~early care and education program~~ a facility while children are
 407 present for care ~~or to reside in a facility~~ until such potential employee has either obtained
 408 a satisfactory fingerprint comprehensive records check determination or has had the
 409 unsatisfactory fingerprint comprehensive records check determination reversed in
 410 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. If the
 411 fingerprint comprehensive records check determination is unsatisfactory, the licensed or
 412 commissioned early care and education program shall, after receiving notification of such
 413 unsatisfactory determination, take such immediate steps as are necessary so that such
 414 person ~~no longer resides at the early care and education program~~ or is no longer present at
 415 the ~~early care and education program~~ facility while children are present for care ~~and no~~
 416 ~~longer resides in the facility~~. The department shall revoke the license or commission of an
 417 early care and education program if the early care and education program fails to comply
 418 with the requirements of this Code section.

419 ~~(b) By no later than January 1, 2017, every current employee and director of any licensed~~
 420 ~~or commissioned early care and education program shall obtain either a satisfactory~~

421 ~~fingerprint records check determination or shall have had an unsatisfactory fingerprint~~
 422 ~~records check determination reversed in accordance with Code Section 20-1A-43. The~~
 423 ~~early care and education program shall maintain such documentation in the appropriate~~
 424 ~~personnel file, which is available to the department immediately upon request. If the~~
 425 ~~fingerprint records check determination is unsatisfactory, the licensed or commissioned~~
 426 ~~early care and education program shall, after receiving notification of the determination,~~
 427 ~~take such steps as are necessary so that such person no longer resides at the early care and~~
 428 ~~education program or is no longer present at the early care and education program while~~
 429 ~~children are present for care. The department shall revoke the license or commission of an~~
 430 ~~early care and education program if the early care and education program fails to comply~~
 431 ~~with the requirements of this Code section.~~

432 (c)(b) Effective January 1, 2019, every employee and director of any licensed or
 433 commissioned early care and education program shall undergo additional fingerprint
 434 comprehensive records checks determinations such that the time between such additional
 435 fingerprint comprehensive records checks determinations and that employee's or director's
 436 previous fingerprint comprehensive records check determination shall not exceed five
 437 years, notwithstanding Code Section 20-1A-45. The early care and education program
 438 shall maintain documentation in the appropriate personnel file, which is available to the
 439 department immediately upon request, indicating that such person has obtained such
 440 current satisfactory fingerprint comprehensive records check determination or has had an
 441 unsatisfactory fingerprint comprehensive records check determination reversed in
 442 accordance with Code Section 20-1A-43, notwithstanding Code Section 20-1A-45. The
 443 department shall revoke the license or commission of an early care and education program
 444 if the early care and education program fails to comply with the requirements of this Code
 445 section.

446 (d)(c) A license or commission shall be subject to ~~suspension~~ or revocation and the
 447 department may refuse to issue a license or commission if a director or employee does not
 448 undergo the fingerprint comprehensive records check determination applicable to that
 449 director or employee and receive acceptable determinations.

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

456 (f)(e) No licensed or commissioned early care and education program may allow any
 457 person to ~~reside at an early care and education program or be present at a licensed or~~

458 ~~permitted early care and education program facility~~ while children are present for care or
 459 to reside in a facility as a director or an employee unless there is on file in the early care
 460 and education program an employment history and a satisfactory ~~fingerprint~~
 461 comprehensive records check determination or proof that an unsatisfactory determination
 462 has been reversed in accordance with Code Section 20-1A-43, notwithstanding Code
 463 Section 20-1A-45. The department shall revoke the license or commission of any early
 464 care and education program if the early care and education program fails to comply with
 465 the requirements of this Code section.

466 ~~(g)~~(f) A license holder, commission holder, permit holder, or director of a licensed,
 467 commissioned, or permitted early care and education program ~~having~~ that allows an
 468 employee or director about whom such license holder, commission holder, permit holder,
 469 or director knows or should reasonably know to have a criminal record that renders the
 470 employee or director ineligible to have contact with children ~~in the early care and education~~
 471 program to be present at a facility while children are present for care or to reside in a
 472 facility shall be guilty of a misdemeanor."

473 **SECTION 12.**

474 Said chapter is further amended by adding a new Code section to read as follows:

475 "20-1A-45.

476 A satisfactory comprehensive records check determination shall be no longer valid for an
 477 employee or director who has been separated from employment for more than 180
 478 consecutive days from an early care and education program or any program that received,
 479 either directly or indirectly, federal funds through the department for the care of children."

480 **SECTION 13.**

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