

House Bill 401 (AS PASSED HOUSE AND SENATE)

By: Representatives Efrstration of the 104<sup>th</sup>, Ballinger of the 23<sup>rd</sup>, Dempsey of the 13<sup>th</sup>, and Broadrick of the 4<sup>th</sup>

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 provide for criminal background checks of potential employees  
3 of child care learning centers and family child care learning homes; to provide for powers  
4 and authority of the Department of Early Care and Learning; to revise provisions relating to  
5 the licensing, commissioning, permitting, and registration of early care and education  
6 programs; to amend Code Section 16-12-1.1 of the Official Code of Georgia Annotated,  
7 relating to restrictions on persons with criminal records with regard to child, family, or  
8 group-care facilities, so as to revise terminology; to amend Code Section 25-2-13 of the  
9 Official Code of Georgia Annotated, relating to regulation of fire and other hazards in  
10 buildings presenting special hazards to persons or property, so as to revise terminology; to  
11 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
12 for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and  
16 learning, is amended by revising Article 1, relating to general provisions, as follows:

17 "ARTICLE 1

18 20-1A-1.

19 The Department of Early Care and Learning is created as a department of the executive  
20 branch of state government and shall have the duties, responsibilities, functions, powers,  
21 and authority set forth in this chapter and otherwise provided by law. The Department of  
22 Early Care and Learning is the successor to the Office of School Readiness and shall have  
23 the duties, responsibilities, functions, powers, authority, employees, office equipment,

24 furniture, and other assets formerly held by the Office of School Readiness. The  
 25 Department of Early Care and Learning shall be a separate budget unit.

26 20-1A-2.

27 As used in this chapter, the term:

28 (1) 'Board' means the Board of Early Care and Learning.

29 (2) 'Change of ownership applicant' means any licensed or commissioned early care and  
 30 education program applying for a new license or commission to operate an early care and  
 31 education program.

32 ~~(2)~~(3) 'Child care learning center' means any place operated by a person, society, agency,  
 33 corporation, institution, or group wherein are received for pay for group care for less than  
 34 24 hours per day, without transfer of legal custody, ~~19~~ seven or more children under 18  
 35 years of age; provided, however, that this term shall not include a private school which  
 36 provides kindergarten through grade 12 education, meets the requirements of Code  
 37 Section 20-2-690, and is accredited by one or more of the entities listed in  
 38 subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care  
 39 before, after, or both before and after the customary school day to its students as an  
 40 auxiliary service to such students during the regular school year only.

41 ~~(3)~~(4) 'Commissioner' means the commissioner of early care and learning.

42 ~~(4)~~(5) 'Department' means the Department of Early Care and Learning.

43 ~~(5)~~(6) 'Early care and education programs' include all family day-care homes, ~~group~~  
 44 ~~day-care~~ support centers, family child care learning homes, and care learning centers,  
 45 regardless of whether such homes or centers offer education.

46 ~~(6)~~(7) 'Early childhood' means the period of childhood from birth to age six.

47 ~~(7) 'Family day-care home' means a private residence operated by any person who~~  
 48 ~~receives therein for pay for supervision and care fewer than 24 hours per day, without~~  
 49 ~~transfer of legal custody, at least three but not more than six children under 13 years of~~  
 50 ~~age who are not related to such person and whose parents or guardians are not residents~~  
 51 ~~in the same private residence; provided, however, that the total number of unrelated~~  
 52 ~~children cared for in such home, for pay and not for pay, may not exceed six children~~  
 53 ~~under 13 years of age at one time.~~

54 (8) 'Family child care learning home' means a private residence operated by any person  
 55 who receives therein for pay for supervision and care fewer than 24 hours per day,  
 56 without transfer of legal custody, at least three but not more than six children under 13  
 57 years of age who are not related to such person and whose parents or guardians are not  
 58 residents in the same private residence; provided, however, that the total number of

59 unrelated children cared for in such home, for pay and not for pay, may not exceed six  
 60 children under 13 years of age at one time.

61 ~~(8) 'Group day-care home' means any place operated by any person or group wherein are~~  
 62 ~~received for pay not less than seven nor more than 18 children under 18 years of age for~~  
 63 ~~care and supervision for less than 24 hours per day.~~

64 (9) 'License' means the document issued by the department authorizing the operation of  
 65 a family child care learning home or child care learning center.

66 (10) 'Permit' means the temporary document issued by the department authorizing a  
 67 family child care learning home or child care learning center to operate without a license  
 68 for a limited term to be determined by the department.

69 (11) 'Registration' means the document issued by the department to any business entity  
 70 operating as a support center.

71 (12) 'Support center' means any business entity registered with the department that makes  
 72 available potential employees for family child care learning homes or child care learning  
 73 centers and that receives no children for care. Such term shall include but not be limited  
 74 to a temporary staffing agency, a university, or an independent contractor.

75 20-1A-3.

76 (a) There is created a Board of Early Care and Learning and a commissioner of early care  
 77 and learning.

78 (b) The board shall consist of one member from each congressional district appointed by  
 79 the Governor. In as far as it is practical, the members of the board shall be representative  
 80 of all areas and functions encompassed within the early childhood care and education  
 81 community. In appointing members to their initial terms, the Governor shall designate five  
 82 members for two-year terms, four members for three-year terms, and four members for  
 83 five-year terms. Subsequent appointments shall be for five-year terms. Members shall  
 84 serve until their successors are appointed. In the event of a vacancy on the board for any  
 85 reason other than expiration of a term, the Governor shall appoint a person from the same  
 86 congressional district to fill the vacancy for the unexpired term.

87 (c) The board shall elect from its members a chairperson and such other officers as the  
 88 board considers necessary. The board shall adopt bylaws for the conduct of its activities.  
 89 The members of the board shall receive per diem and expense reimbursement as shall be  
 90 determined and approved by the Office of Planning and Budget in conformity with rates  
 91 and allowances determined for members of other state boards.

92 (d) The board shall determine policies and promulgate rules and regulations for the  
 93 operation of the department including:

- 94 (1) Functions formerly performed by the Office of School Readiness, including, but not  
 95 limited to, Even Start;
- 96 (2) Functions transferred to the department from the Department of Human Resources  
 97 (now known as the Department of Human Services) relating to day-care centers (now  
 98 known as child care learning centers), group day-care homes (now known as child care  
 99 learning centers), family day-care homes (now known as family child care learning  
 100 homes), and other functions as agreed upon by the department and the Department of  
 101 Human Resources (now known as the Department of Human Services) in accordance  
 102 with Code Section 20-1A-8;
- 103 (3) Functions transferred to the department from the Georgia Child Care Council  
 104 pursuant to Code Section 20-1A-63; and
- 105 (4) Functions relating to early childhood education programs transferred from the  
 106 Department of Education by agreement in accordance with Code Section 20-1A-17.
- 107 (e) The board shall oversee the budget of the department and shall submit an annual  
 108 request for funding to the Office of Planning and Budget in accordance with Code Section  
 109 45-12-78.
- 110 (f) The commissioner shall be the chief administrative and executive officer of the  
 111 department. The commissioner shall be appointed by and serve at the pleasure of the  
 112 Governor. The commissioner shall be in the unclassified service as defined by Code  
 113 Section 45-20-2 and shall receive a salary to be determined by the Governor.
- 114 (g) The commissioner shall have the authority to employ all personnel of the department,  
 115 subject to the provisions of this chapter, all applicable provisions of other laws governing  
 116 public employment, and the policies, procedures, rules, and regulations of the board.

117 20-1A-4.

118 The Department of Early Care and Learning shall have the following powers and duties:

- 119 (1) To administer such programs and services as may be necessary for the operation and  
 120 management of voluntary pre-kindergarten, which shall be known as 'Georgia's Pre-K  
 121 Program';
- 122 (2) To administer such programs and services as may be necessary for the operation and  
 123 management of preschool and child development programs, such as Even Start and child  
 124 care regulation and food programs;
- 125 (3) To act as the agent of the federal government in conformity with this chapter and the  
 126 administration of any federal funds granted to the state to aid in the furtherance of any  
 127 functions of the department;
- 128 (4) To assist local units of administration in this state so as to assure the proliferation of  
 129 services under this chapter;

- 130 (5) To regulate early care and education programs in accordance with this chapter;
- 131 (6) To perform the functions set out in Code Section 20-1A-64, relating to improvement  
132 of the quality, availability, and affordability of child care in this state;
- 133 (7) To serve as the Head Start state collaboration office;
- 134 (8) To establish and collect annual fees for licensure, registration, or commission of early  
135 care and education programs. Such fees so established shall be reasonable and shall be  
136 determined in such a manner that the total amount of fees established shall help defray  
137 the direct and indirect costs to the department in performing such function. The  
138 department shall remit all fees collected to the general fund of the state;
- 139 (9) To recommend in writing to the owner of any early care and ~~learning~~ education  
140 program licensed by the department that such program carry liability insurance coverage  
141 sufficient to protect its clients. Any such program which after receiving such  
142 recommendation is not covered by liability insurance shall post that fact in a conspicuous  
143 place in the program and shall notify the parent or guardian of each child under the care  
144 of the program in writing. Such notice shall be in at least 1/2 inch letters. Each such  
145 parent or guardian must acknowledge receipt of such notice in writing and a copy of such  
146 acknowledgment shall be maintained on file at the program at all times while the child  
147 attends the program and for 12 months after the child's last date of attendance. Failure  
148 to do so may subject the owner of the program to a civil fine of \$1,000.00 for each such  
149 infraction;
- 150 (10) To administer any programs assigned to it administratively by the Governor  
151 pursuant to his or her powers or any programs for which the Governor designates the  
152 department as the lead agency in the state for a federal program;
- 153 (11) To perform any other functions as agreed upon between the department and the  
154 Department of Human Resources (now known as the Department of Human Services),  
155 pursuant to Code Section 20-1A-8;
- 156 (12) To perform any other functions as agreed upon between the department and the  
157 Department of Education, in accordance with Code Section 20-1A-17; ~~and~~
- 158 (13) To exercise the powers reasonably necessary to accomplish the purposes of this  
159 chapter, including, but not limited to, contracting for services; and
- 160 (14) To solicit and accept donations, contributions, grants, bequests, gifts of money and  
161 property, facilities, or services, with or without consideration, from any person, firm, or  
162 corporation or from any state, county, municipal corporation, local government, or  
163 governing body, or from the federal government to enable it to carry out its functions and  
164 purpose.

165 20-1A-5.

166 This chapter shall not be construed to impair or affect the rights of persons previously  
167 transferred to the Office of School Readiness who were members of the Teachers  
168 Retirement System of Georgia created in Chapter 3 of Title 47 and who elected to continue  
169 membership in such retirement system in accordance with previous law.

170 20-1A-6.

171 The department shall succeed to all rules, regulations, policies, procedures, and pending  
172 and finalized administrative orders of the Office of School Readiness which are in effect  
173 on September 30, 2004. Such rules, regulations, policies, and procedures shall remain in  
174 effect until amended, repealed, superseded, or nullified by the board or commissioner, as  
175 applicable.

176 20-1A-7.

177 Each newly printed publication, poster, banner, or sign created for the pre-kindergarten  
178 program by the department or a provider of pre-kindergarten services shall refer to the  
179 program as 'Georgia's Pre-K Program.'

180 20-1A-8.

181 (a) Effective October 1, 2004, the department shall carry out all of the functions and  
182 exercise all of the powers formerly held by the Department of Human Resources (now  
183 known as the Department of Human Services) for the regulation and licensure of early care  
184 and education programs and any other functions as agreed upon by the department and the  
185 Department of Human Resources. Subject to subsection (c) of this Code section, all  
186 persons employed by and positions authorized for the Department of Human Resources to  
187 perform functions relating to the licensure and certification of early care and education  
188 programs and any other functions as agreed upon by the department and the Department  
189 of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to  
190 the department. All office equipment, furniture, and other assets in possession of the  
191 Department of Human Resources which are used or held exclusively or principally by  
192 personnel transferred under this subsection shall be transferred to the department on  
193 October 1, 2004.

194 (b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child  
195 Care Council included in Code Section 20-1A-63, the department shall carry out the  
196 functions and exercise the powers formerly held by the Georgia Child Care Council under  
197 former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section,  
198 all persons employed by and positions authorized for the Georgia Child Care Council to

199 perform functions relating to the recommendation of measures to improve the quality,  
200 availability, and affordability of child care in this state on September 30, 2004, shall on  
201 October 1, 2004, be transferred to the department. All office equipment, furniture, and  
202 other assets in possession of the Georgia Child Care Council or the Department of Human  
203 Resources, (now known as the Department of Human Services) which are used or held  
204 exclusively or principally by personnel transferred under this subsection shall be  
205 transferred to the department on October 1, 2004.

206 (c) All transfers of employees and assets provided for in subsections (a) and (b) of this  
207 Code section shall be subject to the approval of the commissioner, and such personnel or  
208 assets shall not be transferred if the commissioner determines that a specific employee or  
209 asset should remain with the transferring agency.

210 (d) Employees of the department shall serve in the unclassified service as defined by Code  
211 Section 45-20-2. Persons who have transferred to the department pursuant to subsections  
212 (a) and (b) of this Code section who are in the classified service as defined by Code Section  
213 45-20-2 at the time of the transfer may elect to remain in such classified service and be  
214 governed by the provisions thereof; provided, however, that if any such person accepts a  
215 promotion or transfers to another position, that person shall become an employee in the  
216 unclassified service.

217 (e) All rights, credits, and funds in the Employees' Retirement System of Georgia created  
218 in Chapter 2 of Title 47 which are possessed by state personnel transferred by provisions  
219 of this Code section to the department, or otherwise held by persons at the time of  
220 employment with the department, are continued and preserved, it being the intention of the  
221 General Assembly that such persons shall not lose any rights, credits, or funds to which  
222 they may be entitled prior to becoming employees of the department. No employment  
223 benefit of any employee transferring to the department shall be impaired.

224 (f) Funding for functions and positions transferred to the department under this Code  
225 section shall be transferred as provided in Code Section 45-12-90.

226 20-1A-9.

227 The department shall succeed to all rights and responsibilities relating to licensure and  
228 regulation of day-care centers (now known as child care learning centers), group day-care  
229 homes (now known as child care learning centers), and family day-care homes (now known  
230 as family child care learning homes), including such rules, regulations, policies,  
231 procedures, and pending and finalized administrative orders of the Department of Human  
232 Resources (now known as the Department of Human Services), the Georgia Child Care  
233 Council, and the Office of State Administrative Hearings, where applicable, which are in  
234 effect on September 30, 2004, and which relate to the functions transferred to the

235 department pursuant to Code Section 20-1A-8. Such rights, responsibilities, licenses issued  
236 pursuant to previous law, procedures, and orders shall remain in effect until amended,  
237 repealed, superseded, or nullified by the commissioner. Such rules, regulations, and  
238 policies shall remain in effect until amended, repealed, superseded, or nullified by the  
239 board.

240 20-1A-10.

241 (a) The department is authorized and empowered to establish, maintain, extend, and  
242 improve throughout the state, within the limits of funds appropriated for such purposes, the  
243 regulation of early care and education programs by providing consultation and making  
244 recommendations concerning establishment and implementation of such programs and by  
245 licensing and inspecting periodically all such programs to ensure their adherence to this  
246 chapter and rules and regulations promulgated by the board. An early care and education  
247 program registered as a support center shall be subject only to paragraph (3) of subsection  
248 (m) of this Code section, paragraphs (1), (3), and (6) of subsection (b) and paragraphs (1),  
249 (4), and (5) of subsection (c) of Code Section 20-1A-12, Article 2 of this chapter, and the  
250 rules and regulations promulgated by the board regarding criminal records checks;  
251 provided, however, that adverse action taken against the registration of a support center  
252 shall constitute a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia  
253 Administrative Procedure Act.'

254 (b) Child care learning centers operated as part of a local church ministry or a nonprofit  
255 religious school or a nonprofit religious charitable organization may notify the department  
256 annually and be commissioned in lieu of being licensed upon request for commission.  
257 Commissioned child care learning centers shall operate in accordance with the same  
258 procedures, standards, rules, and regulations which are established by the board for the  
259 operation of licensed child care learning centers. Any child care learning center operated  
260 as part of a local church ministry or a nonprofit religious school or a nonprofit religious  
261 charitable organization may elect to apply for a commission as provided for in  
262 subsection (c) of this Code section.

263 (c) All early care and education programs that care for children shall be licensed or  
264 commissioned annually, and all licenses and commissions issued by the department shall  
265 be subject to annual renewal by the department in accordance with procedures, standards,  
266 rules, and regulations to be established by the board; ~~provided, however, that the~~  
267 ~~department may require persons who operate family day-care homes to register with the~~  
268 ~~department.~~

269 (d) The department shall publish in print or electronically and make available to early care  
270 and education programs and interested persons a list of guidelines for quality child care.

271 (e) After an early care and education program has been licensed, commissioned, permitted,  
 272 or registered by the department as provided in this chapter, the program shall not be  
 273 required to have a permit to operate a food service establishment as required in Code  
 274 Section 26-2-371, provided that rules and regulations for food service have been  
 275 incorporated in the regulations for licensing, commissioning, ~~or registering~~, or permitting  
 276 such programs.

277 (f) The department shall not be authorized to prescribe, question, or regulate the specific  
 278 content of educational curriculum taught by an early care and education program, except  
 279 to the extent that a program operates Georgia's Pre-K Program or any other voluntary  
 280 educational program administered by the department.

281 (g) Persons who operate licensed, commissioned, or permitted early care and education  
 282 programs shall be required to post in a conspicuous place next to telephones in the home  
 283 or center the telephone numbers of the nearest or applicable providers of emergency  
 284 medical, police, and fire services.

285 (h) Persons who operate licensed, commissioned, or permitted early care and education  
 286 programs shall post signs prohibiting smoking to carry out the purposes of Chapter 12A of  
 287 Title 31.

288 (i) ~~Child Group day-care homes and child care learning centers~~ shall provide a minimum  
 289 of 35 square feet of usable space consisting of indoor play areas, rest areas, and dining  
 290 facilities for each child present in the facility. Child care learning centers will be allowed  
 291 to designate in writing to the department two one-hour periods daily during which 25  
 292 square feet of usable space per child for children aged three years and older may be  
 293 provided. ~~Notwithstanding the limitation to 18 children prescribed in Code Section~~  
 294 ~~20-1A-2, group day-care homes will be allowed to designate in writing to the department~~  
 295 ~~two one-hour periods daily during which 25 square feet of usable space per child for~~  
 296 ~~children aged three years and older may be provided.~~ Notwithstanding the limitation to six  
 297 children prescribed in Code Section 20-1A-2, a family ~~day-care~~ child care learning home  
 298 operator may care for two additional children aged three years and older for two designated  
 299 one-hour periods daily. Notwithstanding the provisions of this subsection, all other  
 300 applicable rules and regulations shall apply.

301 (j) The department shall assist applicants, ~~licensees~~ license holders, registrants, ~~or persons~~  
 302 ~~holding commissions~~ commission holders, and permit holders in meeting applicable rules  
 303 and regulations of the department for early care and education programs.

304 (k)(1) Application for a license, commission, ~~or registration~~, or permit for an early care  
 305 and education program shall be made to the department upon forms furnished by the  
 306 department. Upon receipt of an application for a license, commission, registration, or  
 307 ~~commission~~ permit and upon presentation by the applicant of evidence that the early care

308 and education program meets the rules and regulations prescribed by the department, the  
309 department shall issue such early care and education program a license, registration, ~~or~~  
310 ~~commission for a one-year period,~~ or permit in accordance with procedures, standards,  
311 rules and regulations established by the board.

312 (2) ~~The On and after May 12, 2010,~~ the following annual fees shall apply to applications  
313 ~~for licensure, registration, any license or commission as a child care learning center,~~  
314 ~~group day-care home, or family day-care home:~~

315	(A) Capacity of <del>fewer than one to</del> <u>one to</u> 25 children . . . . .	\$ 50.00
316	(B) Capacity of 26 to 50 children . . . . .	100.00
317	(C) Capacity of 51 to 100 children . . . . .	150.00
318	(D) Capacity of 101 to 200 children . . . . .	200.00
319	(E) Capacity of more than 200 children . . . . .	250.00

320 (1)(1) If the department finds that an early care and education program that currently  
321 cares for children plans to undergo a change in ownership, the department may issue a  
322 permit to such program to facilitate such change of ownership without disruption of care.  
323 If such program complies with all licensing requirements prior to the expiration of the  
324 permit, the department may issue a license to such program in accordance with this Code  
325 section.

326 (2) If the department finds that any early care and education program applicant does not  
327 meet rules and regulations prescribed by the department but is attempting to meet such  
328 rules and regulations, the department may, in its discretion, issue a temporary license,  
329 registration, or commission to such early care and education program, but such temporary  
330 license, registration, or commission shall not be issued for more than a one-year period.  
331 Upon presentation of satisfactory evidence that such program is making progress toward  
332 meeting prescribed rules and regulations of the department, the department may, in its  
333 discretion, reissue such temporary license, registration, or commission for one additional  
334 period not to exceed one year. As an alternative to a temporary license, registration, or  
335 commission, the department, in its discretion, may issue a restricted license, registration,  
336 or commission which states the restrictions on its face.

337 (m) The department shall refuse to issue a license, ~~registration, or commission,~~  
338 ~~registration, or permit~~ upon a showing of:

339 (1) Noncompliance with the rules and regulations for ~~family day-care homes, group~~  
340 ~~day-care homes,~~ family child care learning homes or child care learning centers which  
341 are designated in writing to the facilities as being related to children's health and safety;

342 (2) Flagrant and continued operation of an unlicensed, ~~unregistered, or uncommissioned,~~  
343 ~~or unpermitted~~ facility in contravention of the law;

- 344 (3) Prior license, ~~registration, or commission,~~ registration, or permit denial or revocation  
 345 within one year of application; or
- 346 (4) Failure to pay the required annual license or commission fee for ~~licensure,~~  
 347 ~~registration, or commission~~ of early care and education programs.
- 348 (n) All licensed, ~~registered, or commissioned,~~ or permitted early care and education  
 349 programs shall prominently display the license, ~~registration, or commission,~~ or permit  
 350 issued to such program by the department at some point near the entrance of the premises  
 351 of such program that is open to view by the public.
- 352 (o) The department's action revoking or refusing to renew or issue a license, commission,  
 353 registration, or ~~commission~~ permit required by this Code section shall be preceded by  
 354 notice and opportunity for a hearing and shall constitute a contested case within the  
 355 meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that  
 356 only 30 days' notice in writing from the commissioner's designee shall be required prior to  
 357 ~~license, registration, or commission~~ such revocation or refusal to renew and except that  
 358 hearings held relating to such action by the department may be closed to the public if the  
 359 hearing officer determines that an open hearing would be detrimental to the physical or  
 360 mental health of any child who will testify at that hearing.
- 361 (p) It shall be the duty of the department to inspect at regular intervals all licensed,  
 362 ~~registered, or commissioned,~~ or permitted early care and education programs within the  
 363 state. The department shall have right of entrance, privilege of inspection, and right of  
 364 access to all children under the care and control of the ~~licensee, registrant, or commissionee~~  
 365 license, commission, or permit holder.
- 366 (q) If any ~~flagrant~~ abuses, derelictions, or deficiencies are made known to the department  
 367 or its duly authorized agents during their inspection of any licensed, commissioned, or  
 368 permitted early care and education program or if, at any time, such are reported to the  
 369 department, the department shall immediately investigate such matters and take such action  
 370 as conditions may require.
- 371 (r) If any abuses, derelictions, or deficiencies are found in the operation and management  
 372 of any early care and education program, including failure to pay the required annual  
 373 license or commission fee for ~~licensure, registration, or commission,~~ they shall be brought  
 374 immediately to the attention of the management of such program; and if correctable, but  
 375 not corrected within a reasonable time, the department shall revoke the license, ~~registration,~~  
 376 ~~or commission,~~ registration, or permit of such program in the manner prescribed in this  
 377 Code section.
- 378 (s) The department may require periodic reports from early care and education programs  
 379 in such forms and at such times as the department may prescribe.

380 (t) Any person who shall operate an early care and education program without a license,  
 381 commission, registration, or commission issued by the department or permit shall be guilty  
 382 of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than  
 383 \$50.00 nor more than \$200.00 or by imprisonment not exceeding 12 months, or both, for  
 384 each such offense. Each day of operation without a license, commission, registration, or  
 385 commission permit shall constitute a separate offense.

386 (u) The department may, without regard to the availability of other remedies, including  
 387 administrative remedies, seek an injunction against the continued operation of an early care  
 388 and education program without a license, commission, registration, ~~or commission or~~  
 389 permit or the continued operation of an early care and education program in willful  
 390 violation of this chapter or of any regulation of the department or of any order of the  
 391 department.

392 (v) Each family child care learning home and child care learning center shall be required  
 393 to obtain a separate license, commission, or permit for each facility and shall have a  
 394 separate director for each facility. ~~The term 'licensed child care learning center' shall~~  
 395 ~~include a commissioned child care learning center and any references in this Code to a~~  
 396 ~~licensed child care learning center, including criminal, administrative, and civil provisions~~  
 397 ~~applicable to licensed child care learning centers, shall include and apply to commissioned~~  
 398 ~~child care learning centers unless otherwise provided in this Code section.~~

399 20-1A-10.1.

400 A determination by the department regarding payments and eligibility pursuant to any  
 401 federal program or grant shall be preceded by notice and opportunity for a hearing and shall  
 402 constitute a contested case within the meaning of Chapter 13 of Title 50, the 'Georgia  
 403 Administrative Procedure Act.'

404 20-1A-11.

405 (a) Any person who violates the provisions of Code Section 20-1A-10 or who hinders,  
 406 obstructs, or otherwise interferes with any representative of the department in the discharge  
 407 of that person's official duties in making inspections ~~as provided in such Code section~~ or  
 408 in investigating complaints as provided in such Code section shall be guilty of a  
 409 misdemeanor.

410 (b)(1) Any person, license holder, commission holder, or permit holder who:

411 (A) Violates any licensing, commissioning, or ~~registration~~ permitting provision of this  
 412 chapter or any rule, regulation, or order issued under this chapter or any term,  
 413 condition, or limitation of any license, commission, or ~~registration certificate~~ permit

414 issued under this chapter thereby subjecting a child in care to injury or a life-threatening  
415 situation; or

416 (B) Commits any violation for which a license, commission, or ~~registration certificate~~  
417 permit may be revoked under rules or regulations issued pursuant to this chapter  
418 may be subject to a civil penalty, to be imposed by the department, not to exceed  
419 \$500.00. If any violation is a continuing one, each day of such violation shall constitute  
420 a separate violation for the purpose of computing the applicable civil penalty.

421 (2) Whenever the department proposes to subject a person, license holder, commission  
422 holder, or permit holder to the imposition of a civil penalty under this subsection, it shall  
423 notify such person, license holder, commission holder, or permit holder in writing:

424 (A) Setting forth the date, facts, and nature of each act or omission with which the  
425 person, license holder, commission holder, or permit holder is charged;

426 (B) Specifically identifying the particular provision or provisions of the Code section,  
427 rule, regulation, order, or license, commission, or ~~registration certificate~~ permit  
428 requirement involved in the violation; and

429 (C) Advising of each penalty which the department proposes to impose and its amount.  
430 Such written notice shall be sent by registered or certified mail or statutory overnight  
431 delivery by the department to the last known address of such person, license holder,  
432 commission holder, or permit holder. The person, license holder, commission holder, or  
433 permit holder so notified shall be granted an opportunity to show in writing, within such  
434 reasonable period as the department shall by rule or regulation prescribe, why such  
435 penalty should not be imposed. The notice shall also advise such person, license holder,  
436 commission holder, or permit holder that, upon failure to pay the civil penalty  
437 subsequently determined by the department, if any, the penalty may be collected by civil  
438 action. Any person, license holder, commission holder, or permit holder upon whom a  
439 civil penalty is imposed may appeal such action pursuant to Chapter 13 of Title 50, the  
440 'Georgia Administrative Procedure Act.'

441 (3) A civil penalty finally determined under this Code section may be collected by civil  
442 action in the event that such penalty is not paid as required. On the request of the  
443 department, the Attorney General is authorized to institute a civil action to collect a  
444 penalty imposed pursuant to this subsection. The Attorney General shall have the  
445 exclusive power to compromise, mitigate, or remit such civil penalties as are referred to  
446 the Attorney General for collection.

447 (4) All moneys collected from civil penalties shall be paid to the state for deposit in the  
448 general fund.

449 20-1A-12.

450 (a) This Code section shall be applicable to any early care and education program which  
 451 is subject to regulation by the department in accordance with this chapter. For purposes  
 452 of this Code section, the term 'license' shall be used to refer to any license, ~~registration, or~~  
 453 ~~commission, or permit~~ issued by the department pursuant to the provisions of this chapter  
 454 and the term 'licensing requirements' shall be used to refer to any conditions related to the  
 455 issuance and retention of any license, commission, or permit pursuant to the provisions of  
 456 this chapter.

457 (b) The department shall have the authority to take any of the actions enumerated in  
 458 subsection (c) of this Code section upon a finding that the applicant or holder of a license  
 459 or registration has:

460 (1) Knowingly made any false statement of material information in connection with the  
 461 application for a license or registration, or in statements made or on documents submitted  
 462 to the department as part of an inspection, survey, or investigation, or in the alteration or  
 463 falsification of records maintained by the early care and education program;

464 (2) Failed or refused to provide the department with access to the premises subject to  
 465 regulation or information pertinent to the initial or continued licensing of the program;

466 (3) Failed to comply with the licensing requirements or registration requirements of this  
 467 state;

468 (4) Failed to pay the annual fee ~~for licensure, registration, or commission of early care~~  
 469 ~~and education programs~~ required by subsection (k) of Code Section 20-1A-10; or

470 (5) Failed to comply with any provisions of this ~~Code section~~ chapter.

471 (c) When the department finds that any applicant or holder of a license or registration has  
 472 violated any provision of subsection (b) of this Code section or laws, rules, regulations, or  
 473 formal orders related to the initial or continued licensing of the program, the department,  
 474 subject to notice and opportunity for hearing, may take any of the following actions:

475 (1) Refuse to grant a license or registration; provided, however, that the department may  
 476 refuse to grant a license or registration without holding a hearing prior to taking such  
 477 action. The early care and education program shall have the right to appeal the denial in  
 478 accordance with subsection (o) of Code Section 20-1A-10; provided, however, that the  
 479 program shall remain closed until the appeal decision is issued;

480 (2) Administer a public reprimand;

481 (3) Suspend any license or registration for a definite period or for an indefinite period in  
 482 connection with any condition which may be attached to the restoration of said license  
 483 or registration;

484 (4) Prohibit any applicant or holder of a license or registration from allowing a person  
 485 who previously was involved in the management or control, as defined by rule, of any

486 program which has had its license or registration revoked or denied within the past 12  
 487 months to be involved in the management or control of such program;

488 (5) Revoke any license or registration;

489 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$500.00 per day for each  
 490 violation of a law, rule, regulation, or formal order related to the initial or ongoing  
 491 licensing requirement of any program;

492 (7) Impose a late fee of up to \$250.00 for failure of an early care and education program  
 493 to pay the annual fee ~~for licensure, registration, or commission~~ required by subsection  
 494 (k) of Code Section 20-1A-10 within 30 days of the due date as established by the  
 495 department; or

496 (8) Limit or restrict any license as the department deems necessary for the protection of  
 497 the public or enforcement of any law, rule, regulation, or formal order related to the  
 498 licensing requirements of any program, including, but not limited to, restricting some or  
 499 all services of or admissions into a program for a time certain.

500 In taking any of the actions enumerated in this subsection, the department shall consider  
 501 the seriousness of the violation, including the circumstances, extent, and gravity of the  
 502 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
 503 public.

504 (d) The department ~~may~~ shall deny a license or registration or otherwise restrict a license  
 505 or registration for any applicant who has had a license or registration denied, revoked, or  
 506 suspended within one year of the date of an application or who has transferred ownership  
 507 or governing authority of a program subject to regulation by the department within one  
 508 year of the date of a new application when such transfer was made in order to avert denial,  
 509 revocation, or suspension of a such license or registration.

510 (e) With regard to any contested case instituted by the department pursuant to this Code  
 511 section or other provisions of law which may now or hereafter authorize remedial or  
 512 disciplinary grounds and action, the department may, in its discretion, dispose of the action  
 513 so instituted by settlement. In such cases, all parties, successors, and assigns to any  
 514 settlement agreement shall be bound by the terms specified in such agreement and violation  
 515 of such agreement thereof by any applicant or holder of a license shall constitute grounds  
 516 for any action enumerated in subsection (c) of this Code section.

517 (f) The department shall have the authority to make public or private investigations or  
 518 examinations inside or outside of this state to determine whether the provisions of this  
 519 Code section or any other law, rule, regulation, or formal order relating to ~~the~~ any licensing  
 520 requirement of a program has been violated. Such investigations may be initiated at any  
 521 time, in the discretion of the department, and may continue during the pendency of any  
 522 action initiated by the department pursuant to subsection (c) of this Code section.

523 (g) For the purpose of conducting any investigation, inspection, or survey, the department  
 524 shall have the authority to require the production of any books, records, papers, or other  
 525 information related to ~~the initial or continued~~ any licensing requirement of any program.

526 (h) Pursuant to the investigation, inspection, and enforcement powers given to the  
 527 department by this Code section and other applicable laws, the department may assess  
 528 against a program reasonable and necessary expenses incurred by the department pursuant  
 529 to any administrative or legal action required by the failure of the program to fully comply  
 530 with the provisions of any law, rule, regulation, or formal order related to the initial or  
 531 continued licensing. Assessments shall not include attorney's fees and expenses of  
 532 litigation, shall not exceed other actual expenses, and shall only be assessed if such  
 533 investigations, inspections, or enforcement actions result in adverse findings, as finally  
 534 determined by the department, pursuant to administrative or legal action.

535 (i) For any action taken or any proceeding held under this Code section or under color of  
 536 law, except for gross negligence or willful or wanton misconduct, the department, when  
 537 acting in its official capacity, shall be immune from liability and suit to the same extent that  
 538 any judge of any court of general jurisdiction in this state would be immune.

539 (j) In an administrative or legal proceeding under this Code section, a person or entity  
 540 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
 541 the burden of proving this exemption or exception.

542 (k) This Code section and all actions resulting from its provisions shall be administered  
 543 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

544 (l) The provisions of this Code section shall be supplemental to and shall not operate to  
 545 prohibit the department from acting pursuant to those provisions of law which may now  
 546 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
 547 cases where those other provisions of law so authorize other disciplinary grounds and  
 548 actions, but this Code section limits such grounds or actions, those other provisions shall  
 549 apply.

550 (m) The board is authorized to promulgate rules and regulations to implement the  
 551 provisions of this Code section.

552 20-1A-13.

553 (a) As used in this Code section, the term:

554 (1) 'Emergency order' or 'order' means a written directive by the commissioner or the  
 555 commissioner's designee placing a monitor in ~~an early care and education~~ a program or  
 556 providing notice of intended emergency closure of ~~an early care and education~~ a program.

557 (2) 'Monitor' means a person designated by the department to remain on site in a program  
 558 as an agent of the department, observing conditions.

559 (3) 'Preliminary hearing' means a hearing held by the Office of State Administrative  
 560 Hearings as soon as possible after the order is entered at the request of a program which  
 561 has been affected by an emergency order placing a monitor in the program or upon notice  
 562 of intended emergency closure of a program in accordance with Chapter 13 of Title 50,  
 563 the 'Georgia Administrative Procedure Act.'

564 (4) 'Program' means a child care learning center or a family child care learning home.

565 (b)(1) The commissioner or his or her designee may order the emergency placement of  
 566 a monitor or monitors in ~~an early care and education~~ a program upon a finding that rules  
 567 and regulations of the department are being violated which threaten the health, safety, or  
 568 welfare of children in the care of the program and when one or more of the following  
 569 conditions are present:

570 (A) The program is operating without a license, commission, or ~~registration~~ permit;

571 (B) The department has denied application for license, ~~registration, or commission, or~~  
 572 permit or has initiated action to revoke the existing license, ~~registration, or commission,~~  
 573 or permit of the program; or

574 (C) Children are suspected of being subjected to injury or life-threatening situations  
 575 or the health or safety of a child or children is in danger.

576 (2) A monitor may be placed in a program for no more than ten consecutive calendar  
 577 days, during which time the monitor shall observe conditions and regulatory compliance  
 578 with any recommended remedial action of the department. Upon expiration of the  
 579 ten-day period, should the conditions warrant, the initial ten-day period may be extended  
 580 for an additional ten-day period. The monitor shall report to the department. The  
 581 monitor shall not assume any administrative or child-caring responsibility within the  
 582 program, nor shall the monitor be liable for any actions of the program. The salary and  
 583 related costs and travel and subsistence allowance as defined by department policy of  
 584 placing a monitor in a program shall be reimbursed to the department by the program,  
 585 unless the order placing the monitor is determined to be invalid in a contested case or by  
 586 final adjudication by a court of competent jurisdiction, in which event the cost shall be  
 587 paid by the department.

588 (c)(1) The commissioner or his or her designee may issue an order providing notice of  
 589 intended emergency closure of ~~an early care and education~~ a program:

590 (A) Upon the death of a minor at such program, unless such death was medically  
 591 anticipated or no serious rule violations related to the death by the program were  
 592 determined by the department; or

593 (B) Where a child's safety or welfare is in imminent danger.

594 (2) If a preliminary hearing is not requested pursuant to subsection (f) of this Code  
 595 section, the commissioner shall immediately close such program for a period of not more

596 than 21 days. If a preliminary hearing is requested pursuant to subsection (f) of this Code  
 597 section, the commissioner may place a monitor in the program until the Office of State  
 598 Administrative Hearings issues a decision, which shall be considered the final decision  
 599 of the agency, on the emergency closure. If the Office of State Administrative Hearings  
 600 finds that the emergency closure is warranted, the commissioner shall immediately close  
 601 such program for a period of not more than 21 days. If the Office of State Administrative  
 602 Hearings finds that the emergency closure is not warranted, the commissioner shall not  
 603 order the emergency closure of the program, but may continue investigating the incident  
 604 and may place a monitor in the program in accordance with this Code section.

605 (3) Upon a closure, the program shall be required to immediately notify the parent or  
 606 guardian of each child enrolled in the program. Upon a closure, the commissioner or his  
 607 or her designee shall immediately conduct a review into the circumstances of the minor's  
 608 death or the circumstances where a child's safety or welfare is in imminent danger. If the  
 609 commissioner determines that the program where such minor's death occurred or where  
 610 imminent danger exists fails to meet the specifications and requirements of this chapter,  
 611 the commissioner shall immediately revoke such program's license ~~in accordance with~~  
 612 ~~subsection (o) of Code Section 20-1A-10, commission, or permit.~~ The program shall  
 613 have the right to appeal the revocation in accordance with subsection (o) of Code Section  
 614 20-1A-10; provided, however, that the program shall remain closed until the appeal  
 615 decision is issued. If the commissioner determines that the administration or conditions  
 616 of the program were not the cause of the minor's death or that a child's safety and welfare  
 617 is not in imminent danger or if the department has not issued a revocation notice within  
 618 the initial closure period, the commissioner shall immediately reopen the program for its  
 619 continued operation.

620 (d) An emergency order shall contain the following:

- 621 (1) The scope of the order;
- 622 (2) The reasons for the issuance of the order;
- 623 (3) The effective date of the order if other than the date the order is issued;
- 624 (4) The person to whom questions regarding the order are to be addressed; and
- 625 (5) Notice of the right to a preliminary hearing.

626 (e) Unless otherwise provided in the order, an emergency order shall become effective  
 627 upon its service. Service of an emergency order may be made upon the owner of the  
 628 facility, the director of the facility, or any other agent, employee, or person in charge of the  
 629 facility at the time of the service of the order.

630 (f) A request for a preliminary hearing shall be made in writing within 48 hours from the  
 631 time of service, excepting weekends. The request shall be made to the representative of

632 the department designated in the order and may be made in person, by facsimile, by e-mail,  
633 or by any other means designated in the order.

634 (g) Upon receipt of a request for a preliminary hearing, the department shall immediately  
635 forward the request to the Office of State Administrative Hearings, which shall set and give  
636 notice of the date, time, and location of the preliminary hearing. The preliminary hearing  
637 shall be held as soon as possible after a request therefor but in no event later than 48 hours  
638 after such request, provided that a program may request that such hearing be held earlier  
639 and that in no event shall a hearing be held on a weekend or holiday.

640 (h) If a hearing is requested, the preliminary hearing shall consist of a review of all oral  
641 and written evidence introduced at the hearing and any arguments made. A recording shall  
642 be made of the hearing.

643 (i) The Office of State Administrative Hearings shall, where practicable, issue an  
644 immediate oral order and shall, in all instances, issue a written order within two business  
645 days after the close of the hearing.

646 (j) Pending final appeal of the validity of any emergency order issued as provided in this  
647 Code section, such emergency order shall remain in full effect until vacated or rescinded  
648 by the commissioner or the commissioner's designee.

649 (k) The department is not precluded from other actions permitted by other laws or  
650 regulations during the time an emergency order is in force.

651 20-1A-14.

652 (a) The department upon application or petition may grant variances and waivers to  
653 specific rules and regulations which establish standards for early care and education  
654 programs regulated by the department as follows:

655 (1) The department may authorize departure from the literal requirements of a rule or  
656 regulation by granting a variance upon a showing by the applicant or petitioner that the  
657 particular rule or regulation that is the subject of the variance request should not be  
658 applied as written because strict application would cause undue hardship. The applicant  
659 or petitioner additionally must show that adequate standards affording protection of  
660 health, safety, and care exist and will be met in lieu of the exact requirements of the rule  
661 or regulation in question;

662 (2) The department may dispense entirely with the enforcement of a rule or regulation  
663 by granting a waiver upon a showing by the applicant or petitioner that the purpose of the  
664 rule or regulation is met through equivalent standards affording equivalent protection of  
665 health, safety, and care;

666 (3) The department may grant waivers and variances to allow experimentation and  
667 demonstration of new and innovative approaches to delivery of services upon a showing

668 by the applicant or petitioner that the intended protections afforded by the rule or  
669 regulation which is the subject of the request are met and that the innovative approach has  
670 the potential to improve service delivery;

671 (4) Waivers or variances which affect an entire class of programs may only be approved  
672 by the board and shall be for a time certain, as determined by the board. A notice of the  
673 proposed variance or waiver affecting an entire class of programs shall be made in  
674 accordance with the requirements for notice of rule making in Chapter 13 of Title 50, the  
675 'Georgia Administrative Procedure Act'; or

676 (5) Variances or waivers which affect only one program in a class may be approved or  
677 denied by the department and shall be for a time certain, as determined by the  
678 department. The department shall maintain a record of such action and shall make this  
679 information available to the board and all other persons who request it.

680 (b) The department may exempt classes of programs from regulation when, in the  
681 department's judgment, regulation would not permit the purpose intended or the class of  
682 programs is subject to similar requirements under other rules and regulations. Such  
683 exemptions shall be provided in rules and regulations promulgated by the board.

684 20-1A-15.

685 (a) As used in this chapter, the term 'inspection warrant' means a warrant authorizing a  
686 search or inspection of private property where such a search or inspection is one that is  
687 necessary for the enforcement of any of the provisions of laws authorizing licensure,  
688 inspection, or regulation by the department.

689 (b) The commissioner or the commissioner's delegate, in addition to other procedures now  
690 or hereafter provided, may obtain an inspection warrant under the conditions specified in  
691 this Code section. Such warrant shall authorize the commissioner or the commissioner's  
692 agents to conduct a search or inspection of property, either with or without the consent of  
693 the person whose property is to be searched or inspected, if such search or inspection is one  
694 that is elsewhere authorized under the rules and regulations duly promulgated under this  
695 chapter or any provision of law which authorizes licensure, inspection, or regulation by the  
696 department.

697 (c) Inspection warrants shall be issued only by a judge of a court of record whose  
698 territorial jurisdiction encompasses the property to be inspected.

699 (d) The issuing judge shall issue the warrant when such judge is satisfied that the  
700 following conditions are met:

701 (1) The one seeking the warrant must establish under oath or affirmation that the  
702 property to be inspected is to be inspected as a part of a legally authorized program of  
703 inspection which includes that property or that there is probable cause for believing that

704 there is a condition, object, activity, or circumstance which legally justifies such an  
705 inspection of that property; and

706 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
707 Code section.

708 (e) The inspection warrant shall be validly issued only if it meets the following  
709 requirements:

710 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
711 warrant;

712 (2) The warrant describes, either directly or by reference to the affidavit, the property  
713 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
714 warrant and the owner or possessor of the property can reasonably determine from it the  
715 property of which the warrant authorizes an inspection;

716 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
717 inspection is intended to check or reveal; and

718 (4) The warrant refers, in general terms, to the statutory or regulatory provisions sought  
719 to be enforced.

720 (f) No facts discovered or evidence obtained in an inspection conducted under authority  
721 of an inspection warrant issued pursuant to this chapter shall be competent as evidence in  
722 any criminal proceeding against any party.

723 20-1A-16.

724 It shall be the duty of all other state departments, agencies, officers, and employees to  
725 assure the most effective coordination and use of state resources, personnel, and facilities  
726 for the benefit of children and youths and to assist the department in effectuating the  
727 purposes of this chapter by making available to the department upon request of the board  
728 or commissioner and to the extent permissible by law the services, resources, personnel,  
729 and facilities of their respective departments and agencies.

730 20-1A-17.

731 The commissioner and the State School Superintendent, with the concurrence of the board  
732 for the department and the State Board of Education, are authorized to transfer programs  
733 relating to early childhood education from the Department of Education to the department,  
734 as long as such programs are not expressly assigned to the Department of Education by  
735 statute.

736 20-1A-18.

737 (a) Each ~~early care and education program~~ child care learning center and family child care  
738 learning home shall, by September 1 of each year, provide to the parent or guardian of each  
739 child enrolled in the ~~program~~ therein educational information on the influenza vaccine.

740 Such information shall include, but not be limited to:

- 741 (1) The causes and symptoms of influenza and the means by which it is spread;  
742 (2) The risks associated with influenza;  
743 (3) The availability, effectiveness, and known contraindications of the influenza vaccine;  
744 and  
745 (4) Related recommendations issued by the federal Centers for Disease Control and  
746 Prevention, including the recommended ages at which children receive the influenza  
747 vaccine.

748 (b) ~~The failure on the part of an early care and education program~~ Failure to comply with  
749 the provisions of this Code section shall not subject any such program child care learning  
750 center or family child care learning home to any civil or criminal liability.

751 (c) Nothing in this Code section shall be construed to require any ~~early care and education~~  
752 ~~program~~ child care learning center or family child care learning home to provide or pay for  
753 immunizations against influenza."

754 **SECTION 2.**

755 Said chapter is further amended by revising Article 2, relating to background checks, as  
756 follows:

757 "ARTICLE 2

758 20-1A-30.

759 As used in this article, the term:

760 (1) ~~'Center' means a group day-care home, family day-care home, or child care learning~~  
761 ~~center which is allowed to operate or is required to be licensed, commissioned, or~~  
762 ~~registered under Article 1 of this chapter.~~

763 (2)(1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
764 whether an appeal of the conviction has been sought.

765 (3)(2) 'Crime' means:

- 766 (A) Any felony;  
767 (B) A violation of Code Section 16-5-23 when the victim is a minor;  
768 (C) A violation of Code Section 16-5-23.1 when the victim is a minor;  
769 (D) A violation of Code Section 16-12-1;

- 770 (E) A violation of Chapter 6 of Title 16;  
 771 (F) A violation of Code Section 16-4-1; or  
 772 (G) Any other offenses committed in another jurisdiction which, if committed in this  
 773 state, would be one of the enumerated crimes listed in this paragraph.

774 ~~(4)~~(3) 'Criminal record' means:

- 775 (A) Conviction of a crime;  
 776 (B) Arrest, charge, and sentencing for a crime where:  
 777 (i) A plea of nolo contendere was entered to the charge;  
 778 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
 779 granted; provided, however, that this division shall not apply to a violation of Chapter  
 780 13 of Title 16, relating to controlled substances, or any other offense committed in  
 781 another jurisdiction which, if it were committed in this state, would be a violation of  
 782 Chapter 13 of Title 16 if such violation or offense constituted only simple possession;  
 783 or  
 784 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 785 provided, however, that this division shall not apply to a violation of Chapter 13 of  
 786 Title 16, relating to controlled substances, or any other offense committed in another  
 787 jurisdiction which, if it were committed in this state, would be a violation of Chapter  
 788 13 of Title 16 if such violation or offense constituted only simple possession; or  
 789 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
 790 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

791 ~~(5)~~(4) 'Director' means the on-site manager of a facility designated by the legal owner  
 792 who is responsible for the supervision, operation, and maintenance of ~~the center~~ an early  
 793 care and education program and meets the minimum qualifications as determined by the  
 794 department.

795 ~~(6)~~(5) 'Employee' means any person, other than a director, who is 17 years of age or  
 796 older and is employed by ~~a center~~ an early care and education program to perform ~~at any~~  
 797 ~~of the center's facilities~~ any duties which involve personal contact between that person  
 798 and any child being cared for at the facility and also includes any adult person who  
 799 resides at the facility or who, with or without compensation, performs duties for the  
 800 ~~center~~ early care and education program which involve personal contact between that  
 801 person and any child being cared for by the ~~center~~ early care and education program;  
 802 however, a parent or legal guardian of a child in care shall not be considered an employee  
 803 unless such parent or legal guardian is deemed an employee by the early care and  
 804 education program or either resides at the early care and education program or is  
 805 compensated in any fashion by the early care and education program except through  
 806 appropriate state or federal funds.

807 ~~(7)~~(6) 'Employment history' means a record of where a person has worked for the past  
 808 ten years.

809 ~~(8)~~(7) 'Facility' means ~~a center's~~ an early care and education program's real property at  
 810 which children are received for care.

811 ~~(9)~~(8) 'Fingerprint' means an inked fingerprint card or an electronic image of a person's  
 812 fingerprint.

813 ~~(10)~~(9) 'Fingerprint records check determination' means a satisfactory or unsatisfactory  
 814 determination by the department based upon fingerprint-based national criminal history  
 815 record information.

816 ~~(11)~~(10) 'GCIC' means the Georgia Crime Information Center established under Article  
 817 2 of Chapter 3 of Title 35.

818 ~~(12)~~(11) 'GCIC information' means criminal history record information, as defined in  
 819 Code Section 35-3-30.

820 ~~(13) 'License' means the document issued by the department to authorize the center to~~  
 821 ~~which it is issued to operate a facility.~~

822 ~~(14)~~(12) 'Preliminary records check determination' means a satisfactory or unsatisfactory  
 823 determination by the director based only upon a comparison of GCIC information  
 824 obtained solely from a law enforcement agency within the state with other than  
 825 fingerprint information regarding the person upon whom the records check is being  
 826 performed for purposes of this article.

827 ~~(15)~~(13) 'Provisional employee' means an individual other than a director whose duties  
 828 involve personal contact between that person and any child being cared for at the facility  
 829 and who is hired for a limited period of employment.

830 ~~(16)~~(14) 'Records check application' means a document created by the department to be  
 831 completed, ~~notarized,~~ and submitted to the department by every actual and potential  
 832 director and employee that indicates such director's name, ~~center~~ early care and education  
 833 program name and type, and such other information as the department deems appropriate  
 834 and which authorizes the department to receive and render a fingerprint records check  
 835 determination pursuant to any criminal history record information pertaining to such  
 836 individual from any local, state, or national criminal justice or law enforcement agency.

837 ~~(17)~~(15) 'Satisfactory determination' means a written declaration that a person for whom  
 838 a preliminary or fingerprint records check determination was performed was found to  
 839 have no criminal record.

840 ~~(18)~~(16) 'Unsatisfactory determination' means a written declaration that a person for  
 841 whom a preliminary or fingerprint records check determination was performed was found  
 842 to have a criminal record.

843 20-1A-31.

844 ~~(a) Each center shall be required to obtain a separate license for each facility and shall~~  
845 ~~have a separate director for each facility. A support center may furnish to the department~~  
846 ~~a records check application for each potential employee of any licensed, commissioned, or~~  
847 ~~permitted early care and education program. Before a person affiliated with a support~~  
848 ~~center may become an employee of any licensed, commissioned, or permitted early care~~  
849 ~~and education program, such person shall obtain a satisfactory fingerprint records check~~  
850 ~~determination. All potential employees, excluding students currently enrolled in an early~~  
851 ~~education curriculum through an accredited school of higher education, may submit~~  
852 ~~evidence, satisfactory to the department, that such potential employee received a~~  
853 ~~satisfactory fingerprint records check determination that includes a records check clearance~~  
854 ~~date that is no more than 12 months old, or that any employee whose fingerprint records~~  
855 ~~check revealed a criminal record of any kind has either subsequently received a satisfactory~~  
856 ~~fingerprint records check determination or has had the unsatisfactory determination~~  
857 ~~reversed in accordance with Code Section 20-1A-43. A student currently enrolled in an~~  
858 ~~early education curriculum through an accredited school of higher education may submit~~  
859 ~~evidence, satisfactory to the department, that such student received a satisfactory~~  
860 ~~fingerprint records check determination that includes a records check clearance date that~~  
861 ~~is no more than 24 months old, or that such student whose fingerprint records check~~  
862 ~~revealed a criminal record of any kind has either subsequently received a satisfactory~~  
863 ~~fingerprint records check determination or has had the unsatisfactory determination~~  
864 ~~reversed in accordance with Code Section 20-1A-43. The licensed, commissioned, or~~  
865 ~~permitted early care and education program shall maintain documentation in the employee's~~  
866 ~~personnel file, which is available to the department upon request, and which reflects that~~  
867 ~~a satisfactory fingerprint records check determination was received before the employee~~  
868 ~~is allowed to reside in an early care and education program or be present at an early care~~  
869 ~~and education program while children are present for care. If the fingerprint records check~~  
870 ~~determination for any potential employee reveals a criminal record of any kind, such~~  
871 ~~potential employee shall not be allowed to reside in an early care and education program~~  
872 ~~or be present at an early care and education program while children are present for care~~  
873 ~~until such potential employee has either obtained a satisfactory fingerprint records check~~  
874 ~~determination or has had the unsatisfactory fingerprint records check determination~~  
875 ~~reversed in accordance with Code Section 20-1A-43. If the fingerprint records check~~  
876 ~~determination is unsatisfactory, the licensed, commissioned, or permitted early care and~~  
877 ~~education program shall, after receiving notification of such unsatisfactory determination,~~  
878 ~~take such steps as are necessary so that such person no longer resides in the early care and~~

879 education program and no longer is present at an early care and education program while  
880 children are present for care.

881 (b) Notwithstanding the limited period of portability, every person affiliated with a support  
882 center as a potential employee of a licensed or commissioned early care and education  
883 program shall undergo additional fingerprint records checks such that the time between  
884 such additional fingerprint records checks and that person's previous fingerprint records  
885 check shall not exceed five years. An applicant for a new license shall apply for a separate  
886 license for each new facility in this state owned or operated by that applicant and shall have  
887 a separate director for each such facility.

888 (c) After the issuance of a registration, the department may require additional fingerprint  
889 records check determinations on any person affiliated with a support center during the  
890 course of a child abuse investigation involving such person or when the department has  
891 reason to believe such person has a criminal record that renders such person ineligible to  
892 reside at an early care and education program or be present at an early care and education  
893 program while children are present for care.

894 20-1A-32.

895 (a) Accompanying Effective January 1, 2014, accompanying any application for a new  
896 license for a facility or commission for an early care and education program, the applicant  
897 shall furnish to the department a records check application for the director and each  
898 employee. In lieu of such records check applications, the license applicant may submit  
899 evidence, satisfactory to the department, that within the immediately preceding 12 months  
900 the director or employee such individual received a satisfactory fingerprint records check  
901 determination that includes a records check clearance date that is no more than 12 months  
902 old, or that any director or employee whose fingerprint records check revealed a criminal  
903 record of any kind has either subsequently received a satisfactory fingerprint records check  
904 determination or has had the unsatisfactory determination reversed in accordance with  
905 Code Section 20-1A-43. Either the department or the appropriate law enforcement  
906 agencies may charge reasonable and additional processing fees for performing fingerprint  
907 records checks as required by statute, regulation, or policy or by GCIC.

908 (b) Each change of ownership applicant shall furnish to the department a records check  
909 application for the director and each employee. In lieu of such records check applications,  
910 the change of ownership applicant may submit evidence that the director and each  
911 employee at that facility received a satisfactory fingerprint records check determination that  
912 includes a records check clearance date that is no more than 60 months old, or that any  
913 director or employee whose fingerprint records check revealed a criminal record of any  
914 kind has either subsequently received a satisfactory fingerprint records check determination

915 or has had the unsatisfactory determination reversed in accordance with Code Section  
 916 20-1A-43. Failure to comply with this provision shall prevent the department from issuing  
 917 a license or commission.

918 (c) Any change of ownership applicant that operates under a permit granted by the  
 919 department shall verify and maintain evidence sufficient to the department that each  
 920 employee and director who was employed under the former ownership and will continue  
 921 to work during the permit period has a satisfactory records check determination. If the  
 922 department determines a change of ownership applicant knows or should reasonably know  
 923 that any such individual has a criminal record and allows the individual to reside at an early  
 924 care and education program or be present at an early care and education program while  
 925 children are present for care, the department shall revoke the permit to operate and deny  
 926 the license or commission for that early care and education program. Notwithstanding the  
 927 requirements of this subsection, all requirements for new and provisional employees hired  
 928 after the issuance of a permit shall apply.

929 20-1A-33.

930 After being furnished the required records check application under Code Section 20-1A-32,  
 931 the department shall notify the license, commission, or change of ownership applicant and  
 932 the fingerprint records check applicant in writing whether the department's determination  
 933 as to a potential director or potential employee is satisfactory or unsatisfactory. If the  
 934 fingerprint records check determination was satisfactory as to the potential director and  
 935 each potential employee of a license applicant's facility, that applicant may be issued a  
 936 license or commission for that facility if the applicant otherwise qualifies for a license or  
 937 commission under Article 1 of this chapter. If the fingerprint records check for a potential  
 938 director or any potential employee revealed a criminal record, such potential director or  
 939 potential employee shall not be allowed to ~~work in the center~~ reside at an early care and  
 940 education program or be present in the early care and education program while any child  
 941 is present for care until he or she either has obtained a satisfactory fingerprint records check  
 942 determination or has had the unsatisfactory determination reversed in accordance with  
 943 Code Section 20-1A-43. The department shall revoke the license ~~of a center if the center~~  
 944 or commission of an early care and education program if the early care and education  
 945 program fails to comply with the requirements of this Code section.

946 20-1A-34.

947 (a) The department shall receive a records check application, as may be required by the  
 948 department and allowed under federal law, for any individual that cares for children  
 949 through a program that receives, either directly or indirectly, federal funds through the

950 department for the care of children. Upon receipt of such records check application, the  
 951 department shall comply with all rules of the GCIC and the Federal Bureau of Investigation  
 952 for the request and receipt of national fingerprint based criminal history reports. Such  
 953 individuals shall also submit all necessary applications, fees, and acceptable fingerprints  
 954 to the GCIC. The department shall transmit to GCIC both sets of fingerprints and the  
 955 records search fee from each fingerprint records check application. Upon receipt thereof,  
 956 GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation  
 957 for a search of bureau records and an appropriate report and shall retain the other set and  
 958 promptly conduct a search of its records and records to which it has access. Within ten  
 959 days after receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall  
 960 notify the department in writing of any derogatory finding, including but not limited to any  
 961 criminal record, of the state fingerprint records check or if there is no such finding. The  
 962 GCIC shall also conduct After a search of Federal Bureau of Investigation records and  
 963 fingerprints and upon notify the department in writing of the results of such search. Upon  
 964 receipt of the bureau's report, the department shall make a national fingerprint records  
 965 check determination. If the fingerprint records check determination is unsatisfactory for  
 966 an individual, the department shall notify the provider and the employee of such  
 967 determination in writing and no such individual shall be allowed to reside at the location  
 968 or be present at the location when any child is present for care until he or she either has  
 969 obtained a satisfactory fingerprint records check determination or has had the  
 970 unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The  
 971 department shall cease to issue funds, either directly or indirectly, to any individual or  
 972 program that fails to comply with the requirements of this Code section.

973 (b) Every potential employee of the department or contractor performing duties on behalf  
 974 of the department who may have any reason to be present at a center licensed or  
 975 commissioned early care and education program while any child is present for care must  
 976 receive a satisfactory fingerprint records check determination or have had an unsatisfactory  
 977 fingerprint records check determination reversed in accordance with Code Section  
 978 20-1A-43 prior to employment being present at a licensed or commissioned early care and  
 979 education program while children are present for care. Every current employee of the  
 980 department who may have any reason to be present at a center licensed or commissioned  
 981 early care and education program while any child is present for care must receive a  
 982 satisfactory fingerprint records check determination or have had an unsatisfactory  
 983 fingerprint records check determination reversed in accordance with Code Section  
 984 20-1A-43 by January 1, 2014. Every employee of the department shall undergo additional  
 985 fingerprint records checks such that the time between such additional fingerprint records  
 986 checks and that employee's previous fingerprint records check shall not exceed five years.

987 The department shall maintain documentation in the appropriate personnel file indicating  
 988 that such person has obtained such current satisfactory fingerprint records check  
 989 determination or has had an unsatisfactory fingerprint records check determination reversed  
 990 in accordance with Code Section 20-1A-43.

991 20-1A-35.

992 (a) Where there is need for a provisional employee to work at a center's facility, such  
 993 center licensed, commissioned, or permitted early care and education program facility, such  
 994 early care and education program may utilize an individual as a provisional employee only  
 995 after the director reviews a preliminary records check and makes a satisfactory  
 996 determination in accordance with this article. No such provisional employee shall reside  
 997 in an early care and education program or be present in the facility early care and education  
 998 program while any child is present for care until such satisfactory preliminary records  
 999 check determination has been made based upon GCIC information obtained from local law  
 1000 enforcement within the prior ten days. The board shall be authorized to define and enforce  
 1001 by regulations, including, but not limited to, the length of time a provisional employee may  
 1002 be present at a facility without a fingerprint records check determination. The department  
 1003 may revoke the license of a center if the center, commission, or permit of an early care and  
 1004 education program if the early care and education program fails to comply with the  
 1005 requirements of this Code section and employs allows a person with an unsatisfactory  
 1006 preliminary records check determination to reside in an early care and education program  
 1007 or be present at an early care and education program while children are present for care.  
 1008 (b) If the department determines a licensed, commissioned, or permitted early care and  
 1009 education program knows or should reasonably know that a provisional employee has a  
 1010 criminal record and allows the provisional employee to reside at an early care and  
 1011 education program or be present at an early care and education program while children are  
 1012 present for care, the department shall revoke the license, commission, or permit for that  
 1013 early care and education program.

1014 20-1A-36.

1015 No licensed, commissioned, or permitted facility operated as an early care and education  
 1016 program or similar facility or any operator of such a facility shall employ allow any person  
 1017 who has been convicted of or who has entered a plea of guilty or nolo contendere to any  
 1018 offense specified in Code Section 16-12-1.1 to reside in an early care and education  
 1019 program or be present at an early care and education program while children are present  
 1020 for care or allow any such person to reside at or be domiciled at such facility in violation  
 1021 of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the

1022 license, commission, or registration of any such facility violating the provisions of this  
 1023 Code section. The powers and duties set forth in this Code section are cumulative and not  
 1024 intended to limit the powers and duties set forth throughout this article.

1025 20-1A-37.

1026 Notwithstanding any other provision of this article, an individual who resides in a family  
 1027 ~~day-care~~ child care learning home, as defined by Code Section 20-1A-2, or at any program  
 1028 as determined by the department and allowed under federal law to receive, either directly  
 1029 or indirectly, federal funds through the department for the care of children shall be required  
 1030 to provide a fingerprint records check application to the department. Upon receipt of such  
 1031 records check application, the department shall comply with all the rules and regulations  
 1032 promulgated by the GCIC and the Federal Bureau of Investigation for the request and  
 1033 receipt of national fingerprint based criminal history reports. Such individuals shall also  
 1034 submit all necessary applications, fees, and acceptable fingerprints to the GCIC. If the  
 1035 fingerprint records check determination is unsatisfactory, the department shall notify the  
 1036 provider and the employee of such determination in writing and no such ~~employee~~  
 1037 individual shall be allowed to reside at the ~~day-care home~~ location or be present at the  
 1038 ~~day-care home~~ location when any child is present for care until he or she either has  
 1039 obtained a satisfactory fingerprint records check determination or has had the  
 1040 unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The  
 1041 department shall revoke the license, commission, or permit of a family child care learning  
 1042 home if the family child care learning home fails to comply with the requirements of this  
 1043 Code section.

1044 20-1A-38.

1045 (a) If the director of a facility licensed, commissioned, or permitted early care and  
 1046 education program ceases to be the director of that ~~facility~~, ~~the licensee~~ early care and  
 1047 education program, the license holder, commission holder, or permit holder shall thereupon  
 1048 designate a new director. After such change, the ~~licensee of that facility~~ license holder,  
 1049 commission holder, or permit holder of that early care and education program shall notify  
 1050 the department ~~in writing~~ of such change and of any additional information the department  
 1051 may require regarding the newly designated director of that ~~facility~~ early care and  
 1052 education program, including a fingerprint records check application. Such individuals  
 1053 shall also submit all necessary applications, fees, and acceptable fingerprints to the GCIC.  
 1054 If the department determines that such newly designated director has ~~had~~ received a  
 1055 satisfactory fingerprint records check determination ~~or~~ that includes a records check  
 1056 clearance date that is no more than 12 months old or had an unsatisfactory determination

1057 reversed pursuant to Code Section 20-1A-43 within the prior 12 months, such  
 1058 determination shall be deemed to be satisfactory for purposes of this article. ~~The license~~  
 1059 ~~of that facility shall not be adversely affected by that change in director, and the licensee~~  
 1060 ~~shall be so notified.~~

1061 (b) If the department determines under subsection (a) of this Code section that a licensed,  
 1062 commissioned, or permitted early care and education program knows or should reasonably  
 1063 know that the newly designated director has a criminal record or an unsatisfactory  
 1064 determination issued by the department that has not been reversed pursuant to Code Section  
 1065 20-1A-43 and allows the director to reside at an early care and education program or be  
 1066 present at an early care and education program while children are present for care, then the  
 1067 license, commission, or permit for that facility shall be revoked. ~~there has ever been an~~  
 1068 ~~unsatisfactory preliminary or state or national fingerprint records check determination of~~  
 1069 ~~the newly designated director which has not been legally reversed, the center and that~~  
 1070 ~~director shall be so notified. The license for that director's facility shall be indefinitely~~  
 1071 ~~suspended or revoked unless the unsatisfactory determination as to that director is reversed~~  
 1072 ~~in accordance with Code Section 20-1A-43 or the center designates another director~~  
 1073 ~~pursuant to the provisions of this Code section relating to a change of director.~~

1074 (c) ~~If the department determines under subsection (a) of this Code section that there have~~  
 1075 ~~been no satisfactory or legally reversed fingerprint records check determinations regarding~~  
 1076 ~~the newly designated director within the immediately preceding 12 months, the department~~  
 1077 ~~shall so notify the center. Upon such notification, the newly designated director shall~~  
 1078 ~~follow the procedures for new directors as outlined in Code Section 20-1A-39, or the~~  
 1079 ~~license of that facility shall be indefinitely suspended or revoked.~~

1080 20-1A-39.

1081 (a) Before a person may become an employee of any center early care and education  
 1082 program after that center early care and education program has received a license or  
 1083 commission, that center early care and education program shall require that person to  
 1084 obtain a satisfactory fingerprint records check determination. All potential employees,  
 1085 excluding students currently enrolled in an early education curriculum through an  
 1086 accredited school of higher education. ~~The potential employee~~ may submit evidence,  
 1087 satisfactory to the department, that ~~within the immediately preceding 12 months~~ the  
 1088 potential employee received a satisfactory fingerprint records check determination that  
 1089 includes a records check clearance date that is no more than 12 months old, or that any  
 1090 potential employee whose fingerprint records check revealed a criminal record of any kind  
 1091 has either subsequently received a satisfactory fingerprint records check determination or  
 1092 has had the unsatisfactory determination reversed in accordance with Code Section

1093 20-1A-43. A student currently enrolled in an early education curriculum through an  
 1094 accredited school of higher education may submit evidence, satisfactory to the department,  
 1095 that the student received a satisfactory fingerprint records check determination that includes  
 1096 a records check clearance date that is no more than 24 months old, or that such student  
 1097 whose fingerprint records check revealed a criminal record of any kind has either  
 1098 subsequently received a satisfactory fingerprint records check determination or has had the  
 1099 unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The  
 1100 center licensed or commissioned early care and education program shall maintain  
 1101 documentation in the employee's personnel file, which is available to the department upon  
 1102 request, which reflects that a satisfactory fingerprint records check determination was  
 1103 received before the employee ~~begins working with children~~ is eligible to reside at an early  
 1104 care and education program or be present at a licensed or commissioned early care and  
 1105 education program while children are present for care. If the fingerprint records check  
 1106 determination for any potential employee reveals a criminal record of any kind, such  
 1107 potential employee shall ~~not be allowed to begin working~~ be ineligible to reside at an early  
 1108 care and education program or be present at an early care and education program while  
 1109 children are present for care until such potential employee has either obtained a satisfactory  
 1110 fingerprint records check determination or has had the unsatisfactory fingerprint records  
 1111 check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint  
 1112 records check determination is unsatisfactory, the center licensed or commissioned early  
 1113 care and education program shall, after receiving notification of such unsatisfactory  
 1114 determination, take such immediate steps as are necessary so that such person is no longer  
 1115 an employee no longer resides at the early care and education program or is no longer  
 1116 present at the early care and education program while children are present for care. The  
 1117 department shall revoke the license or commission of an early care and education program  
 1118 if the early care and education program fails to comply with the requirements of this Code  
 1119 section.

1120 (b) By no later than January 1, 2017, every current employee and director of any center  
 1121 licensed or commissioned early care and education program shall obtain either a  
 1122 satisfactory fingerprint records check determination or shall have had an unsatisfactory  
 1123 fingerprint records check determination reversed in accordance with Code Section  
 1124 20-1A-43. The center early care and education program shall maintain such documentation  
 1125 in the appropriate personnel file, which is available to the department immediately upon  
 1126 request. If the fingerprint records check determination is unsatisfactory, the center licensed  
 1127 or commissioned early care and education program shall, after receiving notification of the  
 1128 determination, take such steps as are necessary so that such person is no longer an  
 1129 employee or director no longer resides at the early care and education program or is no

1130 longer present at the early care and education program while children are present for care.  
 1131 The department shall revoke the license or commission of a center of an early care and  
 1132 education program if the ~~center~~ early care and education program fails to comply with the  
 1133 requirements of this Code section.

1134 (c) Effective January 1, 2019, every employee and director of any ~~center~~ licensed or  
 1135 commissioned early care and education program shall undergo additional fingerprint  
 1136 records checks such that the time between such additional fingerprint records checks and  
 1137 that employee's or director's previous fingerprint records check shall not exceed five years.  
 1138 The ~~center~~ early care and education program shall maintain documentation in the  
 1139 appropriate personnel file, which is available to the department immediately upon request,  
 1140 indicating that such person has obtained such current satisfactory fingerprint records check  
 1141 determination or has had an unsatisfactory fingerprint records check determination reversed  
 1142 in accordance with Code Section 20-1A-43. The department shall revoke the license or  
 1143 commission of a center an early care and education program if the ~~center~~ early care and  
 1144 education program fails to comply with the requirements of this Code section.

1145 (d) A license or commission shall be subject to suspension or revocation and the  
 1146 department may refuse to issue a license or commission if a director or employee does not  
 1147 undergo the fingerprint records check determination applicable to that director or employee  
 1148 and receive acceptable determinations.

1149 (e) After the issuance of a license, commission, or permit, the department may require  
 1150 additional fingerprint records check determinations on any director or employee when the  
 1151 department has reason to believe the director or employee has a criminal record that  
 1152 renders the director or employee ineligible to have contact with children in the ~~center~~ early  
 1153 care and education program, or during the course of a child abuse investigation involving  
 1154 the director or employee.

1155 (f) No ~~center~~ licensed or commissioned early care and education program may ~~hire~~ allow  
 1156 any person ~~as~~ to reside at an early care and education program or be present at a licensed  
 1157 or permitted early care and education program while children are present for care as a  
 1158 director or an employee unless there is on file in the ~~center~~ early care and education  
 1159 program an employment history and a satisfactory fingerprint records check determination  
 1160 or proof that an unsatisfactory determination has been reversed in accordance with Code  
 1161 Section 20-1A-43. The department shall revoke the license or commission of any early  
 1162 care and education program if the early care and education program fails to comply with  
 1163 the requirements of this Code section.

1164 (g) A ~~licensee~~ license holder, commission holder, permit holder, or director of a facility  
 1165 licensed, commissioned, or permitted early care and education program having an  
 1166 employee or director whom such ~~licensee~~ license holder, commission holder, permit

1167 holder, or director knows or should reasonably know to have a criminal record that renders  
1168 the employee or director ineligible to have contact with children in the ~~center~~ early care and  
1169 education program shall be guilty of a misdemeanor.

1170 20-1A-40.

1171 (a) GCIC and law enforcement agencies which have access to GCIC information shall  
1172 cooperate with the department in performing preliminary and fingerprint records check  
1173 determinations required under this article and shall provide such information so required  
1174 for such records checks notwithstanding any other law to the contrary and may charge  
1175 reasonable fees therefor.

1176 (b) Any person who knowingly and under false pretenses requests, obtains, or attempts to  
1177 obtain GCIC information otherwise authorized to be obtained pursuant to this article, or  
1178 who knowingly communicates or attempts to communicate such information obtained  
1179 pursuant to this article to any person or entity except in accordance with this article, or who  
1180 knowingly uses or attempts to use such information obtained pursuant to this article for any  
1181 purpose other than as authorized by this article shall be fined not more than \$5,000.00,  
1182 imprisoned for not more than two years, or both.

1183 20-1A-41.

1184 (a) Neither GCIC, the department, any law enforcement agency, nor the employees of any  
1185 such entities shall be responsible for the accuracy of information nor have any liability for  
1186 defamation, invasion of privacy, negligence, or any other claim in connection with any  
1187 dissemination of information or determination based thereon pursuant to this article.

1188 (b) ~~A center~~ An early care and education program, its director, and its employees shall  
1189 have no liability for defamation, invasion of privacy, or any other claim based upon good  
1190 faith action thereby pursuant to the requirements of this article.

1191 20-1A-42.

1192 The requirements of this article are supplemental to any requirements for a license imposed  
1193 by Article 1 of this chapter.

1194 20-1A-43.

1195 A determination by the department regarding preliminary or fingerprint records checks  
1196 under this article, or any action by the department revoking, suspending, or refusing to  
1197 grant or renew a license based upon such determination, shall constitute a contested case  
1198 for purposes of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except  
1199 that any hearing required to be held pursuant thereto may be held reasonably expeditiously

1200 after such determination or action by the department. It is expressly provided that upon  
 1201 motion from any party, the hearing officer may, in his or her discretion, consider matters  
 1202 in mitigation of any conviction only if all terms of probation have been successfully  
 1203 completed, provided that the hearing officer examines the circumstances of the case and  
 1204 makes an independent finding that no physical harm was done to a victim and also  
 1205 examines the character and employment history since the conviction and determines that  
 1206 there is no propensity for cruel behavior or behavior involving moral turpitude on the part  
 1207 of the person making a motion for an exception to sanctions normally imposed. If the  
 1208 hearing officer deems a hearing to be appropriate, he or she shall also notify at least 30  
 1209 days prior to such hearing the office of the prosecuting attorney who initiated the  
 1210 prosecution of the case in question in order to allow such prosecutor to object to a possible  
 1211 determination that the conviction would not be a bar for the grant or continuation of a  
 1212 license or employment as contemplated within this chapter. If objections are made, the  
 1213 hearing officer shall take such objections into consideration in considering the case.

1214 20-1A-44.

1215 The board is authorized to provide by regulation for the administration of this article."

1216

### SECTION 3.

1217 Code Section 16-12-1.1 of the Official Code of Georgia Annotated, relating to restrictions  
 1218 on persons with criminal records with regard to child, family, or group-care facilities, is  
 1219 amended by revising paragraph (1) of subsection (a) as follows:

1220 "(1) 'Facility' means any child care learning center, family ~~day-care home~~ child care  
 1221 learning home, group-care facility, ~~group day-care home~~, or similar facility at which any  
 1222 child who is not a member of an operator's family is received for pay for supervision and  
 1223 care, without transfer of legal custody, for fewer than 24 hours per day."

1224

### SECTION 4.

1225 Code Section 25-2-13 of the Official Code of Georgia Annotated, relating to regulation of  
 1226 fire and other hazards in buildings presenting special hazards to persons or property, is  
 1227 amended by revising subparagraph (b)(1)(I) as follows:

1228 "(I) Child care learning centers, as such term is defined in Code Section 20-1A-2.  
 1229 ~~Group day-care homes and child care learning centers required to be licensed or~~  
 1230 ~~commissioned as such by the Department of Early Care and Learning and in which at~~  
 1231 ~~least seven children receive care. As used in this subparagraph, the term 'group~~  
 1232 ~~day-care home' means a day-care facility subject to licensure by the Department of~~  
 1233 ~~Early Care and Learning where at least seven but not more than 12 children receive~~

1234 ~~care; and the term 'child care learning center' means a day-care facility subject to~~  
1235 ~~licensure or issuance of a commission by the Department of Early Care and Learning~~  
1236 ~~where more than 12 children receive care. Fire safety standards adopted by rules of the~~  
1237 Commissioner pursuant to Code Section 25-2-4 which are applicable to ~~group day-care~~  
1238 ~~homes and child care learning centers shall not require staff-to-child ratios; and"~~

1239 **SECTION 5.**

1240 This Act shall become effective on January 1, 2016.

1241 **SECTION 6.**

1242 All laws and parts of laws in conflict with this Act are repealed.