

The Senate Committee on Judiciary offered the following substitute to HB 508:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 20, 26, 31, 33, and 43 of the Official Code of Georgia Annotated, relating
2 to education, food, drugs, and cosmetics, health, insurance, and professions and businesses,
3 respectively, so as to create a preclearance process in the licensing of individuals with
4 criminal records who make an application to or are investigated by certain licensing boards
5 and commissions; to provide for definitions; to require certain licensing authorities to provide
6 evidence to support adverse licensing decisions based on criminal convictions; to require a
7 hearing prior to denying certain applicants on the basis of an individual's criminal record; to
8 establish findings that shall be made and evidence that shall and shall not be considered prior
9 to refusing to grant certain licenses based on certain criminal convictions; to allow an
10 applicant to submit his or her own criminal record when applying for certain licenses; to
11 provide for reapplication for licensure; to authorize and provide a process and requirements
12 for predetermination decisions; to require certain licensure application information be
13 included in certain applications and posted on a public website; to require certain annual
14 reports concerning certain applications, predeterminations, and conviction records be filed
15 with the Secretary of State; to amend Chapter 4 of Title 25 of the Official Code of Georgia
16 Annotated, relating to firefighter standards and training, so as to provide for the reporting of
17 guilty pleas taken under the "Georgia First Offender Act" to obtain employment as a fire
18 fighter; to amend Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia

19 Annotated, relating to Georgia Crime Information Center, so as to provide for criminal
20 history record information restrictions for certain persons cited with or convicted of certain
21 criminal offenses; to provide that restricted criminal history record information shall be
22 available to criminal justice agencies; to provide for petitions; to provide for criminal history
23 record information restriction for persons granted a pardon for certain offenses; to amend
24 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
25 offenders, so as to revise the procedure for petitioning for exoneration and discharge when
26 an individual has qualified for sentencing as a first offender; to provide for exceptions to
27 retroactively granting first offender treatment; to provide for related matters; to provide for
28 an effective date and applicability; to repeal conflicting laws; and for other purposes.

29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

30 **PART I**
31 **SECTION 1-1.**

32 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
33 is amended by revising Code Section 43-1-1, relating to definitions, as follows:

34 "43-1-1.

35 As used in this title, the term:

36 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
37 whether an appeal of such finding, verdict, or plea has been sought.

38 (2) 'Covered misdemeanor' shall mean any:

39 (A) Misdemeanor conviction in the five years prior to the submission of the licensing
40 application; and

41 (B) Misdemeanor conviction listed in subparagraph (j)(4)(B) of Code Section 35-3-37,
42 irrespective of the date of such conviction.

43 ~~(1)~~(3) 'Division' means the professional licensing boards division created under Code
44 Section 43-1-2.

45 ~~(2)~~(4) 'Division director' means the individual appointed by the Secretary of State as
46 director of the professional licensing boards division within the office of the Secretary
47 of State.

48 (5) 'Felony' means any offense which, if committed in this state, would be deemed a
49 felony, without regard to its designation elsewhere.

50 ~~(3)~~(6) 'Professional licensing board' means any board, bureau, commission, or other
51 agency of the executive branch of state government which is created for the purpose of
52 licensing or otherwise regulating or controlling any profession, business, or trade and
53 which is placed by law under the jurisdiction of the division director ~~of the professional~~
54 ~~licensing boards division within the office of the Secretary of State."~~

55 **SECTION 1-2.**

56 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
57 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
58 probationary licenses, by revising subsection (a) as follows:

59 "(a) A professional licensing board shall have the authority to refuse to grant a license to
60 an applicant therefor or to revoke the license of a person licensed by that board or to
61 discipline a person licensed by that board, upon a finding by a majority of the entire board
62 that the licensee or applicant has:

63 (1) Failed to demonstrate the qualifications or standards for a license contained in this
64 Code section, or under the laws, rules, or regulations under which licensure is sought or
65 held; it shall be incumbent upon the applicant to demonstrate to the satisfaction of the
66 board that he or she meets all the requirements for the issuance of a license, and, if the
67 board is not satisfied as to the applicant's qualifications, it may deny a license without a

68 prior hearing; provided, however, that the applicant shall be allowed to appear before the
69 board if he or she so desires;

70 (2) Knowingly made misleading, deceptive, untrue, or fraudulent representations in the
71 practice of a business or profession licensed under this title or on any document
72 connected therewith; practiced fraud or deceit or intentionally made any false statement
73 in obtaining a license to practice the licensed business or profession; or made a false
74 statement or deceptive registration with the board;

75 (3) Been convicted of any a directly related felony or a directly related covered
76 misdemeanor or of any crime involving moral turpitude in the courts of this state or any
77 other state, territory, or country or in the courts of the United States; ~~as used in this~~
78 ~~paragraph, paragraph (4) of this subsection, and subsection (q) of this Code section, the~~
79 ~~term 'felony' shall include any offense which, if committed in this state, would be deemed~~
80 ~~a felony, without regard to its designation elsewhere; and, as used in this paragraph and~~
81 ~~subsection (q) of this Code section, the term 'conviction' shall include a finding or verdict~~
82 ~~of guilty or a plea of guilty, regardless of whether an appeal of the conviction has been~~
83 ~~sought. The professional licensing board shall have the burden of justifying by clear and~~
84 convincing evidence that a conviction supports an adverse licensing decision. Before the
85 professional licensing board may deny an applicant a license due to his or her criminal
86 record, such applicant shall be entitled to a hearing before the professional licensing
87 board in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
88 Act';

89 ~~(4)(A) Been arrested, charged, and sentenced for the commission of any felony, or any~~
90 ~~crime involving moral turpitude, when:~~

91 ~~(i) A sentence for such offense was imposed pursuant to Article 3 of Chapter 8 of~~
92 ~~Title 42 or another state's first offender laws;~~

93 ~~(ii) A sentence for such offense was imposed pursuant to subsection (a) or (c) of~~
94 ~~Code Section 16-13-2;~~

95 ~~(iii) A sentence for such offense was imposed as a result of a plea of nolo contendere;~~
96 ~~or~~
97 ~~(iv) An adjudication of guilt or sentence was otherwise withheld or not entered on the~~
98 ~~charge.~~

99 ~~(B) An order entered pursuant to subsection (a) or (c) of Code Section 16-13-2, Article~~
100 ~~3 of Chapter 8 of Title 42, or another state's first offender treatment order shall be~~
101 ~~conclusive evidence of an arrest and sentencing for such offense;~~

102 ~~(5)(4)~~ Had his or her license to practice a business or profession licensed under this title
103 revoked, suspended, or annulled by any lawful licensing authority other than the board;
104 had other disciplinary action taken against him or her by any such lawful licensing
105 authority other than the board; was denied a license by any such lawful licensing
106 authority other than the board, pursuant to disciplinary proceedings; or was refused the
107 renewal of a license by any such lawful licensing authority other than the board, pursuant
108 to disciplinary proceedings;

109 ~~(6)(5)~~ Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious
110 conduct or practice harmful to the public that materially affects the fitness of the licensee
111 or applicant to practice a business or profession licensed under this title or is of a nature
112 likely to jeopardize the interest of the public; such conduct or practice need not have
113 resulted in actual injury to any person ~~or~~ but must be directly related to the practice of the
114 licensed business or profession ~~but shows~~ and show that the licensee or applicant has
115 committed any act or omission which is indicative of ~~bad moral character or~~
116 ~~untrustworthiness~~ and which makes the licensee or applicant currently likely to harm the
117 public. Such conduct or practice shall also include any departure from, or the failure to
118 conform to, the minimal reasonable standards of acceptable and prevailing practice of the
119 business or profession licensed under this title;

120 ~~(7)(6)~~ Knowingly performed any act which in any way aids, assists, procures, advises,
121 or encourages any unlicensed person or any licensee whose license has been suspended

122 or revoked by a professional licensing board to practice a business or profession licensed
123 under this title or to practice outside the scope of any disciplinary limitation placed upon
124 the licensee by the board;

125 ~~(8)~~(7) Violated a statute, law, or any rule or regulation of this state, any other state, the
126 professional licensing board regulating the business or profession licensed under this title,
127 the United States, or any other lawful authority without regard to whether the violation
128 is criminally punishable when such statute, law, or rule or regulation relates to or in part
129 regulates the practice of a business or profession licensed under this title and when the
130 licensee or applicant knows or should know that such action violates such statute, law,
131 or rule; or violated a lawful order of the board previously entered by the board in a
132 disciplinary hearing, consent decree, or license reinstatement;

133 ~~(9)~~(8) Been adjudged mentally incompetent by a court of competent jurisdiction within
134 or outside this state; any such adjudication shall automatically suspend the license of any
135 such person and shall prevent the reissuance or renewal of any license so suspended for
136 so long as the adjudication of incompetence is in effect;

137 ~~(10)~~(9) Displayed an inability to practice a business or profession licensed under this title
138 with reasonable skill and safety to the public or has become unable to practice the
139 licensed business or profession with reasonable skill and safety to the public by reason
140 of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material;
141 or

142 ~~(11)~~(10) Failed to comply with an order for child support as defined by Code Section
143 19-11-9.3; it shall be incumbent upon the applicant or licensee to supply a notice of
144 release to the board from the child support agency within the Department of Human
145 Services indicating that the applicant or licensee has come into compliance with an order
146 for child support so that a license may be issued or granted if all other conditions for
147 licensure are met."

148

SECTION 1-3.

149 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
 150 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
 151 probationary licenses, by revising subsection (j) as follows:

152 "(j) Neither the issuance of a private reprimand nor the denial of a license by reciprocity
 153 ~~nor the denial of a request for reinstatement of a revoked license nor the refusal to issue a~~
 154 ~~previously denied license~~ shall be considered to be a contested case within the meaning of
 155 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; notice and hearing
 156 within the meaning of such chapter shall not be required, but the applicant or licensee shall
 157 be allowed to appear before the board if he or she so requests. A board may resolve a
 158 pending action by the issuance of a letter of concern. Such letter shall not be considered
 159 a disciplinary action or a contested case under Chapter 13 of Title 50 and shall not be
 160 disclosed to any person except the licensee or applicant."

161

SECTION 1-4.

162 Said title is further amended in Code Section 43-1-19, relating to a professional licensing
 163 board's authority to refuse, grant, revoke, and reinstate licenses, surrender of licenses, and
 164 probationary licenses, by revising subsection (q) as follows:

165 "(q)(1) Notwithstanding ~~paragraphs~~ paragraph (3) and (4) of subsection (a) of this Code
 166 section or any other provision of law, ~~and unless the professional licensing board shall~~
 167 refuse to grant a license to an individual or shall revoke a license only if a felony or crime
 168 involving moral turpitude covered misdemeanor directly relates to the occupation for
 169 which the license is sought or held and granting the license would pose a direct and
 170 substantial risk to public safety because the individual has not been rehabilitated to safely
 171 perform the duties and responsibilities of such occupation, after considering the criteria
 172 in paragraph (2) of this subsection. Without finding a direct and substantial risk to public
 173 safety and a direct relationship between the conviction and the licensed occupation, no

174 professional licensing board shall refuse to grant a license to an applicant therefor or shall
175 revoke the license of an individual licensed by that board due solely or in part to such
176 applicant's or licensee's:

177 (A) Conviction of any felony or any ~~crime involving moral turpitude~~ covered
178 misdemeanor, whether it occurred in the courts of this state or any other state, territory,
179 or country or in the courts of the United States;

180 (B) Arrest, charge, and sentence for the commission of such offense;

181 (C) Sentence for such offense pursuant to Article 3 of Chapter 8 of Title 42 or another
182 state's first offender laws;

183 (D) Sentence for such offense pursuant to subsection (a) or (c) of Code Section
184 16-13-2;

185 (E) Sentence for such offense as a result of a plea of nolo contendere;

186 (F) Adjudication of guilt or sentence was otherwise withheld or not entered; or

187 (G) Being under supervision by a community supervision officer, as such term is
188 defined in Code Section 42-3-1, for a conviction of any felony or any ~~crime involving~~
189 ~~moral turpitude~~ covered misdemeanor, whether it occurred in the courts of this state or
190 any other state, territory, or country or in the courts of the United States, so long as such
191 individual was not convicted of a felony violation of Chapter 5 of Title 16 nor
192 convicted of a crime requiring registration on the state sexual offender registry.

193 (2) In determining if a felony or ~~crime involving moral turpitude~~ covered misdemeanor
194 directly relates to the occupation for which the license is sought or held, the professional
195 licensing board shall consider:

196 (A) The nature and seriousness of such felony or ~~crime involving moral turpitude~~
197 covered misdemeanor and the direct relationship of ~~such felony or crime involving~~
198 ~~moral turpitude~~ the criminal conduct to the duties and responsibilities of the occupation
199 for which the license is sought or held;

- 200 (B) The age of the individual at the time such felony or ~~crime involving moral~~
201 ~~turpitude~~ covered misdemeanor was committed;
- 202 (C) The length of time elapsed since such felony or ~~crime involving moral turpitude~~
203 ~~covered misdemeanor~~ was committed;
- 204 (D) All circumstances relative to such felony or ~~crime involving moral turpitude~~
205 ~~covered misdemeanor~~, including, but not limited to, mitigating circumstances or social
206 conditions surrounding the commission of such felony or ~~crime involving moral~~
207 ~~turpitude~~ covered misdemeanor; and
- 208 (E) Evidence of rehabilitation and present fitness to perform the duties of the
209 occupation for which the license is sought or held-, including, but not limited to:
- 210 (i) The completion of the criminal sentence;
- 211 (ii) A program and treatment certificate issued by the Board of Corrections;
- 212 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
213 treatment program;
- 214 (iv) Testimonials and recommendations, which may include a progress report from
215 the individual's probation or parole officer;
- 216 (v) Education and training;
- 217 (vi) Employment history;
- 218 (vii) Employment aspirations;
- 219 (viii) The individual's current family or community responsibilities, or both;
- 220 (ix) Whether a bond is required to practice the occupation;
- 221 (x) Any affidavits or other written documents, including, but not limited to, character
222 references; and
- 223 (xi) Any other information regarding rehabilitation the individual submits to the
224 board.

225 (3) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
226 otherwise withhold a license, the professional licensing board shall not consider nor
227 require an individual to disclose:

228 (A) A deferred adjudication, first offender treatment, participation in a diversion
229 program, a conditional discharge, or an arrest not followed by a conviction;

230 (B) A conviction for which no sentence of incarceration can be imposed;

231 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
232 pardoned;

233 (D) A juvenile adjudication;

234 (E) A misdemeanor conviction older than five years, unless the offense of conviction
235 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

236 (F) A conviction older than five years for which the individual was not incarcerated,
237 or a conviction for which the individual's incarceration ended more than five years
238 before the date of the board's consideration, except for a felony conviction related to:

239 (i) A criminal sexual act;

240 (ii) Criminal fraud or embezzlement;

241 (iii) Aggravated assault;

242 (iv) Aggravated robbery;

243 (v) Aggravated abuse, neglect, or endangerment of a child;

244 (vi) Arson;

245 (vii) Carjacking;

246 (viii) Kidnapping; or

247 (ix) Manslaughter, homicide, or murder.

248 (4) Notwithstanding any other provision of law, no professional licensing board may
249 apply a vague character standard to licensure decisions or predeterminations, including,
250 but not limited to, 'good moral character,' 'moral turpitude,' or 'character and fitness.'

251 (5) Notwithstanding any other provision of law, a professional licensing board shall
252 provide individualized consideration of an individual's criminal record and shall not
253 automatically deny licensure on the basis of the individual's criminal record.

254 (6)(A) If an applicant's criminal record includes issues that will or may prevent the
255 board from issuing a license to the applicant, the board shall notify the applicant, in
256 writing, of the specific issues in sufficient time for the applicant to provide additional
257 documentation supporting the application before the board's final decision to deny the
258 application. After receiving notice of any potential issue with licensure due to his or
259 her criminal convictions, an applicant shall have 30 days to respond by correcting any
260 inaccuracy in the criminal record or by submitting additional evidence of mitigation or
261 rehabilitation for the board's consideration, or both.

262 (B) For the professional licensing board to deny a license on the basis of the applicant's
263 criminal convictions, the board shall first provide an opportunity for a hearing for such
264 applicant in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
265 Procedure Act.' The applicant shall have the opportunity at such hearing to present the
266 written or oral testimony of character witnesses, including, but not limited to, family
267 members, friends, prospective employers, probation or parole officers, and
268 rehabilitation counselors. The professional licensing board shall issue a decision within
269 60 days of the complete submission of the issues for consideration or the hearing,
270 whichever is later.

271 (C) The professional licensing board shall have the burden of justifying by clear and
272 convincing evidence, after a hearing, that an applicant's criminal record supports any
273 adverse licensing decision. If the board denies an applicant a license by reason of the
274 applicant's criminal record, the board shall:

275 (i) Make written findings specifying any of the applicant's convictions and the factors
276 provided for in subparagraph (A) of paragraph (2) of this subsection the board
277 deemed directly relevant and explaining the basis and rationale for the denial. Such

278 written findings shall be signed by the board's presiding officer and shall note the
279 applicant's right to appeal and explain the applicant's ability to reapply. No applicant
280 shall be restricted from reapplying for licensure for more than two years from the date
281 of the most recent application;

282 (ii) Provide or serve a signed copy of the written findings to the applicant within 60
283 days of the denial; and

284 (iii) Retain a signed copy of the written findings for no less than five years.

285 (D) The denial of a license in part or in whole because of the applicant's criminal
286 record shall constitute a contested case as defined in Code Section 50-13-2. In an
287 administrative hearing or civil action reviewing the denial of a license, the professional
288 licensing board shall have the burden of proving that the applicant's criminal record
289 directly relates to the occupation for which the license is sought.

290 (7)(A) Notwithstanding any other provision of law, an individual with a criminal
291 record may petition a professional licensing board at any time, including while
292 incarcerated and before starting or completing any required professional qualifications
293 for licensure, for a predetermination as to whether such individual's criminal record will
294 disqualify him or her from obtaining a license.

295 (B) The petition for predetermination shall include the individual's criminal record or
296 authorize the board to obtain the individual's criminal record. The petitioning
297 individual need not disclose any offenses provided for in paragraph (3) of this
298 subsection. Such petition shall also include any information the petitioner chooses to
299 submit concerning the circumstances of their record and their rehabilitation.

300 (C) In considering predetermination petitions, the professional licensing board shall
301 apply the direct relationship standard provided for in paragraphs (1) and (2) of this
302 subsection and shall not consider any offenses falling under paragraph (3) of this
303 subsection. The board shall support any adverse predetermination with clear and
304 convincing evidence.

305 (D) A predetermination made under this subsection that a petitioner is eligible for a
306 license shall be binding on the professional licensing board only if the petitioner applies
307 for licensure, fulfills all other requirements for the occupational license, and the
308 petitioner's submitted criminal record was correct and remains unchanged at the time
309 of his or her application for a license.

310 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
311 from licensure, the board shall notify the petitioner of the potentially disqualifying
312 convictions. The letter of concern shall advise the petitioner of their opportunity to
313 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

314 (F) The professional licensing board may predetermine that the petitioner's criminal
315 record is likely grounds for denial of a license only after the board has held a hearing
316 on the petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
317 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
318 or by teleconference within 60 days of receipt of the predetermination petition. The
319 individual shall have the opportunity to offer written or oral testimony of character
320 witnesses at the hearing, including but not limited to family members, friends, past or
321 prospective employers, probation or parole officers, and rehabilitation counselors. The
322 professional licensing board shall not make an adverse inference by a petitioner's
323 decision to forgo a hearing or character witnesses. The board shall issue a final
324 decision within 60 days of complete submission of the issue for consideration or the
325 hearing, whichever is later.

326 (G) If the professional licensing board decides that a predetermination petitioner is
327 ineligible for a license, the board shall notify the petitioner of the following:

328 (i) The grounds and rationale for the predetermination, including any of the
329 petitioner's specific convictions and the factors provided for in subparagraph (A) of
330 paragraph (2) of this subsection the board deemed directly relevant;

331 (ii) An explanation of the process and right to appeal the board's predetermination
332 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act';
333 and

334 (iii) Any actions the petitioner may take to remedy the disqualification. An
335 individual who receives a predetermination of ineligibility may submit a revised
336 petition reflecting completion of the remedial actions. The individual may submit a
337 new petition to the board not before one year following a final judgment on their
338 initial petition or upon completing the remedial actions, whichever is earlier.

339 (H) The denial of a predetermination petition because of the applicant's criminal record
340 shall constitute a contested case as defined in Code Section 50-13-2. In an
341 administrative hearing or civil action reviewing the denial of a predetermination
342 petition, the professional licensing board shall have the burden of proving that the
343 applicant's criminal record directly relates to the licensed occupation.

344 (8) Each professional licensing board shall include in its application for licensure and on
345 its public website all of the following information:

346 (A) Whether the board requires applicants to consent to a criminal record check;

347 (B) The direct relationship standard provided for in paragraph (1) of this subsection
348 and those factors provided for in paragraph (2) of this subsection that the board shall
349 consider when making a determination of licensure;

350 (C) The criminal record disclosure provided for in paragraph (3) of this subsection;

351 (D) The appeals process pursuant to Chapter 13 of Title 50, the 'Georgia
352 Administrative Procedure Act,' if the board denies or revokes licensure in whole or in
353 part because of a criminal conviction; and

354 (E) The predetermination petition process, standards, and application, as well as the
355 process for appealing an adverse predetermination pursuant to Chapter 13 of Title 50,
356 the 'Georgia Administrative Procedure Act.'

357 (9) No later than March 31 each year, each occupational licensing board shall file with
 358 the Secretary of State an annual report containing information from the previous year as
 359 to:

360 (A) The number of applicants for a license and, of that number, the number of licenses
 361 granted;

362 (B) The number of applicants with a criminal record and, of that number, the number
 363 of licenses granted, denied a license for any reason, and denied due to a conviction or
 364 state supervision status;

365 (C) The number of predetermination petitioners and, of that number, the number
 366 deemed eligible for a license and the number deemed ineligible for a license;

367 (D) The racial and ethnic distribution of licensing applicants, including the racial and
 368 ethnic distribution of applicants with a criminal record; and

369 (E) The racial and ethnic distribution of licensing applicants with a criminal record
 370 granted a license, denied a license for any reason, and denied a license due to a
 371 conviction or state supervision status."

372 **SECTION 1-5.**

373 Said title is further amended by revising Code Section 43-1-27, relating to requirement that
 374 licensee notify licensing authority of felony conviction, as follows:

375 "43-1-27.

376 Any licensed individual who is convicted under the laws of this state, the United States, or
 377 any other state, territory, or country of a felony as defined in ~~paragraph (3) of subsection~~
 378 ~~(a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the appropriate licensing
 379 authority of the conviction within ten days of the conviction. The failure of a licensed
 380 individual to notify the appropriate licensing authority of a conviction shall be considered
 381 grounds for revocation of his or her license, permit, registration, certification, or other
 382 authorization to conduct a licensed profession."

383

SECTION 1-6.

384 Said title is further amended by revising Code Section 43-15-19, relating to revocation,
385 suspension, or denial of certificates, certificates of registration, or licenses, and reprimands,
386 as follows:

387 "43-15-19.

388 (a) The board shall have the power, after notice and hearing, to deny any application made
389 to it, to revoke or suspend any certificate, certificate of registration, or license issued by it,
390 or to reprimand any individual holding a certificate, certificate of registration, or license
391 issued by it, upon the following grounds:

392 (1) Commission of any fraud or deceit in obtaining a certificate, certificate of
393 registration, or license;

394 (2) Any gross negligence, incompetency, or unprofessional conduct in the practice of
395 professional engineering or land surveying as a professional engineer or a professional
396 land surveyor, respectively;

397 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
398 43-15-22;

399 (4) Conviction of a felony or ~~crime involving moral turpitude~~ covered misdemeanor as
400 defined in Code Section 43-1-1 in the courts of this state, the United States, or any state
401 or territory of the United States or the conviction of an offense in another jurisdiction
402 which, if committed in this state, would be deemed a felony. 'Conviction' shall include
403 a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal
404 proceeding, ~~regardless of whether the adjudication of guilt or sentence is withheld or not~~
405 ~~entered thereon pursuant to Article 3 of Chapter 8 of Title 42 or any comparable rule or~~
406 ~~statute~~; or

407 (5) Any violation of this chapter or any rule or regulation promulgated by the board
408 pursuant to the powers conferred on it by this chapter.

409 (b) 'Unprofessional conduct,' as referred to in paragraph (2) of subsection (a) of this Code
410 section, includes a violation of those standards of professional conduct for professional
411 engineers and professional land surveyors adopted by the board pursuant to the power
412 conferred upon it to promulgate rules and regulations to effectuate the duties and powers
413 conferred on it by this chapter."

414 **SECTION 1-7.**

415 Said title is further amended by adding two new Code sections to read as follows:

416 "43-15-19.1.

417 (a) Notwithstanding paragraph (4) of subsection (a) of Code Section 43-15-19, the board
418 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
419 directly relates to the occupation for which the license is sought or held and granting the
420 license would pose a direct and substantial risk to public safety because the individual has
421 not been rehabilitated to safely perform the duties and responsibilities of the occupation for
422 which the license is sought or held. In determining if a conviction directly relates to the
423 occupation for which the license is sought or held, the board shall consider:

424 (1) The nature and seriousness of the offense and the direct relationship of the criminal
425 conduct to the duties and responsibilities of the occupation for which the license is sought
426 or held;

427 (2) The age of the individual at the time the offense was committed;

428 (3) The length of time elapsed since the offense was committed;

429 (4) All circumstances relative to the offense, including, but not limited to, mitigating
430 circumstances or social conditions surrounding the commission of the offense; and

431 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
432 for which the license is sought or held, including, but not limited to:

433 (A) The completion of the criminal sentence;

434 (B) A program and treatment certificate issued by the Board of Corrections;

- 435 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
436 program;
- 437 (D) Testimonials and recommendations, which may include a progress report from the
438 individual's probation or parole officer;
- 439 (E) Education and training;
- 440 (F) Employment history;
- 441 (G) Employment aspirations;
- 442 (H) The individual's current family or community responsibilities, or both;
- 443 (I) Whether a bond is required to practice the occupation;
- 444 (J) Any affidavits or other written documents, including, but not limited to, character
445 references; and
- 446 (K) Any other information regarding rehabilitation the individual submits to the board.
- 447 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
448 otherwise withhold a license, the board shall not consider nor require an individual to
449 disclose:
- 450 (1) A deferred adjudication, first offender treatment, diversion program, conditional
451 discharge, or an arrest not followed by a conviction;
- 452 (2) A conviction for which no sentence of incarceration can be imposed;
- 453 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
454 pardoned;
- 455 (4) A juvenile adjudication;
- 456 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
457 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 458 (6) A conviction older than five years for which the individual was not incarcerated, or
459 a conviction for which the individual's incarceration ended more than five years before
460 the date of the board's consideration, except for a felony conviction related to:
- 461 (A) A criminal sexual act;

- 462 (B) Criminal fraud or embezzlement;
463 (C) Aggravated assault;
464 (D) Aggravated robbery;
465 (E) Aggravated abuse, neglect, or endangerment of a child;
466 (F) Arson;
467 (G) Carjacking;
468 (H) Kidnapping; or
469 (I) Manslaughter, homicide, or murder.

470 42-15-19.2.

471 (a) Notwithstanding any other provision of law, an individual with a criminal record may
472 petition the board at any time, including while incarcerated and before starting or
473 completing any required professional qualifications for licensure, for a predetermination
474 as to whether the individual's criminal record will disqualify him or her from obtaining a
475 license.

476 (b) The petition for predetermination shall include the individual's criminal record or
477 authorize the board to obtain the individual's criminal record. The petitioning individual
478 need not disclose any offenses falling under subsection (b) of Code Section 43-15-19.1.
479 The petition shall also include any information the petitioner chooses to submit concerning
480 the circumstances of their record and their rehabilitation.

481 (c) In considering predetermination petitions, the board shall apply the direct relationship
482 standard in subsection (a) of Code Section 43-15-19.1. The board shall support any
483 adverse predetermination by justifying that it is substantially more likely than not that a
484 criminal record supports an adverse licensing decision.

485 (d) A predetermination made under this subsection that a petitioner is eligible for a license
486 shall be binding on the board only if the petitioner applies for licensure, fulfills all other

487 requirements for the licensure, and the petitioner's submitted criminal record was correct
488 and remains unchanged at the time of his or her application for a license.

489 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
490 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
491 The letter of concern shall advise the petitioner of their opportunity to submit additional
492 evidence of rehabilitation and mitigation or for a hearing, or both.

493 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
494 denial of a license only after the board has held a hearing on the petitioner's eligibility in
495 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
496 hearing shall be held in person, by remote video, or by teleconference within 60 days of
497 receipt of the predetermination petition. The individual shall have the opportunity to
498 include character witnesses at the hearing, including but not limited to family members,
499 friends, past or prospective employers, probation or parole officers, and rehabilitation
500 counselors, who may offer their verbal or written support. The board shall not make an
501 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
502 board shall issue a final decision within 60 days of complete submission of the issue for
503 consideration or the hearing, whichever is later.

504 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
505 board shall notify the petitioner of the following:

506 (1) The grounds and rationale for the predetermination, including the specific
507 convictions and the factors in subsection (a) of Code Section 43-15-19.1 the board
508 deemed directly relevant;

509 (2) An explanation of the process and right to appeal the board's predetermination
510 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

511 (3) Any actions the petitioner may take to remedy the disqualification. An individual
512 who receives a predetermination of ineligibility may submit a revised petition reflecting
513 completion of the remedial actions. The individual may submit a new petition to the

514 board not before one year following a final judgment on their initial petition or upon
 515 completing the remedial actions, whichever is earlier.

516 (h) The denial of a predetermination petition because of the applicant's criminal record
 517 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 518 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 519 have the burden of proving that the applicant's criminal record directly relates to the
 520 licensed occupation."

521

PART II

522

SECTION 2-1.

523 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
 524 is amended in Code Section 43-3-21, relating to revocation or refusal to grant or renew
 525 accountant's licenses, by revising paragraphs (3) and (4) of subsection (a) as follows:

526 "(3) Had been convicted of any directly related felony or ~~crime involving moral turpitude~~
 527 directly related covered misdemeanor as defined in Code Section 43-1-1 in the courts of
 528 this state, any other state, a territory, or a country or in the courts of the United States.

529 As used in this paragraph, the term:

530 (A) 'Conviction' means and includes a finding or verdict of guilty or a plea of guilty,
 531 regardless of whether an appeal of the conviction has been sought;

532 (B) 'Felony' means and includes any offense which, if committed in this state, would
 533 be deemed a felony, without regard to its designation elsewhere.

534 (4)(A) Had been arrested, charged, and sentenced for the commission of any felony or
 535 ~~crime involving moral turpitude~~ covered misdemeanor as defined in Code Section
 536 43-1-1 when:

537 (i) First offender treatment without adjudication of guilt pursuant to the charge was
 538 granted; or

539 (ii) An adjudication of guilt or sentence was otherwise withheld or not entered on the
540 charge, except with respect to a plea of nolo contendere.

541 (B) An order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42
542 or other first offender treatment shall be conclusive evidence of arrest and sentencing
543 for such crime.

544 (C) As used in this paragraph, the term 'felony' shall include any offense which, if
545 committed in this state, would be deemed a felony, without regard to its designation
546 elsewhere;"

547 **SECTION 2-2.**

548 Said title is further amended by adding two new Code sections to read as follows:

549 "43-3-21.1.

550 (a) Notwithstanding paragraphs (3) and (4) of subsection (a) of Code Section 43-3-21, the
551 board of accountancy shall refuse to grant a license to an individual or shall revoke a
552 license only if a conviction directly relates to the occupation for which the license is sought
553 or held and granting the license would pose a direct and substantial risk to public safety
554 because the individual has not been rehabilitated to safely perform the duties and
555 responsibilities of the practice of public accountancy. In determining if a conviction
556 directly relates to the occupation for which the license is sought or held, the board of
557 accountancy shall consider:

558 (1) The nature and seriousness of the offense and the direct relationship of the criminal
559 conduct to the duties and responsibilities of the occupation for which the license is sought
560 or held;

561 (2) The age of the individual at the time the offense was committed;

562 (3) The length of time elapsed since the offense was committed;

563 (4) All circumstances relative to the offense, including, but not limited to, mitigating
564 circumstances or social conditions surrounding the commission of the offense; and

- 565 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
566 for which the license is sought or held, including, but not limited to:
- 567 (A) The completion of the criminal sentence;
 - 568 (B) A program and treatment certificate issued by the Board of Corrections;
 - 569 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
570 program;
 - 571 (D) Testimonials and recommendations, which may include a progress report from the
572 individual's probation or parole officer;
 - 573 (E) Education and training;
 - 574 (F) Employment history;
 - 575 (G) Employment aspirations;
 - 576 (H) The individual's current family or community responsibilities, or both;
 - 577 (I) Whether a bond is required to practice the occupation;
 - 578 (J) Any affidavits or other written documents, including, but not limited to, character
579 references; and
 - 580 (K) Any other information regarding rehabilitation the individual submits to the board.
- 581 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
582 otherwise withhold a license due to criminal record, the accountancy board shall not
583 consider nor require an individual to disclose:
- 584 (1) A deferred adjudication, first offender treatment, participation in a diversion
585 program, a conditional discharge, or an arrest not followed by a conviction;
 - 586 (2) A conviction for which no sentence of incarceration can be imposed;
 - 587 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
588 pardoned;
 - 589 (4) A juvenile adjudication;
 - 590 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
591 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 592 (6) A conviction older than five years for which the individual was not incarcerated, or
593 a conviction for which the individual's incarceration ended more than five years before
594 the date of the board's consideration, except for a felony conviction related to:
- 595 (A) A criminal sexual act;
 - 596 (B) Criminal fraud or embezzlement;
 - 597 (C) Aggravated assault;
 - 598 (D) Aggravated robbery;
 - 599 (E) Aggravated abuse, neglect, or endangerment of a child;
 - 600 (F) Arson;
 - 601 (G) Carjacking;
 - 602 (H) Kidnapping; or
 - 603 (I) Manslaughter, homicide, or murder.

604 43-3-21.2.

605 (a) Notwithstanding any other provision of law, an individual with a criminal record may
606 petition the accountancy board at any time, including while incarcerated and before starting
607 or completing any required professional qualifications for licensure, for a predetermination
608 as to whether the individual's criminal record will disqualify him or her from obtaining a
609 license.

610 (b) The petition for predetermination shall include the individual's criminal record or
611 authorize the board to obtain the individual's criminal record. The petitioning individual
612 need not disclose any offenses falling under subsection (b) of Code Section 43-3-21.1. The
613 petition shall also include any information the petitioner chooses to submit concerning the
614 circumstances of their record and their rehabilitation.

615 (c) In considering predetermination petitions, the board shall apply the direct relationship
616 standard in subsection (a) of Code Section 43-3-21.1. The board shall support any adverse
617 predetermination with clear and convincing evidence.

618 (d) A predetermination made under this subsection that a petitioner is eligible for a license
619 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
620 requirements for the licensure, and the petitioner's submitted criminal record was correct
621 and remains unchanged at the time of his or her application for a license.

622 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
623 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
624 The letter of concern shall advise the petitioner of their opportunity to submit additional
625 evidence of rehabilitation and mitigation or for a hearing, or both.

626 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
627 denial of a license only after the board has held a hearing on the petitioner's eligibility in
628 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
629 hearing shall be held in person, by remote video, or by teleconference within 60 days of
630 receipt of the predetermination petition. The individual shall have the opportunity to
631 include character witnesses at the hearing, including but not limited to family members,
632 friends, past or prospective employers, probation or parole officers, and rehabilitation
633 counselors, who may offer their verbal or written support. The board shall not make an
634 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
635 board shall issue a final decision within 60 days of complete submission of the issue for
636 consideration or the hearing, whichever is later.

637 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
638 board shall notify the petitioner of the following:

639 (1) The grounds and rationale for the predetermination, including the specific
640 convictions and the factors in subsection (a) of Code Section 43-3-21.1 the board deemed
641 directly relevant;

642 (2) An explanation of the process and right to appeal the board's predetermination
643 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

644 (3) Any actions the petitioner may take to remedy the disqualification. An individual
645 who receives a predetermination of ineligibility may submit a revised petition reflecting
646 completion of the remedial actions. The individual may submit a new petition to the
647 board not before one year following a final judgment on their initial petition or upon
648 completing the remedial actions, whichever is earlier.

649 (h) The denial of a predetermination petition because of the applicant's criminal record
650 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
651 hearing or civil action reviewing the denial of a predetermination petition, the board shall
652 have the burden of proving that the applicant's criminal record directly relates to the
653 licensed occupation."

654 **SECTION 2-3.**

655 Said title is further amended in Code Section 43-3-27, relating to notification by an
656 individual issued a license or certification as an accountant of conviction, time limit, and
657 suspension, by revising subsection (a) as follows:

658 "(a) Any individual issued a license or certification under this chapter or providing services
659 under substantial equivalency practice privileges and convicted under the laws of this state,
660 the United States, any other state, or any other country of a felony as defined in paragraph
661 ~~(3) of subsection (a) of Code Section 43-1-19~~ 43-1-1 shall be required to notify the board
662 of such conviction within 30 days of such conviction. The failure of such individual to
663 notify the board of a conviction shall be considered grounds for revocation of his or her
664 license or other authorization issued pursuant to this chapter."

665 **SECTION 2-4.**

666 Said title is further amended in Code Section 43-9-12, relating to refusal, suspension, or
667 revocation of chiropractor licenses, subpoenas, other discipline, judicial review,

668 reinstatement, voluntary surrender of license, injunctions, and statement of complaint, by
669 revising paragraphs (3) and (4) of subsection (a) as follows:

670 "(3) Been convicted of any felony or covered misdemeanors ~~of any crime involving~~
671 ~~moral turpitude~~ in the courts of this state or any other state, territory, or country or in the
672 courts of the United States; as used in this paragraph and paragraph (4) of this subsection,
673 the term 'felony' shall include any offense which, if committed in this state, would be
674 deemed a felony, without regard to its designation elsewhere; and, as used in this
675 paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea of
676 guilty, regardless of whether an appeal of the conviction has been sought. Any such
677 record shall be considered in the manner prescribed by subsection (q) of Code Section
678 43-1-19;

679 (4) Been arrested, charged, and sentenced for the commission of any felony; or ~~any crime~~
680 ~~involving moral turpitude;~~ covered misdemeanor where such record is considered in the
681 manner prescribed by subsection (q) of Code Section 43-1-19 and:

682 (A) ~~A~~ a plea of nolo contendere was entered to the charge;

683 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
684 ~~granted;~~ or

685 (C) ~~An adjudication or sentence was otherwise withheld or not entered on the charge.~~

686 The plea of nolo contendere or the order entered pursuant to the provisions of Article 3
687 of Chapter 8 of Title 42, relating to probation of first offenders, or other first offender
688 treatment shall be conclusive evidence of arrest and sentencing for such crime;"

689

SECTION 2-5.

690 Said title is further amended in Code Section 43-10-20, relating to the teaching of barbering
691 or the practice of a cosmetologist in prisons and certification of registration, by revising
692 subsection (b) as follows:

693 "(b) The board shall be required to test an inmate who is an applicant for a certificate or
694 registration under this chapter who has completed successfully a barber or cosmetologist
695 training program operated by the Department of Corrections and who meets the
696 requirements stated in Code Section 43-10-9. If such inmate passes the applicable written
697 and practical examinations, the board may issue the appropriate certificate of registration
698 to such inmate after consideration of all requirements under Code Sections 43-10-9 and
699 43-1-19; provided, however, that the board shall not apply the provisions of paragraph (4)
700 (3) of subsection (a) of Code Section 43-1-19 to such inmate based solely upon such
701 person's status as an inmate and shall apply such provisions in the same manner as would
702 otherwise be applicable to an applicant who is not an inmate."

703

SECTION 2-6.

704 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
705 revocation of licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
706 review, investigations, immunity, failure to appear, and voluntary surrender, by revising
707 paragraphs (3) and (4) of subsection (a) as follows:

708 "(3) Been convicted of any felony or ~~of any crime involving moral turpitude~~ covered
709 misdemeanor as defined in Code Section 43-1-1 in the courts of this state or any other
710 state, territory, or country or in the courts of the United States; as used in this subsection,
711 the term 'felony' shall include any offense which, if committed in this state, would be
712 deemed a felony without regard to its designation elsewhere; and, as used in this
713 subsection, the term 'conviction' shall include a finding or verdict of guilty or a plea of
714 guilty, regardless of whether an appeal of the conviction has been sought. Any licensee
715 who is convicted under the laws of this state, the United States, or any other state,
716 territory, or country of a felony shall be required to notify the board of conviction within
717 ten days of the conviction. The failure to notify the board of a conviction shall be
718 considered grounds for revocation of his or her license;

719 (4) Been arrested, charged, and sentenced for the commission of any felony, or any ~~crime~~
 720 ~~involving moral turpitude~~ covered misdemeanor, where:
 721 (A) ~~A~~ a plea of nolo contendere was entered to the charge;,
 722 (B) ~~First offender treatment without adjudication of guilt pursuant to the charge was~~
 723 ~~granted; or~~
 724 (C) ~~An adjudication or sentence was otherwise withheld or not entered on the charge.~~
 725 The plea of nolo contendere ~~or the order entered pursuant to the provisions of Article 3~~
 726 ~~of Chapter 8 of Title 42 or other first offender treatment~~ shall be conclusive evidence of
 727 arrest and sentencing for such crime;”

728 **SECTION 2-7.**

729 Said title is further amended in Code Section 43-11-47, relating to refusal to grant, or
 730 revocation of, licenses by the Board of Dentistry, disciplining licensees, subpoenas, judicial
 731 review, investigations, immunity, failure to appear, and voluntary surrender, by adding two
 732 new subsections to read as follows:

733 “(a.1) Notwithstanding paragraphs (3) and (4) of subsection (a) of this Code section, the
 734 board of dentistry shall refuse to grant a license to an individual or shall revoke a license
 735 only if a conviction directly relates to the occupation for which the license is sought or held
 736 and granting the license would pose a direct and substantial risk to public safety because
 737 the individual has not been rehabilitated to safely perform the duties and responsibilities
 738 of the practice of dentistry. In determining if a conviction directly relates to the occupation
 739 for which the license is sought or held, the board of dentistry shall consider:

740 (1) The nature and seriousness of the offense and the direct relationship of the criminal
 741 conduct to the duties and responsibilities of the occupation for which the license is sought
 742 or held;

743 (2) The age of the individual at the time the offense was committed;

744 (3) The length of time elapsed since the offense was committed;

- 745 (4) All circumstances relative to the offense, including, but not limited to, mitigating
746 circumstances or social conditions surrounding the commission of the offense; and
747 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
748 for which the license is sought or held, including, but not limited to:
- 749 (A) The completion of the criminal sentence;
 - 750 (B) A program and treatment certificate issued by the Board of Corrections;
 - 751 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
752 program;
 - 753 (D) Testimonials and recommendations, which may include a progress report from the
754 individual's probation or parole officer;
 - 755 (E) Education and training;
 - 756 (F) Employment history;
 - 757 (G) Employment aspirations;
 - 758 (H) The individual's current family or community responsibilities, or both;
 - 759 (I) Whether a bond is required to practice the occupation;
 - 760 (J) Any affidavits or other written documents, including, but not limited to, character
761 references; and
 - 762 (K) Any other information regarding rehabilitation the individual submits to the board.
- 763 (6) In determining whether to terminate and revoke a license, the board shall not consider
764 nor require an individual to disclose:
- 765 (A) A deferred adjudication, a first offender adjudication, participation in a diversion
766 program, a conditional discharge, or an arrest not followed by a conviction;
 - 767 (B) A conviction for which no sentence of incarceration can be imposed;
 - 768 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
769 pardoned;
 - 770 (D) A juvenile adjudication;

771 (E) A misdemeanor conviction older than five years, unless the offense of conviction
772 is listed in Code section 35-3-37(j)(4); or
773 (F) A conviction older than five years for which the individual was not incarcerated,
774 or a conviction for which the individual's incarceration ended more than five years
775 before the date of the board's consideration, except for a felony conviction related to:
776 (i) A criminal sexual act;
777 (ii) Criminal fraud or embezzlement;
778 (iii) Aggravated assault;
779 (iv) Aggravated robbery;
780 (v) Aggravated abuse, neglect, or endangerment of a child;
781 (vi) Arson;
782 (vii) Carjacking;
783 (viii) Kidnapping; or
784 (ix) Manslaughter, homicide, or murder.

785 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
786 may petition the board of dentistry at any time, including while incarcerated and before
787 starting or completing any required professional qualifications for licensure, for a
788 predetermination as to whether the individual's criminal record will disqualify him or her
789 from obtaining a license.

790 (2) The petition for predetermination shall include the individual's criminal record or
791 authorize the board to obtain the individual's criminal record. The petitioning individual
792 need not disclose any offenses falling under paragraph (6) subsection (a.1) of this Code
793 section. The petition shall also include any information the petitioner chooses to submit
794 concerning the circumstances of their record and their rehabilitation.

795 (3) In considering predetermination petitions, the board shall apply the direct relationship
796 standard in subsection (a.1) of this Code section and shall not consider any offenses

797 falling under paragraph (6) of subsection (a.1) of this Code section. The board shall
798 support any adverse predetermination with clear and convincing evidence.

799 (4) A predetermination made under this subsection that a petitioner is eligible for a
800 license shall be binding on the board only if the petitioner applies for licensure, fulfills
801 all other requirements for the occupational licensure, and the petitioner's submitted
802 criminal record was correct and remains unchanged at the time of his or her application
803 for a license.

804 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
805 from licensure, the board shall notify the petitioner of the potentially disqualifying
806 convictions. The letter of concern shall advise the petitioner of their opportunity to
807 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

808 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
809 denial of a license only after the board has held a hearing on the petitioner's eligibility in
810 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
811 hearing shall be held in person, by remote video, or by teleconference within 60 days of
812 receipt of the predetermination petition. The individual shall have the opportunity to
813 include character witnesses at the hearing, including but not limited to family members,
814 friends, past or prospective employers, probation or parole officers, and rehabilitation
815 counselors, who may offer their verbal or written support. The professional licensing
816 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
817 character witnesses. The board shall issue a final decision within 60 days of complete
818 submission of the issue for consideration or the hearing, whichever is later.

819 (7) If the professional licensing board decides that a predetermination petitioner is
820 ineligible for a license, the board shall notify the petitioner of the following:

821 (A) The grounds and rationale for the predetermination, including the specific
822 convictions and the factors in subsection (a.1) of this Code section the board deemed
823 directly relevant;

824 (B) An explanation of the process and right to appeal the board's predetermination
825 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and
826 (C) Any actions the petitioner may take to remedy the disqualification. An individual
827 who receives a predetermination of ineligibility may submit a revised petition reflecting
828 completion of the remedial actions. The individual may submit a new petition to the
829 board not before one year following a final judgment on their initial petition or upon
830 completing the remedial actions, whichever is earlier.

831 (8) The denial of a predetermination petition because of the applicant's criminal record
832 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
833 hearing or civil action reviewing the denial of a predetermination petition, the board shall
834 have the burden of proving that the applicant's criminal record directly relates to the
835 licensed occupation."

836

SECTION 2-8.

837 Said title is further amended in Code Section 43-11-71, relating to qualifications of
838 applicants for license and criminal background check, by revising subsection (a) and by
839 adding two new subsections to read as follows:

840 "(a) No person shall be entitled to or be issued such license as set out in Code Section
841 43-11-70 unless such person is at least 18 years of age, ~~of good moral character,~~ and a
842 graduate of a dental hygiene program recognized by the board and accredited by the
843 Commission on Dental Accreditation of the American Dental Association (ADA) or its
844 successor agency which is operated by a school or college accredited by an institutional
845 accrediting agency recognized by the United States Department of Education whose
846 curriculum is at least two academic years of courses at the appropriate level and at the
847 completion of which an associate or baccalaureate degree is awarded.

848 (b) Application for a license under Code Section 43-11-70 shall constitute consent for
849 performance of a criminal background check. Each applicant who submits an application

850 to the board for licensure agrees to provide the board with any and all information
851 necessary to run a criminal background check, including but not limited to classifiable sets
852 of fingerprints. The applicant shall be responsible for all fees associated with the
853 performance of a background check.

854 (c) Notwithstanding subsections (a) and (b) of this Code section, the board of dentistry
855 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
856 directly relates to the occupation for which the license is sought or held and granting the
857 license would pose a direct and substantial risk to public safety because the individual has
858 not been rehabilitated to safely perform the duties and responsibilities of the practice of a
859 dental hygienist. In determining if a conviction directly relates to the occupation for which
860 the license is sought or held, the board of dentistry shall consider:

861 (1) The nature and seriousness of the offense and the direct relationship of the criminal
862 conduct to the duties and responsibilities of the occupation for which the license is sought
863 or held;

864 (2) The age of the individual at the time the offense was committed;

865 (3) The length of time elapsed since the offense was committed;

866 (4) All circumstances relative to the offense, including, but not limited to, mitigating
867 circumstances or social conditions surrounding the commission of the offense; and

868 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
869 for which the license is sought or held, including, but not limited to:

870 (A) The completion of the criminal sentence;

871 (B) A program and treatment certificate issued by the Board of Corrections;

872 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
873 program;

874 (D) Testimonials and recommendations, which may include a progress report from the
875 individual's probation or parole officer;

876 (E) Education and training;

- 877 (F) Employment history;
878 (G) Employment aspirations;
879 (H) The individual's current family or community responsibilities, or both;
880 (I) Whether a bond is required to practice the occupation;
881 (J) Any affidavits or other written documents, including, but not limited to, character
882 references; and
883 (K) Any other information regarding rehabilitation the individual submits to the board.
884 (6) In determining whether to terminate and revoke a license, the board shall not consider
885 nor require an individual to disclose:
886 (A) A deferred adjudication, first offender treatment, participation in a diversion
887 program, a conditional discharge, or an arrest not followed by a conviction;
888 (B) A conviction for which no sentence of incarceration can be imposed;
889 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
890 pardoned;
891 (D) A juvenile adjudication;
892 (E) A misdemeanor conviction older than five years, unless the offense of conviction
893 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
894 (F) A conviction older than five years for which the individual was not incarcerated,
895 or a conviction for which the individual's incarceration ended more than five years
896 before the date of the board's consideration, except for a felony conviction related to:
897 (i) A criminal sexual act;
898 (ii) Criminal fraud or embezzlement;
899 (iii) Aggravated assault;
900 (iv) Aggravated robbery;
901 (v) Aggravated abuse, neglect, or endangerment of a child;
902 (vi) Arson;
903 (vii) Carjacking;

904 (viii) Kidnapping; or

905 (ix) Manslaughter, homicide, or murder.

906 (d)(1) Notwithstanding any other provision of law, an individual with a criminal record
907 may petition the board of dentistry at any time, including while incarcerated and before
908 starting or completing any required professional qualifications for licensure, for a
909 predetermination as to whether the individual's criminal record will disqualify him or her
910 from obtaining a license.

911 (2) The petition for predetermination shall include the individual's criminal record or
912 authorize the board to obtain the individual's criminal record. The petitioning individual
913 need not disclose any offenses falling under subparagraph (c)(6)(F) of this Code section.
914 The petition shall also include any information the petitioner chooses to submit
915 concerning the circumstances of their record and their rehabilitation.

916 (3) In considering predetermination petitions, the professional licensing board shall apply
917 the direct relationship standard in subsection (c) of this Code section and shall not
918 consider any offenses falling under subparagraph (c)(6)(F) of this Code section. The
919 board shall support any adverse predetermination with clear and convincing evidence.

920 (4) A predetermination made under this subsection that a petitioner is eligible for a
921 license shall be binding on the professional licensing board only if the petitioner applies
922 for licensure, fulfills all other requirements for the occupational licensure, and the
923 petitioner's submitted criminal record was correct and remains unchanged at the time of
924 his or her application for a license.

925 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
926 from licensure, the board shall notify the petitioner of the potentially disqualifying
927 convictions. The letter of concern shall advise the petitioner of their opportunity to
928 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

929 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
930 denial of a license only after the board has held a hearing on the petitioner's eligibility in

931 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
932 hearing shall be held in person, by remote video, or by teleconference within 60 days of
933 receipt of the predetermination petition. The individual shall have the opportunity to
934 include character witnesses at the hearing, including but not limited to family members,
935 friends, past or prospective employers, probation or parole officers, and rehabilitation
936 counselors, who may offer their verbal or written support. The professional licensing
937 board shall not make an adverse inference by a petitioner's decision to forgo a hearing or
938 character witnesses. The board shall issue a final decision within 60 days of complete
939 submission of the issue for consideration or the hearing, whichever is later.

940 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
941 board shall notify the petitioner of the following:

942 (A) The grounds and rationale for the predetermination, including the specific
943 convictions and the factors in subsection (c) of this Code section the board deemed
944 directly relevant;

945 (B) An explanation of the process and right to appeal the board's predetermination
946 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

947 (C) Any actions the petitioner may take to remedy the disqualification. An individual
948 who receives a predetermination of ineligibility may submit a revised petition reflecting
949 completion of the remedial actions. The individual may submit a new petition to the
950 board not before one year following a final judgment on their initial petition or upon
951 completing the remedial actions, whichever is earlier.

952 (8) The denial of a predetermination petition because of the applicant's criminal record
953 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
954 hearing or civil action reviewing the denial of a predetermination petition, the board shall
955 have the burden of proving that the applicant's criminal record directly relates to the
956 licensed occupation."

957

SECTION 2-9.

958 Said title is further amended by revising Code Section 43-15-19, relating to revocation,
959 suspension, or denial of certificates, certificates of registration, or licenses, and reprimands,
960 as follows:

961 "43-15-19.

962 (a) The board shall have the power, after notice and hearing, to deny any application made
963 to it, to revoke or suspend any certificate, certificate of registration, or license issued by it,
964 or to reprimand any individual holding a certificate, certificate of registration, or license
965 issued by it, upon the following grounds:

966 (1) Commission of any fraud or deceit in obtaining a certificate, certificate of
967 registration, or license;

968 (2) Any gross negligence, incompetency, or unprofessional conduct in the practice of
969 professional engineering or land surveying as a professional engineer or a professional
970 land surveyor, respectively;

971 (3) Affixing a seal to any plan, specification, plat, or report contrary to Code Section
972 43-15-22;

973 (4) Conviction of a felony or ~~crime involving moral turpitude~~ covered misdemeanor as
974 defined in Code Section 43-1-1 in the courts of this state, the United States, or any state
975 or territory of the United States or the conviction of an offense in another jurisdiction
976 which, if committed in this state, would be deemed a felony. 'Conviction' shall include
977 a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal
978 proceeding, ~~regardless of whether the adjudication of guilt or sentence is withheld or not~~
979 ~~entered thereon pursuant to Article 3 of Chapter 8 of Title 42 or any comparable rule or~~
980 ~~statute~~; or

981 (5) Any violation of this chapter or any rule or regulation promulgated by the board
982 pursuant to the powers conferred on it by this chapter.

983 (b) 'Unprofessional conduct,' as referred to in paragraph (2) of subsection (a) of this Code
984 section, includes a violation of those standards of professional conduct for professional
985 engineers and professional land surveyors adopted by the board pursuant to the power
986 conferred upon it to promulgate rules and regulations to effectuate the duties and powers
987 conferred on it by this chapter."

988 **SECTION 2-10.**

989 Said title is further amended by adding two new Code sections to read as follows:

990 "43-15-19.1.

991 (a) Notwithstanding paragraph (4) of subsection (a) of Code Section 43-15-19, the board
992 shall refuse to grant a license to an individual or shall revoke a license only if a conviction
993 directly relates to the occupation for which the license is sought or held and granting the
994 license would pose a direct and substantial risk to public safety because the individual has
995 not been rehabilitated to safely perform the duties and responsibilities of the occupation for
996 which the license is sought or held. In determining if a conviction directly relates to the
997 occupation for which the license is sought or held, the board shall consider:

998 (1) The nature and seriousness of the offense and the direct relationship of the criminal
999 conduct to the duties and responsibilities of the occupation for which the license is sought
1000 or held;

1001 (2) The age of the individual at the time the offense was committed;

1002 (3) The length of time elapsed since the offense was committed;

1003 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1004 circumstances or social conditions surrounding the commission of the offense; and

1005 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1006 for which the license is sought or held, including, but not limited to:

1007 (A) The completion of the criminal sentence;

1008 (B) A program and treatment certificate issued by the Board of Corrections;

- 1009 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1010 program;
- 1011 (D) Testimonials and recommendations, which may include a progress report from the
1012 individual's probation or parole officer;
- 1013 (E) Education and training;
- 1014 (F) Employment history;
- 1015 (G) Employment aspirations;
- 1016 (H) The individual's current family or community responsibilities, or both;
- 1017 (I) Whether a bond is required to practice the occupation;
- 1018 (J) Any affidavits or other written documents, including, but not limited to, character
1019 references; and
- 1020 (K) Any other information regarding rehabilitation the individual submits to the board.
- 1021 (b) In determining whether to deny, diminish, limit, suspend, revoke, refuse to renew, or
1022 otherwise withhold a license, the board shall not consider nor require an individual to
1023 disclose:
- 1024 (1) A deferred adjudication, first offender treatment, diversion program, conditional
1025 discharge, or an arrest not followed by a conviction;
- 1026 (2) A conviction for which no sentence of incarceration can be imposed;
- 1027 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1028 pardoned;
- 1029 (4) A juvenile adjudication;
- 1030 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1031 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1032 (6) A conviction older than five years for which the individual was not incarcerated, or
1033 a conviction for which the individual's incarceration ended more than five years before
1034 the date of the board's consideration, except for a felony conviction related to:
- 1035 (A) A criminal sexual act;

- 1036 (B) Criminal fraud or embezzlement;
1037 (C) Aggravated assault;
1038 (D) Aggravated robbery;
1039 (E) Aggravated abuse, neglect, or endangerment of a child;
1040 (F) Arson;
1041 (G) Carjacking;
1042 (H) Kidnapping; or
1043 (I) Manslaughter, homicide, or murder.

1044 42-15-19.2.

1045 (a) Notwithstanding any other provision of law, an individual with a criminal record may
1046 petition the board at any time, including while incarcerated and before starting or
1047 completing any required professional qualifications for licensure, for a predetermination
1048 as to whether the individual's criminal record will disqualify him or her from obtaining a
1049 license.

1050 (b) The petition for predetermination shall include the individual's criminal record or
1051 authorize the board to obtain the individual's criminal record. The petitioning individual
1052 need not disclose any offenses falling under subsection (b) of Code Section 43-15-19.1.
1053 The petition shall also include any information the petitioner chooses to submit concerning
1054 the circumstances of their record and their rehabilitation.

1055 (c) In considering predetermination petitions, the board shall apply the direct relationship
1056 standard in subsection (a) of Code Section 43-15-19.1. The board shall support any
1057 adverse predetermination by justifying that it is substantially more likely than not that a
1058 criminal record supports an adverse licensing decision.

1059 (d) A predetermination made under this subsection that a petitioner is eligible for a license
1060 shall be binding on the board only if the petitioner applies for licensure, fulfills all other

1061 requirements for the licensure, and the petitioner's submitted criminal record was correct
1062 and remains unchanged at the time of his or her application for a license.

1063 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
1064 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
1065 The letter of concern shall advise the petitioner of their opportunity to submit additional
1066 evidence of rehabilitation and mitigation or for a hearing, or both.

1067 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
1068 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1069 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1070 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1071 receipt of the predetermination petition. The individual shall have the opportunity to
1072 include character witnesses at the hearing, including but not limited to family members,
1073 friends, past or prospective employers, probation or parole officers, and rehabilitation
1074 counselors, who may offer their verbal or written support. The board shall not make an
1075 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1076 board shall issue a final decision within 60 days of complete submission of the issue for
1077 consideration or the hearing, whichever is later.

1078 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
1079 board shall notify the petitioner of the following:

1080 (1) The grounds and rationale for the predetermination, including the specific
1081 convictions and the factors in subsection (a) of Code Section 43-15-19.1 the board
1082 deemed directly relevant;

1083 (2) An explanation of the process and right to appeal the board's predetermination
1084 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1085 (3) Any actions the petitioner may take to remedy the disqualification. An individual
1086 who receives a predetermination of ineligibility may submit a revised petition reflecting
1087 completion of the remedial actions. The individual may submit a new petition to the

1088 board not before one year following a final judgment on their initial petition or upon
 1089 completing the remedial actions, whichever is earlier.

1090 (h) The denial of a predetermination petition because of the applicant's criminal record
 1091 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1092 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 1093 have the burden of proving that the applicant's criminal record directly relates to the
 1094 licensed occupation."

1095 **SECTION 2-11.**

1096 Said title is further amended by revising Code Section 43-18-46, relating to grounds for
 1097 denial or revocation of license or registration and other discipline for funeral directors and
 1098 embalmers, as follows:

1099 "43-18-46.

1100 In addition to the authority and provided in Code Section 43-1-19, the board may refuse
 1101 to grant a license to operate a funeral establishment or to practice embalming or funeral
 1102 directing, may refuse to grant a registration to serve as an apprentice, or may revoke,
 1103 suspend, fine, or otherwise discipline a licensee or registrant upon any of the following
 1104 grounds:

1105 (1) The employment of fraud or deception in applying for a license or registration or in
 1106 passing the examination provided for in this article;

1107 (2) Issuance of a license or registration through error;

1108 ~~(3) Conviction of a crime involving moral turpitude;~~

1109 ~~(4)~~(3) The practice of embalming or funeral directing under a false name or the
 1110 impersonation of another embalmer, funeral director, or apprentice of a like or different
 1111 name;

1112 ~~(5)~~(4) The making of a false statement or representation regarding the qualifications,
 1113 training, or experience of any applicant;

- 1114 ~~(6)~~(5) The making of a misrepresentation of any kind regarding any funeral merchandise;
1115 ~~(7)~~(6) Directly or indirectly, by gifts or otherwise, committing the offense of buying
1116 business or paying a commission or making gifts, directly or indirectly, for the purpose
1117 of securing business to any physician or hospital, or to any institution where death occurs,
1118 or to any hospital superintendent, nurse, intern, or employee of any hospital, nursing
1119 home, or other institution where death occurs; or to any coroner or other government
1120 official;
- 1121 ~~(8)~~(7) Gross or willful malpractice or gross neglect in the practice of embalming, funeral
1122 directing, or cremating;
- 1123 ~~(9)~~(8) Signing a death certificate as having embalmed or prepared a body for burial or
1124 preservation when in fact someone else performed such embalming or preparation;
- 1125 ~~(10)~~(9) Interfering, either directly or indirectly, with a licensed embalmer or funeral
1126 director having legal charge of a dead human body;
- 1127 ~~(11)~~(10) Using any statements that mislead or deceive the public including, but not
1128 limited to, false or misleading statements regarding a legal or cemetery requirement,
1129 funeral merchandise, funeral services, or in the operation of a funeral establishment;
- 1130 ~~(12)~~(11) Failing to fulfill the terms of a funeral service contract;
- 1131 ~~(13)~~(12) Disregarding a decedent's dignity, right to privacy, or right to confidentiality
1132 unless compelled by law to do otherwise;
- 1133 ~~(14)~~(13) Using profane, indecent, or obscene language in the presence of a dead human
1134 body, or within the immediate hearing of the family or relatives of a deceased, whose
1135 body has not yet been interred or otherwise disposed;
- 1136 ~~(15)~~(14) Failing to turn assigned benefits in excess of charges incurred over to the
1137 assignee of the deceased within ten working days of receipt of the assigned funds;
- 1138 ~~(16)~~(15) Refusing to surrender promptly the custody of a dead human body upon the
1139 express order of the person lawfully entitled to the custody;

1140 ~~(17)~~(16) Failing to have the charges rendered to be in compliance with those listed in the
1141 funeral establishment general price list, the casket price list, the outer burial container list,
1142 or the funeral service contract price list;

1143 ~~(18)~~(17) Aiding or abetting an unlicensed person to practice under this article;

1144 ~~(19)~~(18) Promoting or participating in a burial society, burial association, burial
1145 certificate plan, or burial membership plan;

1146 ~~(20)~~(19) Soliciting, as defined in paragraph (21) of Code Section 43-18-1;

1147 ~~(21)~~(20) Presenting a false certification of work done by an apprentice or as an
1148 apprentice;

1149 ~~(22)~~(21) Willfully violating any state law or regulation; Federal Trade Commission law
1150 or regulation; Occupational Safety and Health Administration law or regulation;
1151 Department of Public Health law or regulation; Environmental Protection Agency law
1152 or regulation; or municipal or county ordinance or regulation that affects the handling,
1153 custody, care, or transportation of dead human bodies, including, but not limited to, the
1154 disposal of equipment, residual fluids, or medical wastes;

1155 ~~(23)~~(22) Knowingly making any misleading, deceptive, untrue, or fraudulent
1156 representation in the practice of funeral directing or embalming or in any document
1157 connected therewith;

1158 ~~(24)~~(23) Discriminating in the provision of services because of race, creed, color,
1159 religion, gender, or national origin;

1160 ~~(25)~~(24) Failing to safeguard all personal properties that were obtained from dead human
1161 remains and failing to dispose of same as directed by a legally authorized person;

1162 ~~(26)~~(25) Failing to refund moneys due as a result of overpayment by an insurance
1163 company or other third party;

1164 ~~(27)~~(26) Engaging in any unprofessional, immoral, unethical, deceptive, or deleterious
1165 conduct or practice harmful to the public, ~~which conduct or practice~~ that materially
1166 affects the fitness of the licensee or registrant to practice in the funeral business, or is of

1167 a nature likely to jeopardize the interest of the general public, ~~which conduct or practice~~
 1168 and that need not have resulted in actual injury to any person or be directly related to the
 1169 practice of funeral directing or embalming but shows that the person has committed any
 1170 act or omission which is indicative of bad moral character or ~~untrustworthiness;~~
 1171 ~~unprofessional~~ untrustworthiness. Unprofessional conduct shall also include any
 1172 departure from or failure to conform to the minimal reasonable standards of acceptable
 1173 and prevailing practice of funeral services;

1174 ~~(28)~~(27) Engaging in any practice whereby a person who is both a funeral director and
 1175 a coroner or who is both a funeral director and a minister presents that person as a funeral
 1176 director to a legally authorized person when death is imminent or after death occurs prior
 1177 to when the legally authorized person selects a funeral director or funeral establishment
 1178 which will handle the dead human body;

1179 ~~(29)~~(28) Practicing embalming or funeral directing or operating a funeral establishment
 1180 or crematory prior to the board's having approved an application for licensure; or

1181 ~~(30)~~(29) Failing to satisfy the funeral director in full and continuous charge requirements
 1182 as set out in Code Section 43-18-71 or funeral establishment requirements as set out in
 1183 Code Section 43-18-70."

1184

SECTION 2-12.

1185 Said title is further amended in Code Section 43-24A-9, relating to provisional permits for
 1186 massage therapists, by revising subsection (a) as follows:

1187 "(a) A provisional permit to practice as a provisionally permitted massage therapist shall,
 1188 upon proper application, be issued for a six-month period to an applicant who meets the
 1189 following criteria:

1190 (1) Holds and maintains a valid license as a massage therapist in another state;

1191 (2) Is not a resident of this state as confirmed in a secure and verifiable document, as
 1192 defined in Code Section 50-36-2;

1193 (3) Has not had a license or permit to practice as a massage therapist voided, revoked,
1194 suspended, denied, or annulled by this state or another state, territory, or jurisdiction; and
1195 (4) Has not been convicted of a directly related felony in the courts of this state, any
1196 other state, territory, or country, or in the courts of the United States, including, but not
1197 limited to, a plea of nolo contendere entered to such charge ~~or the affording of first~~
1198 ~~offender treatment to any such charge~~ in the same manner as provided in paragraph (4)
1199 ~~of subsection (a) of~~ subsection (q) of Code Section 43-1-19. For purposes of this
1200 paragraph, the term 'felony' shall have the same meaning as provided in Code Section
1201 43-1-1."

1202 **SECTION 2-13.**

1203 Said title is further amended in Code Section 43-26-11, relating to denial or revocation of
1204 licenses and other discipline under the "Georgia Registered Professional Nurse Practice Act,"
1205 by revising paragraph (1) as follows:

1206 "(1) Been convicted of any directly related felony, ~~crime involving moral turpitude,~~ or
1207 directly related crime violating a federal or state law relating to controlled substances or
1208 dangerous drugs in the courts of this state, any other state, territory, or country, or in the
1209 courts of the United States, including but not limited to a plea of nolo contendere entered
1210 to the charge; provided, however, that such conviction shall be evaluated as provided by
1211 subsection (q) of Code Section 43-1-19; or"

1212 **SECTION 2-14.**

1213 Said title is further amended by revising Code Section 43-26-40, relating to refusal to grant
1214 license and revocation of registered practical nurses licenses and disciplining of licensees,
1215 as follows:

1216 "43-26-40.

1217 (a) In addition to the authority granted in Code Section 43-1-19, the board shall have the
1218 authority to refuse to grant a license to an applicant, to revoke the license of a licensee, or
1219 to discipline a licensee upon a finding by the board that the applicant or licensee has:

1220 (1) Been convicted of a directly related felony, ~~a crime involving moral turpitude~~, or any
1221 directly related crime violating a federal or state law relating to controlled substances or
1222 dangerous drugs or marijuana in the courts of this state, any other state, territory, or
1223 country, or in the courts of the United States, including, but not limited to, a plea of nolo
1224 contendere entered to the charge; provided, however, that such conviction shall be
1225 evaluated as provided by subsection (q) of Code Section 43-1-19;

1226 (2) Had a license to practice nursing revoked, suspended, or annulled by any lawful
1227 licensing authority, had other disciplinary action taken by any lawful licensing authority,
1228 or was denied a license by any lawful licensing authority;

1229 (3) Engaged in any unprofessional, unethical, deceptive, or deleterious conduct or
1230 practice harmful to the public, which conduct or practice need not have resulted in actual
1231 injury to any person. As used in this paragraph, the term 'unprofessional conduct'
1232 includes the improper charting of medication and any departure from, or the failure to
1233 conform to, the minimal standards of acceptable and prevailing nursing practice;

1234 (4) Violated or attempted to violate a law or any lawfully promulgated rule or regulation
1235 of this state, any other state, the board, the United States, or any other lawful authority,
1236 without regard to whether the violation is criminally punishable, which statute, law, or
1237 rule or regulation relates to or in part regulates the practice of nursing, when the licensee
1238 or applicant knows or should know that such action is violative of such law or rule;

1239 (5) Violated a lawful order of the board previously entered by the board in a disciplinary
1240 hearing; or

1241 (6) Displayed an inability to practice nursing as a licensed practical nurse with
1242 reasonable skill and safety due to illness, use of alcohol, drugs, narcotics, chemicals, or
1243 any other types of material, or as a result of any mental or physical condition:

1244 (A) In enforcement of this paragraph, the board may, upon reasonable grounds, require
1245 a licensee or applicant to submit to a mental or physical examination by a board
1246 approved health care professional. The expense of such mental or physical examination
1247 shall be borne by the licensee or applicant. The results of such examination shall be
1248 admissible in any hearing before the board, notwithstanding any claim of privilege
1249 under contrary law or rule. Every person who is licensed to practice practical nursing
1250 as a licensed practical nurse in this state, or an applicant for examination, endorsement,
1251 or reinstatement, shall be deemed to have given such person's consent to submit to such
1252 mental or physical examination and to have waived all objections to the admissibility
1253 of the results in any hearing before the board upon the grounds that the same constitutes
1254 a privileged communication. If a licensee or applicant fails to submit to such an
1255 examination when properly directed to do so by the board, unless such failure was due
1256 to circumstances beyond that person's control, the board may enter a final order upon
1257 proper notice, hearing, and proof of such refusal. Any licensee or applicant who is
1258 prohibited from practicing under this paragraph shall at reasonable intervals be afforded
1259 an opportunity to demonstrate to the board that such person can resume or begin to
1260 practice practical nursing as a licensed practical nurse with reasonable skill and safety;
1261 and

1262 (B) In enforcement of this paragraph, the board may, upon reasonable grounds, obtain
1263 any and all records relating to the mental or physical condition of a licensee or
1264 applicant, including psychiatric records; such records shall be admissible in any hearing
1265 before the board, notwithstanding any privilege under a contrary rule, law, or statute.
1266 Every person who is licensed in this state or who shall file an application for said
1267 license shall be deemed to have given such person's consent to the board's obtaining

1268 such records and to have waived all objections to the admissibility of such records in
 1269 any hearing before the board upon the grounds that the same constitute a privileged
 1270 communication.

1271 (b) Neither denial of an initial license, the issuance of a private reprimand, the denial of
 1272 a license by endorsement under Code Section 43-26-38, nor the denial of a request for
 1273 reinstatement of a license on the grounds that the applicant or licensee has failed to meet
 1274 the minimum requirements shall be considered a contested case within the meaning of
 1275 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice and hearing
 1276 within the meaning of Chapter 13 of Title 50 shall not be required, but the applicant or
 1277 licensee shall be allowed to appear before the board if he or she so requests.

1278 (c) Notwithstanding any other provision of this Code section, the denial of an initial
 1279 license or the denial of a request for reinstatement of a license on the grounds that the
 1280 applicant or licensee is disqualified due to a criminal record shall be in accordance with
 1281 subsection (a) of Code Section 43-1-19."

1282 **SECTION 2-15.**

1283 Said title is further amended in Code Section 43-34-8, relating to the authority of the
 1284 Composite Medical Board to refuse license, certificate, or permit medical professionals or
 1285 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
 1286 publication of final disciplinary actions, by revising paragraph (3) of subsection (a) as
 1287 follows:

1288 "(3) Been convicted of a felony in the courts of this state or any other state, territory,
 1289 country, or of the United States. As used in this paragraph, the term 'conviction of a
 1290 felony' shall include a conviction of an offense which if committed in this state would be
 1291 deemed a felony under either state or federal law, without regard to its designation
 1292 elsewhere. As used in this paragraph, the term 'conviction' shall include a finding or
 1293 verdict of guilt, ~~a plea of guilty resulting in first offender status,~~ or a plea of nolo

1294 contendere in a criminal proceeding, regardless of whether the adjudication of guilt or
1295 sentence is withheld or not entered thereon;"

1296 **SECTION 2-16.**

1297 Said title is further amended in Code Section 43-34-8, relating to the authority of the
1298 Composite Medical Board to refuse license, certificate, or permit medical professionals or
1299 to issue discipline, suspension, restoration, investigations, hearings on fitness, immunity, and
1300 publication of final disciplinary actions, by adding two new subsections to read as follows:

1301 "(a.1) Notwithstanding paragraphs (3), (4), and (11) of subsection (a) of this Code section,
1302 the medical board shall refuse to grant a license to an individual or shall revoke a license
1303 only if a conviction directly relates to the occupation for which the license is sought or held
1304 and granting the license would pose a direct and substantial risk to public safety because
1305 the individual has not been rehabilitated to safely perform the duties and responsibilities
1306 of the practice of medicine. In determining if a conviction directly relates to the occupation
1307 for which the license is sought or held, the medical board shall consider:

1308 (1) The nature and seriousness of the offense and the direct relationship of the criminal
1309 conduct to the duties and responsibilities of the occupation for which the license is sought
1310 or held;

1311 (2) The age of the individual at the time the offense was committed;

1312 (3) The length of time elapsed since the offense was committed;

1313 (4) All circumstances relative to the offense, including, but not limited to, mitigating
1314 circumstances or social conditions surrounding the commission of the offense; and

1315 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1316 for which the license is sought or held, including, but not limited to:

1317 (A) The completion of the criminal sentence;

1318 (B) A program and treatment certificate issued by the Board of Corrections;

- 1319 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1320 program;
- 1321 (D) Testimonials and recommendations, which may include a progress report from the
1322 individual's probation or parole officer;
- 1323 (E) Education and training;
- 1324 (F) Employment history;
- 1325 (G) Employment aspirations;
- 1326 (H) The individual's current family or community responsibilities, or both;
- 1327 (I) Whether a bond is required to practice the occupation;
- 1328 (J) Any affidavits or other written documents, including, but not limited to, character
1329 references; and
- 1330 (K) Any other information regarding rehabilitation the individual submits to the board.
- 1331 (6) In determining whether to terminate and revoke a license, the board shall not consider
1332 nor require an individual to disclose:
- 1333 (A) A deferred adjudication, first offender treatment, participation in a diversion
1334 program, a conditional discharge, or an arrest not followed by a conviction;
- 1335 (B) A conviction for which no sentence of incarceration can be imposed;
- 1336 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1337 pardoned;
- 1338 (D) A juvenile adjudication;
- 1339 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1340 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 1341 (F) A conviction older than five years for which the individual was not incarcerated,
1342 or a conviction for which the individual's incarceration ended more than five years
1343 before the date of the board's consideration, except for a felony conviction related to:
- 1344 (i) A criminal sexual act;
- 1345 (ii) Criminal fraud or embezzlement;

1346 (iii) Aggravated assault;

1347 (iv) Aggravated robbery;

1348 (v) Aggravated abuse, neglect, or endangerment of a child;

1349 (vi) Arson;

1350 (vii) Carjacking;

1351 (viii) Kidnapping; or

1352 (ix) Manslaughter, homicide, or murder.

1353 (a.2)(1) Notwithstanding any other provision of law, an individual with a criminal record
1354 may petition the board at any time, including while incarcerated and before starting or
1355 completing any required professional qualifications for licensure, for a predetermination
1356 as to whether the individual's criminal record will disqualify him or her from obtaining
1357 a license.

1358 (2) The petition for predetermination shall include the individual's criminal record or
1359 authorize the board to obtain the individual's criminal record. The petitioning individual
1360 need not disclose any offenses falling under paragraph (a.1)(6) of this Code section. The
1361 petition shall also include any information the petitioner chooses to submit concerning
1362 the circumstances of their record and their rehabilitation.

1363 (3) In considering predetermination petitions, the professional licensing board shall apply
1364 the direct relationship standard in subsection (a.1) of this subsection and shall not
1365 consider any offenses falling under paragraph (a.1)(6) of this Code section. The board
1366 shall support any adverse predetermination with clear and convincing evidence.

1367 (4) A predetermination made under this subsection that a petitioner is eligible for a
1368 license shall be binding on the board only if the petitioner applies for licensure, fulfills
1369 all other requirements for the occupational license, and the petitioner's submitted criminal
1370 record was correct and remains unchanged at the time of his or her application for a
1371 license.

1372 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1373 from licensure, the board shall notify the petitioner of the potentially disqualifying
1374 convictions. The letter of concern shall advise the petitioner of their opportunity to
1375 submit additional evidence of rehabilitation and mitigation or for a hearing, or both.

1376 (6) The board may predetermine that the petitioner's criminal record is likely grounds for
1377 denial of a license only after the board has held a hearing on the petitioner's eligibility in
1378 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
1379 hearing shall be held in person, by remote video, or by teleconference within 60 days of
1380 receipt of the predetermination petition. The individual shall have the opportunity to
1381 include character witnesses at the hearing, including but not limited to family members,
1382 friends, past or prospective employers, probation or parole officers, and rehabilitation
1383 counselors, who may offer their verbal or written support. The board shall not make an
1384 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
1385 board shall issue a final decision within 60 days of complete submission of the issue for
1386 consideration or the hearing, whichever is later.

1387 (7) If the board decides that a predetermination petitioner is ineligible for a license, the
1388 board shall notify the petitioner of the following:

1389 (A) The grounds and rationale for the predetermination, including any of the
1390 petitioner's specific convictions and the factors provided for in subsection (a.2) of this
1391 Code section the board deemed directly relevant;

1392 (B) An explanation of the process and right to appeal the board's predetermination
1393 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

1394 (C) Any actions the petitioner may take to remedy the disqualification. An individual
1395 who receives a predetermination of ineligibility may submit a revised petition reflecting
1396 completion of the remedial actions. The individual may submit a new petition to the
1397 board not before one year following a final judgment on their initial petition or upon
1398 completing the remedial actions, whichever is earlier.

1399 (8) The denial of a predetermination petition because of the applicant's criminal record
 1400 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1401 hearing or civil action reviewing the denial of a predetermination petition, the board shall
 1402 have the burden of proving that the applicant's criminal record directly relates to the
 1403 licensed occupation."

1404 **SECTION 2-17.**

1405 Said title is further amended in Code Section 43-34-107, relating to termination of approval
 1406 and revocation of licenses of physician assistants by the Composite Medical Board, notice
 1407 and hearing, and sanctions, by revising subsection (a) as follows:

1408 "(a)(1) The approval of a physician's utilization of a physician assistant may be
 1409 terminated and the license revoked by the board when, after due notice and a hearing, in
 1410 accordance with this Code section, it shall find that the assistant is incompetent or has
 1411 committed unethical or immoral acts, including, but not limited to, holding himself or
 1412 herself out or permitting another to represent him or her as a licensed physician;
 1413 performing otherwise than at the direction of a physician approved by the board to utilize
 1414 the assistant's services; habitually using intoxicants or drugs to such an extent that he or
 1415 she is unable safely to perform as an assistant to the physician; or being convicted in any
 1416 court, state or federal, of any felony or other criminal offense involving moral turpitude
 1417 covered misdemeanor.

1418 (2) The board shall recommend action to terminate and revoke on the basis of a criminal
 1419 conviction or adjudication only if the conviction or adjudication directly relates to the
 1420 role of a physician assistant. In determining if a criminal conviction or adjudication
 1421 directly relates to the role of a physician assistant, the board shall consider:

1422 (A) The nature and seriousness of the crime and the direct relationship of the criminal
 1423 conduct to the duties and responsibilities of the physician assistant;

1424 (B) The age of the individual at the time such crime was committed;

- 1425 (C) The length of time elapsed since such crime was committed;
1426 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1427 circumstances or social conditions surrounding the commission of the offense; and
1428 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1429 occupation for which the certificate is sought or held, including, but not limited to:
1430 (i) The completion of the criminal sentence;
1431 (ii) A program and treatment certificate issued by the Board of Corrections;
1432 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1433 treatment program;
1434 (iv) Testimonials and recommendations, which may include a progress report from
1435 the individual's probation or parole officer;
1436 (v) Education and training;
1437 (vi) Employment history;
1438 (vii) Employment aspirations;
1439 (viii) The individual's current family or community responsibilities, or both;
1440 (ix) Whether a bond is required to practice the occupation;
1441 (x) Any affidavits or other written documents, including, but not limited to, character
1442 references; and
1443 (xi) Any other information regarding rehabilitation the individual submits to the
1444 board.
- 1445 (3) In determining whether to terminate and revoke a license, the board or investigator
1446 shall not consider nor require an individual to disclose:
1447 (A) A deferred adjudication, first offender treatment, participation in a diversion
1448 program, a conditional discharge, or an arrest not followed by a conviction;
1449 (B) A conviction for which no sentence of incarceration can be imposed;
1450 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1451 pardoned;

- 1452 (D) A juvenile adjudication;
1453 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1454 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
1455 (F) A conviction older than five years for which the individual was not incarcerated,
1456 or a conviction for which the individual's incarceration ended more than five years
1457 before the date of the board's consideration, except for a felony conviction related to:
1458 (i) A criminal sexual act;
1459 (ii) Criminal fraud or embezzlement;
1460 (iii) Aggravated assault;
1461 (iv) Aggravated robbery;
1462 (v) Aggravated abuse, neglect, or endangerment of a child;
1463 (vi) Arson;
1464 (vii) Carjacking;
1465 (viii) Kidnapping; or
1466 (ix) Manslaughter, homicide, or murder."

1467 **SECTION 2-18.**

1468 Said title is further amended in Code Section 43-34-283, relating to licensure requirements
1469 for pain management clinics by the Composite Medical Board, by revising subsection (d) as
1470 follows:

1471 "(d)(1) Upon the filing of an application for a license, the board may cause a thorough
1472 investigation of the applicant to be made and such investigation may include a criminal
1473 background check; provided, however, that the board shall cause a thorough investigation
1474 of a new applicant to be made, and such investigation shall include a background check.
1475 If satisfied that the applicant possesses the necessary qualifications, the board shall issue
1476 a license. However, the board may issue licenses with varying restrictions to such

1477 persons where the board deems it necessary for the purpose of safeguarding the public
1478 health, safety, and welfare.

1479 (2) The board shall recommend action to deny licensure on the basis of a criminal
1480 conviction or adjudication only if the conviction or adjudication directly relates to the
1481 administration of a pain management clinic. In determining if a criminal conviction or
1482 adjudication directly relates to the administration of a pain management clinic, the board
1483 shall consider:

1484 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1485 conduct to the duties and responsibilities of the licensee;

1486 (B) The age of the individual at the time such crime was committed;

1487 (C) The length of time elapsed since such crime was committed;

1488 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1489 circumstances or social conditions surrounding the commission of the offense; and

1490 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1491 occupation for which the certificate is sought or held, including, but not limited to:

1492 (i) The completion of the criminal sentence;

1493 (ii) A program and treatment certificate issued by the Board of Corrections;

1494 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1495 treatment program;

1496 (iv) Testimonials and recommendations, which may include a progress report from
1497 the individual's probation or parole officer;

1498 (v) Education and training;

1499 (vi) Employment history;

1500 (vii) Employment aspirations;

1501 (viii) The individual's current family or community responsibilities, or both;

1502 (ix) Whether a bond is required to practice the occupation;

1503 (x) Any affidavits or other written documents, including, but not limited to, character
1504 references; and
1505 (xi) Any other information regarding rehabilitation the individual submits to the
1506 board."

1507 **SECTION 2-19.**

1508 Said title is further amended by revising Code Section 43-34-284, relating to denial,
1509 suspension, and revocation of licenses of pain management clinics by the Composite Medical
1510 Board, as follows:

1511 "43-34-284.

1512 (a) In addition to the authority granted in Code Section 43-34-8, a license obtained
1513 pursuant to this article may be denied, suspended, or revoked by the board upon finding
1514 that the licensee or a physician practicing at a licensed pain management clinic has:

1515 (1) Furnished false or fraudulent material information in any application filed under this
1516 chapter;

1517 (2) Been convicted of a crime under any state or federal law relating to any controlled
1518 substance;

1519 (3) Had his or her federal registration to prescribe, distribute, or dispense controlled
1520 substances suspended or revoked; or

1521 (4) Violated the provisions of this chapter, Chapter 13 of Title 16, or Chapter 4 of Title
1522 26.

1523 (b) In determining whether to deny, suspend, or revoke a license based upon a criminal
1524 conviction or adjudication, the board shall consider:

1525 (1) The nature and seriousness of the crime and the direct relationship of the criminal
1526 conduct to the duties and responsibilities of the physician practicing at a licensed pain
1527 management clinic;

1528 (2) The age of the individual at the time such crime was committed;

- 1529 (3) The length of time elapsed since such crime was committed;
1530 (4) All circumstances relative to such crime, including, but not limited to, mitigating
1531 circumstances or social conditions surrounding the commission of the offense; and
1532 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
1533 for which the license is sought or held, including, but not limited to:
1534 (A) The completion of the criminal sentence;
1535 (B) A program treatment certificate issued by the Board of Corrections;
1536 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
1537 program;
1538 (D) Testimonials and recommendations, which may include a progress report from the
1539 individual's probation or parole officer;
1540 (E) Education and training;
1541 (F) Employment history;
1542 (G) Employment aspirations;
1543 (H) The individual's current family or community responsibilities, or both;
1544 (I) Whether a bond is required to practice the occupation;
1545 (J) Any affidavits or other written documents, including, but not limited to, character
1546 references; and
1547 (K) Any other information regarding rehabilitation the individual submits to the board."

1548 **SECTION 2-20.**

1549 Said title is further amended in Code Section 43-39A-14, relating to grant of licenses for
1550 appraisers by the Real Estate Commission and Appraisers Board, grounds for suspension or
1551 revocation of license, other sanctions, surrender or lapse, and conviction, by revising
1552 subsection (b) as follows:

1553 "(b)(1) As used in this subsection, the term:

1554 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1555 a felony or any ~~crime involving moral turpitude~~ covered misdemeanor, regardless of
1556 whether an appeal of the conviction has been brought; a sentencing to first offender
1557 treatment without an adjudication of guilt pursuant to a charge of a felony or any ~~crime~~
1558 ~~involving moral turpitude~~ covered misdemeanor; or a plea of nolo contendere to a
1559 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
1560 commission shall have the burden of justifying by clear and convincing evidence that
1561 a conviction supports an adverse licensing decision.

1562 (B) 'Felony' means any offense committed:

1563 (i) Within this state and deemed a felony under the laws of this state or under the
1564 laws of the United States; or

1565 (ii) In another state and deemed a felony under the laws of that state or the laws of
1566 the United States.

1567 (1.1) No person who has a directly related conviction shall be eligible to become an
1568 applicant for a license or an approval authorized by this chapter unless such person has
1569 successfully completed all terms and conditions of any sentence imposed for such
1570 conviction, provided that if such individual has multiple convictions, at least five years
1571 shall have passed since the individual satisfied all terms and conditions of any sentence
1572 imposed for the last conviction before making application for licensure or approval; and
1573 provided, further, that if such individual has a single conviction, at least two years shall
1574 have passed since the individual satisfied all terms and conditions of any sentence
1575 imposed for the last conviction before making application for licensure or approval.

1576 (1.2) The board shall recommend disciplinary action or denial of an application for a
1577 licensure or approval authorized by this chapter on the basis of a criminal conviction or
1578 adjudication only if the conviction or adjudication directly relates to the role of an

1579 appraiser. In determining if a criminal conviction or adjudication directly relates to the
1580 role of an appraiser, the board shall consider:

1581 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1582 conduct to the duties and responsibilities of the appraiser;

1583 (B) The age of the individual at the time such crime was committed;

1584 (C) The length of time elapsed since such crime was committed;

1585 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1586 circumstances or social conditions surrounding the commission of the offense; and

1587 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1588 occupation for which the license is sought or held, including, but not limited to:

1589 (i) The completion of the criminal sentence;

1590 (ii) A program and treatment certificate issued by the Board of Corrections;

1591 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1592 treatment program;

1593 (iv) Testimonials and recommendations, which may include a progress report from
1594 the individual's probation or parole officer;

1595 (v) Education and training;

1596 (vi) Employment history;

1597 (vii) Employment aspirations;

1598 (viii) The individual's current family or community responsibilities, or both;

1599 (ix) Any affidavits or other written documents, including, but not limited to, character
1600 references; and

1601 (x) Any other information regarding rehabilitation the individual submits to the
1602 board.

1603 (F) In determining whether to terminate and revoke a license, the board shall not
1604 consider nor require an individual to disclose:

1605 (i) A deferred adjudication, first offender treatment, participation in a diversion
1606 program, a conditional discharge, or an arrest not followed by a conviction;

1607 (ii) A conviction for which no sentence of incarceration can be imposed;

1608 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1609 pardoned; or

1610 (iv) A juvenile adjudication.

1611 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
1612 jurisdiction of this state or any other state shall be eligible to become an applicant for a
1613 licensure or an approval authorized by this chapter only if:

1614 (A) Such person has satisfied all terms and conditions of any conviction such person
1615 may have had before making application for licensure or approval, provided that if such
1616 individual has multiple convictions, at least five years shall have passed since the
1617 individual satisfied all terms and conditions of any sentence imposed for the last
1618 conviction before making application for licensure or approval; and provided, further,
1619 that if such individual has been convicted of a single felony or of ~~a single crime of~~
1620 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
1621 individual satisfied all terms and conditions of any sentence imposed for the last
1622 conviction before making application for licensure or approval;

1623 (B) No criminal charges for forgery, embezzlement, obtaining money under false
1624 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
1625 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
1626 against the person; and

1627 (C) Such person presents to the commission satisfactory proof that the person now
1628 bears a good reputation for honesty, trustworthiness, integrity, and competence to
1629 transact the business of a licensee in such a manner as to safeguard the interest of the
1630 public."

1631

SECTION 2-21.

1632 Said title is further amended in Code Section 43-40-15, relating to grant of licenses for
1633 brokers and salespersons by the Real Estate Commission and Appraisers Board, grounds for
1634 suspension or revocation of license, other sanctions, surrender or lapse, and conviction, by
1635 revising subsection (b) as follows:

1636 "(b)(1) As used in this Code section, the term:

1637 (A) 'Conviction' means a finding or verdict of guilty or a plea of guilty to a charge of
1638 a felony or ~~any crime involving moral turpitude~~ covered misdemeanor, regardless of
1639 whether an appeal of the conviction has been brought; a sentencing to first offender
1640 treatment without an adjudication of guilt pursuant to a charge of a felony or any crime
1641 involving ~~moral turpitude~~ a covered misdemeanor; or a plea of nolo contendere to a
1642 charge of a felony or ~~any crime involving moral turpitude~~ covered misdemeanor. The
1643 commission shall have the burden of justifying by clear and convincing evidence that
1644 a conviction supports an adverse licensing decision.

1645 (B) 'Felony' means any offense committed:

1646 (i) Within this state and deemed a felony under the laws of this state or under the
1647 laws of the United States; or

1648 (ii) In another state and deemed a felony under the laws of that state or the laws of
1649 the United States.

1650 (1.1) No person who has a directly related conviction shall be eligible to become an
1651 applicant for a license or an approval authorized by this chapter unless such person has
1652 successfully completed all terms and conditions of any sentence imposed for such
1653 conviction, provided that if such individual has multiple convictions, at least five years
1654 shall have passed since the individual satisfied all terms and conditions of any sentence
1655 imposed for the last conviction before making application for licensure or approval; and
1656 provided, further, that if such individual has a single conviction, at least two years shall

1657 have passed since the individual satisfied all terms and conditions of any sentence
1658 imposed for the last conviction before making application for licensure or approval.

1659 (1.2) The commission shall recommend disciplinary action or denial of an application
1660 for a licensure or approval authorized by this chapter on the basis of a criminal conviction
1661 or adjudication only if the conviction or adjudication directly relates to the role of the
1662 license sought. In determining if a criminal conviction or adjudication directly relates to
1663 the role of a broker or real estate salesperson, the commission shall consider:

1664 (A) The nature and seriousness of the crime and the direct relationship of the criminal
1665 conduct to the duties and responsibilities of the licensee;

1666 (B) The age of the individual at the time such crime was committed;

1667 (C) The length of time elapsed since such crime was committed;

1668 (D) All circumstances relative to such crime, including, but not limited to, mitigating
1669 circumstances or social conditions surrounding the commission of the offense; and

1670 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1671 occupation for which the license is sought or held, including, but not limited to:

1672 (i) The completion of the criminal sentence;

1673 (ii) A program and treatment certificate issued by the Board of Corrections;

1674 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1675 treatment program;

1676 (iv) Testimonials and recommendations, which may include a progress report from
1677 the individual's probation or parole officer;

1678 (v) Education and training;

1679 (vi) Employment history;

1680 (vii) Employment aspirations;

1681 (viii) The individual's current family or community responsibilities, or both;

1682 (ix) Any affidavits or other written documents, including, but not limited to, character
1683 references; and

1684 (x) Any other information regarding rehabilitation the individual submits to the
1685 commission.

1686 (F) In determining whether to terminate and revoke a license, the board shall not
1687 consider nor require an individual to disclose:

1688 (i) A deferred adjudication, first offender treatment, participation in a diversion
1689 program, a conditional discharge, or an arrest not followed by a conviction;

1690 (ii) A conviction for which no sentence of incarceration can be imposed;

1691 (iii) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1692 pardoned; or

1693 (iv) A juvenile adjudication.

1694 ~~(1.2)~~(1.3) A person who has a directly related conviction in a court of competent
1695 jurisdiction of this state or any other state shall be eligible to become an applicant for a
1696 licensure or an approval authorized by this chapter only if:

1697 (A) Such person has satisfied all terms and conditions of any conviction such person
1698 may have had before making application for licensure or approval, provided that if such
1699 individual has multiple convictions, at least five years shall have passed since the
1700 individual satisfied all terms and conditions of any sentence imposed for the last
1701 conviction before making application for licensure or approval; and provided, further,
1702 that if such individual has been convicted of a single felony or of a ~~single crime of~~
1703 ~~moral turpitude~~ covered misdemeanor, at least two years shall have passed since the
1704 individual satisfied all terms and conditions of any sentence imposed for the last
1705 conviction before making application for licensure or approval;

1706 (B) No criminal charges for forgery, embezzlement, obtaining money under false
1707 pretenses, theft, extortion, conspiracy to defraud, a felony, a sexual offense, a probation
1708 violation, or a ~~crime involving moral turpitude~~ covered misdemeanor are pending
1709 against the person; and

1710 (C) Such person presents to the commission satisfactory proof that the person now
 1711 bears a good reputation for honesty, trustworthiness, integrity, and competence to
 1712 transact the business of a licensee in such a manner as to safeguard the interest of the
 1713 public."

1714 **SECTION 2-22.**

1715 Said title is further amended in Code Section 43-45-9, relating to examination for structural
 1716 pest control operator certification by the Structural Pest Control Commission, by revising
 1717 subsection (a) as follows:

1718 "(a)(1) All applicants for examination for certification as an operator must have a
 1719 knowledge of the practical and scientific facts underlying the practice of structural pest
 1720 control, control of wood-destroying organisms, and fumigation and the necessary
 1721 knowledge and ability to recognize and control those hazardous conditions which may
 1722 affect human life and health. The commission may refuse to examine anyone convicted
 1723 of a ~~crime involving moral turpitude~~ directly related felony or directly related covered
 1724 misdemeanor.

1725 (2) The commission shall refuse to examine an applicant on the basis of a criminal
 1726 conviction or adjudication only if the conviction or adjudication directly relates to the
 1727 role of an operator. In determining if a criminal conviction or adjudication directly
 1728 relates to the role of a pest control operator, the commission shall consider:

1729 (A) The nature and seriousness of the crime and the direct relationship of the criminal
 1730 conduct to the duties and responsibilities of the operator;

1731 (B) The age of the individual at the time such crime was committed;

1732 (C) The length of time elapsed since such crime was committed;

1733 (D) All circumstances relative to such crime, including, but not limited to, mitigating
 1734 circumstances or social conditions surrounding the commission of the offense; and

- 1735 (E) Evidence of rehabilitation and present fitness to perform the duties of the
1736 occupation for which the certificate is sought or held, including, but not limited to:
1737 (i) The completion of the criminal sentence;
1738 (ii) A program and treatment certificate issued by the Board of Corrections;
1739 (iii) Completion of, or active participation in, a rehabilitative drug or alcohol
1740 treatment program;
1741 (iv) Testimonials and recommendations, which may include a progress report from
1742 the individual's probation or parole officer;
1743 (v) Education and training;
1744 (vi) Employment history;
1745 (vii) Employment aspirations;
1746 (viii) The individual's current family or community responsibilities, or both;
1747 (ix) Whether a bond is required to practice the occupation;
1748 (x) Any affidavits or other written documents, including, but not limited to, character
1749 references; and
1750 (xi) Any other information regarding rehabilitation the individual submits to the
1751 commission.
- 1752 (3) In determining whether to refuse to examine an applicant, the commission shall not
1753 consider nor require an individual to disclose:
1754 (A) A deferred adjudication, first offender treatment, participation in a diversion
1755 program, a conditional discharge, or an arrest not followed by a conviction;
1756 (B) A conviction for which no sentence of incarceration can be imposed;
1757 (C) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1758 pardoned;
1759 (D) A juvenile adjudication;
1760 (E) A misdemeanor conviction older than five years, unless the offense of conviction
1761 is listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1762 (F) A conviction older than five years for which the individual was not incarcerated,
1763 or a conviction for which the individual's incarceration ended more than five years
1764 before the date of the commission's consideration, except for a felony conviction related
1765 to:

- 1766 (i) A criminal sexual act;
- 1767 (ii) Criminal fraud or embezzlement;
- 1768 (iii) Aggravated assault;
- 1769 (iv) Aggravated robbery;
- 1770 (v) Aggravated abuse, neglect, or endangerment of a child;
- 1771 (vi) Arson;
- 1772 (vii) Carjacking;
- 1773 (viii) Kidnapping; or
- 1774 (ix) Manslaughter, homicide, or murder.

1775 (4)(A) Notwithstanding any other provision of law, an individual with a criminal
1776 record may petition the commission at any time, including while incarcerated and
1777 before starting or completing any required professional qualifications for certification,
1778 for a predetermination as to whether the individual's criminal record will disqualify
1779 such individual from obtaining a certification as an operator.

1780 (B) The petition for predetermination shall include the individual's criminal record or
1781 authorize the commission to obtain the individual's criminal record. The petitioning
1782 individual need not disclose any offenses falling under paragraph (3) of this subsection.
1783 The petition shall also include any information the petitioner chooses to submit
1784 concerning the circumstances of their record and their rehabilitation.

1785 (C) In considering predetermination petitions, the commission shall apply the direct
1786 relationship standard in paragraph (2) of this subsection and shall not consider any
1787 offenses falling under paragraph (3) of this subsection. The commission shall support
1788 any adverse predetermination with clear and convincing evidence.

1789 (D) A predetermination made under this subsection that a petitioner is eligible for a
1790 license shall be binding on the commission only if the petitioner applies for
1791 certification, fulfills all other requirements for operator certification, and the petitioner's
1792 submitted criminal record was correct and remains unchanged at the time of his or her
1793 application for certification.

1794 (E) If a petitioner's criminal record includes matters that may disqualify the petitioner
1795 from certification, the commission shall notify the petitioner of the potentially
1796 disqualifying convictions. The letter of concern shall advise the petitioner of their
1797 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1798 hearing, or both.

1799 (F) The commission may predetermine that the petitioner's criminal record is likely
1800 grounds for denial of certification only after the commission has held a hearing on the
1801 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1802 Administrative Procedure Act.' The hearing shall be held in person, by remote video,
1803 or by teleconference within 60 days of receipt of the predetermination petition. The
1804 individual shall have the opportunity to include character witnesses at the hearing,
1805 including but not limited to family members, friends, past or prospective employers,
1806 probation or parole officers, and rehabilitation counselors, who may offer their verbal
1807 or written support. The commission shall not make an adverse inference by a
1808 petitioner's decision to forgo a hearing or character witnesses. The commission shall
1809 issue a final decision within 60 days of complete submission of the issue for
1810 consideration or the hearing, whichever is later.

1811 (G) If the commission decides that a predetermination petitioner is ineligible for a
1812 license, the board shall notify the petitioner of the following:

1813 (i) The grounds and rationale for the predetermination, including any of the
1814 petitioner's specific convictions and the factors provided for in paragraph (3) of this
1815 subsection the commission deemed directly relevant;

1816 (ii) An explanation of the process and right to appeal the commission's
1817 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1818 Procedure Act'; and

1819 (iii) Any actions the petitioner may take to remedy the disqualification. An
1820 individual who receives a predetermination of ineligibility may submit a revised
1821 petition reflecting completion of the remedial actions. The individual may submit a
1822 new petition to the commission not before one year following a final judgment on
1823 their initial petition or upon completing the remedial actions, whichever is earlier.

1824 (H) The denial of a predetermination petition because of the applicant's criminal record
1825 shall constitute a contested case as defined in Code Section 50-13-2. In an
1826 administrative hearing or civil action reviewing the denial of a predetermination
1827 petition, the commission shall have the burden of proving that the applicant's criminal
1828 record directly relates to the licensed occupation."

1829

PART III

1830

SECTION 3-1.

1831 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
1832 adding a new paragraph to Code Section 20-2-982.1, relating to definitions relative to
1833 professional standards of teachers and other school personnel, to read as follows:

1834 "(1.1) 'Conviction' means a finding or verdict of guilty or a plea of guilty, regardless of
1835 whether an appeal of such finding, verdict, or plea has been sought."

1836

SECTION 3-2.

1837 Said title is further is amended by revising Code Section 20-2-984.3, relating to preliminary
1838 investigation of violations by the Professional Standards Commission, requirement for
1839 automatic investigation, and investigation of sexual offenses, as follows:

1840 "20-2-984.3.

1841 (a) Upon receipt of a written request from a local board, the state board, or one or more
1842 individual residents of this state, the commission shall be authorized to investigate:

1843 (1) Alleged violations by an educator of any law of this state pertaining to educators or
1844 the profession of education;

1845 (2) Alleged violations by an educator of the code of ethics of the commission;

1846 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
1847 or the commission;

1848 (4) Complaints alleging a failure by an educator to meet or comply with standards of
1849 performance of the commission or the state board; or

1850 (5) Complaints alleging that an educator has been convicted of any directly related
1851 felony, of any crime involving moral turpitude directly related covered misdemeanor as
1852 defined in Code Section 43-1-1, of any other criminal offense involving the manufacture,
1853 distribution, trafficking, sale, or possession of a controlled substance or marijuana as
1854 provided for in Chapter 13 of Title 16, or of any other sexual offense as provided for in
1855 Code Sections 16-6-1 through 16-6-17 or Code Section 16-6-20, 16-6-22.2, or 16-12-100
1856 in the courts of this state or any other state, territory, or country or in the courts of the
1857 United States. ~~As used in this paragraph, the term 'convicted' shall include a finding or~~
1858 ~~verdict of guilty or a plea of nolo contendere, regardless of whether an appeal of the~~
1859 ~~conviction has been sought; a situation where first offender treatment without~~
1860 ~~adjudication of guilt pursuant to the charge was granted; and a situation where an~~
1861 ~~adjudication of guilt or sentence was otherwise withheld or not entered on the charge or~~
1862 ~~the charge was otherwise disposed of in a similar manner in any jurisdiction.~~

1863 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
1864 to this Code section within 30 days of the request unless an extension is granted pursuant
1865 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
1866 may appoint a committee of its membership with the power to transact and carry out the

1867 business and duties of the commission when deciding whether to conduct a preliminary
1868 investigation.

1869 (b.1) In investigating whether to deny, diminish, limit, suspect, revoke, refuse to renew,
1870 or otherwise withhold a certificate, the commission shall not consider nor require an
1871 educator to disclose:

1872 (1) A deferred adjudication, first offender treatment, participation in a diversion
1873 program, a conditional discharge, or an arrest not followed by a conviction;

1874 (2) A conviction for which no sentence of incarceration can be imposed;

1875 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1876 pardoned;

1877 (4) A juvenile adjudication;

1878 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1879 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1880 (6) A conviction older than five years for which the individual was not incarcerated, or
1881 a conviction for which the individual's incarceration ended more than five years before
1882 the date of the commission's consideration, except for a felony conviction related to:

1883 (A) A criminal sexual act;

1884 (B) Criminal fraud or embezzlement;

1885 (C) Aggravated assault;

1886 (D) Aggravated robbery;

1887 (E) Aggravated abuse, neglect, or endangerment of a child;

1888 (F) Arson;

1889 (G) Carjacking;

1890 (H) Kidnapping; or

1891 (I) Manslaughter, homicide, or murder.

1892 (c) When an educator admits on a Professional Standards Commission application to
1893 having resigned or being discharged for committing a felony or ~~misdemeanor~~ involving

1894 ~~moral turpitude~~ covered misdemeanor as defined in Code Section 43-1-1 or being under
1895 investigation by law enforcement authorities for such conduct or for committing a breach
1896 of the code of ethics or for a violation of state education laws or having a criminal ~~history~~
1897 record or having had a surrender, denial, revocation, or suspension of a certificate or being
1898 the subject of an investigation or adverse action regarding a certificate, an investigation
1899 will automatically open without notification to the commission and with written
1900 notification to the educator.

1901 (c.1) Notwithstanding subsection (c) of this Code section, the commission shall not
1902 consider nor require an educator to disclose on a Professional Standards Commission
1903 application:

1904 (1) A deferred adjudication, first offender treatment, participation in a diversion
1905 program, a conditional discharge, or an arrest not followed by a conviction;

1906 (2) A conviction for which no sentence of incarceration can be imposed;

1907 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
1908 pardoned;

1909 (4) A juvenile adjudication;

1910 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
1911 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

1912 (6) A conviction older than five years for which the individual was not incarcerated, or
1913 a conviction for which the individual's incarceration ended more than five years before
1914 the date of the commission's consideration, except for a felony conviction related to:

1915 (A) A criminal sexual act;

1916 (B) Criminal fraud or embezzlement;

1917 (C) Aggravated assault;

1918 (D) Aggravated robbery;

1919 (E) Aggravated abuse, neglect, or endangerment of a child;

1920 (F) Arson;

1921 (G) Carjacking;

1922 (H) Kidnapping; or

1923 (I) Manslaughter, homicide, or murder.

1924 (d) Notwithstanding the requirements of this Code section, the staff of the commission
1925 shall be authorized, without notification to the commission, to immediately open an
1926 investigation submitted to the commission by a local school superintendent, with approval
1927 of the local board of education, of a complaint by a student against an educator alleging a
1928 sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or Code Section
1929 16-6-20, 16-6-22.2, or 16-12-100.

1930 (e)(1) Notwithstanding any other provision of law, an individual with a criminal record
1931 may petition the commission at any time, including while incarcerated and before starting
1932 or completing any required professional qualifications for certification, for a
1933 predetermination as to whether the individual's criminal record will disqualify him or her
1934 from obtaining a certificate.

1935 (2) The petition for predetermination shall include the individual's criminal record or
1936 authorize the board to obtain the individual's criminal record. The petitioning individual
1937 need not disclose any offenses falling under subsection (c.1) of this Code section. The
1938 petition shall also include any information the petitioner chooses to submit concerning
1939 the circumstances of their record and their rehabilitation.

1940 (3) In considering predetermination petitions, the commission shall apply the direct
1941 relationship standard provided for in subsection (a.1) of Code Section 20-2-984.5 and
1942 shall not consider any offenses falling under subsection (c.1) of this Code section. The
1943 commission shall support any adverse predetermination with clear and convincing
1944 evidence.

1945 (4) A predetermination made under this subsection that a petitioner is eligible for a
1946 certificate shall be binding on the commission only if the petitioner applies for
1947 certification, fulfills all other requirements for the certificate, and the petitioner's

1948 submitted criminal record was correct and remains unchanged at the time of his or her
1949 application for a certificate.

1950 (5) If a petitioner's criminal record includes matters that may disqualify the petitioner
1951 from certification, the commission shall notify the petitioner of the potentially
1952 disqualifying convictions. The letter of concern shall advise the petitioner of their
1953 opportunity to submit additional evidence of rehabilitation and mitigation or for a
1954 hearing, or both.

1955 (6) The commission may predetermine that the petitioner's criminal record is likely
1956 grounds for denial of a license only after the commission has held a hearing on the
1957 petitioner's eligibility in accordance with Chapter 13 of Title 50, the 'Georgia
1958 Administrative Procedure Act.' The hearing shall be held in person, by remote video, or
1959 by teleconference within 60 days of receipt of the predetermination petition. The
1960 individual shall have the opportunity to include character witnesses at the hearing,
1961 including but not limited to family members, friends, past or prospective employers,
1962 probation or parole officers, and rehabilitation counselors, who may offer their verbal or
1963 written support. The commission shall not make an adverse inference by a petitioner's
1964 decision to forgo a hearing or character witnesses. The commission shall issue a final
1965 decision within 60 days of complete submission of the issue for consideration or the
1966 hearing, whichever is later.

1967 (7) If the commission decides that a predetermination petitioner is ineligible for a
1968 certificate, the board shall notify the petitioner of the following:

1969 (A) The grounds and rationale for the predetermination, including any specific
1970 convictions and the factors in subsection (a.1) of Code Section 20-2-984.5 the
1971 commission deemed directly relevant;

1972 (B) An explanation of the process and right to appeal the commission's
1973 predetermination decision under Chapter 13 of Title 50, the 'Georgia Administrative
1974 Procedure Act'; and

1975 (C) Any actions the petitioner may take to remedy the disqualification. An individual
 1976 who receives a predetermination of ineligibility may submit a revised petition reflecting
 1977 completion of the remedial actions. The individual may submit a new petition to the
 1978 commission not before one year following a final judgment on their initial petition or
 1979 upon completing the remedial actions, whichever is earlier.

1980 (8) The denial of a predetermination petition because of the applicant's criminal record
 1981 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
 1982 hearing or civil action reviewing the denial of a predetermination petition, the
 1983 commission shall have the burden of proving that the applicant's criminal record directly
 1984 relates to the licensed occupation."

1985 **SECTION 3-3.**

1986 Said title is further amended in Code Section 20-2-984.5, relating to preliminary
 1987 investigations of educators, disciplinary actions, and hearings by the Professional Standards
 1988 Commission, by adding two new subsections to read as follows:

1989 "(a.1) The commission shall recommend disciplinary action on the basis of a criminal
 1990 conviction only if the conviction or adjudication directly relates to the role of an educator.
 1991 In determining if a criminal conviction directly relates to the role of an educator, the
 1992 commission shall consider:

1993 (1) The nature and seriousness of the crime and the direct relationship of the criminal
 1994 conduct to the duties and responsibilities of the educator;

1995 (2) The age of the individual at the time such crime was committed;

1996 (3) The length of time elapsed since such crime was committed;

1997 (4) All circumstances relative to such crime, including, but not limited to, mitigating
 1998 circumstances or social conditions surrounding the commission of the offense; and

1999 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
 2000 for which the certificate is sought or held, including, but not limited to:

- 2001 (A) The completion of the criminal sentence;
2002 (B) A program and treatment certificate issued by the Board of Corrections;
2003 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2004 program;
2005 (D) Testimonials and recommendations, which may include a progress report from the
2006 individual's probation or parole officer;
2007 (E) Education and training;
2008 (F) Employment history;
2009 (G) Employment aspirations;
2010 (H) The individual's current family or community responsibilities, or both;
2011 (I) Whether a bond is required to practice the occupation;
2012 (J) Any affidavits or other written documents, including, but not limited to, character
2013 references; and
2014 (K) Any other information regarding rehabilitation the individual submits to the
2015 commission.
- 2016 (a.2) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
2017 otherwise withhold a license, the commission or investigator shall not consider nor require
2018 an individual to disclose:
- 2019 (1) A deferred adjudication, first offender treatment, participation in a diversion
2020 program, a conditional discharge, or an arrest not followed by a conviction;
2021 (2) A conviction for which no sentence of incarceration can be imposed;
2022 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
2023 pardoned;
2024 (4) A juvenile adjudication;
2025 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
2026 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or

- 2027 (6) A conviction older than five years for which the individual was not incarcerated, or
 2028 a conviction for which the individual's incarceration ended more than five years before
 2029 the date of the commission's consideration, except for a felony conviction related to:
- 2030 (A) A criminal sexual act;
 - 2031 (B) Criminal fraud or embezzlement;
 - 2032 (C) Aggravated assault;
 - 2033 (D) Aggravated robbery;
 - 2034 (E) Aggravated abuse, neglect, or endangerment of a child;
 - 2035 (F) Arson;
 - 2036 (G) Carjacking;
 - 2037 (H) Kidnapping; or
 - 2038 (I) Manslaughter, homicide, or murder."

2039

PART IV

2040

SECTION 4-1.

2041 Title 26 of the Official Code of Georgia Annotated, relating to food, drugs, and cosmetics,
 2042 is amended by revising subsection (a) of Code Section 26-4-41, relating to qualifications for
 2043 pharmacist licenses, examination, and internships and other training programs, as follows:
 2044 "(a) **Qualifications.** To obtain a license to engage in the practice of pharmacy, an
 2045 applicant for licensure by examination shall:

- 2046 (1) Have submitted an application in the form prescribed by the board;
- 2047 (2) Have attained the age of majority;
- 2048 ~~(3) Be of good moral character;~~
- 2049 ~~(4)~~(3) Have graduated and received a professional undergraduate degree from a college
 2050 or school of pharmacy as the same may be approved by the board; provided, however,
 2051 that, since it would be impractical for the board to evaluate a school or college of

2052 pharmacy located in another country, the board may accept a graduate from such a school
 2053 or college so long as the graduate has completed all requirements of the Foreign
 2054 Pharmacy Equivalency Certification Program administered by the National Association
 2055 of Boards of Pharmacy. This shall include successful completion of all required
 2056 examinations and the issuance of the equivalency certificate and be based upon an
 2057 individual evaluation by the board of the applicant's educational experience, professional
 2058 background, and proficiency in the English language;

2059 ~~(5)~~(4) Have completed an internship or other program that has been approved by the
 2060 board or demonstrated to the board's satisfaction that experience in the practice of
 2061 pharmacy which meets or exceeds the minimum internship requirements of the board;
 2062 ~~(6)~~(5) Have successfully passed an examination or examinations approved by the board;
 2063 and
 2064 ~~(7)~~(6) Have paid the fees specified by the board for the examination and any related
 2065 materials and have paid for the issuance of the license."

2066 **SECTION 4-2.**

2067 Said title is further amended in Code Section 26-4-60, relating to grounds for suspension,
 2068 revocation or refusal to grant pharmacist licenses, by revising paragraph (3) of subsection (a)
 2069 as follows:

2070 "(3) Except as prohibited in Code Section 26-4-60.1, for being Being:

2071 (A) Convicted of a felony;

2072 (B) Convicted of any ~~crime involving moral turpitude~~ covered misdemeanor, as
 2073 defined in Code Section 43-1-1, in this state or any other state, territory, or country or
 2074 in the courts of the United States; or

2075 (C) Convicted or guilty of violations of the pharmacy or drug laws of this state, or rules
 2076 and regulations pertaining thereto, or of laws, rules, and regulations of any other state,
 2077 or of the federal government;"

2078 **SECTION 4-3.**

2079 Said title is further amended by adding two new Code sections to read as follows:

2080 "26-4-60.1.

2081 (a) Notwithstanding paragraph (3) of subsection (a) of Code Section 26-4-60, the board
2082 of pharmacy shall refuse to grant a license to an individual or shall revoke a license only
2083 if a conviction directly relates to the occupation for which the license is sought or held and
2084 granting the license would pose a direct and substantial risk to public safety because the
2085 individual has not been rehabilitated to safely perform the duties and responsibilities of the
2086 practice of pharmacy. In determining if a conviction directly relates to the occupation for
2087 which the license is sought or held, the board of pharmacy shall consider:

2088 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2089 conduct to the duties and responsibilities of the occupation for which the license is sought
2090 or held;

2091 (2) The age of the individual at the time the offense was committed;

2092 (3) The length of time elapsed since the offense was committed;

2093 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2094 circumstances or social conditions surrounding the commission of the offense; and

2095 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2096 for which the license is sought or held, including, but not limited to:

2097 (A) The completion of the criminal sentence;

2098 (B) A program and treatment certificate issued by the Board of Corrections;

2099 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2100 program;

2101 (D) Testimonials and recommendations, which may include a progress report from the
2102 individual's probation or parole officer;

2103 (E) Education and training;

2104 (F) Employment history;

- 2105 (G) Employment aspirations;
- 2106 (H) The individual's current family or community responsibilities, or both;
- 2107 (I) Whether a bond is required to practice the occupation;
- 2108 (J) Any affidavits or other written documents, including, but not limited to, character
- 2109 references; and
- 2110 (K) Any other information regarding rehabilitation the individual submits to the board.
- 2111 (b) In determining whether to deny, diminish, limit, suspect, revoke, refuse to renew, or
- 2112 otherwise withhold a license due to criminal record, the board of pharmacy shall not
- 2113 consider nor require an individual to disclose:
- 2114 (1) A deferred adjudication, first offender treatment, participation in a diversion
- 2115 program, a conditional discharge, or an arrest not followed by a conviction;
- 2116 (2) A conviction for which no sentence of incarceration can be imposed;
- 2117 (3) A conviction that has been restricted, sealed, annulled, dismissed, vacated, or
- 2118 pardoned;
- 2119 (4) A juvenile adjudication;
- 2120 (5) A misdemeanor conviction older than five years, unless the offense of conviction is
- 2121 listed in subparagraph (j)(4)(B) of Code Section 35-3-37; or
- 2122 (6) A conviction older than five years for which the individual was not incarcerated, or
- 2123 a conviction for which the individual's incarceration ended more than five years before
- 2124 the date of the board's consideration, except for a felony conviction related to:
- 2125 (A) A criminal sexual act;
- 2126 (B) Criminal fraud or embezzlement;
- 2127 (C) Aggravated assault;
- 2128 (D) Aggravated robbery;
- 2129 (E) Aggravated abuse, neglect, or endangerment of a child;
- 2130 (F) Arson;
- 2131 (G) Carjacking;

2132 (H) Kidnapping;

2133 (I) Manslaughter, homicide, or murder; or

2134 (J) Distribution, manufacturing, or possession of a controlled substance.

2135 26-4-60.2.

2136 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2137 petition the board of pharmacy at any time, including while incarcerated and before starting
2138 or completing any required professional qualifications for licensure, for a predetermination
2139 as to whether the individual's criminal record will disqualify him or her from obtaining a
2140 license.

2141 (b) The petition for predetermination shall include the individual's criminal record or
2142 authorize the board to obtain the individual's criminal record. The petitioning individual
2143 need not disclose any offenses falling under subsection (b) of Code Section 20-4-60.1. The
2144 petition shall also include any information the petitioner chooses to submit concerning the
2145 circumstances of their record and their rehabilitation.

2146 (c) In considering predetermination petitions, the board shall apply the direct relationship
2147 standard in subsection (a) of Code Section 26-4-60.1 and shall not consider any offenses
2148 falling under subsection (b) of Code Section 26-4-60.1. The board shall support any
2149 adverse predetermination with clear and convincing evidence.

2150 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2151 shall be binding on the board only if the petitioner applies for licensure, fulfills all other
2152 requirements for the licensure, and the petitioner's submitted criminal record was correct
2153 and remains unchanged at the time of his or her application for a license.

2154 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2155 licensure, the board shall notify the petitioner of the potentially disqualifying convictions.
2156 The letter of concern shall advise the petitioner of their opportunity to submit additional
2157 evidence of rehabilitation and mitigation or for a hearing, or both.

2158 (f) The board may predetermine that the petitioner's criminal record is likely grounds for
2159 denial of a license only after the board has held a hearing on the petitioner's eligibility in
2160 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The
2161 hearing shall be held in person, by remote video, or by teleconference within 60 days of
2162 receipt of the predetermination petition. The individual shall have the opportunity to
2163 include character witnesses at the hearing, including but not limited to family members,
2164 friends, past or prospective employers, probation or parole officers, and rehabilitation
2165 counselors, who may offer their verbal or written support. The board shall not make an
2166 adverse inference by a petitioner's decision to forgo a hearing or character witnesses. The
2167 board shall issue a final decision within 60 days of complete submission of the issue for
2168 consideration or the hearing, whichever is later.

2169 (g) If the board decides that a predetermination petitioner is ineligible for a license, the
2170 board shall notify the petitioner of the following:

2171 (1) The grounds and rationale for the predetermination, including the specific
2172 convictions and the factors in paragraph (1) of subsection (a) of this Code section the
2173 board deemed directly relevant;

2174 (2) An explanation of the process and right to appeal the board's predetermination
2175 decision under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and

2176 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2177 who receives a predetermination of ineligibility may submit a revised petition reflecting
2178 completion of the remedial actions. The individual may submit a new petition to the
2179 board not before one year following a final judgment on their initial petition or upon
2180 completing the remedial actions, whichever is earlier.

2181 (h) The denial of a predetermination petition because of the applicant's criminal record
2182 shall constitute a contested case as defined in Code Section 50-13-2. In an administrative
2183 hearing or civil action reviewing the denial of a predetermination petition, the board shall

2184 have the burden of proving that the applicant's criminal record directly relates to the
2185 licensed occupation."

2186 **PART V**
2187 **SECTION 5-1.**

2188 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
2189 Section 31-7-351, relating to definitions relative to the Georgia long-term care background
2190 check program, by revising paragraph (5) as follows:

2191 "(5)(A) 'Criminal record' means any of the following:

2192 (i) Conviction of a crime;

2193 (ii) Arrest, charge, and sentencing for a crime when:

2194 (I) A plea of nolo contendere was entered to the crime;

2195 (II) First offender treatment without adjudication of guilt was granted to the crime;

2196 or

2197 (III) Adjudication or sentence was otherwise withheld or not entered for the crime;

2198 or

2199 (iii) Arrest and charges for a crime if the charge is pending, unless the time for
2200 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

2201 (B) Such term shall not include an owner, applicant, or employee for which at least ten
2202 years have elapsed from the date of his or her criminal background check since the

2203 ~~completion of all of the terms of his or her sentence~~ dates of conviction or adjudication;

2204 such term also shall not include an owner, applicant, or employee who has received a

2205 general pardon from the State Board of Pardons and Paroles for the convictions;

2206 provided, however, that such ten-year period ~~exemption~~ or and pardon exemption shall

2207 never apply to any crime identified in subsection (j) of Code Section 42-8-60."

2208
2209

PART VI
SECTION 6-1.

2210 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended in Code
2211 Section 33-23-21, relating to grounds for refusal, suspension, or revocation of insurance
2212 agent licenses, by revising paragraphs (15) and (16) as follows:

2213 “(15) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been convicted
2214 of any felony or of any ~~crime involving moral turpitude~~ covered misdemeanor as defined
2215 in Code Section 43-1-1 in the courts of this state or any other state, territory, or country
2216 or in the courts of the United States; as used in this paragraph and paragraph (16) of this
2217 subsection, the term 'felony' shall include any offense which, if committed in this state,
2218 would be deemed a felony, without regard to its designation elsewhere; and, as used in
2219 this paragraph, the term 'conviction' shall include a finding or verdict of guilty or a plea
2220 of guilty, regardless of whether an appeal of the conviction has been sought;

2221 (16) Except as otherwise provided in Code Section 33-23-21.2, has ~~Has~~ been arrested,
2222 charged, and sentenced for the commission of any directly related felony, or any ~~crime~~
2223 ~~involving moral turpitude~~ directly related covered misdemeanor as defined in Code
2224 Section 43-1-1, where:

2225 (A) First offender treatment without adjudication of guilt pursuant to the charge was
2226 granted; or

2227 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
2228 charge.

2229 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
2230 to probation of first offenders, or other first offender treatment shall be conclusive
2231 evidence of arrest and sentencing for such crime;”

2232 **SECTION 6-2.**

2233 Said title is further amended by adding two new Code sections to read as follows:

2234 "33-23-21.2.

2235 Notwithstanding Code Section 33-23-21, the Commissioner shall refuse to grant a license
2236 to an individual or shall revoke a license only if a conviction directly relates to the
2237 occupation for which the license is sought or held and granting the license would pose a
2238 direct and substantial risk to public safety because the individual has not been rehabilitated
2239 to safely perform the duties and responsibilities of a licensee. In determining if a
2240 conviction directly relates to the occupation for which the license is sought or held, the
2241 Commissioner shall consider:

2242 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2243 conduct to the duties and responsibilities of the occupation for which the license is sought
2244 or held;

2245 (2) The age of the individual at the time the offense was committed;

2246 (3) The length of time elapsed since the offense was committed;

2247 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2248 circumstances or social conditions surrounding the commission of the offense; and

2249 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2250 for which the license is sought or held, including, but not limited to:

2251 (A) The completion of the criminal sentence;

2252 (B) A program and treatment certificate issued by the Board of Corrections;

2253 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2254 program;

2255 (D) Testimonials and recommendations, which may include a progress report from the
2256 individual's probation or parole officer;

2257 (E) Education and training;

2258 (F) Employment history;

- 2259 (G) Employment aspirations;
2260 (H) The individual's current family or community responsibilities, or both;
2261 (I) Whether a bond is required to practice the occupation;
2262 (J) Any affidavits or other written documents, including, but not limited to, character
2263 references; and
2264 (K) Any other information regarding rehabilitation the individual submits to the
2265 Commissioner.

2266 33-23-21.3.

2267 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2268 petition the Commissioner at any time, including while incarcerated and before starting or
2269 completing any required professional qualifications for licensure, for a predetermination
2270 as to whether the individual's criminal record will disqualify him or her from obtaining a
2271 license.

2272 (b) The petition for predetermination shall include the individual's criminal record or
2273 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2274 also include information submitted by the petitioner concerning the circumstances of their
2275 record and their rehabilitation.

2276 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2277 relationship standard in Code Section 33-23-21.2.

2278 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2279 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2280 all other requirements for the licensure, and the petitioner's submitted criminal record was
2281 correct and remains unchanged at the time of his or her application for a license.

2282 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2283 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2284 accordance with Chapter 2 of this title.

2285 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2286 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2287 petitioner of the following:

2288 (1) The grounds and rationale for the predetermination, including the factors in Code
2289 Section 33-23-21.2 the Commissioner deemed directly relevant;

2290 (2) An explanation of the process and right to appeal the Commissioner's
2291 predetermination decision; and

2292 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2293 who receives a predetermination of ineligibility may submit a revised petition reflecting
2294 completion of the remedial actions. The individual may submit a new petition to the
2295 Commissioner not before one year following a final judgment on their initial petition or
2296 upon completing the remedial actions, whichever is earlier."

2297 **SECTION 6-3.**

2298 Said title is further amended by adding two new Code sections to read as follows:

2299 "33-23-43.11.

2300 Notwithstanding Code Section 33-23-43.10, the Commissioner shall refuse to grant a
2301 license to an individual or shall revoke a license only if a conviction directly relates to the
2302 occupation for which the license is sought or held and granting the license would pose a
2303 direct and substantial risk to public safety because the individual has not been rehabilitated
2304 to safely perform the duties and responsibilities of a licensee. In determining if a
2305 conviction directly relates to the occupation for which the license is sought or held, the
2306 Commissioner shall consider:

2307 (1) The nature and seriousness of the offense and the direct relationship of the criminal
2308 conduct to the duties and responsibilities of the occupation for which the license is sought
2309 or held;

2310 (2) The age of the individual at the time the offense was committed;

- 2311 (3) The length of time elapsed since the offense was committed;
2312 (4) All circumstances relative to the offense, including, but not limited to, mitigating
2313 circumstances or social conditions surrounding the commission of the offense; and
2314 (5) Evidence of rehabilitation and present fitness to perform the duties of the occupation
2315 for which the license is sought or held, including, but not limited to:
2316 (A) The completion of the criminal sentence;
2317 (B) A program and treatment certificate issued by the Board of Corrections;
2318 (C) Completion of, or active participation in, a rehabilitative drug or alcohol treatment
2319 program;
2320 (D) Testimonials and recommendations, which may include a progress report from the
2321 individual's probation or parole officer;
2322 (E) Education and training;
2323 (F) Employment history;
2324 (G) Employment aspirations;
2325 (H) The individual's current family or community responsibilities, or both;
2326 (I) Whether a bond is required to practice the occupation;
2327 (J) Any affidavits or other written documents, including, but not limited to, character
2328 references; and
2329 (K) Any other information regarding rehabilitation the individual submits to the
2330 Commissioner.

2331 33-23-43.12.

- 2332 (a) Notwithstanding any other provision of law, an individual with a criminal record may
2333 petition the Commissioner at any time, including while incarcerated and before starting or
2334 completing any required professional qualifications for licensure, for a predetermination
2335 as to whether the individual's criminal record will disqualify him or her from obtaining a
2336 public adjuster's license.

2337 (b) The petition for predetermination shall include the individual's criminal record or
2338 authorize the Commissioner to obtain the individual's criminal record. The petition shall
2339 also include information submitted by the petitioner concerning the circumstances of their
2340 record and their rehabilitation.

2341 (c) In considering predetermination petitions, the Commissioner shall apply the direct
2342 relationship standard in Code Section 33-23-43.11.

2343 (d) A predetermination made under this subsection that a petitioner is eligible for a license
2344 shall be binding on the Commissioner only if the petitioner applies for licensure, fulfills
2345 all other requirements for the licensure, and the petitioner's submitted criminal record was
2346 correct and remains unchanged at the time of his or her application for a license.

2347 (e) If a petitioner's criminal record includes matters that may disqualify the petitioner from
2348 licensure, the Commissioner shall provide notice and opportunity for a hearing in
2349 accordance with Chapter 2 of this title.

2350 (f) If, after notice and the opportunity for a hearing, the Commissioner decides that a
2351 predetermination petitioner is ineligible for a license, the Commissioner shall notify the
2352 petitioner of the following:

2353 (1) The grounds and rationale for the predetermination, including the specific
2354 convictions and the factors in Code Section 33-23-43.11 the Commissioner deemed
2355 directly relevant;

2356 (2) An explanation of the process and right to appeal the Commissioner's
2357 predetermination decision; and

2358 (3) Any actions the petitioner may take to remedy the disqualification. An individual
2359 who receives a predetermination of ineligibility may submit a revised petition reflecting
2360 completion of the remedial actions. The individual may submit a new petition to the
2361 Commissioner not before one year following a final judgment on their initial petition or
2362 upon completing the remedial actions, whichever is earlier."

2363

PART VII

2364

SECTION 7-1.

2365 Chapter 4 of Title 25 of the Official Code of Georgia Annotated, relating to firefighter
 2366 standards and training is amended by adding a new subsection to Code Section 25-4-8,
 2367 relating to qualifications of firefighters generally, to read as follows:

2368 "(d) A person who pleaded guilty to a felony offense under the 'Georgia First Offender Act'
 2369 and successfully completed the terms of his or her sentence pursuant to Article 3 of Chapter
 2370 8 of Title 42 may, at the council's discretion, be certified and employed as a firefighter if
 2371 such person otherwise meets the qualifications set forth in this Code section. Such person
 2372 shall provide information on the circumstances underlying the plea of guilty, as requested
 2373 by the council, to enable the council to make an informed decision on such individual's
 2374 qualification status."

2375

PART VIII

2376

SECTION 8-1.

2377 Article 2 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
 2378 Georgia Crime Information Center, is amended in Code Section 35-3-37, relating to review
 2379 of individual's criminal history record information, definitions, privacy considerations,
 2380 written application requesting review, and inspection, by revising divisions (j)(4)(B)(xvi),
 2381 (j)(4)(B)(xvii), and (j)(4)(B)(xviii), subparagraph (j)(4)(C), paragraph (7) of subsection (j),
 2382 and subsections (m) and (v) as follows:

2383 "(xvi) Any offense related to minors generally in violation of Part 2 of Article 3 of
 2384 Chapter 12 of Title 16; or

2385 ~~(xvii) Theft in violation of Chapter 8 of Title 16; provided, however, that such~~
2386 ~~prohibition shall not apply to a misdemeanor conviction of shoplifting or refund fraud~~
2387 ~~in violation of Code Section 16-8-14 or 16-8-14.1, as applicable; or~~

2388 ~~(xviii) Any serious traffic offense in violation of Article 15 of Chapter 6 of Title 40.~~

2389 (C) ~~An individual shall be limited to filing a petition under this paragraph to a lifetime~~
2390 ~~maximum of requesting record restriction on two convictions for a misdemeanor or a~~
2391 ~~series of misdemeanors arising from a single incident. For the purposes of this~~
2392 ~~subparagraph, the conviction of two or more offenses charged in separate counts of one~~
2393 ~~or more accusations consolidated for trial shall be deemed to be one conviction. If a~~
2394 ~~petition under this subsection has been denied, an individual may file a subsequent~~
2395 ~~petition on the same conviction for a misdemeanor or series of misdemeanors arising~~
2396 ~~from a single incident after the expiration of two years from the date of the final order~~
2397 ~~from the previous petition."~~

2398 "(7) When an individual was convicted in this state of an offense for which that
2399 individual has been granted a pardon from the State Board of Pardons and Paroles as
2400 provided in the Constitution and Code Section 42-9-42, provided that the offense was not
2401 a serious violent felony as such term is defined in Code Section 17-10-6.1 or a sexual
2402 offense as such term is defined in Code Section 17-10-6.2, and provided, further, that
2403 such individual has not been convicted of any crime in any jurisdiction, excluding any
2404 conviction for a nonserious traffic offense, since the pardon was granted, and provided,
2405 further, that he or she has no pending charged offenses, he or she may petition the court
2406 in which the conviction occurred to restrict access to criminal history record information.
2407 Such court shall maintain jurisdiction over the case for this limited purpose and duration.
2408 Such petition shall be served on the prosecuting attorney. If a hearing is requested, such
2409 hearing shall be held within 90 days of the filing of the petition. If the court finds that the
2410 criteria for such petition are met, the court shall grant an order restricting such criminal
2411 history record information. ~~The court shall hear evidence and shall grant an order~~

2412 ~~restricting such criminal history record information if it determines that the harm~~
2413 ~~otherwise resulting to the individual clearly outweighs the public's interest in the criminal~~
2414 ~~history record information being publicly available."~~

2415 "(m)(1) For criminal history record information maintained by the clerk of court, an
2416 individual who has a record restricted pursuant to Code Section 17-10-21 or this Code
2417 section or an individual who has been cited for a criminal offense but was not arrested
2418 and the charged offense was subsequently dismissed, nolle prossed, or reduced to a
2419 violation of a local ordinance may petition the court with original jurisdiction over the
2420 offenses in the county where the clerk of court is located for an order to seal all criminal
2421 history record information maintained by the clerk of court for such individual's charged
2422 offense. Notice of such petition shall be sent to the clerk of court and the prosecuting
2423 attorney. A notice sent by registered or certified mail or statutory overnight delivery shall
2424 be sufficient notice.

2425 (2) The court shall order all criminal history record information in the custody of the
2426 clerk of court, including within any index, to be restricted and unavailable to the public
2427 if the court finds by a preponderance of the evidence that:

2428 (A) The criminal history record information has been restricted pursuant to this Code
2429 section; and

2430 (B) The harm otherwise resulting to the privacy of the individual clearly outweighs the
2431 public interest in the criminal history record information being publicly available.

2432 (3) Notwithstanding paragraph (2) of this subsection, the court shall order all criminal
2433 history record information in the custody of the clerk of court, including within any
2434 index, to be restricted and unavailable to the public if the criminal history record has been
2435 restricted pursuant to paragraph (7) of subsection (j) of this Code section.

2436 (4) Within 60 days of the court's order, the clerk of court shall cause every document,
2437 physical or electronic, in its custody, possession, or control to be restricted."

- 2438 "(v)(1) Information restricted and sealed pursuant to this Code section shall always be
 2439 available for inspection, copying, and use:
- 2440 (A) For the purpose of imposing a sentence under Article 3 of Chapter 8 of Title 42;
 - 2441 (B) By the Judicial Qualifications Commission;
 - 2442 (C) By an attorney representing an accused individual who submits a sworn affidavit
 2443 to the clerk of court attesting that such information is relevant to a criminal proceeding;
 - 2444 (D) By a prosecuting attorney or a public defender;
 - 2445 (E) Pursuant to a court order; ~~and~~
 - 2446 (F) By an individual who is the subject of restricted criminal history record information
 2447 or sealed court files; and
 - 2448 (G) By criminal justice agencies for law enforcement or criminal investigative
 2449 purposes.
- 2450 (2) The confidentiality of such information shall be maintained insofar as practicable."

2451
 2452

PART IX
SECTION 9-1.

2453 Article 3 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to first
 2454 offenders, is amended in Code Section 42-8-66, relating to petition for exoneration and
 2455 discharge, hearing, retroactive grant of first offender status, and no filing fee, by revising
 2456 paragraph (1) of subsection (a) and subsection (d) as follows:

2457 "(a)(1) An individual who qualified for sentencing pursuant to this article but who was
 2458 not informed of his or her eligibility for first offender treatment may, ~~with the consent of~~
 2459 ~~the prosecuting attorney,~~ petition the court in which he or she was convicted for
 2460 exoneration of guilt and discharge pursuant to this article."

2461 "(d) The court may issue an order retroactively granting first offender treatment and
 2462 discharge the defendant pursuant to this article if the court finds by a preponderance of the

2463 evidence that the defendant was eligible for sentencing under the terms of this article at the
2464 time he or she was originally sentenced or that he or she qualifies for sentencing under
2465 paragraph (2) of subsection (a) of this Code section and the ends of justice and the welfare
2466 of society are served by granting such petition; provided, however, that no relief pursuant
2467 to this subsection may be given on a conviction that was used as the underlying conviction
2468 for a conviction for violating Code Section 16-11-131 or if the conviction was used to
2469 enhance a sentence pursuant to Code Section 17-10-7."

2470

PART X

2471

SECTION 10-1.

2472 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
2473 January 1, 2024.

2474 (b) Parts 1 through 7 of this Act shall become effective on January 1, 2025, and shall apply
2475 to all applications for licensure submitted on or after such date.

2476

SECTION 10-2.

2477 All laws and parts of laws in conflict with this Act are repealed.