

House Bill 628

By: Representatives LaHood of the 175<sup>th</sup>, Petrea of the 166<sup>th</sup>, Cooper of the 43<sup>rd</sup>, Newton of the 123<sup>rd</sup>, and Ridley of the 6<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 14A of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,  
2 relating to the central caregiver registry, so as to provide for criminal background checks on  
3 individuals independently retained to provide personal care services for elderly persons who  
4 reside in a personal care home or assisted living facility; to revise definitions; to provide for  
5 procedures and notification; to provide for limited liability; to provide for related matters;  
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 14A of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to  
10 the central caregiver registry, is amended by revising Code Section 31-7-381, relating to  
11 definitions, as follows:

12 "31-7-381.

13 As used in this article, the term:

14 (1) 'Applicant' means an individual applying to provide personal care services to an  
15 elderly person in a residence or location not licensed by the department or in a facility,  
16 if such individual is not employed by the facility.

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- 17 (2) 'Criminal background check' means a search of the criminal records maintained by  
18 Georgia Crime Information Center and the Federal Bureau of Investigation to determine  
19 whether an applicant or employee has a criminal record.
- 20 (3) 'Elderly person' means an individual who is 65 years of age or older.
- 21 (4) 'Employee' means any individual who is providing personal care services to an  
22 elderly person in a residence or location not licensed by the department or in a facility,  
23 if such individual is not employed by the facility.
- 24 (5) 'Employer' means an individual who is considering an applicant or has hired an  
25 employee for a family member or ward.
- 26 (5.1) 'Facility' means:
- 27 (A) A personal care home required to be licensed or permitted under Code Section  
28 31-7-12; and
- 29 (B) An assisted living community required to be licensed under Code Section  
30 31-7-12.2.
- 31 (6) 'Family member' means an individual with a close familial relationship, including,  
32 but not limited to, a spouse, parent, sibling, or grandparent.
- 33 (7) 'Personal care services' means home care, health care, companionship, or  
34 transportation and includes, but is not limited to, providing assistance with bathing,  
35 eating, dressing, walking, shopping, fixing meals, and housework.
- 36 (8) 'Registry check' means a review of the nurse aide registry provided for in Code  
37 Section 31-2-14, the state sexual offender registry, and the List of Excluded Individuals  
38 and Entities as authorized in Sections 1128 and 1156 of the federal Social Security Act,  
39 as it existed on February 1, 2018, or any other registry useful for the administration of  
40 this article as specified by rules of the department.
- 41 (9) 'Ward' means an elder person for whom a guardian has been appointed pursuant to  
42 Title 29."

43 **SECTION 2.**

44 Said article is further amended by revising Code Section 31-7-383, relating to private  
45 employer's inquiry with department on eligibility of employee and employer responsible for  
46 decisions, as follows:

47 "31-7-383.

48 (a) The department shall allow an employer to inquire with the department about the  
49 eligibility or ineligibility for employment as if the applicant or employee were applying to  
50 ~~work or working in~~ for employment directly with one of the facilities licensed under  
51 Article 14 of this chapter so long as the applicant or employee agrees to such request,  
52 provides his or her fingerprints as set forth in Article 14 of this chapter, and consents to the  
53 inclusion of the results in the caregiver registry. Any fees associated with such check shall  
54 be paid by the employer, applicant, or employee.

55 (b) Except as otherwise provided in Code Section 31-7-383.1, an ~~An~~ employer shall be  
56 responsible for all employment decisions made based on the eligible or ineligible  
57 employment determination provided to the employer from the department."

58 **SECTION 3.**

59 Said article is further amended by adding a new Code section to read as follows:

60 "31-7-383.1.

61 (a) If the elderly person for whom personal care services are being sought resides in a  
62 facility, the employer shall be required to inquire with the department about the eligibility  
63 or ineligibility for employment of the applicant prior to such applicant providing personal  
64 care services to such elderly person in the facility.

65 (b) The department shall notify both the employer and the facility about the eligibility or  
66 ineligibility employment determination.

67 (c) An applicant who receives a determination of ineligibility for employment from the  
68 department shall not be permitted to provide personal care services within the facility.

69 (d) A facility shall not be liable for the acts of an applicant or employee who is  
70 independently retained by an employer to provide personal care services to an elderly  
71 person residing in the facility unless the facility knowingly and willfully exhibits disregard  
72 that such acts endanger the health and safety of the residents of the facility."

73

**SECTION 4.**

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