

House Bill 301

By: Representatives Gilliard of the 162nd, Tran of the 80th, and Adesanya of the 43rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to
2 review of individual's criminal history record information, definitions, privacy
3 considerations, written application requesting review, and inspection, so as to provide for the
4 automatic restriction of criminal history records for convictions of certain misdemeanors and
5 felonies five years after the completion of the sentence; to amend Article 2 of Chapter 9 of
6 Title 42 of the Official Code of Georgia Annotated, relating to grants of pardons, paroles, and
7 other relief, so as to provide for the automatic sealing of certain criminal records; to provide
8 a short title; to provide for definitions; to provide for related matters; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as "The Time Served Act of 2025."

13 **SECTION 2.**

14 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review of
15 individual's criminal history record information, definitions, privacy considerations, written

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16 application requesting review, and inspection, is amended by revising subsection (w) and
17 adding a new subsection to read as follows:

18 “(w)(1) Notwithstanding any other provision of this Code section, except for individuals
19 convicted of an offense listed in paragraph (2) of this subsection, when an individual was
20 convicted in this state of a felony, misdemeanor, or a series of felonies or misdemeanors
21 arising from a single incident and has successfully completed the terms of his or her
22 sentence and not been convicted of another felony or misdemeanor offense, excluding
23 any nonserious traffic offense, for at least five years from the date of completion of the
24 sentence, the criminal history record of the individual's conviction shall be automatically
25 restricted.

26 (2) Record restriction pursuant to this subsection shall not be appropriate if the individual
27 was convicted of:

28 (A) A serious violent felony as such term is defined in Code Section 17-10-6.1;

29 (B) A sexual offense as such term is defined in Code Section 17-10-6.2;

30 (C) Trafficking of persons for labor or sexual servitude as prohibited by Code
31 Section 16-5-46;

32 (D) Neglecting disabled adults, elder persons, or residents as prohibited by Code
33 Section 16-5-101;

34 (E) Exploitation and intimidation of disabled adults, elder persons, and residents as
35 prohibited by Code Section 16-5-102;

36 (F) Sexual exploitation of a minor as prohibited by Code Section 16-12-100;

37 (G) Electronically furnishing obscene material to a minor as prohibited by Code
38 Section 16-12-100.1;

39 (H) Computer pornography and child exploitation as prohibited by Code
40 Section 16-12-100.2; or

41 (I) Any of the following offenses when such offense is committed against a law
 42 enforcement officer, as defined in subparagraph (j)(9)(B) of Code Section 42-8-60,
 43 while such officer is engaged in the performance of his or her official duties:

- 44 (i) Aggravated assault in violation of Code Section 16-5-21;
 45 (ii) Aggravated battery in violation of Code Section 16-5-24; or
 46 (iii) Obstruction of a law enforcement officer in violation of subsection (b) of Code
 47 Section 16-10-24, if such violation results in serious physical harm or injury to such
 48 officer.

49 ~~(w)~~(x) This Code section shall apply to sentences imposed before, on, or after July 1,
 50 2020."

51 **SECTION 3.**

52 Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to
 53 grants of pardons, paroles, and other relief, is amended by adding a new Code section to read
 54 as follows:

55 "42-9-52.1.

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

57 (1) 'Covered individual' means an individual who:

58 (A) Is not a sex offender;

59 (B) Has not been convicted of an offense as provided in paragraph (2) of
 60 subsection (w) of Code Section 35-3-37;

61 (C) Has been:

62 (i) Arrested for a felony offense for which the individual was not convicted;

63 (ii) Convicted of an offense involving marijuana or another controlled substance
 64 defined in paragraph (4) of Code Section 16-13-21; or

65 (iii) Convicted of a nonviolent offense;

66 (D) In the case of a conviction described in divisions (ii) and (iii) of subparagraph (B)
67 of this paragraph, has fulfilled each requirement of the sentence for the offense,
68 including:

69 (i) Completing each term of imprisonment, probation, or supervised release; and

70 (ii) Satisfying each condition of imprisonment, probation, or supervised release; and

71 (E) Has not been convicted for any offense related to treason, terrorism, access and
72 transmission of sensitive defense information, or other national security related
73 convictions.

74 (2) 'Nonviolent offense' means an offense as provided in Article 1 of Chapter 8 of
75 Title 16 and Code Section 16-8-40.

76 (b) At the time of sentencing of a covered individual for a conviction for an offense
77 pursuant to Code Section 16-8-40, 16-13-30, or Article 1 of Chapter 8 of Title 16, the court
78 shall enter an order that each record and portion thereof that relates to the offense shall be
79 sealed automatically on the date that is five years after the covered individual fulfills each
80 requirement of the sentence, including:

81 (1) Completing each term of imprisonment, probation, or supervised release; and

82 (2) Satisfying each condition of imprisonment, probation, or supervised release.

83 (c) When a covered individual is placed on parole or conditional release, the board shall
84 issue a certificate of employability to such parolee or conditional releasee under the
85 following rules and conditions:

86 (1) The parolee or conditional releasee has achieved the following:

87 (A) While incarcerated, earned a state approved high school equivalency (HSE)
88 diploma or, prior to incarceration, earned a state approved high school
89 equivalency (HSE) diploma, a high school diploma, a college degree, a vocational or
90 technical education program certificate signifying program completion, or a diploma
91 or degree obtained by correspondence from a postsecondary education program that
92 meets the board's approval;

- 93 (B) Received no major disciplinary violations during the year immediately preceding
94 his or her parole or conditional release; and
- 95 (C) Received a score or level of competence as determined by the board on a job skills
96 assessment test administered by the board or correctional facility;
- 97 (2) Such certificate of employability shall:
- 98 (A) Be issued to the parolee or conditional releasee when he or she is placed on parole
99 or conditional release;
- 100 (B) Be on a form provided by the board;
- 101 (C) Be valid unless revoked by the board; and
- 102 (D) Not create relief from:
- 103 (i) A requirement to register as a sex offender under Code Section 42-1-12;
- 104 (ii) A driver's license, commercial driver's license, or probationary license
105 suspension, cancellation, or revocation;
- 106 (iii) A restriction on employment as a prosecutor or law enforcement officer; or
- 107 (iv) The denial, ineligibility, or automatic suspension of a healthcare professional's
108 license due to a substance use disorder; and
- 109 (3) The board shall notify incoming inmates of their right to earn a certificate of
110 employability.
- 111 (d) The board shall submit an annual report no later than September 1 of each year to the
112 Governor and the General Assembly, which shall include the number of certificates of
113 employability issued in the preceding 12 months, the rate of recidivism among parolees or
114 conditional releasees previously issued certificates of employability, and any other
115 information the board deems appropriate to include.
- 116 (e) Not later than 60 days after the date on which a covered individual is acquitted,
117 exonerated, or otherwise subject to a judgment which did not result in a conviction for a
118 criminal offense, each record or portion thereof that relates to the criminal offense shall be
119 sealed automatically as provided in subsection (w) of Code Section 35-3-37.

120 (f)(1) Except as provided in paragraph (4) of this subsection, a record that has been
121 sealed under this Code section shall not be accessible to any person.

122 (2)(A) Except as provided in subparagraph (B) of this paragraph, an individual whose
123 record has been sealed pursuant to this Code section shall not be required to disclose
124 the existence of or any information contained in the individual's sealed record and shall
125 not be subject to prosecution under any civil or criminal provision of federal or state
126 law relating to perjury, false swearing, or making a false statement, for failing to recite
127 or acknowledge any information that has been sealed with respect to the offense, or
128 respond to any inquiry made of the individual, relating to the protected information.

129 (B) An individual whose record has been sealed pursuant to this Code section shall
130 disclose information contained in such record:

131 (i) When testifying in court;

132 (ii) In the course of questioning by a law enforcement officer in connection with a
133 subsequent criminal investigation; or

134 (iii) In connection with employment described in paragraph (4) of this subsection that
135 the individual is seeking.

136 (3) Except as provided in paragraph (4) of this subsection, the existence of a record of
137 an individual which has been sealed pursuant to this Code section, or the information
138 contained therein, shall not be included in any background check conducted on such
139 individual.

140 (4)(A) An officer or employee of a law enforcement agency or a court may access a
141 record of an individual which has been sealed pursuant to this Code section and is in
142 the possession of the agency or court, or another law enforcement agency or court,
143 solely:

144 (i) For investigatory or prosecutorial purposes; or

145 (ii) For a background check that relates to:

146 (I) Employment with a law enforcement agency;

- 147 (II) A high-risk, public trust position; or
148 (III) The manufacture, importation, sale, transfer, possession, or carrying of
149 firearms, explosives, or ammunition.
- 150 (B) An officer or employee of a law enforcement agency or a court may disclose
151 information contained in a sealed record only in order to carry out the purposes
152 described in subparagraph (A) of this paragraph.
- 153 (g) Any individual whose record has been sealed pursuant to this Code section may access
154 the information contained in the individual's sealed record.
- 155 (h) The Attorney General shall, by rule, establish a process to ensure that any record in the
156 possession of a state agency required to be sealed under this Code section is automatically
157 sealed in accordance with this Code section.
- 158 (i) This Code section shall apply to an arrest that occurred or a conviction that was entered
159 before, on, or after the date of enactment of this Code section. Not later than two years
160 after the date of enactment of this Code section, the Attorney General shall ensure that any
161 record related to an arrest or conviction that occurred or was entered prior to the automatic
162 sealing of such a record, which record is required to be sealed under this Code section, is
163 so sealed.
- 164 (j) An employer who employs or otherwise engages an individual whose criminal records
165 were sealed pursuant to this Code section shall be immune from liability for any claim
166 arising out of the misconduct of the individual, if the misconduct relates to the portion of
167 the criminal records that were sealed pursuant to this Code section.
- 168 (k)(1) Whoever knowingly accesses or discloses information contained in a record sealed
169 under this Code section in a manner that is prohibited under this Code section shall be
170 fined \$1,000.00 or punished by imprisonment for not more than one year, or both.
- 171 (2) Nothing in this subsection shall prevent a covered individual from accessing or
172 disclosing information contained in records sealed pursuant to this Code section.

173 (l) Nothing in this Code section shall abrogate or constrain the authority of a judge or
174 judicial body to vacate a judgment or sentence."

175 **SECTION 4.**

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