

Senator Parent of the 42nd offered the following amendment:

1 *Amend SB 271 (LC 37 2101S) by replacing line 1 with the following:*

2 To amend Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to  
 3 disclosure and dissemination of criminal records to private persons and businesses, resulting  
 4 responsibility and liability of issuing center, and provision of certain information to the FBI  
 5 in conjunction with the National Instant Criminal Background Check System, so as to allow  
 6 for the preservation of a person's involuntary hospitalization information received by the  
 7 Georgia Crime Information Center; to provide for exceptions; to provide for a judicial  
 8 procedure for purging a person's involuntary hospitalization information received by the  
 9 Georgia Crime Information Center; to amend Chapter 3 of Title 37 of the Official Code of  
 10 Georgia Annotated, relating to

11 *By redesignating Sections 1 through 4 as Sections 2 through 5, respectively, and by inserting*  
 12 *between lines 10 and 11 the following:*

13 **SECTION 1.**

14 Code Section 35-3-34 of the Official Code of Georgia Annotated, relating to disclosure and  
 15 dissemination of criminal records to private persons and businesses, resulting responsibility  
 16 and liability of issuing center, and provision of certain information to the FBI in conjunction  
 17 with the National Instant Criminal Background Check System, is amended by revising  
 18 paragraph (2) of subsection (e) as follows:

19 "(2)(A) The records of the Georgia Crime Information Center shall include information  
 20 as to whether a person has been involuntarily hospitalized. Notwithstanding any other  
 21 provisions of law and in order to carry out the provisions of this Code section and Code  
 22 Section 16-11-172, the Georgia Crime Information Center shall be provided such  
 23 information and no other mental health information from the involuntary hospitalization  
 24 records of the probate courts concerning persons involuntarily hospitalized after  
 25 March 22, 1995, in a manner agreed upon by the Probate Judges Training Council and  
 26 the Georgia Bureau of Investigation to preserve the confidentiality of patients' rights  
 27 in all other respects. Further, notwithstanding any other provisions of law and in order  
 28 to carry out the provisions of this Code section and Code Section 16-11-172, the center  
 29 shall be provided information as to whether a person has been adjudicated mentally  
 30 incompetent to stand trial or not guilty by reason of insanity at the time of the crime,  
 31 has been involuntarily hospitalized, or both from the records of the clerks of the  
 32 superior courts concerning persons involuntarily hospitalized after March 22, 1995, in

33 a manner agreed upon by The Council of Superior Court Clerks of Georgia and the  
34 Georgia Bureau of Investigation to preserve the confidentiality of patients' rights in all  
35 other respects. After five years have elapsed from the date that a person's involuntary  
36 hospitalization or adjudication information has been received by the Georgia Crime  
37 Information Center, ~~the center shall purge its records of such information as soon as~~  
38 ~~practicable and in any event purge such records within 30 days after the expiration of~~  
39 ~~such five-year period pursuant to this Code section, such person may petition the court~~  
40 ~~in which such hospitalization or adjudication proceedings occurred for relief. A copy~~  
41 ~~of such petition for relief shall be served as notice upon the opposing civil party or the~~  
42 ~~prosecuting attorney for the state, as the case may be, or their successors, who appeared~~  
43 ~~in the underlying case. Within 30 days of the receipt of such petition for relief, such~~  
44 ~~court shall hold a hearing on such petition for relief. Such prosecuting attorney for the~~  
45 ~~state may represent the interests of the state at such hearing.~~

46 (B) At the hearing provided for under subparagraph (A) of this paragraph, the court  
47 shall receive and consider evidence in a closed proceeding concerning:

48 (i) The circumstances which caused the person to be subject to such hospitalization  
49 or adjudication;

50 (ii) The person's mental health and criminal history records, if any. The judge of  
51 such court may require any such person to sign a waiver authorizing the  
52 superintendent of any mental hospital or treatment center to make to the judge a  
53 recommendation regarding whether such person is a threat to the safety of himself or  
54 herself or others;

55 (iii) The person's reputation, which shall be established through character witness  
56 statements, testimony, or other character evidence; and

57 (iv) Changes in the person's condition or circumstances since such hospitalization or  
58 adjudication.

59 (C)(i) The judge shall issue an order of his or her decision on the petition for relief  
60 provided for under subparagraph (a) of this paragraph no later than 30 days after the  
61 hearing.

62 (ii) The court shall grant the petition for relief if such court finds by a preponderance  
63 of the evidence that the person will not likely act in a manner dangerous to himself  
64 or herself or public safety and that granting the relief will not be contrary to the public  
65 interest. A record shall be kept of the hearing; provided, however, that such record  
66 shall remain confidential and be disclosed only to a court or to the parties in the event  
67 of an appeal. Any appeal of the court's ruling on the petition for relief shall be de  
68 novo review.

69 (iii) If the court grants such person's petition for relief, the clerk of such court shall  
70 report such order to the Georgia Crime Information Center immediately, but in no  
71 case later than ten business days after the date of such order, and the center shall  
72 purge such record that is the subject of the order as soon as practicable but not later  
73 than 30 days after receipt of such order.

74 (D) A person may petition for relief under this paragraph not more than once every two  
75 years. In the case of a person who has been hospitalized, such person shall not petition  
76 for relief prior to being discharged from such hospitalization and may first petition for  
77 relief only after 12 months from the date of such discharge."