
Georgia Law Regarding Time Expired Restrictions

On August 20, 2013, the Attorney General's Office provided the Georgia Bureau of Investigation (GBI) with an official opinion entitled "Compact Council Provisions and Georgia Record Restriction are compatible and GCIC programming in regard to time-expired criminal histories is appropriate" (copy attached). In order to ensure this information is communicated to requestors in a consistent and accurate manner, the information below will be provided to the public via the GBI public website, the Georgia Crime Information Center (GCIC) customer website, and when requested by the public (citizens and attorneys) via emails or telephone calls.

Time-Expired Restrictions Pursuant to O.C.G.A. § 35-3-37(h)(1)(A)(ii)

O.C.G.A. § 35-3-37 (h)(1)(A)(ii) directs the Georgia Crime Information Center (GCIC) to restrict access to criminal history records when there is no final disposition provided to GCIC after certain time periods. Specifically, it states:

(h) Access to an individual's criminal history record information, including any fingerprints or photographs of the individual taken in conjunction with the arrest, shall be restricted by the center for the following types of dispositions:

(ii) The center does not receive notice from the arresting law enforcement agency that the offense has been referred to the prosecuting attorney or transferred to another law enforcement or prosecutorial agency of this state, any other state or a foreign nation, or any political subdivision thereof for prosecution and the following period of time has elapsed from the date of the arrest of such individual:

(I) If the offense is a misdemeanor or a misdemeanor of a high and aggravated nature, two years;

(II) If the offense is a felony, other than a serious violent felony or a felony sexual offense specified in Code Section 17-3-2.1 involving a victim under 16 years of age, four years; or

(III) If the offense is a serious violent felony or a felony sexual offense specified in Code Section 17-3-2.1 involving a victim under 16 years of age, seven years.

Such restricted records are known as "time-expired restrictions" because the restriction occurs after the stated time period has elapsed where no disposition has been received by GCIC as required by law.

Time-Expired Restrictions and Georgia Criminal History Background Checks

In accordance with Georgia law, GCIC will restrict access to these records without dispositions for purposes of employment and licensing (noncriminal justice purposes) in the State of Georgia. Consequently, when a criminal history record check is done via fingerprints or a name-based query in the State of Georgia, the arrest will not appear on the criminal history record.

Time-Expired Restrictions and Out-of-State Criminal History Background Checks

Georgia is also a member of the Compact Council. The National Crime Prevention and Privacy Compact Act of 1998 established an infrastructure by which states can exchange criminal records for noncriminal justice purposes according to the laws of the requesting state and provide reciprocity among the states to share records without charging each other for the information. In 1999, Georgia became a member of the Compact Council when the General Assembly enacted O.C.G.A. § 35-3-39.1. As a member of the Compact Council, Georgia agrees to provide criminal history record information for noncriminal justice purposes in accordance with the Compact Council Provisions. Specifically, Georgia law requires GCIC to provide the following:

The center shall provide criminal history records, excluding sealed records, to criminal justice agencies and other governmental and nongovernmental agencies for noncriminal justice purposes as required by the compact.

O.C.G.A. § 35-3-39.1.

The Georgia Attorney General has determined in an official opinion dated August 20, 2013 that time-expired restrictions do not meet the definition of sealed records under federal law. Accordingly, GCIC will provide time-expired criminal history records to the Federal Bureau of Investigation or other states for employment and licensing (noncriminal justice purposes).

Prior to seeking employment or licensing, individuals who have arrest records that meet the requirements for record restriction stated in O.C.G.A. § 35-3-37 (h)(1)(A)(i), O.C.G.A. § 35-3-37 (h)(2) and O.C.G.A. § 35-3-37(j) may want to seek restriction in accordance with the statutory provisions. Records that are restricted in accordance with these provisions will not be provided to the Federal Bureau of Investigation or other states for noncriminal justice purposes.

If you have additional questions regarding the Time Expired Restrictions please contact the GCIC CCH/Identification Services Helpdesk at gacriminalhistory@qbi.state.ga.us.