

Senate Bill 407

By: Senators Meyer von Bremen of the 12th, Hecht of the 34th, Stokes of the 43rd, Starr of the 44th, Moore of the 18th and Butler of the 55th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 5 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to cruelty to children, so as to provide for the crime of endangerment of a child under  
3 the age of 16; to provide for legislative findings and intent; to provide for various degrees of  
4 endangering a child under certain circumstances; to provide for penalties; to provide that the  
5 offense is in addition to other punishment; to provide for exceptions; to provide for related  
6 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds that the State of Georgia is a leader in the nation in its concern  
10 for the protection and well-being of its children. The General Assembly seeks to protect the  
11 well-being of this state's children while preserving the integrity of family discipline. The  
12 General Assembly shares the concern for the protection of victims of domestic violence. The  
13 General Assembly believes that balancing the protection of the health and safety of this  
14 state's children and victims of domestic violence, while preserving a parent's right to  
15 discipline his or her child, is important to all Georgians and vital to the safety of this state's  
16 children.

17 **SECTION 2.**

18 Article 5 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to  
19 cruelty to children, is amended by adding a new Code Section 16-5-73 to follow Code  
20 Section 16-5-72, relating to reckless abandonment, to read as follows:

21 "16-5-73.

22 (a) A parent, guardian, or other person having immediate control or custody of a child  
23 under the age of 16 commits the offense of endangering a child in the first degree if the

1 person intentionally or with criminal negligence engages in conduct that causes death,  
2 bodily injury, or mental injury to the child.

3 (b) A parent, guardian, or other person having immediate control or custody of a child  
4 under the age of 16 commits the offense of endangering a child in the second degree if the  
5 person intentionally or with criminal negligence engages in conduct that places the child  
6 in imminent danger of death, bodily injury, or mental injury. A parent, guardian, or other  
7 person having immediate control or custody of a child under the age of 16 may not be held  
8 criminally liable under this subsection if there was a reasonable apprehension in the mind  
9 of the parent, guardian, or other person having immediate control or custody of the child  
10 that an act or failure to act would result in serious bodily injury to the child caused by the  
11 family violence primary aggressor.

12 (c)(1) Any person who violates subsection (a) of this Code section shall be guilty of a  
13 felony and shall, upon conviction thereof, be punished by imprisonment for not less than  
14 one nor more than 20 years.

15 (2) Any person who violates subsection (b) of this Code section shall be guilty of a  
16 misdemeanor.

17 (d) Any violation of this Code section shall be in addition to any other offense as provided  
18 by law.

19 (e) Nothing in this Code section shall prohibit the use of the affirmative defense of:

20 (1) Justification where a parent or person in loco parentis conducts reasonable discipline  
21 of a child under the age of 16 as provided in paragraph (3) of Code Section 16-3-20; or

22 (2) Any other affirmative defense as provided by law."

23 **SECTION 3.**

24 This Act shall become effective on July 1, 2002.

25 **SECTION 4.**

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