

House Bill 1323

By: Representatives Mueller of the 152nd, Sinkfield of the 57th, Manning of the 32nd, Pelote of the 149th and Benfield of the 67th

**A BILL TO BE ENTITLED
AN ACT**

1 To revise laws relating to persons who may give consent for or receive information about a
2 minor; to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so
3 as to define parent to include any person temporarily standing in loco parentis for a minor
4 under his or her care; to amend Title 20 of the Official Code of Georgia Annotated, relating
5 to education, so as to change the definition of the term "parent"; to amend Title 24 of the
6 Official Code of Georgia Annotated, relating to evidence, so as to provide for the disclosure
7 of AIDS confidential information to a person temporarily standing in loco parentis for a
8 minor under his or her care; to amend Title 31 of the Official Code of Georgia Annotated,
9 relating to health, so as to change the definition of the term "parent"; to authorize a person
10 temporarily standing in loco parentis for a minor under his or her care to give consent for
11 release of vaccination registry information about a child; to provide for disclosure of
12 information about a deceased's infectious or communicable disease to a person temporarily
13 standing in loco parentis for a minor under his or her care; to provide for a person
14 temporarily standing in loco parentis for a minor under his or her care to give consent for an
15 HIV test; to amend Title 37 of the Official Code of Georgia Annotated, relating to mental
16 health, so as to provide for the definition of the term "parent"; to amend Title 40 of the
17 Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to provide
18 for the definition of the term "parent"; to prohibit any person temporarily standing in loco
19 parentis for a minor under his or her care to authorize a child to violate provisions related to
20 bicycles; to provide for a person temporarily standing in loco parentis to obtain a physician's
21 statement explaining the medical condition of a child that prevents the use of a child
22 passenger restraining system in a vehicle; to provide for related matters; to repeal conflicting
23 laws; and for other purposes.

24

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile proceedings, is amended by striking paragraph (10.3) of Code Section 15-11-2, relating to definitions, and inserting in its place the following:

"(10.3) 'Parent' means either the legal father or the legal mother of the child or any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care."

SECTION 2.

Chapter 1 of Title 20 of the Official Code of Georgia Annotated, relating to general provisions, is amended by adding a new Code Section 20-1-10 to read as follows:

"20-1-10.

As used in this title, the term 'parent' shall include any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care."

SECTION 3.

Chapter 9 of Title 24 of the Official Code of Georgia Annotated, relating to witnesses generally, is amended by striking paragraphs (c), (d), and (k) of Code Section 24-9-47 and inserting in their respective places the following:

(c) AIDS confidential information may be disclosed to the person identified by that information or, if that person is a minor or incompetent person, to that person's parent or legal guardian or person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care.

(d) AIDS confidential information may be disclosed to any person or legal entity designated to receive that information when that designation is made in writing by the person identified by that information or, if that person is a minor or incompetent person, by that person's parent or legal guardian or person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care.

(k) When any person or legal entity is authorized or required by this Code section or any other law to disclose AIDS confidential information to a person at risk of being infected with HIV and that person at risk is a minor or incompetent person, such disclosure may be made to any parent or legal guardian of the minor or incompetent person or to any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care, to the minor or incompetent person, or to both the minor or incompetent person and any parent or legal guardian thereof or any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care."

SECTION 4.

2 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
3 a new paragraph (11.1) to Code Section 31-10-1, relating to definitions, to read as follows:

4 "(11.1) 'Parent' means the legal father or the legal mother of a child or any person
5 temporarily standing in loco parentis, whether formally serving or not, for the minor
6 under his or her care."

SECTION 5.

7 Said title is further amended by striking paragraphs (e) and (f) of Code Section 31-12-3.1,
8 relating to childhood vaccination registry, reporting requirements, maintenance, and use, and
9 inserting in their respective places the following:

10 "(e) Individually identifiable vaccination information regarding a child may be provided
11 to the department by, or released by the department to, a local health department, hospital,
12 physician, or other provider of medical services to the child or to a school or child care
13 facility in which the child is enrolled without the consent of the child's parents or guardians
14 or any person temporarily standing in loco parentis, whether formally serving or not, for
15 the minor under his or her care. All children shall be enrolled unless a specific exemption
16 is requested by the child's parent or guardian or person temporarily standing in loco
17 parentis, whether formally serving or not, for the minor under his or her care. A parent or
18 guardian or person temporarily standing in loco parentis, whether formally serving or not,
19 for the minor under his or her care may obtain and upon request to the department shall be
20 provided with all individually identifiable vaccination registry information regarding his
21 or her child or ward. Except as provided otherwise by this Code section, individually
22 identifiable vaccination registry information shall be treated as confidential and shall not
23 be released to a third party without consent of a child's parent or guardian or person
24 temporarily standing in loco parentis, whether formally serving or not, for the minor under
25 his or her care.

26 (f) Nothing in this Code section shall:

27 (1) Prohibit the department from providing or publishing registry information in
28 aggregate form for scientific, educational, or public health purposes, provided that such
29 information is published without releasing or identifying individual names contained in
30 the registry;

31 (2) Prohibit the department or any medical services provider from notifying a parent,
32 guardian, or person temporarily standing in loco parentis, whether formally serving or
33 not, for the minor under his or her care, or child of the child's vaccination status or of a
34 vaccination that is due or overdue according to recommended vaccination schedules; or

(3) Diminish a parent's or guardian's responsibility, or the responsibility of a person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care, for having a child vaccinated properly."

SECTION 6.

Said title is further amended by striking paragraph (6) of subsection (c) of Code Section 31-21-3, relating to death of person with infectious or communicable disease, required reporting procedures, confidentiality, disclosure, and penalties, and inserting in its place the following:

"(6) That disclosure involves information regarding a deceased minor and the disclosure is made to the parent or guardian of that minor or to a person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care; or".

SECTION 7.

Said title is further amended by striking subsection (c) of Code Section 31-22-9.2, relating to HIV tests, report of positive results, counseling, violations, exception for insurance coverage, and exposure of health care provider, and inserting in its place the following:

(c) Unless exempted under this Code section, each health care provider who orders an HIV test for any person shall do so only after counseling the person to be tested. Unless exempted under this subsection, the person to be tested shall have the opportunity to refuse the test. The provisions of this subsection shall not be required if the person is required to submit to an HIV test pursuant to Code Section 15-11-66.1, 17-10-15, 31-17A-3, 2-5-52.1, or 42-9-42.1. The provisions of this subsection shall not be required if the person is a minor or incompetent and the parent or guardian thereof or person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her are permits the test after compliance with this subsection. The provisions of this subsection shall not be required if the person is unconscious, temporarily incompetent, or comatose and the next of kin permits the test after compliance with this subsection. The provisions of this subsection shall not apply to emergency or life-threatening situations. The provisions of this subsection shall not apply if the physician ordering the test is of the opinion that the person to be tested is in such a medical or emotional state that disclosure of the test would be injurious to the person's health. The provisions of this subsection shall only be required prior to drawing the body fluids required for the HIV test and shall not be required for each test performed upon that fluid sample."

SECTION 8.

Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to general provisions, is amended by adding a new paragraph (3.1) to Code Section 37-1-1, relating to definitions, to read as follows:

"(3.1) 'Parent' means the legal father or the legal mother of a child or any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care."

SECTION 9.

Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses, is amended by adding a new paragraph (13.1) to Code Section 40-5-1, relating to definitions, to read as follows:

"(13.1) 'Parent' means the legal father or the legal mother of a child or any person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care."

SECTION 10.

Said title is further amended by striking subsection (b) of Code Section 40-6-298, relating to violation of part a misdemeanor and duty of parents and guardians, and inserting in its place the following:

"(b) The parent of any child, the person temporarily standing in loco parentis, whether formally serving or not, for the minor under his or her care, and the guardian of any ward shall not authorize or knowingly permit such child or ward to violate any of the provisions of this part."

SECTION 11.

Said title is further amended by striking paragraph (1) of subsection (b) of Code Section 40-8-76, relating to safety belts required as equipment and safety restraints for children four years of age or younger, and inserting in its place the following:

"(b)(1) On and after July 1, 1984, every driver who transports a child four years of age or younger in a passenger automobile, van, or pickup truck, other than a taxicab as defined by Code Section 33-34-5.1 or a public transit vehicle as defined by Code Section 16-5-20, shall, while such motor vehicle is in motion and operated on a public road, street, or highway of this state, provide for the protection of such child in a child passenger restraining system approved by the United States Department of Transportation under Federal Motor Vehicle Safety Standard 213 in effect on January 1, 1983. A driver shall not be deemed to be complying with the provisions of this subsection unless the

1 child passenger restraining system is installed and being used in accordance with the
2 manufacturer's directions for such system. The provisions of this subsection shall not
3 apply when the child's parent or guardian or person temporarily standing in loco parentis,
4 whether formally serving or not, for the minor under his or her care obtains a physician's
5 written statement that a physical or medical condition of the child prevents placing or
6 restraining him or her in any such child passenger restraining system."

7 **SECTION 12.**

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