

The Senate Judiciary Committee offered the following substitute to HB 1062:

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 add a nonmerger provision for the offense of cruelty
3 to children in the second degree; to provide for the crime of endangerment of a child under
4 the age of 16; to provide for various degrees of endangering a child under certain
5 circumstances; to provide for penalties; to provide that the offense is in addition to other
6 punishment; to provide for exceptions; to provide for related matters; to repeal conflicting
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 5 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
11 cruelty to children, is amended in Code Section 16-5-70, relating to cruelty to children, by
12 inserting a new subsection (f) to read as follows:

13 "(f) The offense of cruelty to children in the second degree shall not be merged with a
14 forcible felony, battery, or family violence battery, nor shall such offense be merged into
15 another violation of cruelty to children in the second degree, and each violation shall be
16 considered a separate offense."

17 **SECTION 2.**

18 Said article is further amended by adding a new Code Section 16-5-73 to follow Code
19 Section 16-5-72, relating to reckless abandonment, to read as follows:

20 "16-5-73.

21 (a) A parent, guardian, or other person having immediate control or custody of a child
22 under the age of 16 commits the offense of endangering a child in the first degree if the
23 person intentionally or with criminal negligence engages in conduct that causes death,
24 bodily injury, or mental injury to the child.

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

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

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

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

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

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

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

21 **SECTION 3.**

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

23 **SECTION 4.**

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