

SENATE SUBSTITUTE TO HB 1062:

A BILL TO BE ENTITLED
AN ACT

To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to amend Article 5 of Chapter 5 relating to cruelty to children, so as to add a nonmerger provision for the offense of cruelty to children in the second degree; to provide for the crime of endangerment of a child under the age of 16; to provide for various degrees of endangering a child under certain circumstances; to provide for penalties; to provide that the offense is in addition to other punishment; to provide for exceptions; to amend Code Section 17-3-2.1 of the Official Code of Georgia Annotated, relating to prosecution of certain offenses, so as to extend the time from which the applicable period within which a prosecution must be commenced begins to run; to amend Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or deprivation of a minor, so as to redefine the term "serious injury" to include sexual abuse of a minor under the age of 16 years; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

SECTION 2.

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

1 "16-5-73.

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

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

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

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

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

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

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

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

26 SECTION 2A.

27 Code Section 17-3-2.1 of the Official Code of Georgia Annotated, relating to prosecution of
28 certain offenses, is amended by striking subsection (a) and inserting the following:

29 "(a) If the victim of a violation of:

30 (1) Code Section 16-5-70, relating to cruelty to children;

31 (2) Code Section 16-6-1, relating to rape;

32 (3) Code Section 16-6-2, relating to sodomy and aggravated sodomy;

33 (4) Code Section 16-6-3, relating to statutory rape;

34 (5) Code Section 16-6-4, relating to child molestation and aggravated child molestation;

35 (6) Code Section 16-6-5, relating to enticing a child for indecent purposes; or

36 (7) Code Section 16-6-22, relating to incest,

is under 16 years of age on the date of the violation, the applicable period within which a prosecution must be commenced under Code Section 17-3-1 or other applicable statute shall not begin to run until the victim has reached the age of ~~16~~ 30 or the violation is reported to a law enforcement agency, prosecuting attorney, or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the appropriate prosecuting attorney."

SECTION 3.

Said title relating to crimes and offenses, is further amended by striking paragraph (4) of subsection (a) of Code Section 16-12-1, relating to contributing to the delinquency, unruliness, or deprivation of a minor, and inserting in lieu thereof the following:

(4) "Serious injury" means an injury involving a broken bone, the loss of a member of the body, the loss of use of a member of the body, or the substantial disfigurement of the body or of a member of the body, or an injury which is life threatening, or any sexual abuse of a child under 16 years of age by means of an act described in subparagraph (a)(4)(A), (a)(4)(G), or (a)(4)(I) of Code Section 16-12-100.

SECTION 4.

This Act shall become effective on July 1, 2002.

SECTION 5.

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