

House Bill 435

By: Representative Bordeaux of the 151st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-35 of the Official Code of Georgia Annotated, relating to the
2 physical and mental examination of persons, so as to provide that mental examinations may
3 be conducted by either a physician or a psychologist; to provide for related matters; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 9-11-35 of the Official Code of Georgia Annotated, relating to the physical and
8 mental examination of persons, is amended by striking it in its entirety and inserting in lieu
9 thereof a new Code Section 9-11-35 to read as follows:

10 "9-11-35.

11 (a) Order for examination. When the mental or physical condition (including the blood
12 group) of a party, or of a person in the custody or under the legal control of a party, is in
13 controversy, the court in which the action is pending may order the party to submit to a
14 physical ~~or mental~~ examination by a physician or to submit to a mental examination by a
15 physician or a licensed psychologist or to produce for examination the person in his
16 custody or legal control. The order may be made only on motion for good cause shown and
17 upon notice to the person to be examined and to all parties and shall specify the time, place,
18 manner, conditions, and scope of the examination and the person or persons by whom it
19 is to be made.

20 (b) Report of examining physician or psychologist.

21 (1) If requested by the party against whom an order is made under subsection (a) of this
22 Code section or by the person examined, the party causing the examination to be made
23 shall deliver to him a copy of a detailed written report of the examining physician or
24 psychologist setting out his findings, including results of all tests made, diagnoses, and
25 conclusions, together with like reports of all earlier examinations of the same condition.

1 (2) Any party shall be entitled, upon request, to receive from the party whose physical
2 or mental condition is in issue, or who is in control of, or has legal custody of, a person
3 whose physical or mental condition is in issue, a report of any and every examination,
4 previously or thereafter made, of the condition in issue, unless, in the case of a report of
5 examination of a person not a party, the party shows that he is unable to obtain it.

6 (3) The court, on motion, may make an order against a party requiring delivery of a report
7 under paragraph (1) or (2) of this subsection on such terms as are just; and, if a physician
8 or psychologist fails or refuses to make a report, the court may exclude his testimony if
9 offered at the trial.

10 (4) By requesting and obtaining a report of the examination so ordered or by taking the
11 deposition of the examiner, the party examined waives any privilege he may have in that
12 action, or any other action involving the same controversy, regarding the testimony of
13 every other person who has examined or may thereafter examine him in respect to the
14 same mental or physical condition.

15 (5) Paragraphs (1) through (4) of this subsection apply to examinations made by
16 agreement of the parties, unless the agreement expressly provides otherwise.
17 Paragraphs (1) through (4) of this subsection do not preclude discovery of a report of an
18 examining physician or psychologist or the taking of a deposition of the physician or
19 psychologist in accordance with any other Code section of this chapter."

20 **SECTION 2.**

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