

House Bill 178

By: Representatives Buckner of the 95th, Cash of the 108th, Barnes of the 97th, Dodson of the 94th, Seay of the 93rd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 19 of the Official Code of Georgia Annotated, relating to domestic relations,
2 so as to provide that a local law enforcement officer shall conduct the initial investigation of
3 alleged child abuse; to provide that an employee of the child welfare agency providing
4 protective services as designated by the Department of Human Resources may assist in the
5 initial investigation of alleged child abuse; to change certain provisions relating to the child
6 abuse protocol committee and the written child abuse protocol; to change the provisions
7 relating to investigation of abuse, neglect, or other acts which adversely affect health of child
8 in custody disputes; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
12 amended by striking in their entirety subsections (e) and (f) of Code Section 19-7-5, relating
13 to reporting of child abuse, and inserting in lieu thereof new subsections (e) and (f) to read
14 as follows:

15 "(e) An oral report shall be made as soon as possible by telephone or otherwise and
16 followed by a report in writing, if requested, to a local law enforcement agency and a child
17 welfare agency providing protective services, as designated by the Department of Human
18 Resources, or, in the absence of such agency, to the ~~an appropriate police authority or~~
19 ~~district attorney.~~ A local law enforcement officer shall conduct the initial investigation of
20 alleged abuse. An employee of the child welfare agency providing protective services may
21 assist the law enforcement officer in such initial investigation. If a report of child abuse
22 is made to the child welfare agency or independently discovered by the agency, and the
23 agency has reasonable cause to believe such report is true or the report contains any
24 allegation or evidence of child abuse, then the agency shall immediately notify the
25 appropriate ~~police authority or district attorney~~ local law enforcement agency. Such reports
26 shall contain the names and addresses of the child and the child's parents or caretakers, if

1 known, the child's age, the nature and extent of the child's injuries, including any evidence
 2 of previous injuries, and any other information that the reporting person believes might be
 3 helpful in establishing the cause of the injuries and the identity of the perpetrator.
 4 Photographs of the child's injuries to be used as documentation in support of allegations
 5 by hospital staff, physicians, law enforcement personnel, school officials, or staff of legally
 6 mandated public or private child protective agencies may be taken without the permission
 7 of the child's parent or guardian; provided, however, that any photograph taken pursuant
 8 to this Code section shall, if reasonably possible, be taken in a manner which shall not
 9 reveal the identity of the subject. Such photograph shall be made available as soon as
 10 possible to the chief welfare agency providing protective services and to the appropriate
 11 police authority.

12 (f) Any person or persons, partnership, firm, corporation, association, hospital, or other
 13 entity participating in the making of a report or causing a report to be made to a local law
 14 enforcement agency and a child welfare agency providing protective services ~~or to an~~
 15 ~~appropriate police authority~~ pursuant to this Code section or any other law or participating
 16 in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be
 17 immune from any civil or criminal liability that might otherwise be incurred or imposed,
 18 provided such participation pursuant to this Code section or any other law is made in good
 19 faith. Any person making a report, whether required by this Code section or not, shall be
 20 immune from liability as provided in this subsection."

21 SECTION 2.

22 Said title is further amended by striking in its entirety subsection (a) of Code Section 19-9-4,
 23 relating to investigation of abuse, neglect, or other acts which adversely affect health of child
 24 in custody disputes, and inserting in lieu thereof a new subsection (a) to read as follows:

25 "(a) On motion of either party in any action or proceeding involving determination of the
 26 award of child custody between parents of the child, when such motion contains a specific
 27 recitation of actual abuse, neglect, or other overt acts which have adversely affected the
 28 health and welfare of the child, the court may direct the appropriate family and children
 29 services agency or any other appropriate entity to investigate the home life and home
 30 environment of each of the parents; provided, however, that if there is a specific recitation
 31 of actual abuse, the court shall direct the local law enforcement agency to conduct an initial
 32 investigation of the alleged abuse. In any action or proceeding involving determination of
 33 the award of child custody between parents of the child when during such proceedings a
 34 specific recitation of actual abuse, neglect, or other overt acts which have adversely
 35 affected the health and welfare of the child has been made the court shall also have
 36 authority on its own motion to order such an investigation if in the court's opinion the

1 investigation would be useful in determining placement or custody of the child. The court
2 may also direct either party to pay to the agency the reasonable cost, or any portion thereof,
3 of the investigation. The report of the investigation will be made to the court directing the
4 investigation. Any report made at the direction of the court shall be made available to either
5 or both parties for a reasonable period of time prior to the proceedings at which any
6 temporary or permanent custody is to be determined. Both parties shall have the right to
7 confront and cross-examine the person or persons who conducted the investigation or
8 compiled the report if adequate and legal notice is given."

9 SECTION 3.

10 Said title is further amended by striking in their entirety subsections (f) and (h) of Code
11 Section 19-15-2, relating to child abuse protocol committees and the written child abuse
12 protocol, and inserting in lieu thereof new subsections (f) and (h) to read as follows:

13 "(f) The purpose of the protocol shall be to ensure coordination and cooperation between
14 all agencies involved in a child abuse case so as to increase the efficiency of all agencies
15 handling such cases, to minimize the stress created for the allegedly abused child by the
16 legal and investigatory process, and to ensure that more effective treatment is provided for
17 the perpetrator, the family, and the child, including counseling; provided, however, that the
18 initial investigation of alleged child abuse shall be conducted by a local law enforcement
19 officer who may be assisted by an employee of a child welfare agency providing protective
20 services."

21 "(h) Each committee shall adopt or amend its written child abuse protocol no later than
22 December 1, 1993, to specify, after the initial investigation of alleged child abuse, the
23 circumstances under which law enforcement officers will and will not be required to
24 accompany child abuse investigators from the county department of family and children
25 services when these investigators investigate reports of child abuse. In determining when
26 law enforcement officers shall and shall not accompany child abuse investigators after the
27 initial investigation, the committee shall consider the need to protect the alleged victim and
28 the need to preserve the confidentiality of the report. Each committee shall establish joint
29 work efforts between the law enforcement and child abuse investigative agencies in child
30 abuse investigations. The adoption or amendment of the protocol shall also describe
31 measures which can be taken within the county to prevent child abuse and shall be filed
32 with and furnished to the same entities with or to which an original protocol is required to
33 be filed or furnished. The protocol will be further amended to specify procedures to be
34 adopted by the committee to ensure that written protocol procedures are followed. The
35 committee shall meet at least semiannually and shall issue a report no later than the first
36 day of July in 1994 and no later than the first day of July each year thereafter. That report

1 shall evaluate the extent to which child abuse investigations during the 12 months prior to
2 the report have complied with the child abuse protocols of the committee, recommend
3 measures to improve compliance, and describe which measures taken within the county to
4 prevent child abuse have been successful. The report shall be transmitted to the county
5 governing authority, the fall term grand jury of the judicial circuit, the State-wide Child
6 Abuse Prevention Panel, and the chief superior court judge."

7 **SECTION 4.**

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