Senator Squires of the 5th offered the following substitute to SB 23:

MOOT

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to informed consent to medical treatment, so as to require and provide standards for informed consent to medical procedures; to enact the "Right To Know Act for Women and Men"; to provide for matters required to be disclosed and for the manner of disclosure; to provide for standards of professional conduct; to provide for related matters; to make conforming amendments to existing law; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 9 of Title 31 of the Official Code of Georgia Annotated, relating to informed consent to medical treatment, is amended by designating the existing text of the chapter as Article 1 and by adding thereafter a new Article 2 to read as follows:

"ARTICLE 2

31-9-20.
This article shall be known and may be cited as the 'Right To Know Act for Women and Men.'

31-9-21.
No medical procedure shall be performed or induced without the voluntary and informed consent of the person upon whom the procedure is to be performed. Except in the case of a medical emergency, consent to a medical procedure is voluntary and informed only if, prior to a medical or surgical procedure, the physician who is to perform the procedure has informed the person in writing of:

1. The name of the physician who will perform the procedure;
2. A description of the procedure; and
(3) A description of risks related to the procedure.

This Code section shall apply to those medical and surgical procedures as described in subsection (a) of Code Section 31-9-6.1 as well as to any medical procedure that subjects the patient to risk of harm or injury.

31-9-22.

Any physician who intentionally, knowingly, or recklessly fails to provide informed consent pursuant to this article is guilty of unprofessional conduct for purposes of Code Section 43-34-37, relating to disciplinary licensing sanctions against physicians.

31-9-23.

Any physician who complies with the provisions of this article shall not be held civilly liable to a patient for failure to obtain informed consent to the procedure."

SECTION 2.

Said chapter is further amended by striking Code Section 31-9-1, which provides a short title, and inserting in its place a new Code section to read as follows:

"31-9-1.

This chapter article shall be known and may be cited as the 'Georgia Medical Consent Law.'"

SECTION 3.

Said chapter is further amended by striking Code Section 31-9-4, relating to applicability of the informed consent law to certain patients, and inserting in its place a new Code section to read as follows:

"31-9-4.

This chapter article shall be applicable to the care and treatment of patients in facilities for the mentally ill as defined in paragraph (7) of Code Section 37-3-1."

SECTION 4.

Said chapter is further amended by striking Code Section 31-9-5, relating to applicability of the informed consent law to abortion and sterilization procedures, and inserting in its place a new Code section to read as follows:

"31-9-5.

This chapter article shall not apply in any manner whatsoever to abortion and sterilization procedures, which procedures shall continue to be governed by existing law independently of the terms and provisions of this chapter article."
SECTION 5.

Said chapter is further amended by striking subsections (a) and (d) of Code Section 31-9-6, relating to construction of the informed consent law, and inserting in their respective places new subsections to read as follows:

“(a) This chapter article shall be liberally construed, and all relationships set forth in this chapter shall include the adoptive, foster, and step relations as well as blood relations and the relationship by common-law marriage as well as ceremonial marriage.”

“(d) A consent to surgical or medical treatment which discloses in general terms the treatment or course of treatment in connection with which it is given and which is duly evidenced in writing and signed by the patient or other person or persons authorized to consent pursuant to the terms of this chapter article shall be conclusively presumed to be a valid consent in the absence of fraudulent misrepresentations of material facts in obtaining the same.”

SECTION 6.

Said chapter is further amended in Code Section 31-9-6.1, relating to disclosures for certain procedures, by striking paragraph (2) of subsection (b), paragraph (3) of subsection (e), and subsection (g) and inserting in their respective places new provisions to read as follows:

“(2) If a consent to a diagnostic or surgical procedure is required to be obtained under this Code section and such consent discloses in general terms the information required in subsection (a) of this Code section, is duly evidenced in writing, and is signed by the patient or other person or persons authorized to consent pursuant to the terms of this chapter article, then such consent shall be rebuttably presumed to be a valid consent.”

“(3) If a patient or other person or persons authorized to give consent pursuant to this chapter article make a request in writing that the information provided for in this Code section not be disclosed;”

“(g) The Composite State Board of Medical Examiners shall be required to adopt and have the authority to promulgate rules and regulations governing and establishing the standards necessary to implement this chapter article specifically including but not limited to the disciplining of a physician who fails to comply with this Code section.”
SECTION 7.

Said chapter is further amended by striking Code Section 31-9-7, relating to right to refuse consent at age 18, and inserting in its place a new Code section to read as follows:

“31-9-7.
Nothing contained in this chapter article shall be construed to abridge any right of a person 18 years of age or over to refuse to consent to medical and surgical treatment as to his or her own person.”

SECTION 8.

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