

The Senate Judiciary Committee offered the following substitute to SB 1:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to define criminal negligence; to provide for legislative findings and intent;
3 to change the definition of cruelty to children and to provide for third degree cruelty to
4 children; to provide for the crime of endangerment of a child under the age of 16; to provide
5 limitations of criminal liability; to provide for penalties; to provide that the offense is in
6 addition to other offenses; to redefine the term "serious injury" to include sexual abuse of a
7 minor under the age of 16 years; to provide for related matters; to provide for an effective
8 date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 The General Assembly finds that the State of Georgia is a leader in the nation in its concern
11 for the protection and well-being of its children. The General Assembly seeks to protect the
12 well-being of this state's children while preserving the integrity of family discipline. The
13 General Assembly shares the concern for the protection of victims of domestic violence. The
14 General Assembly believes that balancing the protection of the health and safety of this
15 state's children and victims of domestic violence, while preserving a parent's right to
16 discipline his or her child, is important to all Georgians and vital to the safety of this state's
17 children.
18

SECTION 2.

19 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
20 amended in Code Section 16-2-1, relating to the definition of a crime, by designating the
21 existing Code section as subsection (a) and adding a new subsection (b) to read as follows:
22
23 "(b) Criminal negligence is an act or failure to act which demonstrates a willful, wanton,
24 or reckless disregard for the safety of others who might reasonably be expected to be
25 injured thereby."

1 "16-5-73.

2 (a) A person having immediate control or custody of a child under the age of 16 commits
3 the offense of endangering a child if the person intentionally or with criminal negligence
4 places the child in imminent danger of:

5 (1) Death; or

6 (2) Cruel or excessive physical or mental pain.

7 (b) A person may not be held criminally liable under this Code section if the person
8 reasonably believed that the act or failure to act could result in cruel or excessive mental
9 or physical pain caused by the family violence primary aggressor.

10 (c) Any person who violates subsection (a) of this Code section shall be guilty of a
11 misdemeanor.

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

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

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

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

18 **SECTION 6.**

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

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

27 **SECTION 7.**

28 This Act shall become effective on July 1, 2003, and shall apply to all crimes which occur
29 on or after that effective date.

30 **SECTION 8.**

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