

Senate Bill 420

By: Senators Unterman of the 45th, Johnson of the 1st, Stephens of the 51st, Balfour of the 9th and Thomas of the 54th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 30-5-8 of the Official Code of Georgia Annotated, relating to
2 criminal offenses and penalties with regard to abuse, neglect, and exploitation of disabled
3 adults or elder persons, so as to change certain penalties; to amend Chapter 8 of Title 31 of
4 the Official Code of Georgia Annotated, relating to care and protection of indigent and
5 elderly patients, so as to provide that it is illegal to discriminate or retaliate against
6 employees of long-term care facilities who make complaints or provide information on abuse
7 in long-term care facilities; to provide penalties for discrimination or retaliation against
8 patients, relatives and guardians of patients, and employees of long-term care facilities who
9 make complaints or provide information on abuse in long-term care facilities; to require
10 certain reports of abuse to be made; to provide for related matters; to repeal conflicting laws;
11 and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Code Section 30-5-8 of the Official Code of Georgia Annotated, relating to criminal offenses
15 and penalties with regard to abuse, neglect, and exploitation of disabled adults or elder
16 persons, is amended by striking the Code section in its entirety and inserting in lieu thereof
17 a new Code Section 30-5-8 to read as follows:

18 "30-5-8.

19 (a)(1) In addition to any other provision of law, it shall be unlawful for any person to
20 abuse, neglect, or exploit any disabled adult or elder person.

21 (2) Except as otherwise provided in Title 16, any person violating the provisions of this
22 subsection shall be guilty of a ~~felony and, upon conviction, shall be punished by~~
23 ~~imprisonment for not less than one nor more than five years~~ misdemeanor of a high and
24 aggravated nature.

1 (b)(1) It shall be unlawful for any person or official required by paragraph (1) of
 2 subsection (a) of Code Section 30-5-4 to report a case of disabled adult or elder person
 3 abuse to fail knowingly and willfully to make such report.

4 ~~(2) Any person violating the provisions of this subsection shall be guilty of a~~
 5 ~~misdemeanor.~~

6 (c)(1) Any person violating the provisions of subsection (b) of this Code section shall be
 7 guilty of a misdemeanor when the crime that is not reported is a misdemeanor.

8 (2) Any person violating the provisions of subsection (b) of this Code section shall be
 9 guilty of a felony when the crime that is not reported is a felony and shall, upon
 10 conviction, be punished by imprisonment for not less than one nor more than five years
 11 or a fine of not less than \$1,000.00 nor more than \$5,000.00, or both.

12 (d) Any violation of this Code section shall constitute a separate offense."

13 SECTION 2.

14 Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to care and
 15 protection of indigent and elderly patients, is amended by striking Code Section 31-8-60,
 16 relating to prohibition against discrimination and retaliation for reporting violations, and
 17 inserting in lieu thereof a new Code Section 31-8-60 to read as follows:

18 "31-8-60.

19 (a) No person shall discriminate or retaliate in any manner against any resident or relative
 20 or guardian of a resident, any employee of a long-term care facility, any employee of a
 21 long-term care facility, or any other person because of the making of a complaint or
 22 providing of information in good faith to the state ombudsman or community ombudsman.
 23 No person shall willfully interfere with the state ombudsman or community ombudsman
 24 in the performance of his or her official duties. Code Sections 31-2-6 and 31-5-8 shall
 25 apply fully to any violation of this article.

26 (b) Any person violating the provisions of this Code section shall be guilty of a felony and,
 27 upon conviction, shall be punished by imprisonment for not less than one nor more than
 28 ten years or a fine of not less than \$1,000.00 nor more than \$5,000.00, or both."

29 SECTION 3.

30 Said chapter is further amended by striking Code Section 31-8-82, relating to reporting abuse
 31 or exploitation, and inserting in lieu thereof a new Code Section 31-8-82 to read as follows:

32 "31-8-82.

33 (a) Any:

34 (1) Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee
 35 in a hospital or facility;

1 (2) Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social
 2 worker, coroner, clergyman, police officer, pharmacist, physical therapist, or
 3 psychologist; or

4 (3) Employee of a public or private agency engaged in professional services to residents
 5 or responsible for inspection of long-term care facilities

6 who has knowledge that any resident or former resident has been abused or exploited while
 7 residing in a long-term care facility shall immediately make a report as described in
 8 subsection (c) of this Code section by telephone or in person to the department and to the
 9 appropriate law enforcement agency. In the event that an immediate report to the
 10 department is not possible, the person shall immediately make the report to the appropriate
 11 law enforcement agency. Such person shall also make a written report to the Department
 12 of Human Resources ~~within 24 hours~~ immediately after making the initial report.

13 (b) Any other person who has knowledge that a resident or former resident has been
 14 abused or exploited while residing in a facility ~~may~~ shall immediately report or cause a
 15 report to be made to the department ~~or~~ and the appropriate law enforcement agency.

16 (c) A report of suspected abuse or exploitation shall include the following:

17 (1) The name and address of the person making the report ~~unless such person is not~~
 18 ~~required to make a report;~~

19 (2) The name and address of the resident or former resident;

20 (3) The name and address of the facility;

21 (4) The nature and extent of any injuries or the condition resulting from the suspected
 22 abuse or exploitation;

23 (5) The suspected cause of the abuse or exploitation; and

24 (6) Any other information which the reporter believes might be helpful in determining
 25 the cause of the resident's injuries or condition and in determining the identity of the
 26 person or persons responsible for the abuse or exploitation.

27 (d) Upon receipt of a report of abuse or exploitation, the department ~~may~~ shall
 28 immediately notify the appropriate law enforcement agency. In the event a report is made
 29 directly to a law enforcement agency, under subsection (a) or (b) of this Code section, that
 30 agency shall immediately notify the department and also make a written report to the
 31 Department of Human Resources immediately after making the initial report.

32 (e) The department shall maintain accurate records which shall include all reports of abuse
 33 or exploitation, the results of all investigations reported by the investigating law
 34 enforcement agency and administrative or judicial proceedings, and a summary of actions
 35 taken to assist the resident."

1 **SECTION 4.**

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