

Senate Bill 457

By: Senators Smith of the 25th, Thomas of the 10th, Butler of the 55th, Blich of the 7th,
Kemp of the 3rd and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 15, 19, and 24 of the Official Code of Georgia Annotated, relating
2 respectively to courts, domestic relations, and evidence, so as to provide for improved
3 assistance to sexual assault victims; to change provisions relating to district attorney
4 investigators; to change provisions relating to victim assistance coordinators; to provide for
5 definitions; to provide for a sexual abuse protocol committee; to provide for written sexual
6 assault protocol; to provide for duties and responsibilities of a sexual assault protocol
7 committee; to change provisions relating to the child abuse protocol committee; to provide
8 for written sexual assault and exploitation of children protocol; to change provisions relating
9 to disclosure of medical records; to provide for related matters; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking
14 paragraph (2) of subsection (c) of Code Section 15-18-14.1, relating to district attorney
15 investigators, and inserting in lieu thereof the following:

16 "(2) Assist victims and witnesses of crimes through the complexities of the criminal
17 justice system and ensure that victims of crime are apprised of the rights afforded them
18 under Chapter 14 of Title 17, relating to restitution to victims of crime, Chapter 17 of
19 Title 17, relating to the 'Crime Victims' Bill of Rights,' Chapter 18 of Title 17, relating
20 to providing a written statement of information to victims of rape or forcible sodomy, and
21 Code Section 24-9-61.1, relating to the presence of crime victims in the courtroom;"

22 style="text-align:center">**SECTION 2.**

23 Said title is further amended by striking subsection (a) of Code Section 15-18-14.2, relating
24 to victim assistance coordinators, and inserting in lieu thereof the following:

1 "(a) Subject to such funds as may be appropriated by the General Assembly or which are
 2 otherwise available to the State of Georgia for such purpose, the district attorney is
 3 authorized to employ a victim assistance coordinator and such other victim assistance
 4 personnel as may be necessary to assist the district attorney in carrying out the duties
 5 imposed by ~~Chapter~~ Chapters 15, 17, and 18 of Title 17 relating to the rights of victims of
 6 crime or other laws of this state relating to the rights of victims of crimes. Any such
 7 personnel shall be compensated by the state in the same manner as other state paid
 8 personnel appointed pursuant to this article from such funds as may be appropriated for
 9 such purpose or as are otherwise available for such purpose. Such personnel shall also be
 10 authorized to receive the same fringe benefits as other state paid personnel."

11 **SECTION 3.**

12 Said title is further amended by adding a new chapter to the end of the title to read as
 13 follows:

14 "CHAPTER 24

15 15-24-1.

16 As used in this chapter, the term:

17 (1) 'Protocol committee' or 'committee' means a multidisciplinary, multiagency sexual
 18 assault committee established for a county pursuant to Code Section 15-24-2. The
 19 protocol committee is charged with developing local protocols to investigate and
 20 prosecute alleged cases of sexual assault.

21 (2) 'Sexual assault' means rape, sodomy, aggravated sodomy, incest, sexual battery, and
 22 aggravated sexual battery as those terms are defined in Chapter 6 of Title 16.

23 15-24-2.

24 (a) Each judicial circuit shall be required to establish a sexual assault protocol as provided
 25 in this Code section.

26 (b) The chief superior court judge of each judicial circuit shall establish a sexual assault
 27 protocol committee as provided in subsection (c) of this Code section and shall appoint an
 28 interim chairperson who shall preside over the first meeting. The chief superior court judge
 29 shall appoint persons to fill any vacancies on the committee. Thus established, the
 30 committee shall thereafter elect a chairperson from its membership.

31 (c)(1) Each of the following agencies of the judicial circuit shall designate a
 32 representative to serve on the committee:

33 (A) The office of the sheriff of each sheriff's office in the judicial circuit;

- 1 (B) The office of the district attorney;
- 2 (C) The magistrate court;
- 3 (D) The office of the chief of police of a county of each county within the judicial
4 circuit in counties which have a county police department;
- 5 (E) The office of the chief of police of the largest municipality in the county of each
6 county within the judicial circuit; and
- 7 (F) The county board of health of each county within the judicial circuit.
- 8 (2) In addition to the representatives serving on the committee as provided for in
9 paragraph (1) of this subsection, the chief superior court judge shall designate:
- 10 (A) A local citizen of the judicial circuit;
- 11 (B) A representative of a sexual assault or rape crisis center serving the judicial circuit
12 or, if no such center exists, then a local citizen; and
- 13 (C) A health care professional who performs sexual assault examinations within the
14 judicial circuit or, if no such person exists, then a local citizen.
- 15 (3) If any designated agency fails to carry out its duties relating to participation on the
16 committee, the chief superior court judge of the circuit may issue an order requiring the
17 participation of such agency. Failure to comply with such order shall be cause for
18 punishment as for contempt of court.
- 19 (d) The protocol committee shall adopt a written sexual assault protocol, a copy of which
20 shall be furnished to each agency in the judicial circuit that handles cases of sexual assault.
21 The protocol shall be a written document outlining in detail the procedures to be used in
22 investigating, collecting evidence, paying for expenses related to evidence collection, and
23 prosecuting cases arising from alleged sexual assault. The protocol may provide for
24 different procedures to be used within particular municipalities or counties within the
25 judicial circuit. The protocol committee shall adopt a written sexual assault protocol no
26 later than December 31, 2004. The protocol committee may incorporate sexual assault
27 protocols used in the judicial circuit as they existed on or before July 1, 2004.
- 28 (e) The purpose of the protocol shall be to ensure coordination and cooperation between
29 all agencies involved in sexual assault cases so as to increase the efficiency of all agencies
30 handling such cases and to minimize the stress created for the alleged sexual assault victim
31 by the legal and investigatory process; provided, however, that a failure by an agency to
32 follow the protocol shall not constitute an affirmative or other defense to prosecution of a
33 sexual assault, nor shall a failure by an agency to follow the protocol give rise to a civil
34 cause of action.
- 35 (f) Upon completion of the writing of the sexual assault protocol, the protocol committee
36 shall continue in existence and shall meet at least annually for the purpose of evaluating
37 the effectiveness of the protocol and appropriately modifying and updating same."

SECTION 4.

1
2 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
3 amended by adding a new subsection to the end of Code Section 19-15-2, relating to child
4 abuse protocol committees, to read as follows:

5 "(k) The protocol committee shall adopt a written sexual abuse and exploitation protocol
6 which shall be filed with the Division of Family and Children Services of the Department
7 of Human Resources and the Office of the Child Advocate for the Protection of Children,
8 a copy of which shall be furnished to each agency in the county handling the cases of
9 sexually abused or exploited children. The protocol shall be a written document outlining
10 in detail the procedures to be used in investigating and prosecuting cases arising from
11 alleged child sexual abuse and exploitation and the procedures to be followed concerning
12 the obtainment of and payment for sexual assault examinations. Each protocol committee
13 shall adopt or amend its written sexual abuse and exploitation protocol no later than
14 December 31, 2004. The protocol may incorporate existing sexual abuse and exploitation
15 protocols used within the county. The protocol adopted shall be consistent with the
16 policies and procedures of the Division of Family and Children Services of the Department
17 of Human Resources. A failure by an agency to follow the protocol shall not constitute an
18 affirmative or other defense to prosecution of a sexual abuse or exploitation offense, nor
19 shall a failure by an agency to follow the protocol give rise to a civil cause of action."

SECTION 5.

20
21 Title 24 of the Official Code of Georgia Annotated, relating to evidence, is amended by
22 adding a new paragraph to Code Section 24-9-41, relating to definitions in the disclosure of
23 medical records, to read as follows:

24 "(6.1) 'Nurse' means a person authorized by license issued under Chapter 26 of Title 43
25 as a registered professional nurse or licensed practical nurse to practice nursing."

SECTION 6.

26
27 Said title is further amended by striking Code Section 24-9-42, relating to the disclosure of
28 medical records, and inserting in lieu thereof the following:

29 "24-9-42.

30 The disclosure of confidential or privileged medical matter constituting all or part of a
31 record kept by a health care facility, a nurse, or a physician, pursuant to laws requiring
32 disclosure or pursuant to limited consent to disclosure, shall not serve to destroy or in any
33 way abridge the confidential or privileged character thereof, except for the purpose for
34 which such disclosure is made."

1

SECTION 7.

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