

House Bill 1329

By: Representatives Bordeaux of the 125th, Fleming of the 79th, Boggs of the 145th, and Oliver of the 56th, Post 2

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 penalties; to provide for definitions; to redefine the term "serious
5 injury" to include sexual abuse of a minor under the age of 16 years; to provide for related
6 matters; to provide for an effective date and applicability; to repeal conflicting laws; and for
7 other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 The General Assembly seeks to protect the well-being of this state's children while
11 preserving the integrity of family discipline. The General Assembly believes that balancing
12 the protection of the health and safety of this state's children, while preserving a parent's
13 right to discipline his or her child, is important to all Georgians and vital to the safety of this
14 state's children.

15 **SECTION 2.**

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

22 **SECTION 3.**

23 Said title is further amended in Code Section 16-5-70, relating to cruelty to children, by
24 striking subsections (c), (d), and (e) and inserting in lieu thereof the following:

1 "(c) Any person commits the offense of cruelty to children in the second degree when such
 2 person with criminal negligence causes a child under the age of 18 cruel or excessive
 3 physical or mental pain.

4 (d) Any person commits the offense of cruelty to children in the third degree when:

5 (1) Such person, who is the primary aggressor, intentionally allows a child under the age
 6 of 18 to witness the commission of a forcible felony, battery, or family violence battery;
 7 or

8 (2) Such person, who is the primary aggressor, having knowledge that a child under the
 9 age of 18 is present and sees or hears the act, commits a forcible felony, battery, or family
 10 violence battery.

11 ~~(d)~~(e)(1) A person convicted of the offense of cruelty to children in the first degree as
 12 provided in this Code section shall be punished by imprisonment for not less than five nor
 13 more than 20 years.

14 ~~(e)~~(2) A person convicted of the offense of cruelty to children in the second degree shall
 15 be punished by imprisonment for not less than one nor more than ten years.

16 (3) A person convicted of the offense of cruelty to children in the third degree shall be
 17 punished as for a misdemeanor upon the first or second conviction. Upon conviction of
 18 a third or subsequent offense of cruelty to children in the ~~second~~ third degree, the
 19 defendant shall be guilty of a felony and shall be sentenced to a fine not less than
 20 \$1,000.00 nor more than \$5,000.00 or imprisonment for not less than one year nor more
 21 than three years or shall be sentenced to both fine and imprisonment."

22 SECTION 4.

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

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

31 SECTION 5.

32 This Act shall become effective on July 1, 2004, and shall apply to all crimes which occur
 33 on or after that date.

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SECTION 6.

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