

House Bill 1551

By: Representatives Houston of the 139th, Sinkfield of the 50th, and Jamieson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia, relating to offenses against
2 public health and morals, so as to provide for the offense of knowing and willful failure by
3 the parent or guardian of a child to report that a member of the child's household is
4 subjecting the child to child abuse, sexual abuse, or sexual exploitation; to provide for
5 definitions, penalties, and construction; to provide for confidentiality of certain reports of
6 child abuse, sexual abuse, or sexual exploitation; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 12 of Title 16 of the Official Code of Georgia, relating to offenses against public
11 health and morals, is amended by striking Code Section 16-12-1, relating to the offense of
12 contributing to the delinquency, unruliness, or deprivation of a minor, and inserting in lieu
13 thereof the following:

14 "16-12-1.

15 (a) As used in this Code section, the term:

16 (1) 'Child abuse' shall have the meaning set out in Code Section 19-7-5.

17 ~~(1)~~(2) 'Delinquent act' means a delinquent act as defined in Code Section 15-11-2.

18 ~~(2)~~(3) 'Felony' means any act which constitutes a felony under the laws of this state, the
19 laws of any other state of the United States, or the laws of the United States.

20 (4) 'Member of the child's household' includes any person who shares a residence with
21 the child on a regular or recurring basis.

22 ~~(3)~~(5) 'Minor' means any individual who is under the age of 17 years or any individual
23 under the age of 18 years who is alleged to be a deprived child as such is defined in Code
24 Section 15-11-2, relating to juvenile proceedings.

1 ~~(4)~~(6) 'Serious injury' means an injury involving a broken bone, the loss of a member of
 2 the body, the loss of use of a member of the body, or the substantial disfigurement of the
 3 body or of a member of the body or an injury which is life threatening.

4 (7) 'Sexual abuse' shall have the meaning set out in Code Section 19-7-5.

5 (8) 'Sexual exploitation' shall have the meaning set out in Code Section 19-7-5.

6 (b) A person commits the offense of contributing to the delinquency, unruliness, or
 7 deprivation of a minor when such person:

8 (1) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 9 committing a delinquent act as such is defined in Code Section 15-11-2, relating to
 10 juvenile proceedings;

11 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 12 committing an act which would cause such minor to be found to be an unruly child as
 13 such is defined in Code Section 15-11-2, relating to juvenile proceedings;

14 (3) Willfully commits an act or acts or willfully fails to act when such act or omission
 15 would cause a minor to be found to be a deprived child as such is defined in Code Section
 16 15-11-2, relating to juvenile proceedings;

17 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 18 encourages, abets, or directs any minor to commit any felony which encompasses force
 19 or violence as an element of the offense or delinquent act which would constitute a felony
 20 which encompasses force or violence as an element of the offense if committed by an
 21 adult; ~~or~~

22 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)
 23 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section
 24 16-11-121 to commit any felony which encompasses force or violence as an element of
 25 the offense or delinquent act which would constitute a felony which encompasses force
 26 or violence as an element of the offense if committed by an adult; or

27 (6) Is a parent or guardian of a child who knowingly and willfully fails to report that the
 28 child has been subjected to child abuse, sexual abuse, or sexual exploitation by a member
 29 of the child's household. This paragraph shall not be construed to require
 30 self-incrimination.

31 (c) It shall not be a defense to the offense provided for in this Code section that the minor
 32 has not been formally adjudged to have committed a delinquent act or has not been found
 33 to be unruly or deprived.

34 (d) A person convicted pursuant to paragraph (1) or (2) of subsection (b) of this Code
 35 section shall be punished as follows:

1 (1) Upon conviction of the first or second offense, the defendant shall be guilty of a
2 misdemeanor and shall be fined not more than \$1,000.00 or shall be imprisoned for not
3 more than 12 months, or both fined and imprisoned; and

4 (2) Upon the conviction of the third or subsequent offense, the defendant shall be guilty
5 of a felony and shall be fined not less than \$1,000.00 nor more than \$5,000.00 or shall
6 be imprisoned for not less than one year nor more than three years, or both fined and
7 imprisoned.

8 (d.1) A person convicted pursuant to paragraph (3) or (6) of subsection (b) of this Code
9 section shall be punished as follows:

10 (1) Upon conviction of an offense which resulted in the serious injury or death of a child,
11 without regard to whether such offense was a first, second, third, or subsequent offense,
12 the defendant shall be guilty of a felony and shall be punished as provided in subsection
13 (e) of this Code section;

14 (2) Upon conviction of an offense which does not result in the serious injury or death of
15 a child and which is the first conviction, the defendant shall be guilty of a misdemeanor
16 and shall be fined not more than \$1,000.00 or shall be imprisoned for not more than 12
17 months, or both fined and imprisoned;

18 (3) Upon conviction of an offense which does not result in the serious injury or death of
19 a child and which is the second conviction, the defendant shall be guilty of a high and
20 aggravated misdemeanor and shall be fined not less than \$1,000.00 nor more than
21 \$5,000.00 or shall be imprisoned for not less than one year, or both fined and imprisoned;
22 and

23 (4) Upon the conviction of an offense which does not result in the serious injury or death
24 of a child and which is the third or subsequent conviction, the defendant shall be guilty
25 of a felony and shall be fined not less than \$10,000.00 or shall be imprisoned for not less
26 than one year nor more than five years, or both fined and imprisoned.

27 (e) A person convicted pursuant to paragraph (4) or (5) of subsection (b) or paragraph (1)
28 of subsection (d.1) of this Code section shall be guilty of a felony and punished as follows:

29 (1) Upon conviction of the first offense, the defendant shall be imprisoned for not less
30 than one nor more than five years; and

31 (2) Upon conviction of the second or subsequent offense, the defendant shall be
32 imprisoned for not less than three years nor more than 20 years.

33 (f) If a child's parent or guardian has reported child abuse, sexual abuse, or sexual
34 exploitation of that child by another member of that child's household, the name of the
35 reporting parent or guardian and information identifying such person shall not be subject
36 to public inspection in accordance with Article 4 of Chapter 18 of Title 50 in any
37 circumstance. If a report of child abuse, sexual abuse, or sexual exploitation is subject to

1 public inspection, then the name of such reporting parent or guardian and information
2 identifying such reporting parent or guardian shall be removed from the report before such
3 public inspection."

4 **SECTION 2.**

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