

House Bill 1297

By: Representatives Mumford of the 95<sup>th</sup>, Levitas of the 82<sup>nd</sup>, Benfield of the 85<sup>th</sup>, Ralston of the 7<sup>th</sup>, Dukes of the 150<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 24 of Title 15 and Title 17 of the Official Code of Georgia Annotated,  
2 relating to sexual assault protocol and criminal procedure, respectively, so as to afford  
3 greater protection to victims of sexual crimes; to change provisions relating to sexual assault  
4 protocol; to provide for preservation of evidence; to allow victims of certain sexual offenses  
5 to have the right to have a free forensic medical examination even if the victim refuses to  
6 otherwise cooperate with law enforcement; to allow victims of certain sexual offenses to  
7 refuse requests for polygraph examinations or other truth-telling devices; to allow the  
8 Criminal Justice Coordinating Council to waive subrogation under certain circumstances; to  
9 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 24 of Title 15 of the Official Code of Georgia Annotated, relating to sexual assault  
14 protocol, is amended by revising subsection (d) of Code Section 15-24-2, relating to the  
15 establishment of sexual assault protocol committee and its purpose, as follows:

16 "(d) The protocol committee shall adopt a written sexual assault protocol, a copy of which  
17 shall be furnished to each agency in the judicial circuit that handles cases of sexual assault.  
18 The protocol shall be a written document outlining in detail the procedures to be used in  
19 investigating, collecting evidence, paying for expenses related to evidence collection, and  
20 prosecuting cases arising from alleged sexual assault and shall take into consideration the  
21 provisions of Article 4 of Chapter 5 of Title 17. The protocol may provide for different  
22 procedures to be used within particular municipalities or counties within the judicial circuit.  
23 The protocol committee shall adopt a written sexual assault protocol no later than  
24 December 31, 2004. The protocol committee may incorporate sexual assault protocols used  
25 in the judicial circuit as they existed on or before July 1, 2004."



1 17-5-71.

2 Except as otherwise provided in Code Section 17-5-55 or 17-5-56, on or after the effective  
3 date of this Act, the investigating law enforcement agency shall maintain any physical  
4 evidence collected as a result of an alleged sexual assault that contains biological material,  
5 including, but not limited to, stains, fluids, or hair samples that relate to the identity of the  
6 perpetrator of an alleged sexual assault even if the victim chooses not to prosecute the  
7 alleged crime. In a case that involves an alleged sexual assault, the evidence that contains  
8 biological material, including, but not limited to, stains, fluids, or hair samples that relate  
9 to the identity of the perpetrator of the alleged sexual assault shall be maintained by the  
10 investigating law enforcement agency for ten years after the report of the alleged sexual  
11 assault or collection of the physical evidence, whichever occurs last.

12 17-5-72.

13 A victim shall have the right to have a forensic medical examination regardless of whether  
14 the victim participates in the criminal justice system or cooperates with law enforcement  
15 in pursuing prosecution of the underlying crime. A victim shall not be required to pay,  
16 directly or indirectly, for the cost of a forensic medical examination. The cost of a forensic  
17 medical examination shall be paid for by the investigating law enforcement agency.

18 17-5-73.

19 No prosecuting attorney, investigating law enforcement agency, or government official  
20 shall ask or require any victim of a sexual assault to submit to a polygraph examination or  
21 any other truth-telling device as a condition precedent to investigating such alleged crime.  
22 The refusal of a victim to submit to a polygraph examination or any other truth-telling  
23 device shall not prevent an investigation or prosecution of any sexual assault."

24 **SECTION 4.**

25 Said title is further amended by revising Code Section 17-15-12, relating to the effect of  
26 accepting an award, as follows:

27 "17-15-12.

28 (a) Acceptance of an award made pursuant to this chapter shall subrogate the state, to the  
29 extent of such award, to any right or right of action occurring to the claimant or the victim  
30 to recover payments on account of losses resulting from the crime with respect to which  
31 the award is made. The board may waive subrogation when the victim or claimant presents  
32 documentation and the board verifies that judgment, settlement, or other sources have not  
33 fully reimbursed the victim or claimant for expenses compensable under this chapter.

1 (b) Acceptance of an award made pursuant to this chapter based on damages from a  
2 criminal act shall constitute an agreement on the part of the recipient reasonably to pursue  
3 any and all civil remedies arising from any right of action against the person or persons  
4 responsible for or committing the act."

5 **SECTION 5.**

6 This Act shall become effective upon its approval by the Governor or upon its becoming law  
7 without such approval.

8 **SECTION 6.**

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