

House Bill 446

By: Representative Mitchell of the 88th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to
2 protection of disabled adults and elder persons, so as to clarify the immunity of financial
3 service employees acting in good faith to seek information to guard against fraud against
4 elderly and disabled adults; to provide for related matters; to repeal conflicting laws; and for
5 other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to protection of
9 disabled adults and elder persons, is amended by revising Code Section 30-5-4, relating to
10 reporting of need for protective services, manner and contents of report, and immunity from
11 civil or criminal liability, as follows:

12 "30-5-4.

13 (a)(1)(A) Any physician, osteopath, intern, resident, other hospital or medical
14 personnel, dentist, psychologist, chiropractor, podiatrist, pharmacist, physical therapist,
15 occupational therapist, licensed professional counselor, nursing personnel, social work
16 personnel, day-care personnel, coroner, medical examiner, employee of a public or
17 private agency engaged in professional health related services to elder persons or
18 disabled adults, or law enforcement personnel having reasonable cause to believe that
19 a disabled adult or elder person has had a physical injury or injuries inflicted upon such
20 disabled adult or elder person, other than by accidental means, or has been neglected
21 or exploited shall report or cause reports to be made in accordance with the provisions
22 of this Code section.

23 (B) Except as provided in this paragraph, any employee of a financial institution, as
24 defined in Code Section 7-1-4, having reasonable cause to believe that a disabled adult
25 or elder person has been exploited shall report or cause reports to be made in
26 accordance with the provisions of this Code section; provided, however, that this

27 obligation shall not apply to any employee of a financial institution while that employee
 28 is acting as a fiduciary, as defined in Code Section 7-1-4, but only for such assets that
 29 the employee is holding or managing in a fiduciary capacity. An employee of a
 30 financial institution shall be immune from all civil and criminal liability for actions
 31 taken in good faith related to the investigation into or reporting of fraud or possible
 32 fraudulent actions committed against an elder person or disabled adult, including the
 33 gathering of information from consumers.

34 (C) When the person having a reasonable cause to believe that a disabled adult or elder
 35 person is in need of protective services performs services as a member of the staff of
 36 a hospital, social agency, financial institution, or similar facility, such person shall
 37 notify the person in charge of the facility, and such person or that person's designee
 38 shall report or cause reports to be made in accordance with the provisions of this Code
 39 section.

40 (2) Any other person having a reasonable cause to believe that a disabled adult or elder
 41 person is in need of protective services; or has been the victim of abuse, neglect, or
 42 exploitation may report such information as provided in this Code section.

43 (b)(1) A report that a disabled adult or elder person who is not a resident of a long-term
 44 care facility as defined in Code Section 31-8-80 is in need of protective services or has
 45 been the victim of abuse, neglect, or exploitation shall be made to an adult protection
 46 agency providing protective services, as designated by the department or, if such agency
 47 is unavailable, to an appropriate law enforcement agency or prosecuting attorney. If a
 48 report of a disabled adult or elder person abuse is made to an adult protection agency or
 49 independently discovered by the agency and the agency has reasonable cause to believe
 50 such report is true, then the agency shall immediately notify the appropriate law
 51 enforcement agency or prosecuting attorney. If the disabled adult or elder person is a
 52 resident of a long-term care facility as defined in Code Section 31-8-80, a report shall be
 53 made in accordance with Article 4 of Chapter 8 of Title 31. If a report made in
 54 accordance with the provisions of this Code section alleges that the abuse or exploitation
 55 occurred within a long-term care facility, such report shall be investigated in accordance
 56 with Articles 3 and 4 of Chapter 8 of Title 31.

57 (2) The report may be made by oral or written communication. The report shall include
 58 the name and address of the disabled adult or elder person and should include the name
 59 and address of the disabled adult's or elder person's caretaker, the age of the disabled
 60 adult or elder person, the nature and extent of the disabled adult's or elder person's injury
 61 or condition resulting from abuse, exploitation, or neglect, and other pertinent
 62 information. All such reports prepared by a law enforcement agency shall be forwarded
 63 to the director within 24 hours.

64 (c) Anyone who makes a report pursuant to this chapter, who testifies in any judicial
65 proceeding arising from the report, who provides protective services, or who participates
66 in a required investigation under the provisions of this chapter shall be immune from any
67 civil or criminal liability on account of such report or testimony or participation, unless
68 such person acted in bad faith, with a malicious purpose, or was a party to such crime or
69 fraud. Any financial institution, as defined in Code Section 7-1-4, including, without
70 limitation, officers and directors thereof, that is an employer of anyone who makes a report
71 pursuant to this chapter in his or her capacity as an employee, or who testifies in any
72 judicial proceeding arising from a report made in his or her capacity as an employee, or
73 who participates in a required investigation under the provisions of this chapter in his or
74 her capacity as an employee, shall be immune from any civil or criminal liability on
75 account of such report or testimony or participation of its employee, unless such financial
76 institution knew or should have known that the employee acted in bad faith or with a
77 malicious purpose and failed to take reasonable and available measures to prevent such
78 employee from acting in bad faith or with a malicious purpose. The immunity described
79 in this subsection shall apply not only with respect to the acts of making a report, testifying
80 in a judicial proceeding arising from a report, communicating, collecting, writing, or
81 seeking information from consumers related to the purposes of this chapter, providing
82 protective services, or participating in a required investigation but also shall apply with
83 respect to the content of the information communicated in such acts."

84 **SECTION 2.**

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