

House Bill 633

By: Representatives Oliver of the 83rd, Houston of the 170th, Manning of the 32nd, Brockway of the 101st, Pruett of the 144th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated,
2 relating to general provisions for the parent and child relationship generally, so as to create
3 a state-wide reporting system for child abuse and suspected child abuse; to provide for
4 definitions; to illustrate the possible usage of information collected by a centralized system;
5 to provide for immunity from liability; to provide for confidentiality of information; to
6 amend Chapter 11 of Title 15 and Chapter 5 of Title 49 of the Official Code of Georgia
7 Annotated, relating to juvenile proceedings and programs and protection for children and
8 youth, respectively, so as to provide for cross-references; to provide for related matters; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to
13 general provisions for the parent and child relationship generally, is amended by adding a
14 new Code section to read as follows:

15 "19-7-7.

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

17 (1) 'Abused' means subjected to child abuse.

18 (2) 'Child' means any person under 18 years of age.

19 (3) 'Child abuse' shall have the same meaning as set forth in Code Section 19-7-5.

20 (4) 'Department' means the Department of Human Services.

21 (b) The department shall establish a state-wide reporting system for reporting child abuse
22 and suspected child abuse that shall include a toll-free telephone number and an Internet
23 based reporting system. Reports of child abuse shall be able to be made 24 hours a day,
24 every day of the year. The state-wide reporting system shall allow a person making a
25 report to include any information that the reporting person believes might be helpful in
26 investigating the suspected child abuse, including, but not limited to, the child's name,

27 address, age, the nature and extent of the child's injury, evidence of injury, the parents or
28 caretaker's name and address, the identity of the perpetrator, and the reporting person's
29 name and contact information. Anonymous reports may be accepted. The state-wide
30 reporting system shall not be utilized for mandatory child abuse reporting as required by
31 Code Section 19-7-5.

32 (c) If a report of child abuse is made to the state-wide reporting system and the department
33 has reasonable cause to believe such report is true or the report contains any allegation or
34 evidence of child abuse, then the department shall immediately notify the appropriate law
35 enforcement agency or prosecuting attorney.

36 (d) Any person making a report to the state-wide reporting system or participating in any
37 judicial proceeding resulting therefrom shall in so doing be immune from any civil liability
38 or criminal responsibility that might otherwise be incurred or imposed, provided such
39 participation is in compliance with this Code section and is made in good faith.

40 (e) A report of child abuse or information relating thereto and contained in such report,
41 when provided to a law enforcement agency or prosecuting attorney pursuant to subsection
42 (c) of this Code section, shall not be subject to public inspection under Article 4 of Chapter
43 18 of Title 50 even though such report or information is contained in or part of closed
44 records compiled for law enforcement or prosecution purposes unless:

45 (1) There is a criminal or civil court proceeding which has been initiated based in whole
46 or in part upon the facts regarding abuse which are alleged in the child abuse reports and
47 the person or entity seeking to inspect such records provides clear and convincing
48 evidence of such proceeding; or

49 (2)(A) The superior court in the county in which is located the office of the law
50 enforcement agency or prosecuting attorney which compiled the records containing
51 such reports, after application for inspection and a hearing on the issue, permits
52 inspection of such records by or release of information from such records to individuals
53 or entities who are engaged in legitimate research for educational, scientific, or public
54 purposes and who comply with the provisions of this paragraph. When those records
55 are located in more than one county, the application may be made to the superior court
56 of any one of such counties.

57 (B) A copy of any application authorized by this paragraph shall be served on the
58 office of the law enforcement agency or prosecuting attorney which compiled the
59 records containing such reports. In cases where the location of the records is unknown
60 to the applicant, the application may be made to the Superior Court of Fulton County.

61 (C) The superior court to which an application is made shall not grant the application
62 unless:

- 63 (i) The application includes a description of the proposed research project, including
 64 a specific statement of the information required, the purpose for which the project
 65 requires that information, and a methodology to assure the information is not
 66 arbitrarily sought. The applicant carries the burden of showing the legitimacy of the
 67 research project; and
- 68 (ii) Names and addresses of individuals, other than officials, employees, or agents of
 69 agencies receiving or investigating a report of abuse which is the subject of a report,
 70 are deleted from any information released pursuant to this subsection unless the court
 71 determines that having the names and addresses open for review is essential to the
 72 research and the child, through his or her representative, gives permission to release
 73 the information.
- 74 (f) The confidentiality provisions of subsection (e) of this Code section shall not apply to
 75 the use of such reported information by the department for purposes of statistical analysis,
 76 and the information from such reports may be used by the department to:
- 77 (1) Identify and locate prior reports of child abuse;
 78 (2) Monitor the effectiveness of the state-wide reporting system;
 79 (3) Track the investigative process;
 80 (4) Maintain and produce statistical reports monitoring patterns of child abuse;
 81 (5) Serve as a resource for evaluation, management, and planning of preventive and
 82 remedial services for children subjected to child abuse; and
 83 (6) Enter into agreements with other states for the purpose of gathering and sharing
 84 information relative to child abuse in order to augment programs for the enhancement of
 85 the protection of children."

86 **SECTION 2.**

87 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
 88 proceedings, is amended in Code Section 15-11-9.1, relating to the role and responsibilities
 89 of court appointed special advocates, by revising subsection (g), as follows:

90 "(g) Upon presentation of an order appointing a CASA as a guardian ad litem, such CASA
 91 shall have access to all records and information relevant to the child's case to which such
 92 CASA has been appointed when such records and information are not otherwise protected
 93 from disclosure pursuant to Code Section 19-7-5 or 19-7-7. Such records and information
 94 shall not include records and information provided under Article 5 of this chapter, the
 95 'Georgia Advocate for the Protection of Children Act,' or provided under Chapter 4A of
 96 Title 49. The CASA's right to access such records shall be as otherwise authorized by law."

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SECTION 3.

98 Said chapter is further amended in Code Section 15-11-10, relating to community based risk
99 reduction programs, by revising subsection (d) as follows:

100 "(d) Notwithstanding any provision contained in this article, in this Code, or in any rule
101 or regulation adopted by any department, board, or agency of the state to the contrary, the
102 court and any individual, public or private agency, or other entity participating in a
103 program established pursuant to this Code section may exchange, as necessary,
104 information, medical records, school records, records of adjudication, treatment records,
105 and any other records or information which may aid in the assessment of and intervention
106 with the children and families in the program. Such information shall be used by such
107 individuals and agencies only for the purposes provided in this Code section and as
108 authorized by the court for the purpose of implementing the case plan and for the purposes
109 permitted under each agency's own rules and regulations. Such information shall not be
110 released to any other individual or agency except as may be necessary to effect the
111 appropriate treatment or intervention as provided in the case plan. Such information shall
112 otherwise remain confidential and the court may punish any violations of confidentiality
113 as contempt of court. Any person who authorizes or permits any person or agency not
114 listed in Code Section 49-5-41, Code Section 19-7-5, Code Section 19-7-7, or this Code
115 section to have access to such records concerning reports of child abuse declared
116 confidential by Code Section 49-5-40 shall be guilty of a misdemeanor. Any person who
117 knowingly and under false pretenses obtains or attempts to obtain records or reports of
118 child abuse declared confidential by Code Section 49-5-40 or information contained therein
119 except as authorized by Code Section 49-5-41, Code Section 19-7-5, Code Section 19-7-7,
120 or this Code section shall be guilty of a misdemeanor. Records made confidential by Code
121 Section 49-5-40 and information obtained from such records may not be made a part of any
122 record which is open to the public except that a district attorney may use and make public
123 that record or information in the course of any criminal prosecution for any offense which
124 constitutes or results from child abuse. This Code section shall not abridge the provisions
125 of Code Section 37-3-166, 37-4-125, or 37-7-166 relating to confidentiality of patient or
126 client records and shall not serve to destroy or in any way abridge the confidential or
127 privileged character thereof."

128

SECTION 4.

129 Said chapter is further amended in Code Section 15-11-84, relating to sharing confidential
130 information, by revising subsection (b) as follows:

131 "(b) Governmental entities and state, county, municipal, or consolidated government
132 departments, boards, or agencies shall exchange with each other all information not held

133 as confidential pursuant to federal law and relating to a child which may aid a
 134 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,
 135 notwithstanding Code Section 15-1-15 or 15-11-9.1, subsection (d) of Code Section
 136 15-11-10, or Code Section 15-11-66.1, 15-11-75, 15-11-81, 15-11-82, 15-11-174, 19-7-5,
 137 19-7-7, 20-2-751.2, 20-14-40, 24-9-40.1, 24-9-41, 24-9-42, 26-4-5, 26-4-80, 26-5-17,
 138 31-5-5, 31-33-6, 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-106, 49-5-40, 49-5-41,
 139 49-5-41.1, 49-5-44, 49-5-45, 49-5-183, 49-5-184, 49-5-185, or 49-5-186, in order to serve
 140 the best interest of the child. Information which is shared pursuant to this subsection shall
 141 not be utilized to assist in the prosecution of the child in juvenile court or superior court or
 142 utilized to the detriment of the child."

143 **SECTION 5.**

144 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and
 145 protection for children and youth, is amended in Code Section 49-5-41, relating to persons
 146 and agencies permitted to access records, by revising paragraph (5) of subsection (a) as
 147 follows:

148 "(5) Any adult who makes a report of suspected child abuse as required by Code Section
 149 19-7-5 or 19-7-7, but such access shall include only notification regarding the child
 150 concerning whom the report was made, shall disclose only whether the investigation by
 151 the department or governmental child protective agency of the reported abuse is ongoing
 152 or completed and, if completed, whether child abuse was confirmed or unconfirmed, and
 153 shall only be disclosed if requested by the person making the report;"

154 **SECTION 6.**

155 Said chapter is further amended in Code Section 49-5-44, relating to penalties for
 156 unauthorized access to records, by revising subsection (b) as follows:

157 "(b) Any person who knowingly and under false pretense obtains or attempts to obtain
 158 records or reports of child abuse declared confidential by Code Section 49-5-40 or
 159 information contained therein except as authorized in this article or Code Section 19-7-5
 160 or 19-7-7 shall be guilty of a misdemeanor."

161 **SECTION 7.**

162 Said chapter is further amended in Code Section 49-5-183, relating to reporting of abuse
 163 cases to DFACS office, by revising subsection (a) as follows:

164 "(a) An abuse investigator who completes the investigation of a child abuse report made
 165 pursuant to Code Section 19-7-5 or 19-7-7 or otherwise shall make a written report to the
 166 DFACS office of any county in which the investigation was conducted. The investigator's

167 report shall classify the child abuse alleged to have been committed by each person in the
168 case as 'confirmed,' 'unconfirmed,' or 'unfounded.'"

169 **SECTION 8.**

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