

Senate Bill 94

By: Senators Heath of the 31st, Seabaugh of the 28th, Mullis of the 53rd and Loudermilk of the 52nd

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To provide for a short title; to amend Title 16 of the Official Code of Georgia Annotated,
2 relating to crimes and offenses, so as to change provisions relating to interference with lawful
3 custody; to change provisions relating to contributing to the delinquency, unruliness, or
4 deprivation of a minor; to provide for definitions; to provide for exclusions from criminal
5 liability under certain circumstances; to amend Chapter 5 of Title 49 of the Official Code of
6 Georgia Annotated, relating to programs and protection for children and youth, so as to
7 provide for registration of certain organizations that provide services to runaway and
8 homeless youth; to provide for procedure; to provided for definitions; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

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

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Runaway Youth Safety Act."

13 **SECTION 2.**

14 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
15 amended by revising subsections (a) and (b) of Code Section 16-5-45, relating to interference
16 with custody, as follows:

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

18 (1) 'Child' means any individual who is under the age of 17 years or any individual who
19 is under the age of 18 years who is alleged to be a deprived child or an unruly child as
20 such is terms are defined in Code Section 15-11-2, ~~relating to juvenile proceedings.~~

21 (2) 'Committed person' means any child or other person whose custody is entrusted to
22 another individual by authority of law.

23 (3) 'Lawful custody' means that custody inherent in the natural parents, that custody
24 awarded by proper authority as provided in Code Section 15-11-45, or that custody
25 awarded to a parent, guardian, or other person by a court of competent jurisdiction.

26 (4) 'Service provider' means an entity that is registered with the Department of Human
 27 Services pursuant to Article 7 of Chapter 5 of Title 49 or a child welfare agency as
 28 defined in Code Section 49-5-12 or an agent or employee acting on behalf of such entity
 29 or child welfare agency.

30 (b)(1) A person commits the offense of interference with custody when without lawful
 31 authority to do so, the person:

32 (A) Knowingly or recklessly takes or entices any child or committed person away from
 33 the individual who has lawful custody of such child or committed person;

34 (B) Knowingly harbors any child or committed person who has absconded; provided,
 35 however, that this subparagraph shall not apply to a service provider that notifies the
 36 child's parent, guardian, or legal custodian of the child's location and general state of
 37 well being as soon as possible but not later than 72 hours after the child's acceptance
 38 of services; provided, further, that such notification shall not be required if:

39 (i) The service provider has reasonable cause to believe that the minor has been
 40 abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

41 (ii) The child will not disclose the name of the child's parent, guardian, or legal
 42 custodian, and the Division of Family and Children Services within the Department
 43 of Human Services is notified within 72 hours of the child's acceptance of services;
 44 or

45 (iii) The child's parent, guardian, or legal custodian cannot be reached, and the
 46 Division of Family and Children Services within the Department of Human Services
 47 is notified within 72 hours of the child's acceptance of services; or

48 (C) Intentionally and willfully retains possession within this state of the child or
 49 committed person upon the expiration of a lawful period of visitation with the child or
 50 committed person.

51 (2) A person convicted of the offense of interference with custody shall be punished as
 52 follows:

53 (A) Upon conviction of the first offense, the defendant shall be guilty of a
 54 misdemeanor and shall be fined not less than \$200.00 nor more than \$500.00 or shall
 55 be imprisoned for not less than one month nor more than five months, or both fined and
 56 imprisoned;

57 (B) Upon conviction of the second offense, the defendant shall be guilty of a
 58 misdemeanor and shall be fined not less than \$400.00 nor more than \$1,000.00 or shall
 59 be imprisoned for not less than three months nor more than 12 months, or both fined
 60 and imprisoned; and

61 (C) Upon the conviction of the third or subsequent offense, the defendant shall be
 62 guilty of a felony and shall be punished by imprisonment for not less than one nor more
 63 than five years."

64 **SECTION 3.**

65 Said title is further amended by revising subsections (a) and (b) of Code Section 16-12-1,
 66 relating to contributing to the delinquency, unruliness, or deprivation of a minor, as follows:

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

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

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

71 (3) 'Minor' means any individual who is under the age of 17 years or any individual
 72 under the age of 18 years who is alleged to be a deprived child or an unruly child as such
 73 is terms are defined in Code Section 15-11-2, ~~relating to juvenile proceedings.~~

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

79 (5) 'Service provider' means an entity that is registered with the Department of Human
 80 Services pursuant to Article 7 of Chapter 5 of Title 49 or a child welfare agency as
 81 defined in Code Section 49-5-12 or agent or employee acting on behalf of such entity or
 82 child welfare agency.

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

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

88 (2) Knowingly and willfully encourages, causes, abets, connives, or aids a minor in
 89 committing an act which would cause such minor to be found to be an unruly child as
 90 such is defined in Code Section 15-11-2, ~~relating to juvenile proceedings;~~ provided,
 91 however, that this paragraph shall not apply to a service provider that notifies the minor's
 92 parent, guardian, or legal custodian of the minor's location and general state of well being
 93 as soon as possible but not later than 72 hours after the minor's acceptance of services;
 94 provided, further, that such notification shall not be required if:

95 (A) The service provider has reasonable cause to believe that the minor has been
 96 abused or neglected and makes a child abuse report pursuant to Code Section 19-7-5;

97 (B) The minor will not disclose the name of the minor's parent, guardian, or legal
 98 custodian, and the Division of Family and Children Services within the Department of
 99 Human Services is notified within 72 hours of the minor's acceptance of services; or

100 (C) The minor's parent, guardian, or legal custodian cannot be reached, and the
 101 Division of Family and Children Services within the Department of Human Services
 102 is notified within 72 hours of the minor's acceptance of services;

103 (3) Willfully commits an act or acts or willfully fails to act when such act or omission
 104 would cause a minor to be found to be a deprived child as such is defined in Code Section
 105 15-11-2, relating to juvenile proceedings;

106 (4) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 107 encourages, abets, or directs any minor to commit any felony which encompasses force
 108 or violence as an element of the offense or delinquent act which would constitute a felony
 109 which encompasses force or violence as an element of the offense if committed by an
 110 adult;

111 (5) Knowingly and willfully provides to a minor any weapon as defined in paragraph (2)
 112 of subsection (a) of Code Section 16-11-127.1 or any weapon as defined in Code Section
 113 16-11-121 to commit any felony which encompasses force or violence as an element of
 114 the offense or delinquent act which would constitute a felony which encompasses force
 115 or violence as an element of the offense if committed by an adult; or

116 (6) Knowingly and willfully hires, solicits, engages, contracts with, conspires with,
 117 encourages, abets, or directs any minor to commit any smash and grab burglary which
 118 would constitute a felony if committed by an adult."

119 **SECTION 4.**

120 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and
 121 protections for children and youth, is amended by revising Article 7, which is reserved, as
 122 follows:

123 "ARTICLE 7

124 49-5-160.

125 As used in this article, the term:

126 (1) 'Licensed' means an individual who has been licensed pursuant to Chapter 10A, 26,
 127 34, or 39 of Title 43.

128 (2) 'Organization' means a nonprofit charitable organization which is exempt from
 129 taxation under the provisions of Section 501(c)(3) of the United States Internal Revenue
 130 Code, which:

- 131 (A) Serves children who have run away or children who are homeless;
 132 (B) Has qualified staff on duty at all hours the organization is open for service; and
 133 (C) Employs at least one individual who is licensed pursuant to Chapter 10A, 26, 34,
 134 or 39 of Title 43.
- 135 (3) 'Qualified staff' means having:
- 136 (A) All staff who directly interact with children receive training on emergency
 137 evacuation procedures, service protocols, and the mandatory child abuse reporting
 138 requirements set forth in Code Section 19-7-5; and
- 139 (B) All staff have had a criminal record check conducted in accordance with Article
 140 5 of this chapter.
- 141 49-5-161.
- 142 (a) On and after July 1, 2011, all organizations shall register under this Code section by
 143 submitting a form to the department, upon forms furnished by the department. The form
 144 shall require the name, address, and telephone number of the organization and emergency
 145 contact information.
- 146 (b) A registrant shall be required to pay an annual registration fee of \$25.00.
- 147 (c) Upon receipt of an application for registration, payment of the registration fees, and
 148 presentation by the applicant of evidence that the organization meets the qualifications
 149 prescribed by Code Section 49-4-162, the department shall issue such organization a
 150 registration certificate valid for one year.
- 151 49-5-162.
- 152 (a) The department shall require organizations to have reasonable:
- 153 (1) Written policies and procedures for admission, intake, and record keeping;
 154 (2) Written policies regarding treatment and referrals for mental, physical, and emotional
 155 health;
 156 (3) Written policies for reports of actual or alleged injuries at an organization's premises;
 157 and
- 158 (4) Proof of having qualified staff.
- 159 (b) The department shall require that organizations:
- 160 (1) Photograph all minors considered for admission by the organization;
 161 (2) Have proof of liability insurance coverage sufficient to protect the clients of the
 162 organization's facility; and
 163 (3) Provide a copy of its registration to the sheriff of the county in which the
 164 organization operates a facility, and the sheriff shall distribute such registration to all
 165 appropriate law enforcement agencies within the county.

166 49-5-163.

167 (a) A registered organization shall prominently display its registration at some location
168 near the entrance of the premises of such organization that is open to view by the public.

169 (b) The department shall be given the right to periodically inspect the facilities of
170 registered organizations. The department shall have right of entrance, privilege of
171 inspection, and right of access to all children under the care and control of the organization.

172 (c) If any flagrant abuses, derelictions, or deficiencies are made known to the department
173 or its duly authorized agents during their inspection of any organization or if, at any time,
174 such are reported to the department, the department shall immediately investigate such
175 matters and take such action as conditions may require.

176 49-5-164.

177 Nothing in this article shall be construed to exempt a registered organization from the
178 requirements of Code Section 49-5-12 for minors who are present with a service provider
179 longer than 72 hours after the minor has accepted services."

180 **SECTION 5.**

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