

Senate Bill 355

By: Senators Unterman of the 45th and Rogers of the 21st

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 19-7-5 of the Official Code of Georgia Annotated, relating to  
2 reporting of child abuse, so as expand mandatory reporting requirements; to provide for  
3 procedure; to provide for an exception; to provide for related matters; to repeal conflicting  
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Code Section 19-7-5 of the Official Code of Georgia Annotated, relating to reporting of child  
8 abuse, is amended by revising subsections (a), (d), (e), (g), (h), and (i) as follows:

9 "(a) The purpose of this Code section is to provide for the protection of children ~~whose~~  
10 ~~health and welfare are adversely affected and further threatened by the conduct of those~~  
11 ~~responsible for their care and protection.~~ It is intended that the mandatory reporting of  
12 ~~such cases~~ will cause the protective services of the state to be brought to bear on the  
13 situation in an effort to prevent further abuses, to protect and enhance the welfare of ~~these~~  
14 children, and to preserve family life wherever possible. This Code section shall be liberally  
15 construed so as to carry out the purposes thereof."

16 "(d)(1) Except as provided in paragraph (2) of this subsection, any ~~Any~~ other person,  
17 other than one specified in subsection (c) of this Code section, who has reasonable cause  
18 to believe that a child is abused ~~may~~ shall report ~~or cause reports to be made~~ such  
19 information as provided in this ~~Code section~~ subsection. An oral report shall be made as  
20 soon as possible, but in no case later than 36 hours from the time there is reasonable  
21 cause to believe a child has been abused, by telephone to a law enforcement agency.  
22 Such report shall include any information that may be relevant to the suspected child  
23 abuse, including, as far as the reporting person knows, the name and address or identity  
24 of the child and the child's parents or caretakers, the child's age, the nature and extent of  
25 the child's injuries, the cause of the injuries, and the identity of the alleged perpetrator.

26 (2) This subsection shall not apply to communications between an attorney and his or her  
 27 client.

28 (e) With respect to reporting required by subsection (c) of this Code section, an An oral  
 29 report shall be made immediately, but in no case later than 24 hours from the time there is  
 30 reasonable cause to believe a child has been abused, by telephone or otherwise and  
 31 followed by a report in writing, if requested, to a child welfare agency providing protective  
 32 services, as designated by the Department of Human Services, or, in the absence of such  
 33 agency, to an appropriate police authority or district attorney. If a report of child abuse is  
 34 made to the child welfare agency or independently discovered by the agency, and the  
 35 agency has reasonable cause to believe such report is true or the report contains any  
 36 allegation or evidence of child abuse, then the agency shall immediately notify the  
 37 appropriate police authority or district attorney. Such reports shall contain the names and  
 38 addresses of the child and the child's parents or caretakers, if known, the child's age, the  
 39 nature and extent of the child's injuries, including any evidence of previous injuries, and  
 40 any other information that the reporting person believes might be helpful in establishing  
 41 the cause of the injuries and the identity of the perpetrator. Photographs of the child's  
 42 injuries to be used as documentation in support of allegations by hospital staff, physicians,  
 43 law enforcement personnel, school officials, or staff of legally mandated public or private  
 44 child protective agencies may be taken without the permission of the child's parent or  
 45 guardian. Such ~~photograph~~ photographs shall be made available as soon as possible to the  
 46 chief welfare agency providing protective services and to the appropriate police authority."

47 "(g) Suspected child abuse which is required to be reported by any person pursuant to this  
 48 Code section shall be reported notwithstanding that the reasonable cause to believe such  
 49 abuse has occurred or is occurring is based in whole or in part upon any communication  
 50 to that person which is otherwise made privileged or confidential by law, except as  
 51 provided in paragraph (2) of subsection (d) of this Code section.

52 (h) Any person or official required by subsection (c) of this Code section and any person  
 53 required by subsection (d) of this Code section to report a suspected case of child abuse  
 54 who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

55 (i) A report of child abuse or information relating thereto and contained in such report,  
 56 when provided to a law enforcement agency or district attorney pursuant to subsection (d)  
 57 or (e) of this Code section or pursuant to Code Section 49-5-41, shall not be subject to  
 58 public inspection under Article 4 of Chapter 18 of Title 50 even though such report or  
 59 information is contained in or part of closed records compiled for law enforcement or  
 60 prosecution purposes unless:

61 (1) There is a criminal or civil court proceeding which has been initiated based in whole  
 62 or in part upon the facts regarding abuse which are alleged in the child abuse reports and

63 the person or entity seeking to inspect such records provides clear and convincing  
64 evidence of such proceeding; or

65 (2) The superior court in the county in which is located the office of the law enforcement  
66 agency or district attorney which compiled the records containing such reports, after  
67 application for inspection and a hearing on the issue, shall permit inspection of such  
68 records by or release of information from such records to individuals or entities who are  
69 engaged in legitimate research for educational, scientific, or public purposes and who  
70 comply with the provisions of this paragraph. When those records are located in more  
71 than one county, the application may be made to the superior court of any one of such  
72 counties. A copy of any application authorized by this paragraph shall be served on the  
73 office of the law enforcement agency or district attorney which compiled the records  
74 containing such reports. In cases where the location of the records is unknown to the  
75 applicant, the application may be made to the Superior Court of Fulton County. The  
76 superior court to which an application is made shall not grant the application unless:

77 (A) The application includes a description of the proposed research project, including  
78 a specific statement of the information required, the purpose for which the project  
79 requires that information, and a methodology to assure the information is not arbitrarily  
80 sought;

81 (B) The applicant carries the burden of showing the legitimacy of the research project;  
82 and

83 (C) Names and addresses of individuals, other than officials, employees, or agents of  
84 agencies receiving or investigating a report of abuse which is the subject of a report,  
85 shall be deleted from any information released pursuant to this subsection unless the  
86 court determines that having the names and addresses open for review is essential to the  
87 research and the child, through his or her representative, gives permission to release the  
88 information."

89 **SECTION 2.**

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