

House Bill 1114

By: Representatives Setzler of the 35th, Golick of the 34th, Ramsey of the 72nd, Pak of the 102nd, and Lindsey of the 54th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated,
2 relating to homicide, so as to repeal certain provisions regarding offering to assist in the
3 commission of a suicide; to prohibit assisted suicide; to provide for definitions; to provide
4 for criminal penalties; to provide for certain exceptions; to provide for certain reporting
5 requirements with respect to being convicted of assisting in a suicide; to amend Title 51 of
6 the Official Code of Georgia Annotated, relating to torts, so as to provide for civil liability
7 for wrongful death caused by assisted suicide; to provide for definitions; to provide for
8 persons entitled to bring an action for wrongful death and survival of an action; to provide
9 for release of a wrongdoer; to provide for disposition of a recovery; to provide for an award
10 of attorney's fees and expenses of litigation under certain circumstances; to provide for
11 reporting requirements with respect to a civil judgment against a health care provider; to
12 provide for applicability; to provide an effective date; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

16 Article 1 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to
17 homicide, is amended by repealing Code Section 16-5-5, relating to offering to assist in the
18 commission of a suicide, and enacting a new Code Section 16-5-5 to read as follows:

19 "16-5-5.

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

21 (1) 'Assists' means the act of helping or providing the means.

22 (2) 'Health care provider' means any person licensed under Chapter 9, 10A, 11, 11A, 26,
23 28, 30, 33, 34, 35, 39, or 44 of Title 43 or any hospital, nursing home, home health
24 agency, institution, or medical facility licensed or defined under Chapter 7 of Title 31.

25 The term shall also include any corporation, professional corporation, partnership, limited

26 liability company, limited liability partnership, authority, or other entity comprised of
 27 such health care providers.

28 (3) 'Suicide' means the intentional and willful termination of one's own life.

29 (b) Any person who knowingly and willfully assists another person in the commission of
 30 such person's suicide shall be guilty of a felony and, upon conviction thereof, shall be
 31 punished by imprisonment for not less than one nor more than ten years.

32 (c) The provisions of this Code section shall not apply to any otherwise lawful withholding
 33 or withdrawal of medical or health care treatment pursuant to, without limitation, a living
 34 will, a durable power of attorney for health care, an advance directive for health care, a
 35 Physician Order for Life-sustaining Treatment developed pursuant to subsection (l) of Code
 36 Section 29-4-18, or a written order not to resuscitate.

37 (d) Within ten days of a conviction, a health care provider who is convicted of violating
 38 this Code section shall notify in writing the applicable licensing board or agency for his,
 39 her, or its licensure, permit, registration, certification, or other authorization to conduct
 40 such health care provider's occupation or business. Upon being notified and
 41 notwithstanding any law, rule, or regulation to the contrary, the appropriate licensing board
 42 or agency shall revoke the license, permit, registration, certification, or other authorization
 43 to conduct such health care provider's occupation or business."

44 **SECTION 2.**

45 Title 51 of the Official Code of Georgia Annotated, relating to torts, is amended by adding
 46 a new chapter to read as follows:

47 "CHAPTER 4A

48 51-4A-1.

49 As used in this chapter, the term:

50 (1) 'Full value of the life of the decedent, as shown by the evidence' means the full value
 51 of the life of the decedent without deducting for any of the necessary or personal
 52 expenses of the decedent had he or she lived.

53 (2) 'Homicide' includes all cases in which the death of a human being results from a
 54 violation of Code Section 16-5-5.

55 51-4A-2.

56 (a) The decedent's surviving spouse, child or children, either minor or sui juris, parent,
 57 sibling, or guardian appointed pursuant to Title 29, or the administrator or executor of the
 58 decedent, may recover for the homicide of the decedent the full value of the life of the

59 decendent, as shown by the evidence, and for the funeral, medical, and other necessary
60 expenses resulting from the injury and death of the deceased person. The fact that a child
61 has been born out of wedlock shall be no bar to recovery.

62 (b) If a party bringing a civil action for wrongful death under subsection (a) of this Code
63 section dies pending such civil action, the civil action shall survive to any other member
64 of the class of persons who may maintain an action under subsection (a) of this Code
65 section.

66 (c) A party to a civil action may not release the alleged wrongdoer without the concurrence
67 of the other parties authorized to maintain a cause of action under subsection (a) of this
68 Code section.

69 (d) Any amount recovered under subsection (a) of this Code section shall be distributed
70 pursuant to the laws of this state. Any amount recovered under subsection (a) of this Code
71 section by an administrator or executor of the decedent shall be held for the benefit of the
72 next of kin.

73 (e) No recovery had under subsection (a) of this Code section shall be subject to any debt
74 or liability of the decedent.

75 51-4A-3.

76 The court may in its discretion render an award of reasonable attorney's fees and expenses
77 of litigation to a plaintiff who prevails in a civil action under this chapter. A prevailing
78 respondent may be awarded reasonable attorney's fees and expenses of litigation only upon
79 a showing that the action was frivolous as set forth in Code Section 9-15-14.

80 51-4A-4.

81 (a) As used in this Code section, the term 'health care provider' shall have the same
82 meaning as set forth in Code Section 16-5-5.

83 (b) Within ten days of a judgment, a health care provider against whom a judgment has
84 been obtained under the provisions of this chapter shall notify in writing the applicable
85 licensing board or agency for his, her, or its licensure, permit, registration, certification, or
86 other authorization to conduct such health care provider's occupation or business so that
87 disciplinary action may be taken as determined necessary by the applicable board or
88 agency."

89 **SECTION 3.**

90 This Act shall not apply to any offense committed before the effective date of this Act.

91 **SECTION 4.**

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

94 **SECTION 5.**

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