

Senate Bill 355

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

AS PASSED SENATE

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 define certain
3 terms; to provide for procedure; to provide for an exception; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **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 subsection (a); by revising subsection (b) by designating
9 paragraphs (3.1) and (4) as paragraphs (7) and (8), respectively, and adding three new
10 paragraphs; and by revising subsections (c), (d), (e), (g), (h), and (i) to read as follows:

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

18 "(4) 'Child service organization personnel' means persons employed by or volunteering at
19 a business or an organization, whether public, private, for profit, not for profit, or
20 voluntary, that provides care, treatment, education, training, supervision, coaching,
21 counseling, recreational programs, or shelter to children.

22 (5) 'Clergy' means ministers, priests, rabbis, imams, or similar functionaries, by whatever
23 name called, of a bona fide religious organization.

24 (6) 'School' means any public or private pre-kindergarten, elementary school, secondary
25 school, technical school, vocational school, college, university, or institution of
26 postsecondary education."

27 "(c)(1) The following persons having reasonable cause to believe that ~~a child has been~~
 28 ~~abused~~ suspected child abuse has occurred shall report or cause reports of that abuse to
 29 be made as provided in this Code section:

- 30 (A) Physicians licensed to practice medicine, interns, or residents;
- 31 (B) Hospital or medical personnel;
- 32 (C) Dentists;
- 33 (D) Licensed psychologists and persons participating in internships to obtain licensing
 34 pursuant to Chapter 39 of Title 43;
- 35 (E) Podiatrists;
- 36 (F) Registered professional nurses or licensed practical nurses licensed pursuant to
 37 Chapter 24 of Title 43;
- 38 (G) Professional counselors, social workers, or marriage and family therapists licensed
 39 pursuant to Chapter 10A of Title 43;
- 40 (H) School teachers;
- 41 (I) School administrators;
- 42 (J) School guidance counselors, visiting teachers, school social workers, or school
 43 psychologists certified pursuant to Chapter 2 of Title 20;
- 44 (K) Child welfare agency personnel, as that agency is defined pursuant to Code Section
 45 49-5-12;
- 46 (L) Child-counseling personnel;
- 47 (M) Child service organization personnel; or
- 48 (N) Law enforcement personnel.

49 (2) If a person is required to report child abuse pursuant to this subsection because that
 50 person attends to a child pursuant to such person's duties as a member of the staff of a
 51 hospital, school, social agency, or similar facility, that person shall notify the person in
 52 charge of the facility, or the designated delegate thereof, and the person so notified shall
 53 report or cause a report to be made in accordance with this Code section. A staff member
 54 who makes a report to the person designated pursuant to this paragraph shall be deemed
 55 to have fully complied with this subsection. Under no circumstances shall any person in
 56 charge of such hospital, school, agency, or facility, or the designated delegate thereof, to
 57 whom such notification has been made exercise any control, restraint, modification, or
 58 make other change to the information provided by the reporter, although each of the
 59 aforementioned persons may be consulted prior to the making of a report and may
 60 provide any additional, relevant, and necessary information when making the report.

61 (d)(1) Any other person, other than one specified in subsection (c) of this Code section,
 62 who has reasonable cause to believe that ~~a child is abused~~ suspected child abuse has
 63 occurred may report or cause reports to be made as provided in this Code section.

64 (2) Any adult who witnesses child abuse as defined by subsection (b) 3 (B) (C) and (D)
65 and 3.1 and 4 of this Code section or receives reliable information from a person who has
66 witnessed child abuse that child abuse has occurred shall report such information as
67 provided in this paragraph. An oral report shall be made as soon as possible, but in no
68 case later than 72 hours from the observation or receipt of information regarding such
69 abuse, by telephone to a law enforcement agency. Such report shall include any
70 information that may be relevant to the suspected child abuse, including, as far as the
71 reporting person knows, the name and address or identity of the child and the child's
72 parents or caretakers, the child's age, the nature and extent of the child's injuries, the
73 cause of the injuries, and the identity of the alleged perpetrator. This paragraph shall not
74 apply to privileged communications between an attorney and his or her client.

75 (e) With respect to reporting required by subsection (c) of this Code section, an An oral
76 report shall be made immediately, but in no case later than 24 hours from the time there is
77 reasonable cause to believe a child has been abused, by telephone or otherwise and
78 followed by a report in writing, if requested, to a child welfare agency providing protective
79 services, as designated by the Department of Human Services, or, in the absence of such
80 agency, to an appropriate police authority or district attorney. If a report of child abuse is
81 made to the child welfare agency or independently discovered by the agency, and the
82 agency has reasonable cause to believe such report is true or the report contains any
83 allegation or evidence of child abuse, then the agency shall immediately notify the
84 appropriate police authority or district attorney. Such reports shall contain the names and
85 addresses of the child and the child's parents or caretakers, if known, the child's age, the
86 nature and extent of the child's injuries, including any evidence of previous injuries, and
87 any other information that the reporting person believes might be helpful in establishing
88 the cause of the injuries and the identity of the perpetrator. Photographs of the child's
89 injuries to be used as documentation in support of allegations by hospital staff, physicians,
90 law enforcement personnel, school officials, or staff of legally mandated public or private
91 child protective agencies may be taken without the permission of the child's parent or
92 guardian. Such ~~photograph~~ photographs shall be made available as soon as possible to the
93 chief welfare agency providing protective services and to the appropriate police authority."

94 "(g) Suspected child abuse which is required to be reported by any person pursuant to this
95 Code section shall be reported notwithstanding that the reasonable cause to believe such
96 abuse has occurred or is occurring is based in whole or in part upon any communication
97 to that person which is otherwise made privileged or confidential by law; provided,
98 however, that a member of the clergy shall not be required to report child abuse reported
99 solely within the context of confession or other similar communication required to be kept
100 confidential under church doctrine or practice. When a clergy member receives

101 information about child abuse from any other source, the clergy member shall comply with
 102 the reporting requirements of this Code section, even though the clergy member may have
 103 also received a report of child abuse from the confession of the perpetrator.

104 (h) Any person or official required by subsection (c) of this Code section and any person
 105 required by paragraph (2) of subsection (d) of this Code section to report a suspected case
 106 of child abuse who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

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

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

117 (2) The superior court in the county in which is located the office of the law enforcement
 118 agency or district attorney which compiled the records containing such reports, after
 119 application for inspection and a hearing on the issue, shall permit inspection of such
 120 records by or release of information from such records to individuals or entities who are
 121 engaged in legitimate research for educational, scientific, or public purposes and who
 122 comply with the provisions of this paragraph. When those records are located in more
 123 than one county, the application may be made to the superior court of any one of such
 124 counties. A copy of any application authorized by this paragraph shall be served on the
 125 office of the law enforcement agency or district attorney which compiled the records
 126 containing such reports. In cases where the location of the records is unknown to the
 127 applicant, the application may be made to the Superior Court of Fulton County. The
 128 superior court to which an application is made shall not grant the application unless:

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

133 (B) The applicant carries the burden of showing the legitimacy of the research project;
 134 and

135 (C) Names and addresses of individuals, other than officials, employees, or agents of
 136 agencies receiving or investigating a report of abuse which is the subject of a report,
 137 shall be deleted from any information released pursuant to this subsection unless the

138 court determines that having the names and addresses open for review is essential to the
139 research and the child, through his or her representative, gives permission to release the
140 information."

141 **SECTION 2.**

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