

House Bill 78

By: Representatives Willard of the 51st, Jones of the 47th, Lindsey of the 54th, Abrams of the 89th, Cooper of the 43rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16, Code Section 24-13-130, Chapter 5 of Title 30, and Article 4 of Chapter
2 8 of Title 31 of the Official Code of Georgia Annotated, relating to crimes and offenses,
3 when depositions to preserve testimony in criminal proceedings may be taken, protection of
4 disabled adults and elder persons, and reporting abuse or exploitation of residents in
5 long-term care facilities, respectively, so as to expand protection of disabled adults and elder
6 persons; to provide for and revise definitions; to change provisions relating to cruelty to a
7 person 65 years of age or older; to prohibit exploitation of disabled adults, elder persons, and
8 residents; to provide for exceptions to criminal liability; to provide for investigatory powers;
9 to expand the right to take a deposition in criminal proceedings under certain circumstances;
10 to apply provisions relating to the protection of elder persons from exploitation to elder
11 persons who are residents in long-term care facilities; to expand reporting requirements for
12 persons in need of protective services and for reporting abuse or exploitation in long-term
13 care facilities; to expand the cooperative development of certain education and training
14 programs; to move relevant criminal penalties from Title 30 into Title 16; to amend Code
15 Section 17-17-3, Title 31, Chapter 3 of Title 35, and Code Sections 42-8-63.1 and 49-2-14.1
16 of the Official Code of Georgia Annotated, relating to definitions, health, the Georgia Bureau
17 of Investigation, discharging disqualifying individuals from employment, and records check
18 requirements for licensing certain child welfare agencies, respectively, so as to provide for
19 conforming cross-references; to provide for related matters; to repeal conflicting laws; and
20 for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

ELDER PROTECTION MODERNIZATION

SECTION 1-1.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising Article 8 of Chapter 5, relating to the protection of elder persons, as follows:

"ARTICLE 8

16-5-100.

As used in this article, the term:

(1) 'Alzheimer's disease' means a progressive, degenerative disease or condition that attacks the brain and results in impaired memory, thinking, and behavior.

(2) 'Dementia' means:

(A) An irreversible global loss of cognitive function causing evident intellectual impairment which always includes memory loss, without alteration of state of consciousness, as diagnosed by a physician, and is severe enough to interfere with work or social activities, or both, and to require at least intermittent care or supervision; or

(B) The comatose state of an adult resulting from any head injury.

(3) 'Disabled adult' means a person 18 years of age or older who is mentally or physically incapacitated or has Alzheimer's disease or dementia.

(4) 'Elder person' means a person 65 years of age or older.

(5) 'Exploit' means illegally or improperly using another person's property through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own or another person's profit or advantage.

(6) 'Long-term care facility' means any skilled nursing home, intermediate care home, assisted living community, or personal care home subject to regulation and licensure by the Department of Community Health.

(7) 'Resident' means any person who is receiving treatment or care in any long-term care facility, who seeks admission to such long-term care facility, or who has been discharged or transferred from such long-term care facility.

(8) 'Sexual abuse' means committing an act described in subparagraph (a)(4)(A) or subparagraphs (a)(4)(D) through (a)(4)(I) of Code Section 16-12-100 upon a disabled adult or elder person.

54 ~~16-5-100.~~ 16-5-101.

55 (a) A guardian or other person supervising the welfare of or having immediate charge or
 56 custody of a disabled adult, elder person, or resident ~~who is 65 years of age or older~~
 57 commits the offense of cruelty to a ~~person who is 65 years of age or older~~ disabled adult,
 58 elder person, or resident of a long-term care facility when the person willfully deprives a
 59 ~~person who is 65 years of age or older~~ disabled adult, elder person, or resident of health
 60 care, shelter, or necessary sustenance to the extent that the health or well-being of a ~~person~~
 61 ~~who is 65 years of age or older~~ such person is jeopardized or willfully inflicts physical
 62 pain, physical injury, sexual abuse, mental anguish, unreasonable confinement, or the
 63 willful deprivation of essential services to a disabled adult, elder person, or resident.

64 (b) The provisions of this Code section shall not apply to a physician nor any person acting
 65 under a physician's direction nor to a hospital, skilled nursing facility, hospice, nor any
 66 agent or employee thereof who is in good faith following a course of treatment developed
 67 in accordance with accepted medical standards or who is acting in good faith in accordance
 68 with a living will, a durable power of attorney for health care, an advance directive for
 69 health care, an order not to resuscitate, or the instructions of the patient or the patient's
 70 lawful surrogate decision maker, nor shall the provisions of this Code section require any
 71 physician, any institution licensed in accordance with Chapter 7 of Title 31 or any
 72 employee or agent thereof to provide health care services or shelter to any person in the
 73 absence of another legal obligation to do so.

74 ~~(b.1)~~(c) The provisions of this Code section shall not apply to a guardian or other person
 75 supervising the welfare of or having immediate charge or control of a ~~person who is 65~~
 76 ~~years of age or older~~ disabled adult, elder person, or resident who in good faith provides
 77 treatment by spiritual means alone through prayer for the person's physical or mental
 78 condition, in lieu of medical treatment, in accordance with the practices of and written
 79 notarized consent of the person.

80 ~~(c)~~(d) A person ~~convicted of~~ who commits the offense of cruelty to a ~~person who is 65~~
 81 ~~years of age or older as provided in this Code section~~ disabled adult, elder person, or
 82 resident of a long-term care facility, upon conviction, shall be punished by imprisonment
 83 for not less than one nor more than 20 years, a fine of not more than \$50,000.00, or both.

84 16-5-102.

85 (a) Any person who knowingly and willfully exploits a disabled adult, elder person, or
 86 resident shall be guilty of a felony and, upon conviction, shall be punished by
 87 imprisonment for not less than one nor more than 20 years, a fine of not more than
 88 \$50,000.00, or both.

89 (b) Any person who threatens, intimidates, or attempts to intimidate a disabled adult, elder
 90 person, or resident who is the subject of a report, a witness, or any other person cooperating
 91 with an investigation conducted pursuant to this Code section shall be guilty of a
 92 misdemeanor of a high and aggravated nature.

93 (c) Any person who willfully and knowingly obstructs or in any way impedes an
 94 investigation conducted pursuant to Chapter 5 of Title 30 or Article 4 of Chapter 8 of Title
 95 31, upon conviction, shall be guilty of a misdemeanor of a high and aggravated nature.

96 16-5-103.

97 An owner, officer, administrator, or board member of a long-term care facility shall not be
 98 held criminally liable for the actions of another person who is convicted pursuant to this
 99 article.

100 16-5-104.

101 This article shall be cumulative and supplemental to any other law of this state."

102 **SECTION 1-2.**

103 Said title is further amended by revising subsection (a) of Code Section 16-9-108, relating
 104 to investigative and subpoena powers of district attorney and the Attorney General, as
 105 follows:

106 "(a) In any investigation of a violation of this article or any investigation of a violation of
 107 Code Section 16-12-100, 16-12-100.1, 16-12-100.2, 16-5-90, Article 8 of Chapter 5 of this
 108 title, or Article 8 of ~~Chapter 9 of Title 16~~ this chapter involving the use of a computer in
 109 furtherance of the act, the Attorney General or any district attorney shall have the power
 110 to administer oaths; to call any party to testify under oath at such investigation; to require
 111 the attendance of witnesses and the production of books, records, and papers; and to take
 112 the depositions of witnesses. The Attorney General or any such district attorney is
 113 authorized to issue a subpoena for any witness or a subpoena to compel the production of
 114 any books, records, or papers."

115 **SECTION 1-3.**

116 Said title is further amended by revising subsection (a) of Code Section 16-9-109, relating
 117 to disclosures by service providers pursuant to investigations, as follows:

118 "(a) Any law enforcement unit, the Attorney General, or any district attorney who is
 119 conducting an investigation of a violation of this article or an investigation of a violation
 120 of Code Section 16-12-100, 16-12-100.1, 16-12-100.2, or 16-5-90, Article 8 of Chapter 5
 121 of this title, or Article 8 of this chapter involving the use of a computer, cellular telephone,

122 or any other electronic device used in furtherance of the act may require the disclosure by
 123 a provider of electronic communication service or remote computing service of the
 124 contents of a wire or electronic communication that is in electronic storage in an electronic
 125 communications system for 180 days or less pursuant to a search warrant issued under the
 126 provisions of Article 2 of Chapter 5 of Title 17 by a court with jurisdiction over the offense
 127 under investigation. Such court may require the disclosure by a provider of electronic
 128 communication service or remote computing service of the contents of a wire or electronic
 129 communication that has been in electronic storage in an electronic communications system
 130 for more than 180 days as set forth in subsection (b) of this Code section."

131 **SECTION 1-4.**

132 Code Section 24-13-130 of the Official Code of Georgia Annotated, relating to when
 133 depositions to preserve testimony in criminal proceedings may be taken, is amended by
 134 revising subsections (b) and (c) as follows:

135 "(b) The court shall not order the taking of the witness's testimony, except as provided in
 136 paragraph (2) of subsection (a) of this Code section, unless it appears to the satisfaction of
 137 the court that the testimony of the witness is material to the proceeding and the witness:

- 138 (1) Is in imminent danger of death or great bodily harm;
- 139 (2) Has been threatened with death or great bodily harm because of the witness's status
 140 as a potential witness in a criminal trial or proceeding;
- 141 (3) Is about to leave this state, and there are reasonable grounds to believe that such
 142 witness will be unable to attend ~~the~~ a criminal trial or proceeding;
- 143 (4) Is so sick or infirm as to afford reasonable grounds to believe that such witness will
 144 be unable to ~~attend the~~ testify as a witness at a criminal trial or proceeding; ~~or~~
- 145 (5) Is being detained as a material witness, and there are reasonable grounds to believe
 146 that the witness will flee if released from detention; or
- 147 (6) Is 78 years of age or older.

148 (c) A motion to take a deposition of a material witness, or a physician as provided in
 149 paragraph (2) of subsection (a) of this Code section, shall be verified and shall state:

- 150 (1) The nature of the offense charged;
- 151 (2) The status of the criminal proceedings;
- 152 (3) The name of the witness and an address in Georgia where the witness may be
 153 contacted unless, for good cause shown, the court allows an exception to this paragraph;
- 154 (4) That the testimony of the witness is material to the proceeding or that the witness is
 155 a physician as provided in paragraph (2) of subsection (a) of this Code section; and
- 156 (5) The basis for taking the deposition as provided in subsection (b) of this Code
 157 section."

158 **SECTION 1-5.**

159 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to protection of
 160 disabled adults and elder persons, is amended by revising Code Section 30-5-3, relating to
 161 definitions for the chapter, as follows:

162 "30-5-3.

163 As used in this chapter, the term:

164 (1) 'Abuse' means the willful infliction of physical pain, physical injury, sexual abuse,
 165 mental anguish, unreasonable confinement, or the willful deprivation of essential services
 166 to a disabled adult or elder person.

167 (2) 'Caretaker' means a person who has the responsibility for the care of a disabled adult
 168 or elder person as a result of family relationship, contract, voluntary assumption of that
 169 responsibility, or by operation of law.

170 ~~(3) 'Court' means the probate court for the county of residence of the disabled adult or~~
 171 ~~elder person or the county in which such person is found. In any case in which the judge~~
 172 ~~of the probate court is unable to hear a case brought under this chapter within the time~~
 173 ~~required for such hearing, such judge shall appoint a person to serve and exercise all the~~
 174 ~~jurisdiction of the probate court in such case. Any person so appointed shall be a member~~
 175 ~~of the State Bar of Georgia and be otherwise qualified for his or her duties by training and~~
 176 ~~experience. Such appointment may be made on a case-by-case basis or by making a~~
 177 ~~standing appointment of one or more persons. Any person receiving such standing~~
 178 ~~appointment shall serve at the pleasure of the judge making the appointment or said~~
 179 ~~judge's successor in office to hear such cases if and when necessary. The compensation~~
 180 ~~of a person so appointed shall be as agreed upon by the judge who makes the appointment~~
 181 ~~and the person appointed, with the approval of the governing authority of the county for~~
 182 ~~which such person is appointed, and shall be paid from the county funds of such county.~~
 183 ~~All fees collected for the services of such appointed person shall be paid into the general~~
 184 ~~funds of the county served.~~

185 ~~(4)~~(3) 'Department' means the Department of Human Services.

186 ~~(5)~~(4) 'Director' means the director of the Division of Aging Services of the Department
 187 of Human Services, or the director's designee.

188 ~~(6)~~(5) 'Disabled adult' means a person 18 years of age or older who is ~~not a resident of~~
 189 ~~a long-term care facility, as defined in Article 4 of Chapter 8 of Title 31, but who is~~
 190 mentally or physically incapacitated or has Alzheimer's disease, as defined in Code
 191 Section 31-8-180, or dementia, as defined in Code Section ~~49-6-72~~ 16-5-100.

192 (7) 'Disabled adult in need of protective services' means a disabled adult who is subject
 193 to abuse, neglect, or exploitation as a result of that adult's mental or physical incapacity.

194 ~~(7.1)(6)~~ 'Elder person' means a person 65 years of age or older ~~who is not a resident of~~
 195 ~~a long-term care facility as defined in Article 4 of Chapter 8 of Title 31.~~

196 ~~(8)(7)~~ 'Essential services' means social, medical, psychiatric, or legal services necessary
 197 to safeguard the disabled adult's or elder person's rights and resources and to maintain the
 198 physical and mental well-being of such person. These services shall include, but not be
 199 limited to, the provision of medical care for physical and mental health needs, assistance
 200 in personal hygiene, food, clothing, adequately heated and ventilated shelter, and
 201 protection from health and safety hazards but shall not include the taking into physical
 202 custody of a disabled adult or elder person without that person's consent.

203 ~~(9)(8)~~ 'Exploitation' means the illegal or improper use of a disabled adult or elder person
 204 or that person's resources through undue influence, coercion, harassment, duress,
 205 deception, false representation, false pretense, or other similar means for one's own or
 206 another's profit or advantage.

207 ~~(10)(9)~~ 'Neglect' means the absence or omission of essential services to the degree that
 208 it harms or threatens with harm the physical or emotional health of a disabled adult or
 209 elder person.

210 ~~(11)(10)~~ 'Protective services' means services necessary to protect a disabled adult or elder
 211 person from abuse, neglect, or exploitation. Such services shall include, but not be
 212 limited to, evaluation of the need for services and mobilization of essential services on
 213 behalf of a disabled adult or elder person.

214 (11) 'Sexual abuse' means committing an act described in subparagraph (a)(4)(A) or
 215 subparagraphs (a)(4)(G) through (a)(4)(I) of Code Section 16-12-100 upon a disabled
 216 adult or elder person."

217 SECTION 1-6.

218 Said chapter is further amended by revising subsection (a) and paragraph (1) of subsection
 219 (b) and adding a new subsection to Code Section 30-5-4, relating to reporting of the need for
 220 protective services, to read as follows:

221 "(a)(1)(A) The following persons ~~Any physician, osteopath, intern, resident, other~~
 222 ~~hospital or medical personnel, dentist, psychologist, chiropractor, podiatrist,~~
 223 ~~pharmacist, physical therapist, occupational therapist, licensed professional counselor,~~
 224 ~~nursing personnel, social work personnel, day-care personnel, coroner, medical~~
 225 ~~examiner, employee of a public or private agency engaged in professional health related~~
 226 ~~services to elder persons or disabled adults, or law enforcement personnel having~~
 227 ~~reasonable cause to believe that a disabled adult or elder person has had a physical~~
 228 ~~injury or injuries inflicted upon such disabled adult or elder person~~ been the victim of

229 abuse, other than by accidental means, or has been neglected or exploited shall report
 230 or cause reports to be made in accordance with the provisions of this Code section;

231 (i) Any person required to report child abuse as provided in subsection (c) of Code
 232 Section 19-7-5;

233 (ii) Physical therapists;

234 (iii) Occupational therapists;

235 (iv) Day-care personnel;

236 (v) Coroners;

237 (vi) Medical examiners;

238 (vii) Emergency medical services personnel, as such term is defined in Code Section
 239 31-11-49;

240 (viii) Any person who has been certified as an emergency medical technician, cardiac
 241 technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;

242 (ix) Employees of a public or private agency engaged in professional health related
 243 services to elder persons or disabled adults; and

244 (x) Clergy members.

245 (B) ~~Any~~ Except as provided in this paragraph, any employee of a financial institution,
 246 as defined in Code Section 7-1-4, having reasonable cause to believe that a disabled
 247 adult or elder person has been exploited shall report or cause reports to be made in
 248 accordance with the provisions of this Code section; provided, however, that this
 249 obligation shall not apply to any employee of a financial institution while that employee
 250 is acting as a fiduciary, as defined in Code Section 7-1-4, but only for such assets that
 251 the employee is holding or managing in a fiduciary capacity.

252 (C) When the person having a reasonable cause to believe that a disabled adult or elder
 253 person is in need of protective services performs services as a member of the staff of
 254 a hospital, social agency, financial institution, or similar facility, such person shall
 255 notify the person in charge of the facility and such person or that person's designee shall
 256 report or cause reports to be made in accordance with the provisions of this Code
 257 section.

258 (2) Any other person having a reasonable cause to believe that a disabled adult or elder
 259 person is in need of protective services; or has been the victim of abuse, neglect, or
 260 exploitation may report such information as provided in this Code section.

261 (b)(1) A report that a disabled adult or elder person ~~who is not a resident of a long-term~~
 262 ~~care facility as defined in Code Section 31-8-80~~ is in need of protective services or has
 263 been the victim of abuse, neglect, or exploitation shall be made to an adult protection
 264 agency providing protective services; as designated by the department ~~or, if such agency~~
 265 ~~is unavailable~~, and to an appropriate law enforcement agency or prosecuting attorney.

266 If a report of a disabled adult or elder person abuse or exploitation is made to an adult
 267 protection agency or independently discovered by the agency ~~and the agency has~~
 268 ~~reasonable cause to believe such report is true~~, then the agency shall immediately notify
 269 the appropriate law enforcement agency or prosecuting attorney. ~~If the disabled adult or~~
 270 ~~elder person is a resident of a long-term care facility as defined in Code Section 31-8-80,~~
 271 ~~a report shall be made in accordance with Article 4 of Chapter 8 of Title 31. If a report~~
 272 ~~made in accordance with the provisions of this Code section alleges that the abuse or~~
 273 ~~exploitation occurred within a long-term care facility, such report shall be investigated~~
 274 ~~in accordance with Articles 3 and 4 of Chapter 8 of Title 31."~~

275 "(d) Any suspected abuse, neglect, exploitation, or need for protective services which is
 276 required to be reported by any person pursuant to this Code section shall be reported
 277 notwithstanding that the reasonable cause to believe such abuse, neglect, exploitation, or
 278 need for protective services has occurred or is occurring is based in whole or in part upon
 279 any communication to that person which is otherwise made privileged or confidential by
 280 law; provided, however, that a member of the clergy shall not be required to report such
 281 matters confided to him or her solely within the context of confession or other similar
 282 communication required to be kept confidential under church doctrine or practice. When
 283 a clergy member receives information about abuse, neglect, exploitation, or the need for
 284 protective services from any other source, the clergy member shall comply with the
 285 reporting requirements of this Code section, even though the clergy member may have also
 286 received a report of such matters from the confession of the perpetrator."

287 SECTION 1-7.

288 Said chapter is further amended by revising Code Section 30-5-5, relating to investigation
 289 of reports of need for protective services, by adding new subsections to read as follows:

290 "(i) In any case in which the judge of the court is unable to hear a case brought under this
 291 chapter within the time required for such hearing, such judge shall appoint a person to
 292 serve and exercise all the jurisdiction of the court in such case. Any person so appointed
 293 shall be a member of the State Bar of Georgia and be otherwise qualified for his or her
 294 duties by training and experience. Such appointment may be made on a case-by-case basis
 295 or by making a standing appointment of one or more persons. Any person receiving such
 296 standing appointment shall serve at the pleasure of the judge making the appointment or
 297 said judge's successor in office to hear such cases if and when necessary. The
 298 compensation of a person so appointed shall be as agreed upon by the judge who makes the
 299 appointment and the person appointed, with the approval of the governing authority of the
 300 county for which such person is appointed, and shall be paid from the county funds of such

301 county. All fees collected for the services of such appointed person shall be paid into the
 302 general funds of the county served.
 303 (j) As used in this Code section, the term 'court' means the probate court for the county of
 304 residence of the disabled adult or elder person or the county in which such person is found."

305 **SECTION 1-8.**

306 Said chapter is further amended by revising Code Section 30-5-8, relating to criminal
 307 offenses and penalties, as follows:

308 "30-5-8.

309 ~~(a)(1)(A) In addition to any other provision of law, the abuse or exploitation of any~~
 310 ~~disabled adult or elder person shall be unlawful.~~

311 ~~(B) In addition to any other provision of law, the neglect of any disabled adult or elder~~
 312 ~~person by a guardian, caretaker, or other person supervising the welfare of or having~~
 313 ~~immediate charge or custody of such disabled adult or elder person shall be unlawful.~~

314 ~~(2) In addition to any other provision of law, it shall be unlawful for a person to act with~~
 315 ~~the specific intent to abuse, neglect, or commit exploitation of any disabled adult. For~~
 316 ~~purposes of this paragraph only, the term 'disabled adult' means a person 18 years of age~~
 317 ~~or older who is:~~

318 ~~(A) A resident of a long-term care facility, as defined in Article 4 of Chapter 8 of Title~~
 319 ~~31, and~~

320 ~~(B) Mentally or physically incapacitated or has Alzheimer's disease, as defined in Code~~
 321 ~~Section 31-8-180, or dementia, as defined in Code Section 49-6-72.~~

322 ~~An owner, officer, administrator, or board member of a long-term care facility shall not~~
 323 ~~be held criminally liable for the actions of a person who is convicted pursuant to this~~
 324 ~~paragraph. Nothing in this paragraph shall be construed to preempt any other law or to~~
 325 ~~deny to any individual any rights or remedies which are provided under any other law.~~

326 ~~(3) Except as otherwise provided in Title 16, any person violating the provisions of this~~
 327 ~~subsection shall be guilty of a felony and, upon conviction, shall be punished by~~
 328 ~~imprisonment for not less than one nor more than five years.~~

329 ~~(b)(a)(1) It shall be unlawful for any person or official required by paragraph (1) of~~
 330 ~~subsection (a) of Code Section 30-5-4 to report a case of disabled adult or elder person~~
 331 ~~abuse to fail knowingly and willfully to make such report.~~

332 ~~(2) Any person violating the provisions of this subsection Code section shall be guilty~~
 333 ~~of a misdemeanor.~~

334 ~~(e)(b) Any violation of this Code section shall constitute a separate offense."~~

335 **SECTION 1-9.**

336 Said chapter is further amended by revising Code Section 30-5-10, relating to cooperative
 337 effort in development of programs relating to abuse and exploitation of persons 65 years of
 338 age or older, as follows:

339 "30-5-10.

340 The ~~Department of Human Services~~ department, the Georgia Peace Officer Standards and
 341 Training Council, the Prosecuting Attorneys' Council of the State of Georgia, and the
 342 Institute of Continuing Judicial Education shall develop programs for the education and
 343 training of social services, criminal justice, and judicial professionals concerning the abuse
 344 and exploitation of ~~persons who are 65 years of age or older~~ disabled adults, elder persons,
 345 and residents of long-term care facilities, as defined in Code Section 16-5-100. Said
 346 agencies, together with any other agency of this state which is involved in the investigation
 347 of the abuse or exploitation of ~~persons who are 65 years of age or older~~ disabled adults,
 348 elder persons, and residents of long-term care facilities, as defined in Code Section
 349 16-5-100, are directed to cooperate in the development of such training programs to the
 350 extent allowable under Article I, Section II, Paragraph III of the Constitution of this state."

351 **SECTION 1-10.**

352 Article 4 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to
 353 reporting abuse or exploitation of residents in long-term care facilities, is amended by
 354 revising paragraph (2) of Code Section 31-8-81, relating to definitions for the article, as
 355 follows:

356 "(2) 'Exploitation' means ~~an unjust~~ the illegal or improper use of ~~another person or the~~
 357 ~~person's~~ a resident or the resident's property through undue influence, coercion,
 358 harassment, duress, deception, false representation, false pretense, or other similar means
 359 for one's own or another's profit or advantage."

360 **SECTION 1-11.**

361 Said article is further amended by revising Code Section 31-8-82, relating to reporting abuse
 362 or exploitation in long-term care facilities, as follows:

363 "31-8-82.

364 (a) Any:

365 (1) ~~Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee~~
 366 ~~in a hospital or facility;~~

367 (2) ~~Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social~~
 368 ~~worker, coroner, clergyman, police officer, pharmacist, physical therapist, or~~
 369 ~~psychologist; or~~

370 ~~(3) Employee of a public or private agency engaged in professional services to residents~~
 371 ~~or responsible for inspection of long-term care facilities~~
 372 ~~who has knowledge of the following people who have reasonable cause to believe that any~~
 373 ~~resident or former resident has been abused or exploited while residing in a long-term care~~
 374 ~~facility shall immediately make a report as described in subsection ~~(e)~~ (d) of this Code~~
 375 ~~section by telephone or in person to the department. In the event that an immediate report~~
 376 ~~to the department is not possible, the person and shall make the report to the appropriate~~
 377 ~~law enforcement agency or prosecuting attorney:~~

378 (1) Any person required to report child abuse as provided in subsection (c) of Code
 379 Section 19-7-5;

380 (2) Physical therapists;

381 (3) Occupational therapists;

382 (4) Day-care personnel;

383 (5) Coroners;

384 (6) Medical examiners;

385 (7) Emergency medical services personnel, as defined in Code Section 31-11-49;

386 (8) Any person who has been certified as an emergency medical technician, cardiac
 387 technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;

388 (9) Employees of a public or private agency engaged in professional health related
 389 services to residents; and

390 (10) Clergy members.

391 (b) Persons required to make a report pursuant to subsection (a) of this Code section ~~Such~~
 392 ~~person~~ shall also make a written report to the department within 24 hours after making the
 393 initial report.

394 ~~(b)(c)~~ Any other person who has knowledge that a resident or former resident has been
 395 abused or exploited while residing in a long-term care facility may report or cause a report
 396 to be made to the department or the appropriate law enforcement agency.

397 ~~(c)(d)~~ A report of suspected abuse or exploitation shall include the following:

398 (1) The name and address of the person making the report unless such person is not
 399 required to make a report;

400 (2) The name and address of the resident or former resident;

401 (3) The name and address of the long-term care facility;

402 (4) The nature and extent of any injuries or the condition resulting from the suspected
 403 abuse or exploitation;

404 (5) The suspected cause of the abuse or exploitation; and

405 (6) Any other information which the reporter believes might be helpful in determining
 406 the cause of the resident's injuries or condition and in determining the identity of the
 407 person or persons responsible for the abuse or exploitation.

408 ~~(d) Upon receipt of a report of abuse or exploitation, the department may notify the~~
 409 ~~appropriate law enforcement agency. In the event a report is made directly to a law~~
 410 ~~enforcement agency, under subsection (a) or (b) of this Code section, that agency shall~~
 411 ~~immediately notify the department.~~

412 (e) The department shall maintain accurate records which shall include all reports of abuse
 413 or exploitation, the results of all investigations and administrative or judicial proceedings,
 414 and a summary of actions taken to assist the resident.

415 (f) Any suspected abuse or exploitation which is required to be reported by any person
 416 pursuant to this Code section shall be reported notwithstanding that the reasonable cause
 417 to believe such abuse or exploitation has occurred or is occurring is based in whole or in
 418 part upon any communication to that person which is otherwise made privileged or
 419 confidential by law; provided, however, that a member of the clergy shall not be required
 420 to report such matters confided to him or her solely within the context of confession or
 421 other similar communication required to be kept confidential under church doctrine or
 422 practice. When a clergy member receives information about abuse or exploitation from
 423 any other source, the clergy member shall comply with the reporting requirements of this
 424 Code section, even though the clergy member may have also received a report of such
 425 matters from the confession of the perpetrator."

426 PART II

427 CROSS-REFERENCES

428 SECTION 2-1.

429 Code Section 17-17-3 of the Official Code of Georgia Annotated, relating to definitions for
 430 the "Crime Victims' Bill of Rights," is amended by revising paragraph (4) as follows:

431 "(4) 'Crime' means an act committed in this state which constitutes any violation of
 432 Chapter 5 of Title 16; Chapter 6 of Title 16; Article 1, 3, or 4 of Chapter 7 of Title 16;
 433 Article 1 or 2 of Chapter 8 of Title 16; Chapter 9 of Title 16; Part 3 of Article 3 of
 434 Chapter 12 of Title 16; ~~Code Section 30-5-8~~; Code Section 40-6-393; Code Section
 435 40-6-393.1; or Code Section 40-6-394."

436 SECTION 2-2.

437 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising
 438 subparagraphs (a)(2)(E) and (a)(2)(L) through (a)(2)(N) of Code Section 31-2-9, relating to

439 records check requirements for certain facilities under the Department of Community Health,
440 as follows:

441 ~~"(E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of~~
442 ~~age or older~~ Article 8 of Chapter 5 of Title 16;"

443 ~~"(L) A violation of Code Section 16-8-41, relating to armed robbery;~~

444 ~~(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of~~
445 ~~a disabled adult or elder person;~~ or

446 ~~(N)~~(M) Any other offense committed in another jurisdiction that, if committed in this
447 state, would be deemed to be a crime listed in this paragraph without regard to its
448 designation elsewhere."

449 **SECTION 2-3.**

450 Said title is further amended by revising subparagraphs (N) and (O) of paragraph (2) of Code
451 Section 31-7-250, relating to definitions relative to facility licensing and employee records
452 checks for personal care homes, as follows:

453 ~~"(N) A violation of Code Section 16-6-5.1, relating to sexual assault against a person~~
454 ~~in custody;~~

455 ~~(O) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of~~
456 ~~a disabled adult or elder person~~ Article 8 of Chapter 5 of Title 16;"

457 **SECTION 2-4.**

458 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
459 Bureau of Investigation, is amended by revising paragraph (14) of subsection (a) of Code
460 Section 35-3-4, relating to the powers and duties of the Georgia Bureau of Investigation, as
461 follows:

462 ~~"(14) Identify and investigate violations of Code Section 30-5-8 or 16-5-100~~ Article 8
463 of Chapter 5 of Title 16; and"

464 **SECTION 2-5.**

465 Said chapter is further amended by revising paragraph (2) of subsection (a) of Code Section
466 35-3-34.1, relating to circumstances when exonerated first offender's criminal record may
467 be disclosed, as follows:

468 "(2) The request for information is an inquiry about a person who has applied for
469 employment with a nursing home, assisted living community, personal care home, or a
470 person or entity that offers day care for elderly persons and the person who is the subject
471 of the inquiry to the center was prosecuted for the offense of sexual battery, incest,

472 pimping, pandering, or a violation of ~~Code Section 30-5-8~~ Article 8 of Chapter 5 of Title
 473 16; or"

474 **SECTION 2-6.**

475 Code Section 42-8-63.1 of the Official Code of Georgia Annotated, relating to discharging
 476 disqualifying individuals from employment, is amended by revising paragraph (3) of
 477 subsection (a) as follows:

478 "(3) The employment is with a nursing home, assisted living community, personal care
 479 home, or a person or entity that offers day care for elderly persons and the defendant was
 480 discharged under this article after prosecution for the offense of sexual battery, incest,
 481 pimping, pandering, or a violation of ~~Code Section 30-5-8~~ Article 8 of Chapter 5 of Title
 482 16; or"

483 **SECTION 2-7.**

484 Code Section 49-2-14.1 of the Official Code of Georgia Annotated, relating to records check
 485 requirements for licensing certain child welfare agencies, is amended by revising
 486 subparagraphs (a)(2)(E) and (a)(2)(L) through (a)(2)(N) as follows:

487 "(E) A violation of ~~Code Section 16-5-100, relating to cruelty to a person 65 years of~~
 488 ~~age or older~~ Article 8 of Chapter 5 of Title 16;"

489 "(L) A violation of Code Section 16-8-41, ~~relating to armed robbery;~~

490 ~~(M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of~~
 491 ~~a disabled adult or elder person; or~~

492 ~~(N)~~(M) Any other offense committed in another jurisdiction that, if committed in this
 493 state, would be deemed to be a crime listed in this paragraph without regard to its
 494 designation elsewhere."

495 **PART III**

496 **REPEALER**

497 **SECTION 3-1.**

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