

House Bill 905

By: Representatives Ballinger of the 23rd, Oliver of the 82nd, Dempsey of the 13th, Efstration of the 104th, Reeves of the 34th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-11-710, Title 19, and Chapter 5 of Title 49 of the Official Code
2 of Georgia Annotated, relating to exchange of information, domestic relations, and programs
3 and protection for children and youth, so as to change provisions relating to child abuse; to
4 correct a cross-reference; to change and provide for defined terms; to change provisions
5 relating to protocol committees on child abuse; to remove certain reporting requirements to
6 the child abuse registry; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

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

9 **SECTION 1.**

10 Code Section 15-11-710 of the Official Code of Georgia Annotated, relating to exchange of
11 information, is amended by revising subsection (b) as follows:

12 "(b) Governmental entities and state, county, municipal, or consolidated government
13 departments, boards, or agencies shall exchange with each other all information not held
14 as confidential pursuant to federal law and relating to a child which may aid a
15 governmental entity in the assessment, treatment, intervention, or rehabilitation of a child,
16 notwithstanding Code Section 15-1-15, 15-11-40, 15-11-105, 15-11-170, 15-11-264,
17 15-11-541, 15-11-542, 15-11-603, 15-11-708, 15-11-709, 15-11-744, 20-2-751.2,
18 20-14-40, 24-12-10, 24-12-11, 24-12-20, 26-4-5, 26-4-80, 26-5-17, 31-5-5, 31-33-6,
19 37-1-53, 37-2-9.1, 42-5-36, 42-8-40, 42-8-109.2, 49-5-40, 49-5-41, 49-5-41.1, 49-5-44,
20 49-5-45, 49-5-183, 49-5-184, or 49-5-185, ~~or 49-5-186~~, in order to serve the best interests
21 of such child. Information which is shared pursuant to this subsection shall not be utilized
22 to assist in the prosecution of a child in juvenile, superior, or state court or utilized to the
23 detriment of such child."

24 **SECTION 2.**

25 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is
 26 amended by revising subsection (b) of Code Section 19-7-5, relating to reporting of child
 27 abuse, as follows:

28 "(b) As used in this Code section, the term:

29 (1) 'Abortion' shall have the same meaning as set forth in Code Section 15-11-681.

30 (2) 'Abused' means subjected to child abuse.

31 (3) 'Child' means any person under 18 years of age.

32 (4) 'Child abuse' means:

33 (A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by
 34 other than accidental means; provided, however, that physical forms of discipline may
 35 be used as long as there is no physical injury to the child;

36 (B) Neglect or exploitation of a child by a parent or caretaker thereof;

37 (C) Endangering a child;

38 ~~(C)~~(D) Sexual abuse of a child; or

39 ~~(D)~~(E) Sexual exploitation of a child.

40 However, no child who in good faith is being treated solely by spiritual means through
 41 prayer in accordance with the tenets and practices of a recognized church or religious
 42 denomination by a duly accredited practitioner thereof shall, for that reason alone, be
 43 considered to be an ~~'abused'~~ abused child.

44 (5) 'Child service organization personnel' means persons employed by or volunteering
 45 at a business or an organization, whether public, private, for profit, not for profit, or
 46 voluntary, that provides care, treatment, education, training, supervision, coaching,
 47 counseling, recreational programs, or shelter to children.

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

50 (6.1) 'Endangering a child' means:

51 (A) A violation of subsection (d) of Code Section 16-5-70;

52 (B) A violation of Code Section 16-5-73;

53 (C) A violation of subsection (l) of Code Section 40-6-391; or

54 (D) Prenatal abuse, as such term is defined in Code Section 15-11-2.

55 (7) 'Pregnancy resource center' means an organization or facility that:

56 (A) Provides pregnancy counseling or information as its primary purpose, either for a
 57 fee or as a free service;

58 (B) Does not provide or refer for abortions;

59 (C) Does not provide or refer for FDA approved contraceptive drugs or devices; and

60 (D) Is not licensed or certified by the state or federal government to provide medical
 61 or health care services and is not otherwise bound to follow the federal Health
 62 Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or
 63 federal laws relating to patient confidentiality.

64 (8) 'Reproductive health care facility' means any office, clinic, or any other physical
 65 location that provides abortions, abortion counseling, abortion referrals, or gynecological
 66 care and services.

67 (9) 'School' means any public or private pre-kindergarten, elementary school, secondary
 68 school, technical school, vocational school, college, university, or institution of
 69 postsecondary education.

70 (10) 'Sexual abuse' means a person's employing, using, persuading, inducing, enticing,
 71 or coercing any minor who is not ~~that~~ such person's spouse to engage in any act which
 72 involves:

73 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
 74 oral-anal, whether between persons of the same or opposite sex;

75 (B) Bestiality;

76 (C) Masturbation;

77 (D) Lewd exhibition of the genitals or pubic area of any person;

78 (E) Flagellation or torture by or upon a person who is nude;

79 (F) Condition of being fettered, bound, or otherwise physically restrained on the part
 80 of a person who is nude;

81 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
 82 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
 83 or unclothed breasts;

84 (H) Defecation or urination for the purpose of sexual stimulation; or

85 (I) Penetration of the vagina or rectum by any object except when done as part of a
 86 recognized medical procedure.

87 ~~'Sexual abuse'~~ Sexual abuse shall not include consensual sex acts involving persons of the
 88 opposite sex when the sex acts are between minors or between a minor and an adult who
 89 is not more than ~~five~~ three years older than the minor. This provision shall not be deemed
 90 or construed to repeal any law concerning the age or capacity to consent.

91 (11) 'Sexual exploitation' means conduct by any person who allows, permits, encourages,
 92 or requires ~~that~~ a child to engage in:

93 (A) Prostitution, as defined in Code Section 16-6-9; or

94 (B) Sexually explicit conduct for the purpose of producing any visual or print medium
 95 depicting such conduct, as defined in Code Section 16-12-100."

96 **SECTION 3.**

97 Said title is further amended by revising Code Section 19-15-1, relating to definitions for
 98 child abuse, as follows:

99 "19-15-1.

100 As used in this chapter, the term:

101 (1) 'Abused' means subjected to child abuse.

102 (2) 'Child' means any person under 18 years of age.

103 (3) 'Child abuse' means:

104 (A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by
 105 other than accidental means; provided, however, that physical forms of discipline may
 106 be used as long as there is no physical injury to the child;

107 (B) Neglect or exploitation of a child by a parent or caretaker thereof;

108 (C) Sexual abuse of a child; or

109 (D) Sexual exploitation of a child.

110 (4) 'Child advocacy center' means an entity which is operated for the purposes of
 111 investigating known or suspected child abuse and treating a child or a family that is the
 112 subject of a report of child abuse and which:

113 (A) Has been created and supported through one or more intracommunity compacts
 114 between such center and:

115 (i) One or more law enforcement agencies within this state; any other state; the
 116 United States, including its territories, possessions, and dominions; or a foreign
 117 nation;

118 (ii) The office of the district attorney, Attorney General, or United States Attorney
 119 General;

120 (iii) A legally mandated public or private child protective agency within this state;
 121 any other state; the United States, including its territories, possessions, and
 122 dominions; or a foreign nation;

123 (iv) A mental health board within this state; any other state; the United States,
 124 including its territories, possessions, and dominions; or a foreign nation; or

125 (v) A community health service board within this state; any other state; the United
 126 States, including its territories, possessions, and dominions; or a foreign nation; and

127 (B) Has been certified by a protocol committee.

128 ~~(4)~~(5) 'Child protection professional' means any person who is employed by the state or
 129 a political subdivision of the state as a law enforcement officer, school teacher, school
 130 administrator, or school counselor or who is employed to render services to children by
 131 the Department of Public Health, the Department of Behavioral Health and
 132 Developmental Disabilities, or the Department of Human Services or any county board

133 of health, community service board, or county department of family and children
134 services.

135 ~~(5) Reserved.~~

136 (6) 'Investigation' in the context of child death includes all of the following:

137 (A) A post-mortem examination which may be limited to an external examination or
138 may include an autopsy;

139 (B) An inquiry by law enforcement agencies having jurisdiction into the circumstances
140 of the death, including a scene investigation and interview with the child's parents,
141 guardian, or caretaker and the person who reported the child's death; and

142 (C) A review of information regarding the child and family from relevant agencies,
143 professionals, and providers of medical care.

144 (7) 'Panel' means the Georgia Child Fatality Review Panel established pursuant to Code
145 Section 19-15-4.

146 (8) 'Protocol committee' means a multidisciplinary, multiagency committee established
147 ~~for a county~~ pursuant to Code Section 19-15-2.

148 (9) 'Report' means a standardized form designated by the panel which is required for
149 collecting data on child fatalities reviewed by local child fatality review committees.

150 (10) 'Review committee' means a multidisciplinary, multiagency child fatality review
151 committee established for a county or circuit pursuant to Code Section 19-15-3.

152 (11) 'Sexual abuse' means a person's employing, using, persuading, inducing, enticing,
153 or coercing any minor who is not ~~that~~ such person's spouse to engage in any act which
154 involves:

155 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
156 oral-anal, whether between persons of the same or opposite sex;

157 (B) Bestiality;

158 (C) Masturbation;

159 (D) Lewd exhibition of the genitals or pubic area of any person;

160 (E) Flagellation or torture by or upon a person who is nude;

161 (F) Condition of being fettered, bound, or otherwise physically restrained on the part
162 of a person who is nude;

163 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
164 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
165 or unclothed breasts;

166 (H) Defecation or urination for the purpose of sexual stimulation; or

167 (I) Penetration of the vagina or rectum by any object except when done as part of a
168 recognized medical procedure.

169 ~~'Sexual abuse'~~ Sexual abuse shall not include consensual sex acts involving persons of the
 170 opposite sex when the sex acts are between minors or between a minor and an adult who
 171 is not more than three years older than the minor. This provision shall not be deemed or
 172 construed to repeal any law concerning the age or capacity to consent.

173 (12) 'Sexual exploitation' means conduct by any person who allows, permits, encourages,
 174 or requires ~~that~~ a child to engage in:

175 (A) Prostitution, as defined in Code Section 16-6-9; or

176 (B) Sexually explicit conduct for the purpose of producing any visual or print medium
 177 depicting such conduct, as defined in Code Section 16-12-100."

178 **SECTION 4.**

179 Said title is further amended by revising Code Section 19-5-2, relating to protocol committee
 180 on child abuse, as follows:

181 "19-15-2.

182 (a) ~~Each~~ Except as provided in paragraph (3) of subsection (b) of this Code section, each
 183 county shall be required to establish a protocol for the investigation and prosecution of
 184 alleged cases of child abuse as provided in this Code section.

185 (b)(1) The chief superior court judge of the circuit in which the county is located shall
 186 establish a protocol committee as provided in subsection (c) of this Code section and shall
 187 appoint an interim chairperson who shall preside over the first meeting, and the chief
 188 superior court judge shall appoint persons to fill any vacancies on the protocol committee.

189 ~~(2) Thus established, the~~ After the establishment of a protocol committee shall thereafter,
 190 the committee members shall elect a chairperson from ~~its~~ the protocol committee's
 191 membership. The protocol committee shall be charged with developing local protocols
 192 for the investigation and prosecution of alleged cases of child abuse.

193 (3) When a judicial circuit is composed of more than one county, the protocol committee
 194 shall determine if it shall be established for each county in the judicial circuit or if it will
 195 serve all of the counties within the judicial circuit.

196 (c)(1) Each of the following individuals, agencies, and entities shall designate a
 197 representative to serve on ~~the~~ a protocol committee established pursuant to paragraph (1)
 198 of subsection (b) of this Code section:

199 (A) The sheriff;

200 (B) The county department of family and children services;

201 (C) The district attorney for the judicial circuit;

202 (D) The presiding juvenile court judge;

203 (E) The chief magistrate;

204 (F) The county board of education;

- 205 (G) The county mental health organization;
 206 (H) The chief of police of a county in counties which have a county police department;
 207 (I) The chief of police of the largest municipality in the county;
 208 (J) The county public health department, ~~which shall designate a physician to serve on~~
 209 ~~the protocol committee;~~ and
 210 (K) The coroner or county medical examiner.

211 (2) Each of the following individuals, agencies, and entities shall designate a
 212 representative to serve on a protocol committee established pursuant to paragraph (3) of
 213 subsection (b) of this Code section:

- 214 (A) The sheriff of each county in the judicial circuit;
 215 (B) The county department of family and children services of each county in the
 216 judicial circuit;
 217 (C) The district attorney for the judicial circuit;
 218 (D) The presiding juvenile court judge of each county in the judicial circuit;
 219 (E) The chief magistrate of each county in the judicial circuit;
 220 (F) The county board of education of each county in the judicial circuit;
 221 (G) The county mental health organization of each county in the judicial circuit;
 222 (H) The chief of police of each county in the judicial circuit, if any;
 223 (I) The chief of police of the largest municipality in the judicial circuit;
 224 (J) The county public health department of each county in the judicial circuit; and
 225 (K) The coroner or county medical examiner of each county in the judicial circuit.

226 (3) A representative of a local child advocacy center shall serve on a protocol committee
 227 established under paragraph (1) or (3) of subsection (b) of this Code section if one exists
 228 in such location.

229 ~~(2)~~(4) In addition to the representatives serving on the protocol committee as provided
 230 for in ~~paragraph~~ paragraphs (1) through (3) of this subsection, the chief superior court
 231 judge shall designate a representative from a local citizen or advocacy group which
 232 focuses on child abuse awareness and prevention to serve on such protocol committee.

233 ~~(3)~~(5) If any designated agency fails to carry out its duties relating to participation on the
 234 protocol committee, the chief superior court judge of the circuit may issue an order
 235 requiring the participation of such agency. Failure to comply with such order shall be
 236 cause for punishment as for contempt of court.

237 (d) Each protocol committee ~~shall elect or appoint~~ a chairperson ~~who~~ shall be responsible
 238 for ensuring that written protocol procedures are followed by all agencies. Such person ~~can~~
 239 may be independent of agencies listed in paragraph (1) of subsection (c) of this Code
 240 section. The protocol committee may appoint such additional members as necessary and
 241 proper to accomplish the purposes of the protocol committee.

242 (e) The protocol committee shall adopt a written protocol which shall be filed with the
243 Division of Family and Children Services of the Department of Human Services and the
244 ~~panel~~ Office of the Child Advocate for the Protection of Children, a copy of which shall
245 be furnished to each agency in the county handling the cases of abused children. The
246 protocol shall be a written document outlining in detail the procedures to be used in
247 investigating and prosecuting cases arising from alleged child abuse and the methods to be
248 used in coordinating treatment programs for the perpetrator, the family, and the child. The
249 protocol shall also outline procedures to be used when child abuse occurs in a household
250 where there is violence between past or present spouses, persons who are parents of the
251 same child, parents and children, stepparents and stepchildren, foster parents and foster
252 children, or other persons living or formerly living in the same household. The protocol
253 adopted shall not be inconsistent with the policies and procedures of the Division of Family
254 and Children Services of the Department of Human Services.

255 (f) The purpose of the protocol shall be to ensure coordination and cooperation between
256 all agencies involved in a child abuse case so as to increase the efficiency of all agencies
257 handling such cases, to minimize the stress created for the allegedly abused child by the
258 legal and investigatory process, and to ensure that more effective treatment is provided for
259 the perpetrator, the family, and the child, including counseling.

260 (g) Upon completion of the writing of the protocol, the protocol committee shall continue
261 in existence and shall meet at least semiannually for the purpose of evaluating the
262 effectiveness of the protocol and appropriately modifying and updating the same. The
263 protocol committee shall file the updated protocol with the Division of Family and
264 Children Services of the Department of Human Services and the Office of the Child
265 Advocate for the Protection of Children not later than the first day of September each year.

266 (h) Each protocol committee shall adopt or amend its written protocol to specify the
267 circumstances under which law enforcement officers shall and shall not be required to
268 accompany investigators from the county department of family and children services when
269 these investigators investigate reports of child abuse. In determining when law
270 enforcement officers shall and shall not accompany investigators, the protocol committee
271 shall consider the need to protect the alleged victim and the need to preserve the
272 confidentiality of the report. Each protocol committee shall establish joint work efforts
273 between the law enforcement and investigative agencies in child abuse investigations. The
274 adoption or amendment of the protocol shall also describe measures which can be taken
275 within the county or circuit, as the case may be, to prevent child abuse and shall be filed
276 with and furnished to the same entities with or to which an original protocol is required to
277 be filed or furnished. The protocol shall be further amended to specify procedures to be
278 adopted by the protocol committee to ensure that written protocol procedures are followed.

279 (i) The protocol committee shall issue a report no later than the first day of July each year.
 280 Such report shall evaluate the extent to which investigations of child abuse during the 12
 281 months prior to the report have complied with the protocols of the protocol committee,
 282 recommend measures to improve compliance, and describe which measures taken within
 283 the county or circuit, as the case may be, to prevent child abuse have been successful. The
 284 report shall be transmitted to the county governing authority, the fall term grand jury of the
 285 judicial circuit, the ~~panel~~ Office of the Child Advocate for the Protection of Children, and
 286 the chief superior court judge of the circuit.

287 (j) Each member of each protocol committee shall receive appropriate training within 12
 288 months after his or her appointment. The Office of the Child Advocate for the Protection
 289 of Children shall provide such training.

290 (k) The protocol committee shall ~~adopt~~ include a written sexual abuse and sexual
 291 exploitation section within its protocol which shall be filed with the Division of Family and
 292 Children Services of the Department of Human Services and the Office of the Child
 293 Advocate for the Protection of Children, a copy of which shall be furnished to each agency
 294 in the county handling the cases of sexually abused or exploited children. The sexual abuse
 295 and sexual exploitation section of the protocol shall ~~be a written document outlining~~ outline
 296 in detail the procedures to be used in investigating and prosecuting cases arising from
 297 alleged sexual abuse and sexual exploitation and the procedures to be followed concerning
 298 the obtainment of and payment for sexual assault examinations. ~~Each protocol committee~~
 299 ~~shall adopt or amend its written sexual abuse and sexual exploitation protocol.~~ The sexual
 300 abuse and sexual exploitation section of the protocol ~~adopted~~ shall be consistent with the
 301 policies and procedures of the Division of Family and Children Services of the Department
 302 of Human Services. ~~A~~ The sexual abuse and sexual exploitation section of the protocol is
 303 not intended to, does not, and may not be relied upon to create any rights, substantive or
 304 procedural, enforceable at law by any party in any matter civil or criminal. Such section
 305 of the protocol shall not limit or otherwise restrict a prosecuting attorney in the exercise of
 306 his or her discretion nor in the exercise of any otherwise lawful litigative prerogatives."

307 **SECTION 5.**

308 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and
 309 protection for children and youth, is amended by revising Article 8, relating to the central
 310 child abuse registry, as follows:

311 "ARTICLE 8

312 49-5-180.

313 As used in this article, the term:

314 (1) 'Abuse investigator' means the division, any county ~~or district~~ department of family
315 ~~and children services~~, or any designee thereof.316 (2) 'Alleged child abuser' means ~~a person~~ an individual named in an abuse investigator's
317 report as having committed a substantiated case.318 (3) 'Child' means ~~any person~~ an individual under 18 years of age.319 (4) 'Child abuse' ~~has~~ shall have the same meaning as in paragraph (4) of subsection (b)
320 of Code Section 19-7-5.321 ~~(5) 'Child abuse crime' means:~~322 ~~(A) A violation of Article 1 or Article 2 of Chapter 5 of Title 16 or subsections (b) or~~
323 ~~(c) of Code Section 16-5-70, in which physical injury or death is inflicted on a minor~~
324 ~~child by a parent or caretaker thereof by other than accidental means;~~325 ~~(B) A violation of Code Section 16-12-1 regarding a minor child by a parent or~~
326 ~~caretaker thereof;~~327 ~~(C) A violation of Chapter 6 of Title 16 in which the victim is a minor;~~328 ~~(D) A violation of Part 2 of Article 3 of Chapter 12 of Title 16; or~~329 ~~(E) Any other crime that, in the discretion of the prosecuting attorney, constitutes child~~
330 ~~abuse.~~331 ~~(6)~~(5) 'Child abuse registry' means the Child Protective Services Information System.332 ~~(7) 'Convicted' means a finding or verdict of guilty or a plea of guilty regardless of~~
333 ~~whether an appeal of the conviction has been sought. Such term also includes having~~
334 ~~been arrested, charged, and sentenced for the commission of a child abuse crime for~~
335 ~~which:~~336 ~~(A) A plea of nolo contendere was entered to the charge; or~~337 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~
338 ~~granted. The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title~~
339 ~~42, relating to probation of first offenders, or other first offender treatment shall be~~
340 ~~conclusive evidence of arrest and sentencing for such crime.~~341 ~~(8) 'Convicted child abuser' means a person who is convicted.~~342 ~~(9)~~(6) 'Division' means the Division of Family and Children Services of the department.343 ~~(10)~~(7) 'Out-of-state abuse investigator' means a public child protective agency or law
344 enforcement agency of any other state bound by confidentiality requirements as to
345 information obtained under this article which are similar to those provided in this article.

346 ~~(11)~~(8) 'Sexual abuse' ~~has~~ shall have the same meaning as in paragraph (10) of
347 subsection (b) of Code Section 19-7-5.

348 ~~(12)~~(9) 'Sexual exploitation' ~~has~~ shall have the same meaning as in paragraph (11) of
349 subsection (b) of Code Section 19-7-5.

350 ~~(13)~~(10) 'Substantiated case' means an investigation of a child abuse report by an abuse
351 investigator which has been confirmed based upon a preponderance of the evidence that
352 child abuse has occurred.

353 49-5-181.

354 (a) The division shall establish and maintain a central child abuse registry which shall be
355 known as the 'Child Protective Services Information System.' The child abuse registry
356 shall receive notice regarding:

357 ~~(1) Substantiated~~ substantiated cases occurring on and after July 1, 2016, reported to the
358 division pursuant to ~~subsection (a) of~~ Code Section 49-5-182, ~~and~~

359 ~~(2) Convicted child abusers on and after July 1, 2016, reported to the division pursuant~~
360 ~~to subsection (b) of Code Section 49-5-182.~~

361 (b) The child abuse registry shall be operated in such a manner as to enable abuse
362 investigators to:

363 (1) Immediately identify and locate substantiated cases ~~and convicted child abusers;~~ and

364 (2) Maintain and produce aggregate statistical data of substantiated cases ~~and cases of~~
365 ~~child abuse in which a person was convicted.~~

366 49-5-182.

367 ~~(a)~~ An abuse investigator who completes the investigation of a child abuse report made
368 pursuant to Code Section 19-7-5 or otherwise and determines that it is a substantiated case
369 if the alleged child abuser was at least 13 years of age at the time of the commission of the
370 act shall notify the division within 30 business days following such determination. Such
371 notice may be submitted electronically and shall include the following:

372 (1) Name, age, sex, race, social security number, if known, and birthdate of the child
373 alleged to have been abused;

374 (2) Name, age, sex, race, social security number, and birthdate of the parents, custodian,
375 or caretaker of the child alleged to have been abused, if known;

376 (3) Name, age, sex, race, social security number, and birthdate of the person who
377 committed the substantiated case; and

378 (4) A summary of the known details of the child abuse which at a minimum shall contain
379 the classification of the abuse as provided in paragraph (4) of subsection (b) of Code

380 Section 19-7-5 as either sexual abuse, physical abuse, child neglect, or a combination
381 thereof.

382 ~~(b) Upon receipt of a sentence for a convicted child abuser, the prosecuting attorney shall~~
383 ~~notify the division within 30 business days following such receipt. Such notice may be~~
384 ~~submitted electronically and shall include the following:~~

385 ~~(1) A certified copy of the sentence;~~

386 ~~(2) A complete history of the conviction, including a certified copy of the indictment,~~
387 ~~accusation, or both and such other information as the division may require;~~

388 ~~(3) Name, age, sex, race, social security number, and birthdate of the victim of child~~
389 ~~abuse by the convicted child abuser, if known; and~~

390 ~~(4) Name, age, sex, race, social security number, and birthdate of the parents, custodian,~~
391 ~~or caretaker of the victim of child abuse by the convicted child abuser, if known.~~

392 49-5-183.

393 (a) Upon receipt of an investigator's report of a substantiated case pursuant to subsection
394 ~~(a)~~ of Code Section 49-5-182 naming an alleged child abuser, the division:

395 (1) Shall include in the child abuse registry the name of the alleged child abuser, the
396 classification of the abuse as provided in paragraph (4) ~~of subsection (a)~~ of Code Section
397 49-5-182, and a copy of the investigator's report; and

398 (2) Shall mail to such alleged child abuser in such report a notice regarding the
399 substantiated case via certified mail, return receipt requested. It shall be a rebuttable
400 presumption that any such notice has been received if the return receipt has been received
401 by the division. The notice shall further inform such alleged child abuser of ~~such person's~~
402 his or her right to a hearing to appeal such determination. The notice shall further inform
403 such alleged child abuser of the procedures for obtaining the hearing and that an
404 opportunity shall be afforded all parties to be represented by legal counsel and to respond
405 and present evidence on all issues involved.

406 (b) Any alleged child abuser who has not attained the age of majority set forth by Code
407 Section 39-1-1 at the time of the hearing requested pursuant to subsection (d) of this Code
408 section shall be entitled to representation at the hearing either by the alleged child abuser's
409 parent or other legal guardian or by an attorney employed by such parent or guardian. In
410 the event the administrative law judge conducting the hearing determines that any such
411 alleged minor child abuser will not be so represented at the hearing, or that the interests of
412 any such alleged minor child abuser may conflict with the interests of the alleged minor
413 child abuser's parent or other legal guardian, the administrative law judge shall order the
414 division to apply to the superior court of the county in which the alleged act of child abuse

415 was committed to have counsel appointed for the alleged minor child abuser. Payment for
416 any such court appointed representation shall be made by such county.

417 (c) In order to exercise such right to a hearing, the alleged child abuser ~~must~~ shall file a
418 written request for a hearing with the division within ten days after receipt of such notice.
419 The written request shall contain the alleged child abuser's current residence address and,
420 if ~~the person~~ he or she has a telephone, a telephone number at which ~~such person~~ he or she
421 may be notified of the hearing.

422 (d) If the division receives a timely written request for a hearing under subsection (c) of
423 this Code section, it shall transmit that request to the Office of State Administrative
424 Hearings within ten days after such receipt. Notwithstanding any other provision of law,
425 the Office of State Administrative Hearings shall conduct a hearing upon that request in
426 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and
427 the rules of the Office of State Administrative Hearings adopted pursuant thereto, except
428 as otherwise provided in this article. The hearing shall be for the purpose of an
429 administrative determination regarding whether, based on a preponderance of evidence,
430 there was child abuse committed by the alleged child abuser to justify the investigator's
431 determination of a substantiated case. The Office of State Administrative Hearings shall
432 give notice of the time and place of the hearing to the alleged child abuser by first-class
433 mail to the address specified in the written request for a hearing and to the division by
434 first-class mail at least ten days prior to the date of the hearing. It shall be a rebuttable
435 presumption that any such notice is received five days after deposit in the United States
436 mail with the correct address of the alleged child abuser and the division, respectively, and
437 proper postage affixed. Unless postponed by mutual consent of the parties and the
438 administrative law judge or for good cause shown, ~~that~~ such hearing shall be held within
439 30 business days following receipt by the Office of State Administrative Hearings of the
440 request for a hearing, and a decision shall be rendered within five business days following
441 such hearing. A motion for an expedited hearing may be filed in accordance with rules and
442 regulations promulgated by the Office of State Administrative Hearings. The hearing may
443 be continued as necessary to allow the appointment of counsel. A telephone hearing may
444 be conducted concerning this matter in accordance with standards prescribed in paragraph
445 (5) of Code Section 50-13-15. Upon the request of any party to the proceeding or the
446 assigned administrative law judge, venue may be transferred to any location within ~~the~~ this
447 state if all parties and the administrative law judge consent to such a change of venue.
448 Otherwise, the hearing shall be conducted in the county in which the alleged act of child
449 abuse was committed. The doctrines of collateral estoppel and res judicata as applied in
450 judicial proceedings are applicable to the administrative hearings held pursuant to this
451 article.

452 (e) At the conclusion of the hearing under subsection (d) of this Code section, upon a
453 finding that there is not a preponderance of evidence to conclude that the alleged child
454 abuser committed an act of child abuse, the administrative law judge shall order that the
455 alleged child abuser's name be removed from the child abuse registry. The general public
456 shall be excluded from hearings of the Office of State Administrative Hearings held
457 pursuant to this article, and the files and records relating thereto shall be confidential and
458 not subject to public inspection.

459 (f) Notwithstanding any other provision of law, the decision of the administrative law
460 judge under subsection (e) of this Code section shall constitute the final administrative
461 decision. Any party shall have the right of judicial review of such decision in accordance
462 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the
463 petition for review shall be filed within ten days after such decision and may only be filed
464 with and the decision appealed to the superior court of the county where the hearing took
465 place or, if the hearing was conducted by telephone, the Superior Court of Fulton County.
466 The procedures for such appeal shall be substantially the same as those for judicial review
467 of contested cases under Code Section 50-13-19 except that the filing of a petition for
468 judicial review stays the listing of the petitioner's name upon the child abuse registry, and
469 the superior court shall conduct the review and render its decision thereon within 30 days
470 following the filing of the petition. The review and records thereof shall be closed to the
471 public and not subject to public inspection.

472 (g) The administrative law judge shall transmit to the division his or her decision regarding
473 the alleged child abuser and the investigator's report regarding such individual within ten
474 days following that decision unless a petition for judicial review of that decision is filed
475 within the permitted time period. If a timely petition for judicial review is filed within the
476 permitted time period, the superior court shall transmit to the division its decision regarding
477 the alleged child abuser and the investigator's report regarding such individual within ten
478 days following that decision.

479 49-5-184.

480 ~~(a) Upon receipt of a notice from a prosecuting attorney pursuant to subsection (b) of Code~~
481 ~~Section 49-5-182, the division shall include in the child abuse registry the name of the~~
482 ~~convicted child abuser, the offense for which he or she was convicted, and whether the~~
483 ~~offense is considered physical abuse, neglect or exploitation, sexual abuse, or sexual~~
484 ~~exploitation.~~

485 ~~(b) Any person whose name appears in the child abuse registry as a convicted child abuser~~
486 ~~shall be entitled to a hearing for an administrative determination of whether or not~~
487 ~~expungement of such person's name should be ordered. In order to exercise such right, the~~

488 ~~person must file a written request for a hearing with the division. The provisions of this~~
 489 ~~subsection shall not apply to persons who have waived their hearing after receipt of notice.~~
 490 ~~(c) Upon receipt by the division of a written request for a hearing pursuant to subsection~~
 491 ~~(b) of this Code section, the division shall transmit such request to the Office of State~~
 492 ~~Administrative Hearings within ten days of receipt. The Office of State Administrative~~
 493 ~~Hearings shall conduct a hearing in accordance with Chapter 13 of Title 50, the 'Georgia~~
 494 ~~Administrative Procedure Act,' except as otherwise provided in this Code section. A~~
 495 ~~hearing shall be conducted within 60 days following receipt of the request by the Office~~
 496 ~~of State Administrative Hearings. Upon a finding that there is no credible evidence that~~
 497 ~~the person who requested the hearing is a convicted child abuser, the Office of State~~
 498 ~~Administrative Hearings shall order the division to expunge that name from the registry.~~
 499 ~~The general public shall be excluded from such hearings and the files and records relating~~
 500 ~~thereto shall be confidential and not subject to public inspection.~~
 501 ~~(d) Notwithstanding any other provision of law, the decision of the Office of State~~
 502 ~~Administrative Hearings pursuant to subsection (c) of this Code section shall constitute the~~
 503 ~~final agency decision. Any party shall have the right of judicial review of that decision in~~
 504 ~~accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except~~
 505 ~~that the petition for review shall be filed within 30 days after such decision and may only~~
 506 ~~be filed with and the decision appealed to the superior court of the county where the~~
 507 ~~hearing took place or, if the hearing was conducted by telephone, the Superior Court of~~
 508 ~~Fulton County. The procedures for such appeal shall be the same as those for judicial~~
 509 ~~review of contested cases under Code Section 50-13-19. The review and records thereof~~
 510 ~~shall be closed to the public and not subject to public inspection.~~

511 ~~49-5-185.~~

512 (a) Except as otherwise authorized in subsection (c) of this Code section and subsection
 513 (b) of Code Section ~~49-5-186~~ 49-5-185, the only persons or entities ~~who~~ that may access
 514 or be provided any information from the child abuse registry are:

515 (1) An abuse investigator who has investigated or is investigating a case of possible child
 516 abuse and who shall only be provided information relating to ~~that~~ such case for purposes
 517 of using ~~that~~ such information in such investigation;

518 (2) State or other government agencies of this state or any other state which license
 519 entities that have interactions with children or are responsible for providing care for
 520 children or licensed entities in this state which interact with children or are responsible
 521 for providing care for children and which shall only be provided information for purposes
 522 of licensing or employment of a specific individual;

523 (3) A licensing entity, which may disclose information from the child abuse registry in
 524 a written notice to an applicant or licensed entity whose license is denied or revoked as
 525 a result of information found in the registry, to the extent that such information is
 526 required in such notice by a federal or state law, regulation, or policy; or in a proceeding
 527 arising from an adverse action taken against a licensed entity or individual as a result of
 528 information found in the registry; and

529 (4) The Department of Early Care and Learning, which is authorized to disclose all or
 530 a portion of the information from the child abuse registry used to determine that a records
 531 check is unsatisfactory or to rescind a determination that a records check is satisfactory
 532 to an individual who has submitted a records check application or whose satisfactory
 533 records check determination has been rescinded in accordance with Article 2 of Chapter
 534 1A of Title 20.

535 (b) The division shall provide the Governor's office, the General Assembly, district
 536 attorneys, and law enforcement agencies with a statistical analysis of substantiated cases
 537 of child abuse ~~and convicted child abusers~~ entered into the child abuse registry at the end
 538 of each calendar year. This analysis shall not include the names of any children, parents,
 539 or persons associated with the child abuse. This analysis shall not be protected by any laws
 540 prohibiting the dissemination of confidential information.

541 (c) ~~A person~~ An individual may make a written request to the division to find out whether
 542 ~~such person's~~ his or her name is included in the child abuse registry. Upon presentation of
 543 a passport, military identification card, driver's license, or identification card authorized
 544 under Code Sections 40-5-100 through 40-5-104, the office receiving such request shall
 545 disclose to such ~~person~~ individual whether his or her name is included in the child abuse
 546 registry and, if so, the date upon which his or her name was listed in the registry ~~and the~~
 547 ~~substantiated case or child abuse crime for which such person was convicted.~~

548 (d) The division shall provide persons and entities authorized in subsection (a) of this Code
 549 section with access to or information from the child abuse registry sufficient to meet the
 550 requirements prescribed by Congress as conditions to federal funding for programs
 551 administered by such ~~entities or persons~~ or entities.

552 ~~49-5-186~~ 49-5-185.

553 (a) Information in the child abuse registry shall be confidential and shall not be subject to
 554 Article 4 of Chapter 18 of Title 50, and access thereto is prohibited except as provided in
 555 this article. Such information shall not be deemed to be a record of child abuse for
 556 purposes of Article 2 of this chapter.

557 (b)(1) Information obtained from the child abuse registry shall not be made a part of any
 558 record which is open to the public except as provided in paragraph (2) of this subsection;

559 provided, however, that a district attorney may use such information in any court
560 proceeding in the course of any criminal prosecution, if such information is otherwise
561 admissible.

562 (2) Notwithstanding any other provisions of law, information in the child abuse registry
563 applicable to a child who at the time of his or her death was in the custody of a state
564 department or agency or foster parent, which information relates to the child while in the
565 custody of such state department or agency or foster parent, shall not be confidential and
566 shall be subject to Article 4 of Chapter 18 of Title 50.

567 (c) Any person who knowingly provides any information from the child abuse registry to
568 a person not authorized to be provided such information under this article shall be guilty
569 of a misdemeanor.

570 (d) Any person who knowingly and under false pretense obtains or attempts to obtain
571 information which was obtained from the child abuse registry, except as authorized in this
572 article, shall be guilty of a misdemeanor.

573 ~~49-5-187~~ 49-5-186.

574 The division and other authorized agencies, entities, and persons and the employees thereof
575 providing information from the child abuse registry as authorized by this article and any
576 person who uses such information shall have no civil liability or criminal responsibility
577 therefor."

578 **SECTION 6.**

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