

Senate Bill 168

By: Senators Miller of the 49th, Kennedy of the 18th, Dugan of the 30th, Kirk of the 13th, Millar of the 40th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Article 2 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated,  
2 relating to child abuse, so as to extend the persons and agencies permitted to access child  
3 abuse records by the department or a county or other state or local agency; to amend Article  
4 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to the Central  
5 Child Abuse Registry, so as to permit access to information in the child abuse registry to  
6 certain governmental entities investigating allegations of child abuse; to permit access to  
7 child abuse registry to certain child-placing entities conducting foster and adoptive parent  
8 background checks; to provide for related matters; to repeal conflicting laws; and for other  
9 purposes.

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

11 **SECTION 1.**

12 Article 2 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to child  
13 abuse, is amended in Code Section 49-5-41, relating to persons and agencies permitted  
14 access to records, by revising subsection (c) as follows:

15 "(c) The department or a county or other state or local agency may permit access to records  
16 concerning reports of child abuse and may release information from such records to the  
17 following persons or agencies when deemed appropriate by such department:

18 (1) A physician who has before him or her a child whom he or she reasonably suspects  
19 may be abused;

20 (2) A licensed child-placing agency, a licensed child-caring institution of this state which  
21 is assisting the department by locating or providing foster or adoptive homes for children  
22 in the custody of the department, a licensed adoption agency of this or any other state  
23 which is placing a child for adoption, or an investigator appointed by a court of  
24 competent jurisdiction of this state to investigate a pending petition for adoption;

25 (3) A person legally authorized to place a child in protective custody when such person  
26 has before him or her a child he or she reasonably suspects may be abused and such

- 27 person requires the information in the record or report in order to determine whether to  
28 place the child in protective custody;
- 29 (4) An agency or person having the legal custody, responsibility, or authorization to care  
30 for, treat, or supervise the child who is the subject of a report or record;
- 31 (5) An agency, facility, or person having responsibility or authorization to assist in  
32 making a judicial determination for the child who is the subject of the report or record of  
33 child abuse, including but not limited to, members of officially recognized citizen review  
34 panels, court appointed guardians ad litem, certified ~~Court Appointed Special Advocate~~  
35 court appointed special advocate (CASA) volunteers who are appointed by a judge of a  
36 juvenile court to act as advocates for the best interest of a child in a juvenile proceeding,  
37 and members of a protocol committee, as such term is defined in Code Section 19-15-1;
- 38 (6) A legally mandated public child protective agency or law enforcement agency of  
39 another state bound by similar confidentiality provisions and requirements when, during  
40 or following the department's investigation of a report of child abuse, the alleged abuser  
41 has left this state;
- 42 (7) A child welfare agency, as defined in Code Section 49-5-12, or a school where the  
43 department has investigated allegations of child abuse made against any employee of  
44 such agency or school and any child remains at risk from exposure to that employee,  
45 except that such access or release shall protect the identity of:
- 46 (A) Any person reporting the child abuse; and  
47 (B) Any other person whose life or safety has been determined by the department or  
48 agency likely to be endangered if the identity were not so protected;
- 49 (8) An employee of a school or employee of a child welfare agency, as defined in Code  
50 Section 49-5-12, against whom allegations of child abuse have been made, when the  
51 department has been unable to determine the extent of the employee's involvement in  
52 alleged child abuse against any child in the care of that school or agency. In those  
53 instances, upon receiving a request and signed release from the employee, the department  
54 may report its findings to the employer, except that such access or release shall protect  
55 the identity of:
- 56 (A) Any person reporting the child abuse; and  
57 (B) Any other person whose life or safety has been determined by the department or  
58 agency likely to be endangered if the identity were not so protected;
- 59 (9) Any person who has an ongoing relationship with the child named in the record or  
60 report of child abuse any part of which is to be disclosed to such person but only if that  
61 person is required to report suspected abuse of that child pursuant to subsection (b) of  
62 Code Section 19-7-5, as that subsection existed on January 1, 1990;

63 (10) Any school principal or any school guidance counselor, school social worker, or  
 64 school psychologist who is certified under Chapter 2 of Title 20 and who is counseling  
 65 a student as a part of such counseling person's school employment duties, but those  
 66 records shall remain confidential and information obtained therefrom by that counseling  
 67 person may not be disclosed to any person, except that student, not authorized under this  
 68 Code section to obtain those records, and such unauthorized disclosure shall be  
 69 punishable as a misdemeanor;

70 (10.1) Any school official of a school that a child who was the subject of a report of  
 71 suspected child abuse made pursuant to Code Section 19-7-5 attends in which there is an  
 72 ongoing investigation of the reported abuse. Any such ongoing investigation shall  
 73 include contact with such school to obtain any relevant information from school  
 74 personnel regarding the report of suspected child abuse;

75 (11) The Department of Early Care and Learning or the Department of Education; or

76 (12) An individual, at the time such individual is leaving foster care by reason of having  
 77 attained the age of majority, but such access shall be limited to providing such individual  
 78 with a free copy of his or her health and education records, including the most recent  
 79 information available.

80 (13) Local and state law enforcement agencies of this state, the Department of  
 81 Community Supervision, the Department of Corrections, and the Department of Juvenile  
 82 Justice when such entities or departments are providing supervision or services to  
 83 individuals and families to whom the Division of Family and Children Services is also  
 84 providing services, except when such access or release of information is prohibited by  
 85 federal law or regulation. Access to such records and information may be provided  
 86 electronically when funds are specifically appropriated for such purpose."

87 **SECTION 2.**

88 Article 8 of Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to the  
 89 Central Child Abuse Registry, is amended in Code Section 49-5-185, relating to access to  
 90 information in the registry, by revising subsection (a) as follows:

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

94 (1) An abuse investigator who has investigated or any federal, federally recognized  
 95 tribal, state, or local governmental entity which is investigating or responding to a report  
 96 of a case of possible child abuse or is investigating a case of possible child abuse and who  
 97 shall only be provided information relating to such case for purposes of using such  
 98 information in such investigation;

- 99 (2) State or other government agencies of this state or any other state which license  
100 entities that have interactions with children or are responsible for providing care for  
101 children or licensed entities in this state which interact with children or are responsible  
102 for providing care for children and which shall only be provided information for purposes  
103 of licensing or employment of a specific individual;
- 104 (3) A licensing entity, which may disclose information from the child abuse registry in  
105 a written notice to an applicant or licensed entity whose license is denied or revoked as  
106 a result of information found in the registry, to the extent that such information is  
107 required in such notice by a federal or state law, regulation, or policy or in a proceeding  
108 arising from an adverse action taken against a licensed entity or individual as a result of  
109 information found in the registry;
- 110 (4) The Department of Early Care and Learning, which is authorized to disclose all or  
111 a portion of the information from the child abuse registry used to determine that a records  
112 check is unsatisfactory or to rescind a determination that a records check is satisfactory  
113 to an individual who has submitted a records check application or whose satisfactory  
114 records check determination has been rescinded in accordance with Article 2 of Chapter  
115 1A of Title 20; and
- 116 (5) An affiliate court appointed special advocate program, as such term is defined in  
117 Code Section 15-11-2, which information shall be provided and used solely for the  
118 purpose of screening and selecting employees and volunteers of such affiliate court  
119 appointed special advocate program and screening and selecting individuals to serve as  
120 a CASA, as such term is defined in Code Section 15-11-2.
- 121 (6) Any federal, federally recognized tribal, state, or local governmental entity of this or  
122 any other state or any agent of such governmental entities requesting information  
123 concerning any prospective foster or adoptive parent or any adult living in the home of  
124 the prospective foster or adoptive parent, which information shall be provided and used  
125 solely for the purpose of conducting background checks of prospective foster or adoptive  
126 parents; and
- 127 (7) Any child-placing agency of this state licensed to place children in foster homes or  
128 for adoption requesting information concerning any prospective foster or adoptive parent,  
129 which information shall be provided and used solely for the purpose of conducting  
130 background checks of foster parents or adoptive parents and, in the discretion of the  
131 Division of Family and Children services, any entity licensed by any other state to place  
132 children for adoption which information shall be provided and used solely for the purpose  
133 of conducting background checks on adoptive parents."

134

**SECTION 3.**

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