

Senate Bill 365

By: Senators Stone of the 23rd, Bethel of the 54th, Jackson of the 24th, Miller of the 49th, Crosby of the 13th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 11 of Title 15, Article 3A of Chapter 5 of Title 40, Chapter
2 2 of Title 42, and Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating
3 to delinquency proceedings in juvenile court, suspension of driver's license for certain drug
4 offenses, the Board and Department of Corrections, and general tort provisions, respectively,
5 so as to enact offender reentry reforms as recommended by the Georgia Council on Criminal
6 Justice Reform; to change provisions relating to findings in a disposition hearing; to change
7 provisions relating to calculating time when a child is delinquent and dependent; to change
8 provisions relating to periodic review hearings for children in foster care; to provide for
9 permanency planning for children by the Department of Juvenile Justice; to provide for court
10 hearings regarding the Department of Juvenile Justice's permanency planning for children;
11 to provide for restoration or suspension of a defendant's driver's license or issuance of a
12 limited driving permit under certain circumstances; to provide for a Program and Treatment
13 Completion Certificate that may be issued by the Board of Corrections under certain
14 circumstances; to change provisions relating to educational programs for adult offenders; to
15 provide a rebuttable presumption of due care under certain circumstances when a Program
16 and Treatment Completion Certificate has been issued by the Department of Corrections; to
17 retain sovereign immunity of the state; to amend Article 11 of Chapter 11 of Title 15,
18 Chapter 15 of Title 19, and Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia
19 Annotated, relating to the "Georgia Child Advocate for the Protection of Children Act," child
20 abuse, and general provisions for the Georgia Bureau of Investigation, respectively, so as to
21 move the responsibility of coordinating and supervising the work of the Georgia Child
22 Fatality Review Panel from the Child Advocate for the Protection of Children to the director
23 of the Georgia Bureau of Investigation or his or her designee; to provide for a short title; to
24 provide for the director of the Georgia Bureau of Investigation to assist local child fatality
25 review committees; to clarify definitions; to provide for legislative findings; to amend Code
26 Section 49-5-41 of the Official Code of Georgia Annotated, relating to persons and agencies
27 permitted access to child abuse and dependency records, so as to clarify defined terms and

28 change provisions relating to disclosure; to provide for related matters; to repeal conflicting
29 laws; and for other purposes.

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

31 PART I

32 SECTION 1-1.

33 Article 6 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
34 delinquency proceedings in juvenile court, is amended by revising subsection (a) of Code
35 Section 15-11-600, relating to findings in a disposition hearing, as follows:

36 "(a)(1) After a finding that a child has committed a delinquent act, the court shall hear
37 evidence ~~on whether such~~ and determine whether:

38 (A) Such child is in need of treatment, rehabilitation, or supervision and;

39 (B) Such child's continuation in his or her home is contrary to such child's welfare; and

40 (C) Reasonable efforts have been made to prevent or eliminate the need to remove such
41 child from his or her home.

42 (2) After hearing the evidence described in paragraph (1) of this subsection, the court
43 shall make and file its findings based upon such determinations."

44 SECTION 1-2.

45 Said article is further amended by revising Code Section 15-11-620, relating to calculating
46 time when a child is delinquent and dependent, as follows:

47 "15-11-620.

48 (a) When a child is alleged to have committed a delinquent act and be a dependent child,
49 the date such child is considered to have entered foster care shall be the date of the first
50 judicial finding that such child has been subjected to child abuse or neglect or the date that
51 is 60 days after the date on which such child is removed from his or her home, whichever
52 is earlier.

53 (b) When a child is alleged to have committed a delinquent act and is placed directly in a
54 nonsecure residential facility, the date such child is considered to have entered foster care
55 shall be 60 days after the date on which such child is removed from his or her home.

56 ~~(b)(c)~~ (c) If a child alleged or adjudicated to have committed a delinquent act is detained in
57 a facility operated primarily for the detention of delinquent children but is later placed in
58 foster care within 60 days of such child's removal from the home, then the date of entry
59 into foster care shall be 60 days after the date of removal.

60 (d) When a child alleged or adjudicated to have committed a delinquent act is detained in
61 a facility operated primarily for the detention of delinquent children but is later placed in

a nonsecure residential facility within 60 days of such child's removal from the home, the date such child is considered to have entered foster care shall be 60 days from the date on which such child is removed from his or her home.

~~(c)~~(e) If a child is detained in a facility operated primarily for the detention of delinquent children pending placement in foster care and remains detained for more than 60 days, then the date of entry into foster care shall be the date such child is placed in foster care.

(f) When a child alleged or adjudicated to have committed a delinquent act is detained in a facility operated primarily for the detention of delinquent children and remains detained for more than 60 days and such child is subsequently placed in a nonsecure residential facility, the date such child is considered to have entered foster care shall be the date such child was placed in a nonsecure residential facility."

SECTION 1-3.

Said article is further amended by revising Code Section 15-11-621, relating to periodic review hearings for children in foster care, as follows:

"15-11-621.

(a) The periodic review hearing requirements under Code Sections 15-11-216, 15-11-217, and 15-11-218 shall apply to proceedings involving a child alleged or adjudicated to have committed a delinquent act and placed in foster care.

(b) When a child is committed to DJJ and for whom a determination has been made that the child's continuation in his or her home is contrary to the child's welfare and he or she is placed in a nonsecure residential facility, such child shall receive a periodic review before an administrative review panel within DJJ within six months following the date the child entered the nonsecure residential facility and every six months thereafter while the child remains in such facility. The administrative review panel within DJJ shall transmit its report, including its findings and recommendations, to the court within five days after conducting its review."

SECTION 1-4.

Said article is further amended by adding a new Code section to read as follows:

"15-11-623.

(a) As used in this Code section, the term 'permanency plan' means a specific written plan prepared by DJJ designed to ensure that a child is reunified with his or her family or ensure that such child quickly attains a substitute long-term home when return to such child's family is not possible or is not in such child's best interests.

(b)(1) The court shall hold a hearing to review the permanency plan for each child committed to DJJ when a determination has been made that the child's continuation in his

or her home is contrary to the child's welfare, and the child is placed in a nonsecure residential facility.

(2) Such hearing shall be held no later than 12 months from the date a child is considered to have entered foster care and every 12 months thereafter to make determinations including whether the permanency plan for such child is appropriate and whether reasonable efforts to finalize the permanency plan have been made by DJJ.

(3) A child's parent, guardian, legal custodian, attorney, any relatives providing care for such child, and other interested parties shall be given written notice of such hearing at least five days in advance of such hearing and shall be advised that the permanency plan will be submitted to the court for consideration as the order of the court.

(4) At least five days prior to such hearing, DJJ shall submit for the court's consideration a report recommending a permanency plan for a child committed to a nonsecure residential facility. Such report shall include documentation of the steps taken by DJJ to finalize the permanent placement for such child.

(5) Subsequent to such hearing, the court shall make written findings of fact that shall include whether DJJ has made reasonable efforts to finalize the permanency plan in effect at the time of the hearing."

SECTION 1-5.

Article 3A of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to suspension of driver's license for certain drug offenses, is amended by revising Code Section 40-5-76, relating to restoration or suspension of a defendant's driver's license or issuance of a limited driving permit, as follows:

"40-5-76.

(a) A judge presiding in a drug court division or mental health court division may order the department to restore a defendant's driver's license that has been or should be suspended pursuant to Code Section 40-5-75, suspend such license, or issue a defendant a limited driving permit in accordance with the provisions set forth in subsections (c) and (d) of Code Section 40-5-64 or with whatever conditions the court determines to be appropriate under the circumstances as a reward or sanction to the defendant's behavior in such court division. The court shall determine what fees, if any, shall be paid to the department for such reward or sanction, provided that such fee shall not be greater than the fee normally imposed for such services.

(b) A judge presiding in any court, other than the court divisions specified in subsection (a) of this Code section, may order the department to restore a defendant's driver's license that has been or should be suspended pursuant to Code Section 40-5-75 or issue a defendant a limited driving permit in accordance with the provisions set forth in

subsections (c) and (d) of Code Section 40-5-64 if the offense for which the defendant was convicted did not directly relate to the operation of a motor vehicle. The court shall determine what fees, if any, shall be paid to the department for the restoration of such driver's license or issuance of such limited driving permit, provided that such fee shall not be greater than the fee normally imposed for such services. Such judge may also order the department to suspend a defendant's driver's license that could have been suspended pursuant to Code Section 40-5-75 as a consequence of the defendant's violation of the terms of his or her probation."

SECTION 1-6.

Chapter 2 of Title 42 of the Official Code of Georgia Annotated, relating to the Board and Department of Corrections, is amended by revising Code Section 42-2-5.1, relating to special school districts for school age youth and educational programs for adult offenders, and by adding a new Code section to read as follows:

"42-2-5.1.

(a) In order to provide education for any school age youths incarcerated within any facility of the ~~Department of Corrections~~ department, the department shall be considered a special school district which shall be given the same funding consideration for federal funds that school districts within the state are given. The special school district under the department shall have the powers, privileges, and authority exercised or capable of exercise by any other school district. The schools within the special school district shall be under the control of the commissioner, who shall serve as the superintendent of schools for such district. The ~~Board of Corrections~~ board shall serve as the board of education for such district. The board, acting alone or in cooperation with the State Board of Education, shall establish education standards for the district. As far as is practicable, such standards shall adhere to the standards adopted by the State Board of Education for the education of school age youth, while taking into account:

(1) The overriding security needs of correctional institutions and other restrictions inherent to the nature of correctional facilities;

(2) The effect of limited funding on the capability of the ~~Department of Corrections~~ department to meet certain school standards; and

(3) Existing juvenile education standards of the Correctional Education Association and the American Correctional Association, which shall be given primary consideration where any conflicts arise.

(b) The effect of subsection (a) of this Code section shall not be to provide state funds to the special school district under the department through Part 4 of Article 6 of Chapter 2 of Title 20.

42-2-5.2.

~~(c)~~(a) The ~~Board of Corrections~~ board, acting alone or in cooperation with the State Board of the Technical College System of Georgia or other relevant education agencies, shall provide overall direction of educational programs for adult offenders in the correctional system and shall exercise program approval authority. The board may enter into written agreements with other educational organizations and agencies in order to provide adult offenders with such education and employment skills most likely to encourage gainful employment and discourage return to criminal activity upon release. The board may also enter into agreements with other educational organizations and agencies to attain program certification for its vocational and technical education programs.

(b) The board shall develop and implement programs to assist adult offenders with reentry into society upon release from prison. In addition to educational and vocational programs, reentry programs may include social and behavioral programs, substance abuse counseling, mentoring programs, financial planning, physical and mental health programs, and housing and federal assistance programs.

(c) The board shall create a Program and Treatment Completion Certificate that may be issued to offenders under the rules and regulations of the board. Such certificate shall symbolize an offender's achievements toward successful reentry into society. The board's rules and regulations relating to the issuance of such certificate shall take into account an offender's disciplinary record and any other factor the board deems relevant to an individual's qualification for such certificate. The board's rules and regulations shall specify eligibility considerations and requirements for completion of such certificate. An offender who was convicted of a serious violent felony, as such term is defined in Code Section 17-10-6.1, shall not be eligible for such certificate.

(d) Nothing in this Code section shall be construed to constitute a waiver of the sovereign immunity of the state, and no action shall be maintained against the state or any agency or department thereof for issuance of or failure to issue any Program and Treatment Completion Certificate."

SECTION 1-7.

Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general tort provisions, is amended by adding a new Code section to read as follows:

"51-1-54.

(a) As used in this Code section, the term 'Program and Treatment Completion Certificate' means the certificate issued pursuant to Code Section 42-2-5.2.

(b) Issuance of a Program and Treatment Completion Certificate by the Department of Corrections or the granting of a pardon from the State Board of Pardons and Paroles as

provided in the Constitution and Code Section 42-9-42 shall create a presumption of due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise engaging in activity with the individual to whom the Program and Treatment Completion Certificate was issued or the pardon was granted. Such presumption may be rebutted by relevant evidence which extends beyond the scope of the Program and Treatment Completion Certificate or pardon and which was known or should have been known by the person against whom negligence is asserted.

(c) Nothing in this Code section shall be construed to constitute a waiver of the sovereign immunity of the state, and no action shall be maintained against the state or any agency or department thereof for issuance of or failure to issue any Program and Treatment Completion Certificate or issuance of or failure to grant a pardon."

PART II

SECTION 2-1.

This part shall be known and may be cited as the "Journey Ann Cowart Act."

SECTION 2-2.

Article 11 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the "Georgia Child Advocate for the Protection of Children Act," is amended by revising Code Section 15-11-743, relating to the duties of the Child Advocate for the Protection of Children, as follows:

"15-11-743.

The advocate shall perform the following duties:

(1) Identify, receive, investigate, and seek the resolution or referral of complaints made by or on behalf of children concerning any act, omission to act, practice, policy, or procedure of an agency or any contractor or agent thereof that may adversely affect the health, safety, or welfare of the children;

(2) Refer complaints involving abused children to appropriate regulatory and law enforcement agencies;

~~(3) Coordinate and supervise the work of the Georgia Child Fatality Review Panel created by Code Section 19-15-4 and provide such staffing and administrative support to the panel as may be necessary to enable the panel to carry out its statutory duties;~~

~~(4)~~ Report the death of any child to the chairperson of the ~~child fatality review subcommittee of committee~~, as such term is defined in Code Section 19-15-1, for the county in which such child resided at the time of death, unless the advocate has knowledge that such death has been reported by the county medical examiner or coroner,

pursuant to Code Section 19-15-3, and to provide such ~~subcommittee~~ committee access to any records of the advocate relating to such child;

~~(5)~~(4) Provide periodic reports on the work of the Office of the Child Advocate for the Protection of Children, including but not limited to an annual written report for the Governor and the General Assembly and other persons, agencies, and organizations deemed appropriate. Such reports shall include recommendations for changes in policies and procedures to improve the health, safety, and welfare of children and shall be made expeditiously in order to timely influence public policy;

~~(6)~~(5) Establish policies and procedures necessary for the Office of the Child Advocate for the Protection of Children to accomplish the purposes of this article, including without limitation providing DFCS with a form of notice of availability of the Office of the Child Advocate for the Protection of Children. Such notice shall be posted prominently, by DFCS, in DFCS offices and in facilities receiving public moneys for the care and placement of children and shall include information describing the Office of the Child Advocate for the Protection of Children and procedures for contacting ~~that~~ such office; and

~~(7)~~(6) Convene quarterly meetings with organizations, agencies, and individuals who work in the area of child protection to seek opportunities to collaborate and improve the status of children in Georgia."

SECTION 2-3.

Chapter 15 of Title 19 of the Official Code of Georgia Annotated, relating to child abuse, is amended by revising paragraphs (5), (7), (8), and (10) of Code Section 19-15-1, relating to definitions, as follows:

~~"(5) 'Eligible deaths' means deaths meeting the criteria for review by a county child fatality review committee, including deaths resulting from Sudden Infant Death Syndrome, unintentional injuries, intentional injuries, medical conditions when unexpected or when unattended by a physician, or any manner that is suspicious or unusual Reserved."~~

~~"(7) 'Panel' means the Georgia Child Fatality Review Panel established pursuant to Code Section 19-15-4. The panel oversees the local child fatality review process and reports to the Governor on the incidence of child deaths with recommendations for prevention."~~

~~(8) 'Protocol committee' means a multidisciplinary, multiagency child abuse protocol committee established for a county pursuant to Code Section 19-15-2. The protocol committee is charged with developing local protocols to investigate and prosecute alleged cases of child abuse."~~

"(10) 'Review committee' means a multidisciplinary, multiagency child fatality review committee established for a county or circuit pursuant to Code Section 19-15-3. ~~The review committee is charged with reviewing all eligible child deaths to determine manner and cause of death and if the death was preventable.~~"

SECTION 2-4.

Said chapter is further amended by revising Code Section 19-15-2, relating to child abuse protocol committees, as follows:

"19-15-2.

(a) Each county shall be required to establish a ~~child abuse~~ protocol for the investigation and prosecution of alleged cases of child abuse as provided in this Code section.

(b) The chief superior court judge of the circuit in which the county is located shall establish a ~~child abuse~~ protocol committee as provided in subsection (c) of this Code section and shall appoint an interim chairperson who shall preside over the first meeting, and the chief superior court judge shall appoint persons to fill any vacancies on the protocol committee. Thus established, the protocol committee shall thereafter elect a chairperson from its membership. The protocol committee shall be charged with developing local protocols for the investigation and prosecution of alleged cases of child abuse.

(c)(1) Each of the following individuals, agencies, ~~of the county~~ and entities shall designate a representative to serve on the protocol committee:

(A) The ~~office of the~~ sheriff;

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

(C) The ~~office of the~~ district attorney for the judicial circuit;

(D) The juvenile court judge;

(E) The chief magistrate ~~court~~;

(F) The county board of education;

(G) The county mental health organization;

(H) The ~~office of the~~ chief of police of a county in counties which have a county police department;

(I) The ~~office of the~~ chief of police of the largest municipality in the county;

(J) The county ~~board of~~ public health department, which shall designate a physician to serve on the protocol committee; and

(K) The ~~office of the~~ coroner or county medical examiner.

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

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

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

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

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

(g) Upon completion of the writing of the ~~child-abuse~~ protocol, the protocol committee shall continue in existence and shall meet at least semiannually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating the same.

(h) Each protocol committee shall adopt or amend its written ~~child-abuse~~ protocol ~~no later than July 1, 2001,~~ to specify the circumstances under which law enforcement officers ~~will~~ shall and ~~will~~ shall not be required to accompany ~~child-abuse~~ investigators from the county department of family and children services when these investigators investigate reports of child abuse. In determining when law enforcement officers shall and shall not accompany ~~child-abuse~~ investigators, the protocol committee shall consider the need to protect the

alleged victim and the need to preserve the confidentiality of the report. Each protocol committee shall establish joint work efforts between the law enforcement and ~~child abuse~~ investigative agencies in child abuse investigations. The adoption or amendment of the protocol shall also describe measures which can be taken within the county to prevent child abuse and shall be filed with and furnished to the same entities with or to which an original protocol is required to be filed or furnished. The protocol ~~will~~ shall be further amended to specify procedures to be adopted by the protocol committee to ensure that written protocol procedures are followed.

(i) The protocol committee shall issue a report no later than the first day of July ~~in 2001 and no later than the first day of July~~ each year ~~thereafter~~. Such ~~That~~ report shall evaluate the extent to which ~~child abuse~~ investigations of child abuse during the 12 months prior to the report have complied with the ~~child abuse~~ protocols of the protocol committee, recommend measures to improve compliance, and describe which measures taken within the county to prevent child abuse have been successful. The report shall be transmitted to the county governing authority, the fall term grand jury of the judicial circuit, the ~~Georgia Child Fatality Review Panel~~ panel, and the chief superior court judge.

(j) Each member ~~By July 1, 2001, members~~ of each protocol committee shall receive appropriate training. ~~As new members are appointed, they will also receive training~~ within 12 months after ~~their~~ his or her appointment. The Office of the Child Advocate for the Protection of Children shall provide such training.

(k) The protocol committee shall adopt a written sexual abuse and sexual exploitation protocol which shall be filed with the Division of Family and Children Services of the Department of Human Services and the Office of the Child Advocate for the Protection of Children, a copy of which shall be furnished to each agency in the county handling the cases of sexually abused or exploited children. The sexual abuse and sexual exploitation protocol shall be a written document outlining in detail the procedures to be used in investigating and prosecuting cases arising from alleged ~~child~~ sexual abuse and sexual exploitation and the procedures to be followed concerning the obtainment of and payment for sexual assault examinations. Each protocol committee shall adopt or amend its written sexual abuse and sexual exploitation protocol ~~no later than December 31, 2004. The protocol may incorporate existing sexual abuse and exploitation protocols used within the county.~~ The sexual abuse and sexual exploitation protocol adopted shall be consistent with the policies and procedures of the Division of Family and Children Services of the Department of Human Services. ~~A failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual abuse or exploitation offense, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action.~~ A sexual abuse and sexual exploitation protocol is not intended to, does not, and

384 may not be relied upon to create any rights, substantive or procedural, enforceable at law
385 by any party in any matter civil or criminal. Such protocol shall not limit or otherwise
386 restrict a prosecuting attorney in the exercise of his or her discretion nor in the exercise of
387 any otherwise lawful litigative prerogatives."

388 **SECTION 2-5.**

389 Said chapter is further amended by revising subsections (a), (d), (e), (g) through (k), and (o)
390 and paragraph (8) of subsection (1) of Code Section 19-15-3, relating to county multiagency
391 child fatality review committees, as follows:

392 "(a)(1) Each county shall establish a local ~~multidisciplinary, multiagency child fatality~~
393 review committee as provided in this Code section. The review committee shall be
394 charged with reviewing all deaths as set forth in subsection (e) of this Code section to
395 determine manner and cause of death and if the death was preventable. The chief
396 superior court judge of the circuit in which the county is located shall establish a ~~child~~
397 ~~fatality~~ review committee composed of, but not limited to, the following members:

- 398 (A) The county medical examiner or coroner;
399 (B) The district attorney or his or her designee;
400 (C) A county department of family and children services representative;
401 (D) A local law enforcement representative;
402 (E) The sheriff or county police chief or his or her designee;
403 (F) A juvenile court representative;
404 (G) A county ~~board of public health department~~ representative; and
405 (H) A county mental health representative.

406 (2) The district attorney or his or her designee shall serve as the chairperson to preside
407 over all meetings."

408 "(d) If any designated agency fails to carry out its duties relating to participation on the
409 ~~local~~ review committee, the chief superior court judge of the circuit or any superior court
410 judge who is a member of the ~~Georgia Child Fatality Review Panel~~ panel shall issue an
411 order requiring the participation of such agency. Failure to comply with such order shall
412 be cause for punishment as for contempt of court.

413 (e) Deaths eligible for review by ~~local~~ review committees are all deaths of children ages
414 birth through 17 as a result of:

- 415 (1) Sudden Infant Death Syndrome;
416 (2) Any unexpected or unexplained conditions;
417 (3) Unintentional injuries;
418 (4) Intentional injuries;
419 (5) Sudden death when the child is in apparent good health;

(6) Any manner that is suspicious or unusual;

(7) Medical conditions when unattended by a physician. For the purpose of this paragraph, no person shall be deemed to have died unattended when the death occurred while the person was a patient of a hospice licensed under Article 9 of Chapter 7 of Title 31; ~~or~~

(8) Serving as an inmate of a state hospital or a state, county, or city penal institution; or

(9) Child abuse."

"(g) If the death of a child occurs outside the child's county of residence, it shall be the duty of the medical examiner or coroner in the county where the child died to notify the medical examiner or coroner in the county of the child's residence. It shall be the duty of such medical examiner or coroner to provide the protocol committee of the county of such child's residence with copies of all information and reports required by subsections (i) and (j) of this Code section.

(h) When a county medical examiner or coroner receives a report regarding the death of any child, he or she shall within 48 hours of the death notify the chairperson of the ~~child fatality~~ review committee ~~of~~ for the county or circuit in which such child resided at the time of death.

(i) The coroner or county medical examiner shall review the findings regarding the cause and manner of death for each child death report received and respond as follows:

(1) If the death does not meet the criteria for review pursuant to subsection (e) of this Code section, the coroner or county medical examiner shall sign the form designated by the panel stating that the death does not meet the criteria for review. He or she shall forward the form and findings, within seven days of the child's death, to the chairperson of the ~~child fatality~~ review committee ~~in~~ for the county or circuit of the child's residence; or

(2) If the death meets the criteria for review pursuant to subsection (e) of this Code section, the coroner or county medical examiner shall complete and sign the form designated by the panel stating the death meets the criteria for review. He or she shall forward the form and findings, within seven days of the child's death, to the chairperson of the ~~child fatality~~ review committee ~~in~~ for the county or circuit of the child's residence.

(j) When the chairperson of a ~~local child fatality~~ review committee receives a report from the coroner or medical examiner regarding the death of a child, ~~that~~ such chairperson shall review the report and findings regarding the cause and manner of the child's death and respond as follows:

(1) If the report indicates the child's death does not meet the criteria for review and the chairperson agrees with this decision, the chairperson shall sign the form designated by

the panel stating that the death does not meet the criteria for review. He or she shall forward the form and findings to the panel within seven days of receipt;

(2) If the report indicates the child's death does not meet the criteria for review and the chairperson disagrees with this decision, the chairperson shall follow the procedures for deaths to be reviewed pursuant to subsection (k) of this Code section;

(3) If the report indicates the child's death meets the criteria for review and the chairperson disagrees with this decision, the chairperson shall sign the form designated by the panel stating that the death does not meet the criteria for review. The chairperson shall also attach an explanation for this decision; or

(4) If the report indicates the child's death meets the criteria for review and the chairperson agrees with this decision, the chairperson shall follow the procedures for deaths to be reviewed pursuant to subsection (k) of this Code section.

(k) When a child's death meets the criteria for review, the chairperson shall convene the review committee within 30 days after receipt of the report for a meeting to review and investigate the cause and circumstances of the death. Review committee members shall provide information as specified ~~below~~ in this subsection, except where otherwise protected by ~~statute~~ law:

(1) The providers of medical care and the medical examiner or coroner shall provide pertinent health and medical information regarding a child whose death is being reviewed by the ~~local~~ review committee;

(2) State, county, or local government agencies shall provide all of the following data on forms designated by the panel for reporting child fatalities:

(A) Birth information for children who died at less than one year of age, including confidential information collected for medical and health use;

(B) Death information for children who have not reached their eighteenth birthday;

(C) Law enforcement investigative data, medical examiner or coroner investigative data, and parole and probation information and records;

(D) Medical care, including dental, mental, and prenatal health care; and

(E) Pertinent information from any social services agency that provided services to the child or family; and

(3) The review committee may obtain from any superior court judge of the county or circuit for which the review committee was created a subpoena to compel the production of documents or attendance of witnesses when that judge has made a finding that such documents or witnesses are necessary for the review committee's review. Service of, objection to, and enforcement of subpoenas authorized by this Code section shall be governed by the procedures set forth in Chapter 13 of Title 24. However, this Code

section shall not modify or impair the privileged communications as provided by law except as otherwise provided in Code Section 19-7-5.

(4) Disclosure of protected health information pursuant to this subsection shall be considered to be for a law enforcement purpose, and the review committee shall be considered to be a law enforcement official within the meaning of the rules and regulations adopted pursuant to the federal Health Insurance Portability and Accountability Act of 1996. Disclosure of confidential or privileged matter to the review committee pursuant to this Code section shall not serve to destroy or in any way abridge the confidential or privileged character thereof, except for the purpose for which such disclosure is made."

"(8) Include other findings as requested by the ~~Georgia Child Fatality Review Panel~~ panel."

"(o) Each ~~local~~ review committee shall issue an annual report no later than the first day of July ~~in 2001 and in each year thereafter~~. The report shall:

(1) Specify the numbers of reports received by ~~that~~ such review committee from a county medical examiner or coroner pursuant to subsection (h) of this Code section for the preceding calendar year;

(2) Specify the number of reports of child fatality reviews prepared by the review committee during such period;

(3) Be published at least once annually in the legal organ of the county or counties for which the review committee was established with the expense of such publication paid each by such county; and

(4) Be transmitted, no later than the fifteenth day of July ~~in 2001 and in each year thereafter~~, to the ~~Georgia Child Fatality Review Panel~~ panel."

SECTION 2-6.

Said chapter is further amended by revising subsections (a), (b), (c), and the introductory language of subsection (i) of Code Section 19-15-4, relating to the Georgia Child Fatality Review Panel, as follows:

"(a) There is created the Georgia Child Fatality Review Panel ~~as defined in paragraph (7) of Code Section 19-15-1~~. The panel shall oversee the local child fatality review process and report to the Governor on the incidence of child deaths with recommendations for prevention.

(b) ~~The Office of the Child Advocate for the Protection of Children~~ director of the Georgia Bureau of Investigation or his or her designee shall coordinate the work of the panel and shall provide such administrative and staff support to the panel as may be necessary to enable the panel to discharge its duties under this chapter. The panel shall be attached to

the ~~Office of Planning and Budget~~ Division of Forensic Sciences of the Georgia Bureau of Investigation for administrative purposes, and its planning, policy, and budget functions shall be coordinated with those of the ~~Office of the Child Advocate~~ Division of Forensic Sciences of the Georgia Bureau of Investigation.

(c) The panel shall be composed as follows:

- (1) One district attorney appointed by the Governor;
- (2) One juvenile court judge appointed by the Governor;
- (3) Two citizen members ~~who shall be appointed by the Governor~~, who are not employed by or officers of the state or any political subdivision thereof ~~and shall be appointed by the Governor~~, one of whom shall come from each of the following:
 - (A) ~~A~~ a state-wide child abuse prevention organization; and
 - (B) ~~A~~ a state-wide childhood injury prevention organization;
- (4) One forensic pathologist appointed by the Governor;
- (5) The chairperson of the Board of Human Services;
- (6) The director of the Division of Family and Children Services of the Department of Human Services;
- (7) The director of the Georgia Bureau of Investigation;
- (8) The chairperson of the Criminal Justice Coordinating Council;
- (9) A member of the Georgia Senate appointed by the Lieutenant Governor;
- (10) A member of the Georgia House of Representatives appointed by the Speaker of the House of Representatives;
- (11) A local law enforcement official appointed by the Governor;
- (12) A superior court judge appointed by the Governor;
- (13) A coroner appointed by the Governor;
- (14) The Child Advocate for the Protection of Children;
- (15) The commissioner of public health; ~~and~~
- (16) The commissioner of behavioral health and developmental disabilities;
- (17) A member of the State Board of Education appointed by the Governor; and
- (18) The commissioner of early care and learning."

"(i) By January 1 of each calendar year, the panel shall submit a report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, ~~and the Judiciary Committees~~ the chairperson of the Senate Judiciary Committee, and ~~House of Representatives~~ the chairperson of the House Committee on Judiciary regarding the prevalence and circumstances of child fatalities in ~~the~~ this state; shall recommend measures to reduce such fatalities caused by other than natural causes; and shall address in the report the following issues:"

SECTION 2-7.

Said chapter is further amended by revising subsections (b), (g), and (i) of Code Section 19-15-6, relating to use of information and records of protocol committees, review committees, and panels, as follows:

"(b) Notwithstanding any other provision of law to the contrary, reports of a review committee made pursuant to Code Section 19-15-3 and reports of the panel made pursuant to Code Section 19-15-4 shall be public records and shall be released to any person making a request therefor, but the ~~panel~~ protocol committee, ~~or review committee, or panel~~ having possession of such records or reports shall only release them after expunging therefrom all information contained therein which would permit identifying the deceased or abused child, any family member of the child, any alleged or suspected perpetrator of abuse upon the child, or any reporter of suspected child abuse."

"(g) A member of a protocol committee, a review committee, or the panel shall not be civilly liable or ~~criminally liable~~ subject to criminal prosecution for any disclosure of information made by such member as authorized by this Code section."

"(i) Notwithstanding any other provisions of law, information acquired by and documents, records, and reports of the panel and ~~child abuse~~ protocol committees and review committees applicable to a child who at the time of his or her death was in the custody of a state department or agency or foster parent shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records."

SECTION 2-8.

Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to general provisions for the Georgia Bureau of Investigation, is amended by revising Code Section 35-3-5, relating to the powers and duties of the director of the Georgia Bureau of Investigation, as follows:

"35-3-5.

(a) There is created the position of director.

(b) The director shall be the chief administrative officer and shall be both appointed and removed by the Board of Public Safety with the approval of the Governor.

(c) The director shall coordinate and supervise the work of the Georgia Child Fatality Review Panel created by Code Section 19-15-4 or shall designate a person from within the bureau to serve as the coordinator and supervisor and shall provide such staffing and administrative support to the Georgia Child Fatality Review Panel as may be necessary to enable it to carry out its statutory duties.

(d) The director shall report the death of any child to the chairperson of the review committee, as such term is defined in Code Section 19-15-1, for the county in which such

600 child resided at the time of death, unless the director or his or her designee has knowledge
601 that such death has been reported by the county medical examiner or coroner, pursuant to
602 Code Section 19-15-3, and shall provide such review committee access to any records of
603 the bureau relating to such child.

604 ~~(c)~~(e) Except as otherwise provided by this chapter, and subject to the general policy
605 established by the board, the director shall supervise, direct, account for, organize, plan,
606 administer, and execute the functions vested in the bureau by this chapter."

607 **SECTION 2-9.**

608 It is the intent of the General Assembly to provide for transparency relative to investigations
609 involving child abuse and child fatalities in order to best protect the children of this state.
610 The General Assembly finds that more disclosure of information may be necessary when a
611 child is deceased. The General Assembly intends that agencies and departments of this state
612 share data in order to conduct research for the purpose of preventing child fatalities in this
613 state.

614 **SECTION 2-10.**

615 Code Section 49-5-41 of the Official Code of Georgia Annotated, relating to persons and
616 agencies permitted access to child abuse and dependency records, is amended by revising
617 paragraphs (6), (7.1), and (8) of subsection (a), paragraph (5) of subsection (c), and
618 subsection (e) as follows:

619 "(6) Any adult requesting information regarding investigations by the department or a
620 governmental child protective agency regarding the findings or information about the
621 case of child abuse or neglect ~~that results in a child~~ involving a fatality or near fatality;
622 ~~unless such disclosure of information would jeopardize a criminal investigation or~~
623 ~~proceeding, but such access shall be limited to a disclosure of the available facts and~~
624 ~~findings. Any identifying information, including but not limited to the child or~~
625 ~~caretaker's name, race, ethnicity, address, or telephone numbers and any other~~
626 ~~information that is privileged or confidential, shall be redacted to preserve the~~
627 ~~confidentiality of the child, other children in the household, and the child's parents,~~
628 ~~guardians, custodians, or caretakers; provided, however, that the following may be~~
629 redacted from such records:

630 (A) Any record of law enforcement or prosecution agencies in any pending
631 investigation or prosecution of criminal activity contained within the child abuse,
632 neglect, or dependency records;

633 (B) Medical and mental health records made confidential by other provisions of law;

634 (C) Privileged communications of an attorney;

(D) The identifying information of a person who reported suspected child abuse;

(E) Information that may cause mental or physical harm to the sibling or other child living in the household of the child being investigated;

(F) The name of a child who is the subject of reported child abuse or neglect;

(G) The name of any parent or other person legally responsible for the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect; and

(H) The name of any member of the household of the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect."

"(7.1) A child advocacy center which is certified by the ~~Child Abuse Protocol Committee~~ of protocol committee, as such term is defined in Code Section 19-15-1, for the county where the principal office of the center is located as participating in the ~~Georgia Network of Children's Advocacy Centers~~ of Georgia or a similar accreditation organization and which is operated for the purpose of investigation of known or suspected child abuse and treatment of a child or a family which is the subject of a report of abuse, and which has been created and supported through one or more intracommunity compacts between such advocacy center and one or more police agencies, the office of the district attorney, a legally mandated public or private child protective agency, a mental health board, and a community health service board; provided, however, that any child advocacy center which is granted access to records concerning reports of child abuse shall be subject to the confidentiality provisions of subsection (b) of Code Section 49-5-40 and shall be subject to the penalties imposed by Code Section 49-5-44 for authorizing or permitting unauthorized access to or use of such records;

(8) Police or any other law enforcement agency of this state or any other state or any medical examiner or coroner investigating a report of known or suspected abuse or any ~~child fatality review panel committee or child abuse protocol committee or subcommittee thereof~~ created pursuant to Chapter 15 of Title 19, it being found by the General Assembly that the disclosure of such information is necessary in order for such entities to carry out their legal responsibilities to protect children from abuse and neglect, which protective actions include bringing criminal actions for such abuse or neglect, and that such disclosure is therefore permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4); and"

"(5) An agency, facility, or person having responsibility or authorization to assist in making a judicial determination for the child who is the subject of the report or record of child abuse, including but not limited to members of officially recognized citizen review

panels, court appointed guardians ad litem, certified Court Appointed Special Advocate (CASA) volunteers who are appointed by a judge of a juvenile court to act as advocates for the best interest of a child in a juvenile proceeding, and members of a ~~county child abuse~~ protocol committee ~~or task force~~, as such term is defined in Code Section 19-15-1;"

~~"(e)(1) Except as provided in paragraph (2) of this subsection and notwithstanding~~ "(e)(1) Except as provided in paragraph (2) of this subsection and notwithstanding ~~Notwithstanding~~ any other provisions of law, ~~with the exception of medical and mental health records made confidential by other provisions of law;~~ child abuse and dependency records shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50 if the records are applicable to a child who at the time of his or her fatality or near fatality was:

- ~~(1)(A)~~ (A) In the custody of a state department or agency or in the care of a foster parent;
- ~~(2)(B)~~ (B) A child as defined in paragraph (3) of Code Section 15-11-741; or
- ~~(3)(C)~~ (C) The subject of an investigation, report, referral, or complaint under Code Section 15-11-743

~~shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records; provided, however, that any identifying information, including but not limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and any other information that is privileged or confidential, shall be redacted to preserve the confidentiality of the child, other children in the household, and the child's parents, guardians, custodians, or caretakers.~~

(2) The following may be redacted from such records:

- (A) Medical and mental health records made confidential by other provisions of law;
- (B) Privileged communications of an attorney;
- (C) The identifying information of a person who reported suspected child abuse;
- (D) The name of a child who suffered a near fatality;
- (E) The name of any sibling of the child who suffered the fatality or near fatality; and
- (F) Any record of law enforcement or prosecution agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records.

(3) Upon the release of documents pursuant to this subsection, the department may comment publicly on the case."

PART III

SECTION 3-1.

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