

House Bill 527

By: Representatives Tran of the 80th, Holcomb of the 101st, Campbell of the 35th, Carpenter of the 4th, and Roberts of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 19-15-2 of the Official Code of Georgia Annotated, relating to
2 protocol committee on child abuse, written protocol, training of members, and written sexual
3 abuse and exploitation protocol, so as to provide for the creation and revision of certain child
4 abuse protocol procedures for cases of alleged child abuse; to modify the composition of the
5 committee; to provide for noncompliance and contempt of court; to provide for filing of
6 protocol; to provide for certain protocol provisions; to provide for the adoption of rules and
7 procedures; to provide for reporting requirements; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Code Section 19-15-2 of the Official Code of Georgia Annotated, relating to protocol
12 committee on child abuse, written protocol, training of members, and written sexual abuse
13 and exploitation protocol, is amended as follows:

14 "19-15-2.

15 (a) ~~Except as provided in paragraph (3) of subsection (b) of this Code section, each county~~
16 Each judicial circuit shall be required to establish a protocol for the investigation and

17 prosecution of alleged cases of child abuse as provided in this Code section. The purpose
 18 of the protocol shall be to:

19 (1) Ensure coordination and cooperation among all agencies involved in a child abuse
 20 case so as to increase the efficiency of all such agencies handling such cases;

21 (2) Minimize the stress created for the allegedly abused child by the legal and
 22 investigatory process; and

23 (3) Ensure that more effective treatment is provided for the perpetrator, the family, and
 24 the child, including, but not limited to, counseling.

25 ~~(b)(1) The chief superior court judge of the circuit in which the county is located shall~~
 26 ~~establish a protocol committee as provided~~ provide for the creation of a protocol
 27 committee as described in subsection (c) of this Code section and shall appoint an interim
 28 chairperson who shall preside over the first meeting, and the chief superior court judge
 29 shall appoint persons to fill any vacancies on the protocol committee.

30 ~~(2) After the establishment of a protocol committee, the committee members shall elect~~
 31 ~~a chairperson from the protocol committee's membership. The protocol committee shall~~
 32 be chaired by the chief juvenile court judge of the circuit, or if there is no chief juvenile
 33 court judge for the circuit, then by a juvenile court judge presiding in any county within
 34 the circuit and chosen by a majority vote of all presiding juvenile court judges within the
 35 circuit. The committee shall be charged with developing local protocols protocols for the
 36 investigation and prosecution of alleged cases of child abuse.

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

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

43 (A) The sheriff;

- 44 ~~(B) The county department of family and children services;~~
 45 ~~(C) The district attorney for the judicial circuit;~~
 46 ~~(D) The presiding juvenile court judge;~~
 47 ~~(E) The chief magistrate;~~
 48 ~~(F) The county board of education;~~
 49 ~~(G) The county mental health organization;~~
 50 ~~(H) The chief of police of a county in counties which have a county police department;~~
 51 ~~(I) The chief of police of the largest municipality in the county;~~
 52 ~~(J) The county public health department; and~~
 53 ~~(K) The coroner or county medical examiner.~~

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

- 57 ~~(A)(1)~~ The sheriff of each county in the judicial circuit;
 58 ~~(B)(2)~~ The county department of family and children services of each county in the
 59 judicial circuit;
 60 ~~(C)(3)~~ The district attorney for the judicial circuit;
 61 ~~(D)(4)~~ The presiding juvenile court judge of each county in the judicial circuit;
 62 ~~(E)(5)~~ The chief magistrate of each county in the judicial circuit;
 63 ~~(F)(6)~~ Each board of education in the judicial circuit;
 64 ~~(G)(7)~~ The county mental health organization of each county in the judicial circuit;
 65 ~~(H)(8)~~ The chief of police of each county in the judicial circuit, if any;
 66 ~~(I)(9)~~ The chief of police of the largest municipality in the judicial circuit;
 67 ~~(J)(10)~~ The county public health department of each county in the judicial circuit; ~~and~~
 68 ~~(K)(11)~~ ~~The coroner or county medical examiner of each county in the judicial circuit~~
 69 The director of any child advocacy center located in the judicial circuit or who has a
 70 written agreement to serve the judicial circuit;

71 (12) The director of any sexual assault center located in the judicial circuit or who has
72 a written agreement to serve the judicial circuit;

73 (13) If forensic medical examinations are provided outside of any child advocacy center
74 or sexual assault center serving the judicial circuit, the medical examiner providing such
75 forensic medical examinations;

76 (14) A representative of any court appointed special advocate program serving the
77 judicial circuit; and

78 (15) A representative from a local citizen or advocacy group which focuses on child
79 abuse awareness and prevention.

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

83 ~~(4) A representative of a sexual assault center shall serve on a protocol committee~~
84 ~~established under paragraph (1) or (3) of subsection (b) of this Code section if one exists~~
85 ~~in such location.~~

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

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

94 ~~(d) Each protocol committee~~ The chairperson shall be responsible for ensuring that written
95 protocol procedures are followed by all agencies. Such person may be independent of
96 agencies listed in paragraph (1) of subsection (c) of this Code section. The protocol
97 committee may appoint such additional members as necessary and proper to accomplish

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

102 (e) ~~The protocol committee shall adopt a written protocol which shall be filed with the~~
103 ~~Division of Family and Children Services of the Department of Human Services and the~~
104 ~~Office of the Child Advocate for the Protection of Children, a copy of which shall be~~
105 ~~furnished to each agency in the county handling the cases of abused children. Criminal~~
106 Justice Coordinating Council using the email address provided by such council, and a copy
107 shall be furnished to each agency in the circuit handling cases of abused children. The
108 Criminal Justice Coordinating Council shall publish an email address for the exclusive
109 purpose of filing all protocols and reports required by this Code section, and shall furnish
110 a copy of each protocol and report received pursuant to this Code section to the Division
111 of Family and Children Services and the Office of the Child Advocate.

112 (1) The protocol shall be a written document outlining in detail the procedures to be used
113 in investigating and prosecuting cases arising from alleged child abuse and the methods
114 to be used in coordinating treatment programs for the perpetrator, the family, and the
115 child. The protocol shall also outline procedures to be used when child abuse occurs in
116 a household where there is violence between past or present spouses, persons who are
117 parents of the same child, parents and children, stepparents and stepchildren, foster
118 parents and foster children, or other persons living or formerly living in the same
119 household. The protocol adopted shall not be inconsistent with the policies and
120 procedures of the Division of Family and Children Services of the Department of Human
121 Services.

122 (2) The protocol shall specify the circumstances under which law enforcement officers
123 shall and shall not be required to accompany investigators from the Department of Family
124 and Children Services when such investigators investigate reports of child abuse. In

125 determining when law enforcement officers shall and shall not accompany investigators,
126 the protocol committee shall consider the need to protect the alleged victim and the need
127 to preserve the confidentiality of the report. The protocol committee shall establish joint
128 work efforts to be carried out among all law enforcement and investigative agencies in
129 child abuse investigations. The adoption or any amendment of the protocol shall describe
130 measures which can be taken within the circuit, as the case may be, to prevent child abuse
131 and shall be filed with and furnished to the same entities with or to which an original
132 protocol is required to be filed or furnished. The protocol shall be further amended to
133 specify procedures to be adopted by the protocol committee to ensure that written
134 protocol procedures are followed.

135 (3) The protocol shall include a written sexual abuse and sexual exploitation section
136 which shall outline, in detail, the procedures to be used in investigating and prosecuting
137 cases arising from alleged sexual abuse and sexual exploitation, including the procedures
138 to be followed concerning the obtainment of and payment for sexual assault
139 examinations. The sexual abuse and sexual exploitation section of the protocol provided
140 for in this paragraph shall be consistent with the policies and procedures of the Division
141 of Family and Children Services of the Department of Human Services shall not and may
142 not be relied upon to create any rights, substantive or procedural, enforceable at law by
143 any party in any matter civil or criminal. Such section of the protocol shall not limit or
144 otherwise restrict a prosecuting attorney in the exercise of his or her discretion nor restrict
145 the exercise of any otherwise lawful litigative prerogatives.

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

151 ~~(g)~~(f) Upon completion of the writing of the protocol, the protocol committee shall
152 continue in existence and shall meet at least ~~semiannually~~ annually for the purpose of
153 evaluating the effectiveness of the protocol and appropriately modifying and updating the
154 same. If the committee amends the protocol, the The protocol committee shall file the
155 updated protocol with the ~~Division of Family and Children Services of the Department of~~
156 ~~Human Services and the Office of the Child Advocate for the Protection of Children~~
157 Criminal Justice Coordinating Council not later than the first day of ~~September~~ July each
158 year.

159 ~~(h)~~ Each protocol committee shall adopt or amend its written protocol to specify the
160 circumstances under which law enforcement officers shall and shall not be required to
161 accompany investigators from the county department of family and children services when
162 these investigators investigate reports of child abuse. In determining when law
163 enforcement officers shall and shall not accompany investigators, the protocol committee
164 shall consider the need to protect the alleged victim and the need to preserve the
165 confidentiality of the report. Each protocol committee shall establish joint work efforts
166 between the law enforcement and investigative agencies in child abuse investigations. The
167 adoption or amendment of the protocol shall also describe measures which can be taken
168 within the county or circuit, as the case may be, to prevent child abuse and shall be filed
169 with and furnished to the same entities with or to which an original protocol is required to
170 be filed or furnished. The protocol shall be further amended to specify procedures to be
171 adopted by the protocol committee to ensure that written protocol procedures are followed.

172 ~~(i)~~(g) The protocol committee shall issue a report no later than the first day of July each
173 year. Such report shall evaluate the extent to which investigations of child abuse during
174 the 12 months prior to the report have complied with the ~~protocols~~ protocol of the protocol
175 committee, recommend measures to improve compliance, and describe which measures
176 taken within the ~~county~~ or circuit, as the case may be, to prevent child abuse have been
177 successful. If no amendments have been made to the protocol since the prior annual report,

178 the report shall clearly state that no amendments have been made by the committee during
179 such time. The report shall be transmitted to the county governing authority of each county
180 within the circuit, the fall term grand jury of the judicial circuit, the ~~Office of the Child~~
181 ~~Advocate for the Protection of Children~~ Criminal Justice Coordinating Council, and the
182 chief superior court judge of the circuit.

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

186 ~~(k) The protocol committee shall include a written sexual abuse and sexual exploitation~~
187 ~~section within its protocol which shall be filed with the Division of Family and Children~~
188 ~~Services of the Department of Human Services and the Office of the Child Advocate for~~
189 ~~the Protection of Children, a copy of which shall be furnished to each agency in the county~~
190 ~~handling the cases of sexually abused or exploited children. The sexual abuse and sexual~~
191 ~~exploitation section of the protocol shall outline in detail the procedures to be used in~~
192 ~~investigating and prosecuting cases arising from alleged sexual abuse and sexual~~
193 ~~exploitation and the procedures to be followed concerning the obtainment of and payment~~
194 ~~for sexual assault examinations. The sexual abuse and sexual exploitation section of the~~
195 ~~protocol shall be consistent with the policies and procedures of the Division of Family and~~
196 ~~Children Services of the Department of Human Services. The sexual abuse and sexual~~
197 ~~exploitation section of the protocol is not intended to, does not, and may not be relied upon~~
198 ~~to create any rights, substantive or procedural, enforceable at law by any party in any~~
199 ~~matter civil or criminal. Such section of the protocol shall not limit or otherwise restrict~~
200 ~~a prosecuting attorney in the exercise of his or her discretion nor in the exercise of any~~
201 ~~otherwise lawful litigative prerogatives.~~

202 (h) The protocol committee shall submit a certification of annual compliance to the
203 Criminal Justice Coordinating Council by December 31 of each year. The Criminal Justice
204 Coordinating Council shall notify the Governor, Lieutenant Governor, Speaker of the

205 House of Representatives, and Chief Justice of the Georgia Supreme Court of any
206 noncompliant judicial circuits."

207 **SECTION 2.**

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