

House Bill 552

By: Representatives Kahaian of the 81st, Byrd of the 20th, and Tran of the 80th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to
2 definitions relative to the juvenile code, so as to revise the definition of neglect; to amend
3 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
4 the person, so as to provide for an exception to certain offenses of reckless conduct and child
5 cruelty for parents and legal custodians permitting children to participate in independent
6 activities under certain conditions; to provide for a short title; to provide for legislative
7 findings and intent; to provide for related matters; to provide for an effective date and
8 applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Georgia Parents, Children, Child Welfare,
12 and Law Enforcement Protection and Fiscal Responsibility Act." This Act may also be
13 known and may be cited as the "Brittany Patterson Act."

14 **SECTION 2.**

15 (a) The General Assembly finds that:

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- 16 (1) State and local government entities and governing bodies and officers, employees, and
17 agents thereof too frequently fail to respect and to recognize the fundamental constitutional
18 rights of parents to raise their children and to make decisions regarding their children as
19 codified and recognized by subsection (d) of Code Section 20-2-786 of the Official Code
20 of Georgia Annotated, which provides that "No state or local government entity, governing
21 body, or any officer, employee, or agent thereof may infringe on the fundamental right of
22 a parent to direct the upbringing and education of his or her minor child without
23 demonstrating that such action is reasonable and necessary to achieve a compelling state
24 interest and that such action is narrowly tailored and is not otherwise served by less
25 restrictive means";
- 26 (2) In such instances, the rights of parents and the rights of children are infringed upon and
27 the rights of parents to exercise their fundamental constitutional rights are chilled
28 unnecessarily;
- 29 (3) In such instances, finite and valuable resources of state and local government entities
30 and governing bodies are wasted without corresponding benefits to the people of the State
31 of Georgia;
- 32 (4) Providing definitions and protocols will assist state and local government entities and
33 governing bodies and officers, employees, and agents thereof in determining the absence
34 or the existence of a compelling state interest necessary to allow infringement on the
35 fundamental constitutional rights of a parent;
- 36 (5) Amending Code Section 16-5-70 of the Official Code of Georgia Annotated, which
37 provides for the offense of cruelty to children, to be consistent with Code Section 20-2-786
38 and providing parents and guardians with immunity from criminal liability when they take
39 action or make decisions regarding their child in the absence of a compelling state interest
40 otherwise serves the interests of the state, parents, and children;

41 (6) Providing government actors in law enforcement and the Division of Family and
42 Children Services with immunity from criminal and civil liability when following the
43 protocol established hereby serves the interests of the state, parents, and children; and

44 (7) Amending Code Section 16-5-60 of the Official Code of Georgia Annotated, relating
45 to the offense of reckless conduct, is necessary to address the vagueness and ambiguity
46 therein as held by the Supreme Court of Georgia; additionally, actions and decisions by
47 parents and guardians as provided by Code Section 16-5-70 are not included within the
48 offense of reckless conduct, and amending Code Section 15-11-2 to exclude from the
49 definition of neglect certain actions and decisions by parents and guardians is necessary for
50 consistency between and among statutes addressing child welfare and safety and the
51 conduct of parents and guardians and to define such actions and decisions and provide
52 examples when parents are provided immunity from criminal liability for reasonable
53 parental decisions regarding a child.

54 (b) It is the intent of the General Assembly that:

55 (1) Children are kept safe;

56 (2) The fundamental constitutional rights of parents and of their children are neither
57 infringed upon nor chilled;

58 (3) State and local government entities and governing bodies and officers, employees, and
59 agents thereof are provided specific protocols to follow which will protect children;
60 alleviate unnecessary consumption of resources by state and local government entities and
61 governing bodies and officers, employees, and agents thereof; and avoid the negative
62 unintended consequences that impact parents and children; and

63 (4) State and local government entities and governing bodies and officers, employees, and
64 agents thereof are provided corresponding civil and criminal immunity, provided that the
65 protocol provided herein is followed.

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SECTION 3.

67 Code Section 15-11-2 of the Official Code of Georgia Annotated, relating to definitions
68 relative to the juvenile code, is amended by revising paragraph (48) as follows:

69 "(48)(A) 'Neglect' means:

70 (A)(i) The failure to provide proper parental care or control, subsistence, education
71 as required by law, or other care or control necessary for a child's physical, mental,
72 or emotional health or morals;

73 (B)(ii) The failure to provide a child with adequate supervision necessary for such
74 child's well-being; or

75 (C)(iii) The abandonment of a child by his or her parent, guardian, or legal custodian.

76 (B) Such term shall not mean or include actions and decisions by a parent or guardian,
77 acting in good faith, that allow a child to engage in independent activities consistent
78 with the child's intellectual, emotional, and physical maturity, including, but not limited
79 to, allowing the child to:

80 (i) Travel independently to and from school by walking, running, bicycling, public
81 transit, or other means;

82 (ii) Travel independently to and from nearby commercial or recreational facilities;

83 (iii) Engage independently in outdoor play;

84 (iv) Remain in a vehicle without an adult present if the circumstances do not cause
85 harm to the child and do not create an imminent risk of harm to the child, including,
86 but not limited to, if the temperature inside the vehicle is not and will not become
87 dangerously hot or cold or the child has the capacity and ability to open the door or
88 windows of the vehicle in case of need;

89 (v) Remain at home without an adult present if the parent or guardian:

90 (I) Returns home the same day on which the parent or guardian gives the child
91 permission to remain at home;

92 (II) Ensures the child has the capacity and ability to contact the parent, guardian,
 93 or another responsible adult rapidly when needed and is provided with the means
 94 to make such contact; and
 95 (III) Makes provisions for the child to be cared for and protected in the event of any
 96 reasonably foreseeable emergency; and
 97 (vi) Remain at home or be unsupervised outside the home without an adult present
 98 if the parent or guardian is following relevant guidelines as published by the Division
 99 of Family and Children Services of the Department of Human Services."

100

SECTION 4.

101 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
 102 the person, is amended in Code Section 16-5-60, relating to reckless conduct causing harm
 103 to or endangering the bodily safety of another and conduct by HIV infected persons, by
 104 revising subsection (b) and by adding a new subsection to read as follows:

105 "(b)(1) Subject to the provisions of paragraph (2) of this subsection, a ~~A~~ person who
 106 causes bodily harm to or endangers the bodily safety of another person by consciously
 107 disregarding a substantial and unjustifiable risk that his or her act or omission will cause
 108 harm or endanger the safety of the other person and the disregard constitutes a gross
 109 deviation from the standard of care which a reasonable person would exercise in the
 110 situation is guilty of a misdemeanor.

111 (2)(A) The actions and decisions by a parent or guardian with respect to his or her
 112 minor child consistent with the provisions of subsection (f) of Code Section 16-5-70
 113 shall not constitute a gross deviation from the standard of care provided for in
 114 paragraph (1) of this subsection.

115 (B) No state or local government entity or governing body or any officer, employee,
 116 or agent thereof shall obstruct or interfere with a parent or guardian of a minor child in
 117 this state acting in compliance with the provisions of subsection (f) of Code

118 Section 16-5-70, and no parent or guardian shall be detained, arrested, or charged
119 criminally, nor be investigated by any agency under this subsection, if such parent or
120 guardian is in compliance with the provisions of subsection (f) of Code Section 16-5-70
121 or if a minor child appears to be alone or unsupervised by an adult unless that child also
122 appears to be injured, in distress, or at imminent risk of significant injury or other harm
123 from an identifiable source."

124 "(d) State and local government officers, employees, and agents who act in good faith
125 compliance with the provisions of this Code section shall be immune from criminal and
126 civil liability in the event that injury or death to a child results from such good faith
127 compliance."

128 **SECTION 5.**

129 Said chapter is further amended in Code Section 16-5-70, relating to cruelty to children, by
130 adding new subsections to read as follows:

131 "(f) A parent or guardian of a child does not violate this Code section when he or she,
132 acting in good faith, allows the child to engage in independent activities consistent with the
133 child's intellectual, emotional, and physical maturity, including, but not limited to, allowing
134 the child to:

135 (1) Travel independently to and from school by walking, running, bicycling, public
136 transit, or other means;

137 (2) Travel independently to and from nearby commercial or recreational facilities;

138 (3) Engage independently in outdoor play;

139 (4) Remain in a vehicle without an adult present if the circumstances do not cause harm
140 to the child and do not create an imminent risk of harm to the child, including, but not
141 limited to, if the temperature inside the vehicle is not and will not become dangerously
142 hot or cold or the child has the capacity and ability to open the door or windows of the
143 vehicle in case of need;

- 144 (5) Remain at home without an adult present if the parent or guardian:
145 (A) Returns home the same day on which the parent or guardian gives the child
146 permission to remain at home;
147 (B) Ensures the child has the capacity and ability to contact the parent, guardian, or
148 another responsible adult rapidly when needed and is provided with the means to make
149 such contact; and
150 (C) Makes provisions for the child to be cared for and protected in the event of any
151 reasonably foreseeable emergency; and
152 (6) Remain at home or be unsupervised outside the home without an adult present if the
153 parent or guardian is following relevant guidelines published by the Division of Family
154 and Children Services of the Department of Human Services.
155 (g) As provided in this Code section and paragraph (1) of subsection (e) of Code
156 Section 20-2-786, no state or local government entity or governing body or any officer,
157 employee, or agent thereof shall obstruct or interfere with a parent or guardian of a minor
158 child in this state acting in compliance with this Code section, and no parent or guardian
159 shall be detained, arrested, or charged criminally, nor be investigated by any agency, if
160 such parent or guardian is complying with this Code section or if a minor child appears to
161 be alone or unsupervised by an adult unless that child also appears to be injured, in distress,
162 or at imminent risk of significant injury or other harm from an identifiable source.
163 (h) A parent or guardian of a minor child in this state shall not be deemed to have abused
164 or neglected his or her child unless such child is injured, in distress, or at imminent risk of
165 significant injury or other harm from an identifiable source.
166 (i) Provided that state and local government officers, employees, and agents act in
167 accordance with this Code section, such officers, employees, and agents are granted
168 immunity from criminal and civil liability in the event that injury to or death of a child
169 results from such act."

170 **SECTION 6.**

171 This Act shall become effective on July 1, 2025; provided, however, that Sections 4 and 5
172 of this Act shall apply to offenses committed on or after such date.

173 **SECTION 7.**

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