

The Senate Committee on Judiciary offered the following substitute to HB 582:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 16, 17, and 24 of the Official Code of Georgia Annotated, relating to crimes  
2 and offenses, criminal procedure, and evidence, respectively, so as to provide for defendants  
3 to support a justification defense by offering evidence of family violence, dating violence,  
4 or child abuse committed by the alleged victim; to provide for petitions for the opportunity  
5 to present such evidence; to revise provisions for the defense of coercion and to provide for  
6 the application of such defense in all criminal cases; to provide a privilege for participation  
7 in victim centered programs and victim-offender dialogues; to provide for definitions; to  
8 provide for limitations; to provide for civil immunity for facilitators in certain circumstances;  
9 to provide for a short title; to provide for related matters; to repeal conflicting laws; and for  
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Georgia Survivor Justice Act."

14

**SECTION 2.**

15 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 16 amended in Article 2 of Chapter 3, relating to justification and excuse under defenses to  
 17 criminal prosecutions, by revising subsection (d) of Code Section 16-3-21, relating to use of  
 18 force in defense of self or others and evidence of belief that force was necessary in murder  
 19 or manslaughter prosecution, as follows:

20 ~~“(d)(1) In a prosecution for murder or manslaughter any offense prohibited under Chapter~~  
 21 ~~5 of this title, if a defendant raises as a defense a justification provided by subsection (a)~~  
 22 ~~of this Code section, the defendant may offer relevant evidence that the defendant had~~  
 23 ~~been subjected to acts of family violence, dating violence, or child abuse committed by~~  
 24 ~~the alleged victim, as such acts are described in Code Sections 19-13-1, 19-13A-1, and~~  
 25 ~~19-15-1, respectively, in order to establish the defendant's reasonable belief that the threat~~  
 26 ~~or use of force or deadly force was immediately necessary, may be permitted to offer:~~

27 ~~(1) Relevant evidence that the defendant had been the victim of acts of family violence~~  
 28 ~~or child abuse committed by the deceased, as such acts are described in Code Sections~~  
 29 ~~19-13-1 and 19-15-1, respectively; and~~

30 ~~(2) Relevant expert testimony regarding the condition of the mind of the defendant at the~~  
 31 ~~time of the offense, including those relevant facts and circumstances relating to the family~~  
 32 ~~violence or child abuse that are the bases of the expert's opinion.~~

33 (2) Relevant evidence includes, but is not limited to:

34 (A) Evidence pertaining to the alleged victim's prior acts, including, but not limited to:

35 (i) Evidence indicating the defendant sought law enforcement assistance;

36 (ii) Evidence indicating the defendant sought services from a counselor, social  
 37 worker, domestic violence program, or other relevant agency or service provider;

38 (iii) Evidence indicating the defendant sought medical attention;

39 (iv) Evidence of the effects of battering and post-traumatic stress disorder on the  
 40 defendant; and

41 (v) Temporary protective order petitions, ex parte orders, and final orders in which  
 42 the alleged victim is the respondent;

43 (B) Expert testimony, including, but not limited to, testimony as to relevant facts and  
 44 circumstances relating to the family violence, dating violence, or child abuse, as such  
 45 acts are described in Code Sections 19-13-1, 19-13A-1, and 19-15-1, respectively, that  
 46 are the bases of such expert's opinion; and

47 (C) Any other evidence the court determines is of sufficient credibility or probative  
 48 value.

49 (3) Evidence introduced under this subsection shall be subject to Code Sections  
 50 24-4-401, 24-4-402, and 24-4-403."

51 **SECTION 3.**

52 Said title is further amended in said article by revising Code Section 16-3-26, relating to  
 53 coercion, as follows:

54 "16-3-26.

55 A person is not guilty of a crime, except ~~murder~~ for the offense of murder provided for in  
 56 subsection (a) of Code Section 16-5-1, if the act upon which the supposed criminal liability  
 57 is based is performed under such coercion that the person he or she reasonably believes that  
 58 performing the act is ~~the only way~~ necessary to prevent ~~his~~ imminent death or great bodily  
 59 injury to himself or herself or a third person."

60 **SECTION 4.**

61 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 62 amended in Article 1 of Chapter 10, relating to procedure for sentencing and imposition of  
 63 punishment, by revising subsection (f) of Code Section 17-10-1, relating to fixing of  
 64 sentence, suspension or probation of sentence, change in sentence, eligibility for parole,  
 65 prohibited modifications, and exceptions, as follows:

66 "(f)(1) Within one year of the date upon which the sentence is imposed, or within 120  
67 days after receipt by the sentencing court of the remittitur upon affirmance of the  
68 judgment after direct appeal, whichever is later, the court imposing the sentence has the  
69 jurisdiction, power, and authority to correct or reduce the sentence and to suspend or  
70 probate all or any part of the sentence imposed. The time periods prescribed in this  
71 subsection require the defendant to file a motion within such time periods; however, the  
72 court shall not be constrained to issue its order or hear the matter within such time  
73 periods. Prior to entering any order correcting, reducing, or modifying any sentence, the  
74 court shall afford notice and an opportunity for a hearing to the prosecuting attorney.  
75 Any order modifying a sentence which is entered without notice and an opportunity for  
76 a hearing as provided in this subsection shall be void. This subsection shall not limit any  
77 other jurisdiction granted to the court in this Code section or as provided for in subsection  
78 (g) of Code Section 42-8-34.

79 (2)(A) A person who is serving a sentence may submit a petition to the court  
80 requesting to be sentenced under Code Section 17-10-22 if:

81 (i) The offense was committed before July 1, 2025; or

82 (ii) The petition includes evidence that was not part of the record of the case at any  
83 sentencing hearing.

84 (B) Such petition shall be served upon the district attorney. The state shall file its  
85 response, if any, within 60 days of being served with such petition. The superior court  
86 shall, upon motion for an extension of time and after a hearing and good cause shown,  
87 grant one extension to the original 60 day period, not to exceed 180 additional days.

88 (C) There shall be a presumption in favor of granting a hearing on a petition filed  
89 pursuant to this paragraph unless the court determines that there is a lack of  
90 circumstantial guarantees of trustworthiness, an inherent unreliability of the facts  
91 asserted, or a deficiency in the factual allegations in the petition. If the court decides

92 that the petitioner is not entitled to a hearing, the court shall enter an order denying  
93 relief and shall include written findings of fact outlining the reasons for such order.

94 (D) A hearing on a petition filed pursuant to this paragraph, if granted, shall be  
95 scheduled within 90 days of the filing of such petition or within 60 days of the deadline  
96 for the state's response, whichever is later. The state shall be given notice and the  
97 opportunity to respond at any such hearing.

98 (E)(i) If, based upon evidence presented at the hearing, the court determines that the  
99 petitioner has met the criteria provided in subsection (b) of Code Section 17-10-22,  
100 the court shall enter an order reducing the defendant's sentence pursuant to  
101 subsection (c) of Code Section 17-10-22.

102 (ii) If, based upon the petition or evidence presented at the hearing, the court  
103 determines that the petitioner has not met the criteria provided in subsection (b) of  
104 Code Section 17-10-22, the court shall notify the petitioner, dismiss his or her petition  
105 without prejudice, and enter an order to such effect. Such an order shall include  
106 written findings of fact outlining the reasons for such order.

107 (F) Any order issued by a court pursuant to this paragraph shall include written  
108 findings of fact and the reasons for such order.

109 (G) Any judgments pursuant to this paragraph shall be final judgments and subject to  
110 direct appeal by the petitioner and the state under Code Sections 5-6-34 and 5-7-1."

111 **SECTION 5.**

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

113 "17-10-22.

114 (a) At the time of sentencing, the defendant may present evidence that he or she was  
115 subjected to acts of family violence, dating violence, or child abuse, as such acts are  
116 described in Code Sections 19-13-1, 19-13A-1, and 19-15-1, respectively, and that such  
117 acts were a significant contributing factor for the offense for which the defendant is being

118 sentenced. The rules of evidence shall apply to such presentation of evidence except that  
119 the following evidence shall be admissible:

120 (1) Hearsay;

121 (2) Character evidence;

122 (3) Evidence indicating the defendant sought law enforcement assistance;

123 (4) Evidence indicating the defendant sought services from a counselor, social worker,  
124 domestic violence program, or other relevant agency or service provider;

125 (5) Evidence indicating the defendant sought medical attention;

126 (6) Evidence of prior statements regarding the acts of family violence, dating violence,  
127 or child abuse, as such acts are described in Code Sections 19-13-1, 19-13A-1, and  
128 19-15-1, respectively;

129 (7) Evidence of the effects of battering and post-traumatic stress disorder on the  
130 defendant;

131 (8) Evidence pertaining to the alleged perpetrator's history of other acts of family  
132 violence, dating violence or child abuse, as such acts are described in Code Sections  
133 19-13-1, 19-13A-1, and 19-15-1, respectively, including, but not limited to, temporary  
134 protective order petitions, ex parte orders, and final orders in which the alleged  
135 perpetrator is the respondent;

136 (9) Expert testimony, including facts and circumstances relating to the family violence,  
137 dating violence, or child abuse, as such acts are described in Code Sections 19-13-1,  
138 19-13A-1, and 19-15-1, respectively, that are the bases of such expert's opinion; and

139 (10) Any other evidence that the court determines is of sufficient credibility or probative  
140 value.

141 (b) The court shall impose a sentence as provided in subsection (c) of this Code section  
142 if the court finds that:

143 (1) By a preponderance of the evidence, the defendant was subjected to acts of family  
144 violence, dating violence, or child abuse, as such acts are described in Code Sections

145 19-13-1, 19-13A-1, and 19-15-1, respectively, and such acts were a significant  
146 contributing factor to the offense; or

147 (2) The best interest of justice and welfare of society would be served; provided,  
148 however, that such finding shall only be entered with the consent of the state.

149 (c) Upon a finding provided for in subsection (b) of this Code section:

150 (1) A person convicted of a crime punishable by death or by life imprisonment shall be  
151 punished by imprisonment for not less than ten years nor more than 30 years. In the  
152 court's discretion, the judge may depart from such mandatory minimum sentence when  
153 the prosecuting attorney and the defendant have agreed to a sentence that is below such  
154 mandatory minimum. Notwithstanding any other provision of law to the contrary, such  
155 sentence may be reduced by any form of parole or early release administered by the State  
156 Board of Pardons and Paroles or by any earned time, early release, work release, leave,  
157 or other sentence-reducing measures under programs administered by the Department of  
158 Corrections.

159 (2) A person convicted of a felony other than a felony punishable by death or life  
160 imprisonment shall be punished by imprisonment for not less than one year nor more than  
161 one-half the maximum period of time for which he or she could have been sentenced, by  
162 one-half the maximum fine to which he or she could have been subjected, or both."

163

## SECTION 6.

164 Title 24 of the Official Code of Georgia Annotated, relating evidence, is amended in Chapter  
165 5, relating to privileges relative to evidence, by revising paragraphs (8) and (9) of and adding  
166 a new paragraph to subsection (a) of Code Section 24-5-501, relating to certain  
167 communications privileged, to read as follows:

168 "(8) Communications between or among any psychiatrist, psychologist, licensed clinical  
169 social worker, clinical nurse specialist in psychiatric/mental health, licensed marriage and  
170 family therapist, and licensed professional counselor who are rendering psychotherapy

171 or have rendered psychotherapy to a patient, regarding that patient's communications  
172 which are otherwise privileged by paragraph (5), (6), or (7) of this subsection; ~~and~~  
173 (9) Communications between accountant and client as provided by Code Section  
174 43-3-29; and  
175 (10) Communications made in the context of victim centered practices or victim-offender  
176 dialogues as provided for in Code Section 24-5-511."

177 **SECTION 7.**

178 Said title is further amended in said chapter by adding a new Code section to read as follows:  
179 "24-5-511.

180 (a) As used in this Code section, the term:

181 (1) 'Facilitator' means a person who is trained to facilitate a victim centered practice or  
182 victim-offender dialogue.

183 (2) 'Party' means a person, including a facilitator, a victim, an offender, a community  
184 member, and any other participant, who voluntarily consents to participate with others  
185 in a victim centered practice or victim-offender dialogue.

186 (3) 'Proceeding' means any legal action subject to the laws of this state, including, but  
187 not limited to, civil, criminal, juvenile, or administrative hearings.

188 (4) 'Victim centered practice' or 'practice' means a gathering in which parties gather to  
189 identify and respond to wrongdoing, repair harm, reduce the likelihood of further harm,  
190 and strengthen community ties by focusing on the needs and obligations of all parties  
191 involved through a participatory process.

192 (5) 'Victim-offender dialogue' or 'dialogue' means a process in which the victim of a  
193 crime, or his or her surviving family members, and the offender who committed the crime  
194 meet in a secure setting to engage in a dialogue facilitated by a facilitator with the goal  
195 of repairing harm and addressing trauma.

196 (b)(1) Any communication or action made at any time while preparing for or  
197 participating in a victim centered practice or a victim-offender dialogue or as a follow up  
198 to such practice or dialogue, or the fact that such practice or dialogue has been planned  
199 or convened, shall be privileged and shall not be referred to, used, or admitted in any  
200 proceeding unless such privilege is waived. Such waiver may be made during the  
201 proceeding or in writing by the party or parties protected by the privilege. Privileged  
202 information shall not be subject to discovery or disclosure in any judicial or extrajudicial  
203 proceeding and shall not be subject to public inspection as provided by Article 4 of  
204 Chapter 18 of Title 50.

205 (2) Parties of a victim centered practice or victim-offender dialogue may refuse to  
206 disclose communications relating to a victim centered practice or victim-offender  
207 dialogue and prevent others from disclosing such communications.

208 (3) Any waiver of privilege shall be limited to the participation and communications of  
209 the waiving party only, and the participation or communications of any other party shall  
210 remain privileged unless waived by such other party.

211 (c) Evidence that is created or discovered outside of the victim centered practice or  
212 victim-offender dialogue shall not become inadmissible or protected from discovery solely  
213 because it was discussed or used in a victim centered practice or victim-offender dialogue.

214 (d)(1) The privilege afforded by this Code section shall not extend to a situation in  
215 which:

216 (A) There are threats of imminent violence to self or others; or

217 (B) The facilitator believes that a child is being abused or that the safety of any party  
218 or other person is in danger.

219 (2) A court, tribunal, or administrative body may require a report on a victim centered  
220 practice or victim-offender dialogue, but such report shall be limited to the fact that a  
221 practice or dialogue has taken place and whether further practices or dialogues are  
222 expected.

223 (e) The privilege created by this Code section shall not be grounds to fail to comply with  
224 mandatory reporting requirements as set forth in Code Section 19-7-5 or Chapter 5 of  
225 Title 30, the 'Disabled Adults and Elder Persons Protection Act.'

226 (f) No facilitator shall be held liable for civil damages for any statement, action, omission,  
227 or decision made in the course of a victim centered practice or victim-offender dialogue  
228 unless that statement, action, omission, or decision is:

229 (1) Grossly negligent and made with malice; or

230 (2) Made with willful disregard for the safety or property of any party to the victim  
231 centered practice or victim-offender dialogue."

232 **SECTION 8.**

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