

SENATE SUBSTITUTE TO HB 582**ADOPTED SENATE****A BILL TO BE ENTITLED
AN ACT**

1 To amend Titles 16, 17, 24, and 45 of the Official Code of Georgia Annotated, relating to
2 crimes and offenses, criminal procedure, evidence, and public officers and employees,
3 respectively, so as to provide for defendants to support a justification defense by offering
4 evidence of family violence, dating violence, or child abuse committed by the alleged victim;
5 to provide for petitions for the opportunity to present such evidence; to revise provisions for
6 the defense of coercion and to provide for the application of such defense in all criminal
7 cases; to provide a privilege for participation in victim centered programs and
8 victim-offender dialogues; to provide for definitions; to provide for limitations; to provide
9 for civil immunity for facilitators in certain circumstances; to provide for a short title; to
10 provide for uniform oaths to be sworn by all peace officers; to provide for aspirational
11 language in such oaths; to limit the legal effect of any such aspirational language; to limit the
12 crime of violation of oath of a public officer to codified oaths; to limit the violation of oath
13 by a public officer to violations predicated on certain offenses; to provide for related matters;
14 to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16

SECTION 1.

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

18

SECTION 2.

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

24 ~~"(d)(1) In a prosecution for murder or manslaughter any offense prohibited under Chapter~~
 25 ~~5 of this title, if a defendant raises as a defense a justification provided by subsection (a)~~
 26 ~~of this Code section, the defendant may offer relevant evidence that the defendant had~~
 27 ~~been subjected to acts of family violence, dating violence, or child abuse committed by~~
 28 ~~the alleged victim, as such acts are described in Code Sections 19-13-1, 19-13A-1, and~~
 29 ~~19-15-1, respectively, in order to establish the defendant's reasonable belief that the threat~~
 30 ~~or use of force or deadly force was immediately necessary, may be permitted to offer:~~

31 ~~(1) Relevant evidence that the defendant had been the victim of acts of family violence~~
 32 ~~or child abuse committed by the deceased, as such acts are described in Code Sections~~
 33 ~~19-13-1 and 19-15-1, respectively; and~~

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

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

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

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

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

- 42 (iii) Evidence indicating the defendant sought medical attention;
 43 (iv) Evidence of the effects of battering and post-traumatic stress disorder on the
 44 defendant; and
 45 (v) Temporary protective order petitions, ex parte orders, and final orders in which
 46 the alleged victim is the respondent;
 47 (B) Expert testimony, including, but not limited to, testimony as to relevant facts and
 48 circumstances relating to the family violence, dating violence, or child abuse, as such
 49 acts are described in Code Sections 19-13-1, 19-13A-1, and 19-15-1, respectively, that
 50 are the bases of such expert's opinion; and
 51 (C) Any other evidence the court determines is of sufficient credibility or probative
 52 value.
 53 (3) Evidence introduced under this subsection shall be subject to Code Sections
 54 24-4-401, 24-4-402, and 24-4-403."

55 **SECTION 3.**

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

58 "16-3-26.

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

64 **SECTION 4.**

65 Said title is further amended by revising Code Section 16-10-1, relating to violation of oath
 66 by public officer, as follows:

67 "16-10-1.

68 (a) Any public officer who willfully and intentionally violates the terms of his or her oath
 69 as prescribed by law shall, upon conviction thereof, be punished by imprisonment for not
 70 less than one nor more than five years.

71 (b) Any peace officer, as such term is defined in Code Section 35-8-2, who has sworn the
 72 oath or oaths prescribed in Code Sections 15-16-4 and 45-3-7 shall be subject to
 73 prosecution under this Code section only for violations of such oath or oaths as prescribed.

74 (c) No individual shall be subject to prosecution for violation of his or her oath of office
 75 under this Code section, except where such violation is predicated upon the commission
 76 of a felony or a misdemeanor of a high and aggravated nature."

77

SECTION 5.

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

83 "(f)(1) Within one year of the date upon which the sentence is imposed, or within 120
 84 days after receipt by the sentencing court of the remittitur upon affirmance of the
 85 judgment after direct appeal, whichever is later, the court imposing the sentence has the
 86 jurisdiction, power, and authority to correct or reduce the sentence and to suspend or
 87 probate all or any part of the sentence imposed. The time periods prescribed in this
 88 subsection require the defendant to file a motion within such time periods; however, the
 89 court shall not be constrained to issue its order or hear the matter within such time
 90 periods. Prior to entering any order correcting, reducing, or modifying any sentence, the
 91 court shall afford notice and an opportunity for a hearing to the prosecuting attorney.
 92 Any order modifying a sentence which is entered without notice and an opportunity for

93 a hearing as provided in this subsection shall be void. This subsection shall not limit any
94 other jurisdiction granted to the court in this Code section or as provided for in subsection
95 (g) of Code Section 42-8-34.

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

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

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

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

105 (C) There shall be a presumption in favor of granting a hearing on a petition filed
106 pursuant to this paragraph unless the court determines that there is a lack of
107 circumstantial guarantees of trustworthiness, an inherent unreliability of the facts
108 asserted, or a deficiency in the factual allegations in the petition. If the court decides
109 that the petitioner is not entitled to a hearing, the court shall enter an order denying
110 relief and shall include written findings of fact outlining the reasons for such order.

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

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

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

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

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

128 **SECTION 6.**

129 Said title is further amended in said article by adding a new Code section to read as follows:
130 "17-10-22.

131 (a) At the time of sentencing, the defendant may present evidence that he or she was
132 subjected to acts of family violence, dating violence, or child abuse, as such acts are
133 described in Code Sections 19-13-1, 19-13A-1, and 19-15-1, respectively, and that such
134 acts were a significant contributing factor for the offense for which the defendant is being
135 sentenced. The rules of evidence shall apply to such presentation of evidence except that
136 the following evidence shall be admissible:

137 (1) Hearsay;

138 (2) Character evidence;

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

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

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

143 (6) Evidence of prior statements regarding the acts of family violence, dating violence,
144 or child abuse, as such acts are described in Code Sections 19-13-1, 19-13A-1, and
145 19-15-1, respectively;

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

148 (8) Evidence pertaining to the alleged perpetrator's history of other acts of family
149 violence, dating violence or child abuse, as such acts are described in Code Sections
150 19-13-1, 19-13A-1, and 19-15-1, respectively, including, but not limited to, temporary
151 protective order petitions, ex parte orders, and final orders in which the alleged
152 perpetrator is the respondent;

153 (9) Expert testimony, including facts and circumstances relating to the family violence,
154 dating violence, or child abuse, as such acts are described in Code Sections 19-13-1,
155 19-13A-1, and 19-15-1, respectively, that are the bases of such expert's opinion; and

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

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

160 (1) By a preponderance of the evidence, the defendant was subjected to acts of family
161 violence, dating violence, or child abuse, as such acts are described in Code Sections
162 19-13-1, 19-13A-1, and 19-15-1, respectively, and such acts were a significant
163 contributing factor to the offense; or

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

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

167 (1) A person convicted of a crime punishable by death or by life imprisonment shall be
168 punished by imprisonment for not less than ten years nor more than 30 years. In the
169 court's discretion, the judge may depart from such mandatory minimum sentence when

170 the prosecuting attorney and the defendant have agreed to a sentence that is below such
171 mandatory minimum. Notwithstanding any other provision of law to the contrary, such
172 sentence may be reduced by any form of parole or early release administered by the State
173 Board of Pardons and Paroles or by any earned time, early release, work release, leave,
174 or other sentence-reducing measures under programs administered by the Department of
175 Corrections.

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

180

SECTION 7.

181 Title 24 of the Official Code of Georgia Annotated, relating evidence, is amended in Chapter
182 5, relating to privileges relative to evidence, by revising paragraphs (8) and (9) of and adding
183 a new paragraph to subsection (a) of Code Section 24-5-501, relating to certain
184 communications privileged, to read as follows:

185 "(8) Communications between or among any psychiatrist, psychologist, licensed clinical
186 social worker, clinical nurse specialist in psychiatric/mental health, licensed marriage and
187 family therapist, and licensed professional counselor who are rendering psychotherapy
188 or have rendered psychotherapy to a patient, regarding that patient's communications
189 which are otherwise privileged by paragraph (5), (6), or (7) of this subsection; and

190 (9) Communications between accountant and client as provided by Code Section
191 43-3-29; and

192 (10) Communications made in the context of victim centered practices or victim-offender
193 dialogues as provided for in Code Section 24-5-511."

194

SECTION 8.

195 Said title is further amended in said chapter by adding a new Code section to read as follows:
196 "24-5-511.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SECTION 9.

250 Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees,
251 is amended by revising Code Section 45-3-7, relating to oaths of deputies, as follows:

252 "45-3-7.

253 (a) Before proceeding to act, all deputies shall take the same oaths as their principals take
254 and the oaths shall be filed and entered on the minutes of the same office with the same
255 endorsement thereon; but this Code section shall not apply to any deputy who may be
256 employed in particular cases only. A deputy sheriff may take his or her oaths before the
257 sheriff and the oaths may be filed in and entered in the records of the sheriff's office.

258 (b) All peace officers, as such term is defined in Code Section 35-8-2, taking their oath of
259 office on or after July 1, 2025, shall be administered the following oath:

260 'I, (name of person taking oath), hereby swear or affirm that I will faithfully, fairly,
261 and without malice or partiality uphold the laws of the State of Georgia, as well as
262 any ordinances which I am authorized to enforce, to the best of my ability and support
263 and defend the Constitution of the United States and the Constitution of Georgia. So
264 help me God.'

265 (c) A peace officer may take his or her oath before the chief executive officer of the
266 agency or any authorized judicial official, and such oath may be filed in and entered in the
267 records of that agency.

268 (d) An agency may administer additional oaths that contain provisions not specifically
269 prescribed and enumerated in this Code section; provided, however, that such oaths, and
270 any language in addition to the language set forth in this Code section, shall be deemed
271 aspirational only and of no legal effect in any civil or criminal proceeding.

272 (e) Sheriffs and their sworn deputies taking their oath of office on or after July 1, 2025,
273 shall take the oath set forth in Code Section 15-16-4; provided, however, that any language
274 in such oath in addition to the language set forth in such Code section shall be deemed
275 aspirational only and of no legal effect in any civil or criminal proceeding."

276

SECTION 10.

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