

The House Committee on Judiciary offers the following substitute to HB 1397:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,
2 relating to investigating sexual assault, so as to provide for implied consent to a forensic
3 medical examination and a drug facilitated sexual assault examination for unconscious
4 victims of alleged sexual assault; to provide for circumstances; to provide for evidence; to
5 provide for a definition; to provide for related matters; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 4 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
10 investigating sexual assault, is amended by revising Code Section 17-5-70, relating to
11 definitions, as follows:

12 "17-5-70.

13 As used in this article, the term:

14 (1) 'Drug facilitated sexual assault examination' means a laboratory test designed to
15 identify the presence or absence of common drug classes known to be used in cases of
16 sexual assault and would include a specialized toxicology screen, typically using blood

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17 and urine, to detect substances that could compromise an individual's ability to consent
18 to sexual activity.

19 ~~(1)~~(2) 'Forensic medical examination' means an examination by a health care provider
20 of a person who is a victim of a sexual assault. Such examination shall include a physical
21 examination, documentation of biological and physical findings, and collection of
22 physical evidence from the victim.

23 ~~(2)~~(3) 'Investigating law enforcement agency' means the law enforcement agency
24 responsible for the investigation of the alleged sexual assault.

25 ~~(3)~~(4) 'Sexual assault' means rape, sodomy, aggravated sodomy, statutory rape, child
26 molestation, aggravated child molestation, sexual assault against a person in custody,
27 sexual assault against a person detained in a hospital or other institution, sexual assault
28 by a practitioner of psychotherapy against a patient, incest, bestiality, sexual battery, and
29 aggravated sexual battery as those terms and offenses are set forth and defined in
30 Chapter 6 of Title 16."

31 **SECTION 2.**

32 Said article is further amended by revising Code Section 17-5-72, relating to the right to free
33 forensic medical examination, as follows:

34 "17-5-72.

35 A victim shall have the right to have a forensic medical examination or a drug facilitated
36 sexual assault examination regardless of whether the victim participates in the criminal
37 justice system or cooperates with law enforcement in pursuing prosecution of the
38 underlying crime. A victim shall not be required to pay, directly or indirectly, for the cost
39 of a forensic medical examination. The cost of a forensic medical examination shall be
40 paid for by the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of
41 this title."

42 **SECTION 3.**

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

44 "17-5-75.45 (a) A licensed hospital or licensed healthcare practitioner may perform a forensic medical
46 examination in accordance with the provisions of this Code section when:47 (1) A reasonable licensed healthcare practitioner believes a suspected victim of sexual
48 assault to be incapacitated; and49 (2) Exigent circumstances justify conducting such an examination.50 (b) When a forensic medical examination is performed by a licensed hospital or licensed
51 healthcare practitioner, a drug facilitated sexual assault examination shall be performed on
52 any evidence retrieved from such examination.53 (c) Any person who has received a forensic medical examination performed pursuant to
54 this Code section shall not be arrested, charged, or prosecuted for any criminal violation
55 if the evidence for the arrest, charge, or prosecution of such violation resulted solely from
56 such person receiving such an examination."57 **SECTION 4.**

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