

House Bill 1409 (COMMITTEE SUBSTITUTE)

By: Representatives Camp of the 135<sup>th</sup>, Persinger of the 119<sup>th</sup>, Dempsey of the 13<sup>th</sup>, Hatchett of the 155<sup>th</sup>, Rice of the 139<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated,  
2 relating to provisions relative to parent and child relationship generally, so as to revise  
3 mandated reporting of child abuse; to provide for definitions; to provide for reporting  
4 requirements; to provide for the use of a secure web based reporting platform; to provide for  
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to  
9 provisions relative to parent and child relationship generally, is amended by revising Code  
10 Section 19-7-5, relating to reporting of child abuse, when mandated or authorized, content  
11 of report, to whom made, immunity from liability, report based upon privileged  
12 communication, penalty for failure to report, and spiritual treatment for illnesses, as follows:  
13 "19-7-5.

14 (a) The purpose of this Code section is to provide for the protection of children. It is  
15 intended that mandatory reporting will cause the protective services of the state to be  
16 brought to bear on the situation in an effort to prevent abuses, to protect and enhance the

H. B. 1409 (SUB)

17 welfare of children, and to preserve family life wherever possible. This Code section shall  
18 be liberally construed so as to carry out the purposes thereof.

19 (b) As used in this Code section, the term:

20 (1) 'Abandonment' means any conduct on the part of a parent, guardian, or legal  
21 custodian showing an intent to forgo parental duties or relinquish parental claims. Intent  
22 to forgo parental duties or relinquish parental claims may be evidenced by:

23 (A) Failure, for a period of at least six months, to communicate meaningfully with a  
24 child;

25 (B) Failure, for a period of at least six months, to maintain regular visitation with a  
26 child;

27 (C) Leaving a child with another person without provision for his or her support for a  
28 period of at least six months;

29 (D) Failure, for a period of at least six months, to participate in any court ordered plan  
30 or program designed to reunite a child with his or her parent, guardian, or legal  
31 custodian;

32 (E) Leaving a child without affording means of identifying such child or his or her  
33 parent, guardian, or legal custodian and:

34 (i) The identity of such child's parent, guardian, or legal custodian cannot be  
35 ascertained despite diligent searching; and

36 (ii) A parent, guardian, or legal custodian has not come forward to claim such child  
37 within three months following the finding of such child;

38 (F) Being absent from the home of his or her child for a period of time that creates a  
39 substantial risk of serious harm to a child left in the home;

40 (G) Failure to respond, for a period of at least six months, to notice of child protective  
41 proceedings; or

42 (H) Any other conduct indicating an intent to forgo parental duties or relinquish  
43 parental claims.

44 (2) 'Abortion' shall have the same meaning as set forth in Code Section 15-11-681.

45 (3) 'Abused' means subjected to child abuse.

46 (4) 'Child' means any person under 18 years of age.

47 (5) 'Child abuse' means:

48 (A) Physical injury or death inflicted upon a child by a parent, guardian, legal  
49 custodian, or other person responsible for the care of such child by other than accidental  
50 means; provided, however, that physical forms of discipline may be used as long as  
51 there is no physical injury to the child;

52 (B) Neglect of a child by a parent, guardian, legal custodian, or other person  
53 responsible for the care of such child;

54 (C) Emotional abuse of a child;

55 (D) Sexual abuse or sexual exploitation of a child;

56 (E) Prenatal abuse of a child by a parent;

57 (F) An act or failure to act that presents an imminent risk of serious harm to the child's  
58 physical, mental, or emotional health; or

59 (G) Trafficking a child for labor servitude.

60 (6) 'Child service organization personnel' means persons employed by or volunteering  
61 at a business or an organization, whether public, private, for profit, not for profit, or  
62 voluntary, that provides care, treatment, education, training, supervision, coaching,  
63 counseling, recreational programs, or shelter to children.

64 (7) 'Clergy' means ministers, priests, rabbis, imams, or similar functionaries, by whatever  
65 name called, of a bona fide religious organization.

66 (8) 'Emotional abuse' means acts or omissions by a parent, guardian, legal custodian, or  
67 other person responsible for the care of a child that cause any mental injury to such child's  
68 intellectual or psychological capacity as evidenced by an observable and significant  
69 impairment in such child's ability to function within a child's normal range of  
70 performance and behavior or that create a substantial risk of impairment.

71 (9) 'Labor servitude' means work or service of economic or financial value which is  
72 performed or provided by another individual and is induced or obtained by coercion or  
73 deception.

74 (10) 'Legal custodian' means:

75 (A) A person to whom legal custody of a child has been given by order of a court; or

76 (B) A public or private agency or other private organization licensed or otherwise  
77 authorized by law to receive and provide care for a child to which legal custody of such  
78 child has been given by order of a court.

79 (11) 'Neglect' means:

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

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

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

86 (12) 'Person responsible for the care of a child' means:

87 (A) An adult member of a child's household;

88 (B) A person exercising supervision over a child for any part of the 24 hour day; or

89 (C) Any adult who, based on his or her relationship to the parent, guardian, or legal  
90 custodian or a member of a child's household, has access to such child.

91 (13) 'Pregnancy resource center' means an organization or facility that:

92 (A) Provides pregnancy counseling or information as its primary purpose, either for a  
93 fee or as a free service;

94 (B) Does not provide or refer for abortions;

95 (C) Does not provide or refer for FDA approved contraceptive drugs or devices; and

96 (D) Is not licensed or certified by the state or federal government to provide medical  
97 or health care services and is not otherwise bound to follow the federal Health

98 Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or  
99 federal laws relating to patient confidentiality.

100 (14) 'Prenatal abuse' means exposure to chronic or severe use of alcohol or the unlawful  
101 use of any controlled substance, as such term is defined in Code Section 16-13-21, which  
102 results in:

103 (A) Symptoms of withdrawal in a newborn or the presence of a controlled substance  
104 or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the  
105 result of medical treatment; or

106 (B) Medically diagnosed and harmful effects in a newborn's physical appearance or  
107 functioning.

108 (15) 'Reproductive health care facility' means any office, clinic, or any other physical  
109 location that provides abortions, abortion counseling, abortion referrals, or gynecological  
110 care and services.

111 (16) 'Secure web based platform' means a type of software that allows for the secure  
112 creation and transmission of reports required by this Code section. A secure web based  
113 platform shall satisfy the criteria established by the Division of Family and Children  
114 Services of the Department of Human Services as set forth in subsection (k) of this Code  
115 section.

116 ~~(16)~~(17) 'School' means any public or private pre-kindergarten, elementary school,  
117 secondary school, technical school, vocational school, college, university, or institution  
118 of postsecondary education.

119 ~~(17)~~(18) 'Sexual abuse' means a person's employing, using, persuading, inducing,  
120 enticing, or coercing any minor who is not such person's spouse to engage in any act  
121 which involves:

122 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or  
123 oral-anal, whether between persons of the same or opposite sex;

124 (B) Bestiality;

- 125 (C) Masturbation;
- 126 (D) Lewd exhibition of the genitals or pubic area of any person;
- 127 (E) Flagellation or torture by or upon a person who is nude;
- 128 (F) Condition of being fettered, bound, or otherwise physically restrained on the part
- 129 of a person who is nude;
- 130 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
- 131 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
- 132 or unclothed breasts;
- 133 (H) Defecation or urination for the purpose of sexual stimulation;
- 134 (I) Penetration of the vagina or rectum by any object except when done as part of a
- 135 recognized medical procedure; or
- 136 (J) Any act described by subsection (c) of Code Section 16-5-46.

137 Sexual abuse shall include consensual sex acts when the sex acts are between minors if

138 any individual is less than 14 years of age; provided, however, that it shall not include

139 consensual sex acts when the sex acts are between a minor and an adult who is not more

140 than four years older than the minor. This provision shall not be deemed or construed to

141 repeal any law concerning the age or capacity to consent.

142 ~~(18)~~(19) 'Sexual exploitation' means conduct by any person who allows, permits,

143 encourages, or requires a child to engage in:

- 144 (A) Sexual servitude, as defined in Code Section 16-5-46; or
- 145 (B) Sexually explicit conduct for the purpose of producing any visual or print medium
- 146 depicting such conduct, as defined in Code Section 16-12-100.

147 (c)(1) The following persons having reasonable cause to believe that suspected child

148 abuse has occurred shall report or cause reports of such abuse to be made as provided in

149 this Code section:

- 150 (A) Physicians licensed to practice medicine, physician assistants, interns, or residents;
- 151 (B) Hospital or medical personnel;

- 152 (C) Dentists;
- 153 (D) Licensed psychologists and persons participating in internships to obtain licensing  
154 pursuant to Chapter 39 of Title 43;
- 155 (E) Podiatrists;
- 156 (F) Registered professional nurses or licensed practical nurses licensed pursuant to  
157 Chapter 26 of Title 43 or nurse's aides;
- 158 (G) Professional counselors, social workers, or marriage and family therapists licensed  
159 pursuant to Chapter 10A of Title 43;
- 160 (H) School teachers;
- 161 (I) School administrators;
- 162 (J) School counselors, visiting teachers, school social workers, or school psychologists  
163 certified pursuant to Chapter 2 of Title 20;
- 164 (K) Child welfare agency personnel, as such agency is defined in Code  
165 Section 49-5-12;
- 166 (L) Child-counseling personnel;
- 167 (M) Child service organization personnel;
- 168 (N) Law enforcement personnel; ~~or~~
- 169 (O) Firefighters, as defined in Code Section 25-4-2, including career and volunteer  
170 firefighters certified or recognized by the Georgia Firefighter Standards and Training  
171 Council or its successor, who have reasonable cause to believe that suspected child  
172 abuse or neglect has occurred or is occurring while acting in their official capacity;
- 173 (P) Animal service workers, including animal control officers as defined in Code  
174 Section 4-11-2, humane society employees, animal cruelty investigators, and animal  
175 shelter personnel whose professional duties may bring them into contact with children  
176 or household conditions indicative of child abuse or neglect; or
- 177 ~~(Q)~~(Q) Reproductive health care facility or pregnancy resource center personnel and  
178 volunteers.

179 (2) If a person is required to report child abuse pursuant to this subsection because such  
180 person attends to a child pursuant to such person's duties as an employee of or volunteer  
181 at a hospital, school, social agency, or similar facility, such person shall notify the person  
182 in charge of such hospital, school, agency, or facility, or the designated delegate thereof,  
183 and the person so notified shall report or cause a report to be made in accordance with  
184 this Code section. An employee or volunteer who makes a report to the person  
185 designated pursuant to this paragraph shall be deemed to have fully complied with this  
186 subsection. Under no circumstances shall any person in charge of such hospital, school,  
187 agency, or facility, or the designated delegate thereof, to whom such notification has been  
188 made exercise any control, restraint, or modification or make any other change to the  
189 information provided by the reporter, although each of the aforementioned persons may  
190 be consulted prior to the making of a report and may provide any additional, relevant, and  
191 necessary information when making the report.

192 (3) When a person identified in paragraph (1) of this subsection has reasonable cause to  
193 believe that child abuse has occurred involving a person who attends to a child pursuant  
194 to such person's duties as an employee of or volunteer at a hospital, school, social agency,  
195 or similar facility, the person who received such information shall notify the person in  
196 charge of such hospital, school, agency, or facility, or the designated delegate thereof, and  
197 the person so notified shall report or cause a report to be made in accordance with this  
198 Code section. An employee or volunteer who makes a report to the person designated  
199 pursuant to this paragraph shall be deemed to have fully complied with this subsection.  
200 Under no circumstances shall any person in charge of such hospital, school, agency, or  
201 facility, or the designated delegate thereof, to whom such notification has been made  
202 exercise any control, restraint, or modification or make any other change to the  
203 information provided by the reporter, although each of the aforementioned persons may  
204 be consulted prior to the making of a report and may provide any additional, relevant, and  
205 necessary information when making the report.

206 (d) Any other person, other than one specified in subsection (c) of this Code section, who  
 207 has reasonable cause to believe that suspected child abuse has occurred may report or cause  
 208 reports to be made as provided in this Code section.

209 (e)(1) As used in the subsection, the term:

210 (A) 'Active duty' means full-time duty status.

211 (B) 'Armed forces of the United States' or 'military' means the United States Army,  
 212 United States Navy, United States Marine Corps, United States Coast Guard, United  
 213 States Air Force, United States Space Force, United States National Guard, Georgia  
 214 Army National Guard, or Georgia Air National Guard, or a reserve component thereof.

215 (C) 'Family advocacy program' means, for the particular branch, the program  
 216 established by the military for the prevention, education, prompt reporting,  
 217 investigation, intervention, or treatment of spouse or child abuse.

218 (D) 'Military law enforcement' means, for the particular branch, the police corps,  
 219 division, branch, agency, or authority of the military responsible for law enforcement  
 220 or force protection.

221 (2) ~~With respect to reporting~~ Reports required by subsection (c) of this Code section, ~~an~~  
 222 ~~oral report by telephone or other oral communication or a written report by electronic~~  
 223 ~~submission or facsimile shall:~~

224 (A) Shall be made immediately, but in no case later than 24 hours from the time there  
 225 is reasonable cause to believe that suspected child abuse has occurred;

226 (B) If the report is made by telephone or other oral communication, it shall be made  
 227 to the Division of Family and Children Services of the Department of Human Services,  
 228 a child welfare agency providing protective services, as designated by the Division of  
 229 Family and Children Services of the Department of Human Services or, in the absence  
 230 of such agency, to an appropriate police authority, military law enforcement, or district  
 231 attorney. All telephonic or other oral reports shall be followed by a later written report

232 submitted to the Division of Family and Children Services of the Department of Human  
 233 Services as specified in subparagraph (C) of this paragraph;

234 (C) All written reports ~~When a report is being made by electronic submission or~~  
 235 ~~facsimile to the Division of Family and Children Services of the Department of Human~~  
 236 ~~Services, it shall be done~~ shall be made in the manner specified by ~~the division. Oral~~  
 237 ~~reports shall be followed by a later report in writing, if requested, to a child welfare~~  
 238 ~~agency providing protective services, as designated by the Division of Family and~~  
 239 ~~Children Services of the Department of Human Services, or, in the absence of such~~  
 240 ~~agency, to an appropriate police authority or district attorney.~~ this subparagraph as  
 241 follows:

242 (i) The Division of Family and Children Services of the Department of Human  
 243 Services shall make a report form available on its website for any person to complete  
 244 and securely submit to the division;

245 (ii) The Division of Family and Children Services of the Department of Human  
 246 Services shall allow persons specified in subsection (c) of this Code section to submit  
 247 reports directly to the division through the division's website or to the division  
 248 through a secure web based platform;

249 (iii) Such report shall be provided to military law enforcement, if applicable, through  
 250 a method or methods identified by military law enforcement; and

251 (iv) If a report of child abuse is made to or received by the child welfare agency or  
 252 if the report is independently discovered by the agency, and the agency has reasonable  
 253 cause to believe such report is true or the report contains any allegation or evidence  
 254 of child abuse, then the agency shall immediately notify the appropriate police  
 255 authority or district attorney and notify military law enforcement, if applicable; and

256 (D) Reports required by this Code section ~~Such reports~~ shall contain the names and  
 257 addresses of the child and the child's parents or caretakers, if known, the child's age, the  
 258 nature and extent of the child's injuries, including any evidence of previous injuries,;

259 The report form shall also contain space for the person completing the report to provide  
260 and any other information that the reporting person believes might be helpful in  
261 establishing the cause of the injuries and the identity of the perpetrator. A secure web  
262 based platform may utilize prompts or other methods to assist the person completing  
263 the form to provide information deemed relevant or important. Photographs of the  
264 child's injuries to be used as documentation in support of allegations by hospital  
265 employees or volunteers, physicians, law enforcement personnel, school officials, or  
266 employees or volunteers of legally mandated public or private child protective agencies  
267 may be taken without the permission of the child's parent or guardian. Such  
268 photographs shall be made available as soon as possible to the chief welfare agency  
269 providing protective services, the appropriate police authority, and military law  
270 enforcement.

271 (3) A report made in accordance with this subsection shall be received by the receiving  
272 agency and thoroughly evaluated to determine child safety and whether an allegation of  
273 child abuse exists. A report will be screened in or screened out based only on the criteria  
274 set forth in law. The Division of Family and Children Services of the Department of  
275 Human Services shall not refuse to receive, log, or process a report submitted via the  
276 division website or a secure web based platform that satisfies subsection (k) of this Code  
277 section. Reports shall be screened in or screened out based only on criteria set forth in  
278 law and not on the method or vendor used for submission.

279 ~~(3)~~(4) For each child who is the subject of child abuse allegations, the child welfare  
280 agency as provided for in paragraph (1) of this subsection shall make efforts as soon as  
281 practicable to determine whether a parent or guardian of such child is on active duty in  
282 the armed forces of the United States. If such agency determines that a parent or  
283 guardian of such child is on active duty in the armed forces of the United States, such  
284 agency shall notify the applicable military installation's family advocacy program of the  
285 allegation of child abuse that relates to the parent or guardian of such child.

286 (5) By January 1, 2027, the department shall adopt rules that address and set forth criteria  
287 and standards relevant to the intake, disposition, and investigation of reports of abuse or  
288 neglect.

289 (f) Any person or persons, partnership, firm, corporation, association, hospital, or other  
290 entity participating in the making of a report or causing a report to be made, and individuals  
291 who otherwise provide information or assistance, including, but not limited to, medical  
292 evaluations or consultations, in connection with a report made to a child welfare agency  
293 providing protective services, an appropriate police authority, or military law enforcement  
294 pursuant to this Code section or any other law or participating in any judicial proceeding  
295 or any other proceeding resulting therefrom shall in so doing be immune from any civil or  
296 criminal liability that might otherwise be incurred or imposed, provided that such  
297 participation pursuant to this Code section or any other law is made in good faith. Any  
298 person making a report, whether required by this Code section or not, shall be immune  
299 from liability as provided in this subsection.

300 (g) Suspected child abuse which is required to be reported by any person pursuant to this  
301 Code section shall be reported notwithstanding that the reasonable cause to believe such  
302 abuse has occurred or is occurring is based in whole or in part upon any communication  
303 to that person which is otherwise made privileged or confidential by law; provided,  
304 however, that a member of the clergy shall not be required to report child abuse reported  
305 solely within the context of confession or other similar communication required to be kept  
306 confidential under church doctrine or practice. When a clergy member receives  
307 information about child abuse from any other source, the clergy member shall comply with  
308 the reporting requirements of this Code section, even though the clergy member may have  
309 also received a report of child abuse from the confession of the perpetrator.

310 (h) Any person or official required by subsection (c) of this Code section to report a  
311 suspected case of child abuse who knowingly and willfully fails to do so shall be guilty of  
312 a misdemeanor.

313 (i) A report of child abuse or information relating thereto and contained in such report,  
314 when provided to a law enforcement agency or district attorney pursuant to subsection (e)  
315 of this Code section or pursuant to Code Section 49-5-41, shall not be subject to public  
316 inspection under Article 4 of Chapter 18 of Title 50 even though such report or information  
317 is contained in or part of closed records compiled for law enforcement or prosecution  
318 purposes unless:

319 (1) There is a criminal or civil court proceeding which has been initiated based in whole  
320 or in part upon the facts regarding abuse which are alleged in the child abuse reports and  
321 the person or entity seeking to inspect such records provides clear and convincing  
322 evidence of such proceeding; or

323 (2) The superior court in the county in which is located the office of the law enforcement  
324 agency or district attorney which compiled the records containing such reports, after  
325 application for inspection and a hearing on the issue, shall permit inspection of such  
326 records by or release of information from such records to individuals or entities who are  
327 engaged in legitimate research for educational, scientific, or public purposes and who  
328 comply with the provisions of this paragraph. When those records are located in more  
329 than one county, the application may be made to the superior court of any one of such  
330 counties. A copy of any application authorized by this paragraph shall be served on the  
331 office of the law enforcement agency or district attorney which compiled the records  
332 containing such reports. In cases where the location of the records is unknown to the  
333 applicant, the application may be made to the Superior Court of Fulton County. The  
334 superior court to which an application is made shall not grant the application unless:

335 (A) The application includes a description of the proposed research project, including  
336 a specific statement of the information required, the purpose for which the project  
337 requires that information, and a methodology to assure the information is not arbitrarily  
338 sought;

339 (B) The applicant carries the burden of showing the legitimacy of the research project;  
340 and

341 (C) Names and addresses of individuals, other than officials, employees, or agents of  
342 agencies receiving or investigating a report of abuse which is the subject of a report,  
343 shall be deleted from any information released pursuant to this subsection unless the  
344 court determines that having the names and addresses open for review is essential to the  
345 research and the child, through his or her representative, gives permission to release the  
346 information.

347 (j) The treatment of a child in good faith solely by spiritual means through prayer in  
348 accordance with the tenets and practices of a recognized church or religious denomination  
349 by a duly accredited practitioner thereof shall not in and of itself be considered child abuse.

350 (k)(1) Agencies that employ mandated reporters may authorize its employees to create  
351 or transmit reports required by this Code section through a secure web based platform  
352 designated by the agency. An agency may only designate one secure web based platform  
353 for its employees to use to create or transmit the reports, and the agency may designate  
354 a secure web based platform if:

355 (A) The agency is satisfied that the secure web based platform complies with the  
356 Health Insurance Portability and Accountability Act, Federal Bureau of Investigation's  
357 Criminal Justice Information Services Security Policy, or Family Educational Rights  
358 and Privacy Act, as applicable; or

359 (B) The secure web based platform provider demonstrates to the agency that it has  
360 been deemed compliant with the relevant security standard by a federal, state, or local  
361 government agency or by a third party that has been approved by a federal, state, or  
362 local government agency for security and compliance attestation.

363 (2) A reporting agency that utilizes a secure web based platform shall notify the Division  
364 of Family and Children Services of the Department of Human Services not less than ten  
365 days before implementing the secure web based platform. The notice shall identify the

366 name of the secure web based platform provider and any domain names utilized by the  
367 secure web based platform to submit reports.

368 (l) Mandatory reporting training shall be required for users of any secure web based  
369 platform used to submit reports under this Code section. Training requirements may be  
370 satisfied by a course provided either by the Division of Family and Children Services of  
371 the Department of Human Services or by an organization with demonstrated subject matter  
372 expertise in mandated reporting, including accredited continuing education providers, law  
373 enforcement training entities, school training entities, or child advocacy organizations. The  
374 Division of Family and Children Services of the Department of Human Services may  
375 publish learning objectives, but shall not require platform specific training, exclusive  
376 delivery methods, or requirements that have the effect of excluding otherwise compliant  
377 platforms."

378 **SECTION 2.**

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