

The Senate Committee on Public Safety offered the following substitute to HB 1409:

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 provide an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 7 of Title 19 of the Official Code of Georgia Annotated, relating to
10 provisions relative to parent and child relationship generally, is amended by revising Code
11 Section 19-7-5, relating to reporting of child abuse, when mandated or authorized, content
12 of report, to whom made, immunity from liability, report based upon privileged
13 communication, penalty for failure to report, and spiritual treatment for illnesses, as follows:
14 "19-7-5.

15 (a) The purpose of this Code section is to provide for the protection of children. It is
16 intended that mandatory reporting will cause the protective services of the state to be

17 brought to bear on the situation in an effort to prevent abuses, to protect and enhance the
18 welfare of children, and to preserve family life wherever possible. This Code section shall
19 be liberally construed so as to carry out the purposes thereof.

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

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

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

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

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

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

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

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

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

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

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

- 43 (H) Any other conduct indicating an intent to forgo parental duties or relinquish
44 parental claims.
- 45 (2) 'Abortion' shall have the same meaning as set forth in Code Section 15-11-681.
- 46 (3) 'Abused' means subjected to child abuse.
- 47 (4) 'Child' means any person under 18 years of age.
- 48 (5) 'Child abuse' means:
- 49 (A) Physical injury or death inflicted upon a child by a parent, guardian, legal
50 custodian, or other person responsible for the care of such child by other than accidental
51 means; provided, however, that physical forms of discipline may be used as long as
52 there is no physical injury to the child;
- 53 (B) Neglect of a child by a parent, guardian, legal custodian, or other person
54 responsible for the care of such child;
- 55 (C) Emotional abuse of a child;
- 56 (D) Sexual abuse or sexual exploitation of a child;
- 57 (E) Prenatal abuse of a child by a parent;
- 58 (F) An act or failure to act that presents an imminent risk of serious harm to the child's
59 physical, mental, or emotional health; or
- 60 (G) Trafficking a child for labor servitude.
- 61 (6) 'Child service organization personnel' means persons employed by or volunteering
62 at a business or an organization, whether public, private, for profit, not for profit, or
63 voluntary, that provides care, treatment, education, training, supervision, coaching,
64 counseling, recreational programs, or shelter to children.
- 65 (7) 'Clergy' means ministers, priests, rabbis, imams, or similar functionaries, by whatever
66 name called, of a bona fide religious organization.
- 67 (8) 'Emotional abuse' means acts or omissions by a parent, guardian, legal custodian, or
68 other person responsible for the care of a child that cause any mental injury to such child's
69 intellectual or psychological capacity as evidenced by an observable and significant

70 impairment in such child's ability to function within a child's normal range of
71 performance and behavior or that create a substantial risk of impairment.

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

75 (10) 'Legal custodian' means:

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

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

80 (11) 'Neglect' means:

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

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

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

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

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

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

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

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

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

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

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

97 (D) Is not licensed or certified by the state or federal government to provide medical
98 or health care services and is not otherwise bound to follow the federal Health
99 Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or
100 federal laws relating to patient confidentiality.

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

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

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

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

112 (16) 'Secure web based platform' means a type of software that allows for the secure
113 creation and transmission of reports required by this Code section.

114 ~~(16)~~(17) 'School' means any public or private pre-kindergarten, elementary school,
115 secondary school, technical school, vocational school, college, university, or institution
116 of postsecondary education.

117 ~~(17)~~(18) 'Sexual abuse' means a person's employing, using, persuading, inducing,
118 enticing, or coercing any minor who is not such person's spouse to engage in any act
119 which involves:

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

122 (B) Bestiality;

123 (C) Masturbation;

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

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

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

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

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

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

140 ~~(18)~~(19) 'Sexual exploitation' means conduct by any person who allows, permits,

141 encourages, or requires a child to engage in:

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

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

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

147 this Code section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

270 (3) A report made in accordance with this subsection shall be received by the receiving
271 agency and thoroughly evaluated to determine child safety and whether an allegation of
272 child abuse exists. A report will be screened in or screened out based only on the criteria
273 set forth in law. The Division of Family and Children Services of the Department of
274 Human Services shall not refuse to receive, log, or process a report submitted via the
275 division website or a secure web based platform that satisfies subsection (k) of this Code
276 section. Reports shall thereafter be screened in or screened out based solely on whether
277 the child maltreatment allegations satisfy the definition of child abuse or neglect criteria
278 and applicable law and policy without regard to the manner or method of 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 review and update the applicable chapters
287 of its Child Welfare Policy Manual that address and set forth criteria and standards
288 relevant to the intake, disposition, and investigation of reports of abuse or neglect. Any
289 revisions to the Child Welfare Policy Manual based on this paragraph shall be consistent
290 with the provisions of this Code section.

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

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

310 the reporting requirements of this Code section, even though the clergy member may have
311 also received a report of child abuse from the confession of the perpetrator.

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

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

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

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

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

341 (B) The applicant carries the burden of showing the legitimacy of the research project;
342 and

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

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

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

357 (A) The secure web based platform functions in compliance with applicable federal
358 law; and

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

363 (C) The secure web based platform provider demonstrates to the agency that it has
364 been deemed compliant with the relevant security standard by a federal, state, or local
365 government agency or by a third party that has been approved by a federal, state, or
366 local government agency for security and compliance attestation; or

367 (D) The secure web based platform meets all technical standards and specifications
368 established by the Georgia Technology Authority.

369 (2) A reporting agency that utilizes a secure web based platform shall notify the Division
370 of Family and Children Services of the Department of Human Services not less than ten
371 days before implementing the secure web based platform. The notice shall identify the
372 name of the secure web based platform provider and any domain names utilized by the
373 secure web based platform to submit reports.

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

384 (m) Nothing in this Code section shall require the department to take an action for which
385 it has not received notice from an appropriate federal agency that such action would not
386 comply with federal law."

387 **SECTION 2.**

388 This Act shall become effective on July 1, 2027.

389

SECTION 3.

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