

House Bill 1283 (AS PASSED HOUSE AND SENATE)

By: Representatives Panitch of the 51st, Gunter of the 8th, Hagan of the 156th, Holcomb of the 101st, and Roberts of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 19 and Title 17 of the Official Code of Georgia Annotated,
2 relating to family violence and criminal procedure, respectively, so as to authorize the
3 creation of Family Justice Centers; to provide for procedures, conditions, and limitations
4 relative to establishment and operation of such centers; to provide for the establishment of
5 boards; to authorize powers and duties of law enforcement relative to such centers; to
6 authorize acceptance of funds; to provide for reporting; to provide for confidentiality; to
7 provide for immunity; to exempt certain records and data from public disclosure; to provide
8 for construction of discovery rules in felony and misdemeanor cases for evidence obtained
9 at such centers; to provide for definitions; to provide for a short title and legislative findings;
10 to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to family violence,
14 is amended by adding a new article to read as follows:

15 "ARTICLE 5

16 19-13-70.

17 (a) This article shall be known and may be cited as the 'Family Justice Center Act.'

18 (b) The General Assembly finds that victims of family violence, sexual assault, child
19 abuse, elder abuse, and human trafficking often face fragmented and duplicative systems
20 of support that can retraumatize survivors and impede access to justice.

21 (c) It is the intent of the General Assembly to promote a coordinated, multidisciplinary
22 approach to serving victims of family violence by authorizing the establishment and
23 funding of Family Justice Centers that co-locate governmental and community based
24 victim service providers, including law enforcement officers, in a single, safe, and
25 accessible location.

26 (d) The General Assembly further intends to leverage both federal and state victim service
27 funding streams, including but not limited to federal funds received under the Victims of
28 Crime Act, 34 U.S.C. Section 20101, et seq.; the Violence Against Women Act, 34 U.S.C.
29 Section 12491, et seq.; and the Family Violence Prevention and Services Act, 42 U.S.C.
30 Section 136, et seq., to support the creation, expansion, and sustainability of Family Justice
31 Centers in this state.

32 19-13-71.

33 As used in this article, the term:

34 (1) 'Council' means the Criminal Justice Coordinating Council established under Code
35 Section 35-6A-3.

36 (2) 'District attorney' means the elected prosecuting attorney for a judicial circuit.

37 (3) 'Family Justice Center' or 'center' means a co-located, multiagency service center that
38 provides coordinated services to victims of family violence, sexual assault, child abuse,
39 elder abuse, human trafficking, and associated crimes by public and private agencies.

40 (4) 'Law enforcement unit' shall have the same meaning as set forth in Code
41 Section 35-8-2.

42 (5) 'Participating agency' means any public agency, law enforcement unit, district
43 attorney's office, nonprofit organization, or service provider that delivers victim, social,
44 medical, or legal services within a Family Justice Center.

45 (6) 'Peace officer' shall have the same meaning as set forth in Code Section 35-8-2.

46 19-13-72.

47 (a) Any county, municipality, or combination thereof, in partnership with one or more
48 nonprofit organizations, or any district attorney may establish a Family Justice Center
49 consistent with the purposes of this article.

50 (b) A Family Justice Center may be organized and operated:

51 (1) Directly by a county or municipal government;

52 (2) Directly by a district attorney's office;

53 (3) By a nonprofit corporation formed under Title 14 and designated to operate the center
54 by a county, municipality, or combination thereof; or

55 (4) By a nonprofit corporation formed under Title 14 and certified as a victim services
56 agency by the council for the purpose of serving one or more populations supported by
57 the Family Justice Center.

58 (c)(1) When a Family Justice Center is organized or operated by a county government,
59 municipal government, or a district attorney's office pursuant to paragraph (1) or (2) of
60 subsection (b) of this Code section, a board shall oversee the operations of the center.

61 Such board shall consist of not less than five members representing any of the following:

62 (A) One member appointed by the county or municipal governing authority;

63 (B) One member appointed by the head of the law enforcement unit with jurisdictional
64 authority over the location of the Family Justice Center;

65 (C) One member appointed by the district attorney representing the county in which
66 the Family Justice Center is located;

67 (D) One member appointed by the entity providing victim services at the Family
68 Justice Center;

69 (E) One member appointed by the entity providing social services at the Family Justice
70 Center; and

71 (F) Two members elected by a majority of nonprofit, community based organizations
72 designated as participating agencies with the Family Justice Center through a
73 memorandum of understanding.

74 (2) Board members for a Family Justice Center shall serve terms of two years from the
75 effective date of their appointment and until their successors are appointed or elected.

76 (3) Any vacancy to the board of a Family Justice Center shall be filled within 60 days
77 in which the position on the board became vacant and shall be filled in the same manner
78 as the appointment to the position on the board which became vacant; provided, however,
79 that, if a vacancy occurs in a position filled by a representative from a nonprofit,
80 community based organization, and there ceases to be any nonprofit organizations that
81 are participating agencies in the Family Justice Center, the remaining members of the
82 board shall elect an individual reasonably familiar with the kind of support services
83 provided by the Family Justice Center to fill such vacancy. An appointment to fill a
84 vacancy other than by expiration of a term of office shall be for the balance of the
85 unexpired term.

86 (d) When a Family Justice Center is organized or operated by a nonprofit corporation
87 pursuant to paragraph (3) of subsection (b) of this Code section, such nonprofit corporation
88 shall:

89 (1) File articles of incorporation and adopt bylaws in accordance with Chapter 3 of
90 Title 14;

- 91 (2) Maintain a board of directors that meets the requirements of Article 8 of Chapter 3
92 of Title 14 and which shall include representation from the county or municipal
93 governing authority that designated the nonprofit corporation to operate the center and
94 from law enforcement, victim services, prosecution, social services, and nonprofit
95 community based organizations; and
- 96 (3) Designate a lead agency or fiscal agent, which may be the district attorney's office
97 or county or municipal government, for grant administration and oversight.
- 98 (e) When a Family Justice Center is organized or operated by a nonprofit corporation
99 pursuant to paragraph (4) of subsection (b) of this Code section, such nonprofit corporation
100 shall maintain a board of directors that meets the requirements of Article 8 of Chapter 3 of
101 Title 14.
- 102 (f) Regardless of the organizational structure of a Family Justice Center, each center shall:
- 103 (1) Operate under a written memorandum of understanding among participating
104 agencies, including any law enforcement unit with jurisdictional authority over the
105 location of the center;
- 106 (2) Provide space for law enforcement personnel assigned to the center to perform duties
107 in support of victim safety, investigation, and coordinated response;
- 108 (3) Ensure confidentiality of victim information pursuant to state and federal law;
- 109 (4) Provide services in a manner that is trauma-informed, culturally competent, and
110 accessible to all survivors; and
- 111 (5) Create bylaws related to the minimum qualifications and certifications of
112 participating agencies and their personnel. While such bylaws may not discriminate
113 against any individuals upon the sole basis of having a criminal record, certain specific
114 offenses may be used to disqualify individuals from providing certain services at a
115 Family Justice Center.

116 19-13-73.

117 (a) A peace officer employed by a law enforcement unit that participates in a Family
118 Justice Center and who is assigned, detailed, or funded by a grant to operate within such
119 center is authorized, when acting in furtherance of the center's mission, to respond to an
120 emergency call for assistance or to provide safety response within the center's designated
121 service area even if response to such would be located outside the peace officer's normal
122 territorial jurisdiction. Such authority to respond shall be limited to exigent or emergency
123 circumstances requiring immediate law enforcement intervention for the protection of life,
124 prevention of serious bodily harm, or response to an active incident.

125 (b) Any peace officer acting pursuant to this Code section shall have the same immunities,
126 powers, and duties as when acting within his or her ordinary jurisdiction, provided that the
127 officer shall promptly notify the law enforcement unit with jurisdictional authority over the
128 center once the exigency has passed.

129 (c) Nothing in this Code section shall be construed to alter existing mutual aid agreements
130 or to restrict counties and municipalities from entering into intergovernmental agreements
131 consistent with Article IX, Section III of the Georgia Constitution.

132 19-13-74.

133 (a) The council is authorized to administer gifts, donations, grants, enter into contracts, and
134 distribute funds appropriated by the General Assembly or received from federal sources for
135 the establishment and support of Family Justice Centers.

136 (b) Nothing in this article shall preclude a Family Justice Center from accepting funds
137 from independent sources, including private donations, foundation grants, federal funding,
138 local appropriations, or other lawful revenue streams. Any such independently funded
139 center shall remain subject to the oversight, confidentiality, and reporting requirements of
140 this article when established as a Family Justice Center under the laws of this state, unless
141 it does not receive state funding.

142 19-13-75.

143 (a) Each center shall submit performance reports as designated by the council that include,
144 but are not limited to, the following:

145 (1) Services provided;

146 (2) Victims served;

147 (3) Outcomes achieved; and

148 (4) Financial expenditures.

149 (b) The council shall compile and transmit an annual state-wide report on Family Justice
150 Center performance to the Governor, Lieutenant Governor, and Speaker of the House of
151 Representatives that summarizes the activities and impact of Family Justice Centers in this
152 state.

153 19-13-76.

154 (a) No information shared by a victim within a Family Justice Center shall be disclosed
155 without the informed, written consent of such victim, except as where required by law or
156 court order.

157 (b) Each partner and each participating agency shall comply with all applicable state and
158 federal confidentiality requirements.

159 (c) Nothing in this article shall be construed to exempt or relieve any partner or
160 participating agency, employee, or volunteer of a Family Justice Center from the duty to
161 report known or suspected abuse or neglect as required by law. All personnel operating
162 within or affiliated with a Family Justice Center shall comply with the reporting
163 requirement laws of this state, including but not limited to Code Section 19-7-5, Code
164 Section 30-5-4, and any other applicable provisions of law.

165 (d) When a report is contemplated by subsection (c) of this Code section, the reporting
166 party shall limit disclosure to information necessary to satisfy the reporting obligation and

167 shall otherwise maintain the confidentiality of the victim and case information to the extent
168 permitted by law.

169 (e) The council may issue guidance and training standards to ensure consistent application
170 of confidentiality and reporting requirements across all Family Justice Centers operating
171 under this article.

172 19-13-77.

173 (a) Any county, municipality, or district attorney's office establishing or operating a
174 Family Justice Center pursuant to this article shall be deemed to be carrying out a
175 governmental function.

176 (b) Any employee, contractor, or volunteer of a partner or participating agency providing
177 services within a Family Justice Center operated under the authority of a county,
178 municipality, or district attorney's office shall be entitled to the same degree of official or
179 governmental immunity from civil liability as officers or employees of the establishing
180 authority for acts or omissions arising directly out of the performance of duties within the
181 scope of Family Justice Center operations, provided that such acts are:

182 (1) Performed in good faith;

183 (2) Within the course and scope of assigned duties; and

184 (3) Not the result of willful or wanton misconduct, gross negligence, or bad faith.

185 (c) Nothing in this article shall be construed to waive, diminish, or impair the sovereign
186 or official immunity of the state or its political subdivisions or to create a new cause of
187 action against any governmental entity.

188 (d) A county, municipality, or district attorney's office operating a Family Justice Center
189 shall be authorized to procure insurance for itself and for partner or participating agency
190 personnel acting within the scope of this article. The purchase of such insurance shall not
191 be construed as a waiver of immunity.

192 19-13-78.

193 (a) Records, documents, or information created, received, maintained, or possessed related
194 to services provided by a partner or participating agency within a Family Justice Center
195 shall not be considered public records for purposes of Article 4 of Chapter 18 of Title 50
196 unless such agency would otherwise be subject to the provisions of that article independent
197 of its participation in a Family Justice Center.

198 (b) Any record created or maintained by a county, municipality, or district attorney's office
199 operating a Family Justice Center shall remain subject to disclosure in accordance with
200 Article 4 of Chapter 18 of Title 50. Nothing in this article shall be construed to expand or
201 limit any existing exemption available under that article.

202 (c) For any partner or participating agency that is not otherwise subject to Article 4 of
203 Chapter 18 of Title 50, the records, documents, or information such agency maintains as
204 part of services rendered within a Family Justice Center shall remain confidential to the
205 same extent as if such services were rendered outside of the center.

206 (d) Where a record is jointly created or maintained by both a governmental entity and a
207 nongovernmental partner, the record shall be subject to disclosure only to the extent that
208 the governmental entity's ownership, custody, or control of the record is required pursuant
209 to Article 4 of Chapter 18 of Title 50, and disclosure shall be limited to information that
210 does not compromise victim confidentiality or violate federal or state privacy laws.

211 (e) Nothing in this Code section shall be construed to:

212 (1) Create any new exemption for records otherwise subject to disclosure under the laws
213 of this state;

214 (2) Prevent a partner from voluntarily releasing its own records consistent with law and
215 victim consent; or

216 (3) Limit the authority of the council to require data reporting or compliance information
217 from Family Justice Centers."

218 **SECTION 2.**

219 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
220 amended in Code Section 17-5-71, relating to preservation of evidence, by revising
221 subsection (b) as follows:

222 "(b) If the victim chooses not to report the alleged sexual assault to law enforcement at the
223 time of evidence collection, the law enforcement agency with jurisdiction shall maintain
224 any physical evidence collected as a result of such alleged sexual assault that contains
225 biological material, including, but not limited to, stains, fluids, or hair samples that relate
226 to the identity of the perpetrator of the alleged sexual assault, for ~~not less than 12 months~~
227 10 years from the date any such physical evidence is collected."

228 **SECTION 3.**

229 Said title is further amended in Code Section 17-16-2, relating to applicability of article in
230 felony cases, by adding a new subsection to read as follows:

231 (d.1) For purposes of this article, any records, reports, notes, data, or other materials
232 created, received, or maintained solely by a partner or participating agency within a Family
233 Justice Center established pursuant to Article 5 of Chapter 13 of Title 19 shall not be
234 deemed to be in the possession, custody, or control of the state or prosecution or any law
235 enforcement agency as defined in Code Section 35-3-30 based only on the co-location of
236 such partner or participating agency in a facility with a prosecuting attorney or law
237 enforcement agency."

238 **SECTION 4.**

239 Said title is further amended by revising Code Section 17-16-20, relating to applicability of
240 article in misdemeanor cases, as follows:

241 "17-16-20.

242 (a) The provisions of this article shall apply only to misdemeanor cases or to felony cases
243 docketed, indicted, or in which an accusation was returned prior to January 1, 1995, if the
244 prosecuting attorney and the defendant do not agree in writing that the provisions of Article
245 1 of this chapter shall apply.

246 (b) For purposes of this article, any records, reports, notes, data, or other materials created,
247 received, or maintained solely by a partner or participating agency within a Family Justice
248 Center established pursuant to Article 5 of Chapter 13 of Title 19 shall not be deemed to
249 be in the possession, custody, or control of the state or prosecution or any law enforcement
250 agency as defined in Code Section 35-3-30 based only on the co-location of such partner
251 or participating agency in a facility with a prosecuting attorney or law enforcement
252 agency."

253

SECTION 5.

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