

The House Committee on Judiciary Non-Civil offers the following substitute to HB 905:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 3 of Title 16, Title 19, and Chapter 5 of Title 49 of the  
2 Official Code of Georgia Annotated, relating to justification and excuse, domestic relations,  
3 and programs and protection for children and youth, respectively, so as to change provisions  
4 relating to child abuse; to provide for immunity from criminal liability for possession of  
5 certain materials or images under certain circumstances; to change and provide for defined  
6 terms; to change provisions relating to protocol committees on child abuse; to remove certain  
7 reporting requirements to the child abuse registry; to provide for related matters; to repeal  
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 2 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to  
12 justification and excuse, is amended by adding a new Code section to read as follows:

13 "16-3-22.1.

14 (a) Any person that in good faith has possession of materials or images in violation of  
15 Article 3 of Chapter 12 of this title and immediately notifies law enforcement officials or  
16 any person that is required by Code Section 19-7-5 to report suspected child abuse, or  
17 makes such notification within 72 hours from the time there is reasonable cause to believe  
18 such person is in possession of such materials or images, shall be immune to the same  
19 extent as a law enforcement officer would be immune from criminal liability for such  
20 possession.

21 (b) The official report of the law enforcement agency or the Division of Family and  
22 Children Services of the Department of Human Services shall create a rebuttable  
23 presumption of good faith and reasonableness on the part of the person that has possession.

24 (c) The purpose of this Code section is to provide for those persons that act in good faith  
25 to assist law enforcement officers or the Division of Family and Children Services of the  
26 Department of Human Services when the health and safety of a child are being adversely

27 affected and threatened by the conduct of another. This Code section shall be liberally  
 28 construed so as to carry out the purposes thereof."

29 **SECTION 2.**

30 Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is  
 31 amended by revising subsection (b) of Code Section 19-7-5, relating to reporting of child  
 32 abuse, as follows:

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

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

35 (2) 'Abused' means subjected to child abuse.

36 (3) 'Child' means any person under 18 years of age.

37 (4) 'Child abuse' means:

38 (A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by  
 39 other than accidental means; provided, however, that physical forms of discipline may  
 40 be used as long as there is no physical injury to the child;

41 (B) Neglect or exploitation of a child by a parent or caretaker thereof;

42 (C) Endangering a child;

43 ~~(D)~~ Sexual abuse of a child; or

44 ~~(E)~~ Sexual exploitation of a child.

45 However, no child who in good faith is being treated solely by spiritual means through  
 46 prayer in accordance with the tenets and practices of a recognized church or religious  
 47 denomination by a duly accredited practitioner thereof shall, for that reason alone, be  
 48 considered to be an ~~'abused'~~ abused child.

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

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

55 (6.1) 'Endangering a child' means:

56 (A) Any act described by subsection (d) of Code Section 16-5-70;

57 (B) Any act described by Code Section 16-5-73;

58 (C) Any act described by subsection (l) of Code Section 40-6-391; or

59 (D) Prenatal abuse, as such term is defined in Code Section 15-11-2.

60 (7) 'Pregnancy resource center' means an organization or facility that:

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

- 63 (B) Does not provide or refer for abortions;
- 64 (C) Does not provide or refer for FDA approved contraceptive drugs or devices; and
- 65 (D) Is not licensed or certified by the state or federal government to provide medical
- 66 or health care services and is not otherwise bound to follow the federal Health
- 67 Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or
- 68 federal laws relating to patient confidentiality.
- 69 (8) 'Reproductive health care facility' means any office, clinic, or any other physical
- 70 location that provides abortions, abortion counseling, abortion referrals, or gynecological
- 71 care and services.
- 72 (9) 'School' means any public or private pre-kindergarten, elementary school, secondary
- 73 school, technical school, vocational school, college, university, or institution of
- 74 postsecondary education.
- 75 (10) 'Sexual abuse' means a person's employing, using, persuading, inducing, enticing,
- 76 or coercing any minor who is not ~~that~~ such person's spouse to engage in any act which
- 77 involves:
- 78 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or
- 79 oral-anal, whether between persons of the same or opposite sex;
- 80 (B) Bestiality;
- 81 (C) Masturbation;
- 82 (D) Lewd exhibition of the genitals or pubic area of any person;
- 83 (E) Flagellation or torture by or upon a person who is nude;
- 84 (F) Condition of being fettered, bound, or otherwise physically restrained on the part
- 85 of a person who is nude;
- 86 (G) Physical contact in an act of apparent sexual stimulation or gratification with any
- 87 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed
- 88 or unclothed breasts;
- 89 (H) Defecation or urination for the purpose of sexual stimulation; or
- 90 (I) Penetration of the vagina or rectum by any object except when done as part of a
- 91 recognized medical procedure.
- 92 ~~'Sexual abuse'~~ Sexual abuse shall ~~not~~ include consensual sex acts ~~involving persons of the~~
- 93 ~~opposite sex~~ when the sex acts are between minors or if any individual is less than 14
- 94 years of age; provided, however, that it shall not include consensual sex acts when the sex
- 95 acts are between a minor and an adult who is not more than ~~five~~ four years older than the
- 96 minor. This provision shall not be deemed or construed to repeal any law concerning the
- 97 age or capacity to consent.
- 98 (11) 'Sexual exploitation' means conduct by any person who allows, permits, encourages,
- 99 or requires ~~that~~ a child to engage in:

- 100 (A) Prostitution, as defined in Code Section 16-6-9; or  
 101 (B) Sexually explicit conduct for the purpose of producing any visual or print medium  
 102 depicting such conduct, as defined in Code Section 16-12-100."

103 **SECTION 3.**

104 Said title is further amended by revising Code Section 19-15-1, relating to definitions for  
 105 child abuse, as follows:

106 "19-15-1.

107 As used in this chapter, the term:

108 (1) 'Abused' means subjected to child abuse.

109 (2) 'Child' means any person under 18 years of age.

110 (3) 'Child abuse' means:

111 (A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by  
 112 other than accidental means; provided, however, that physical forms of discipline may  
 113 be used as long as there is no physical injury to the child;

114 (B) Neglect or exploitation of a child by a parent or caretaker thereof;

115 (C) Sexual abuse of a child; or

116 (D) Sexual exploitation of a child.

117 (4) 'Child advocacy center' means an entity which is operated for the purposes of  
 118 investigating known or suspected child abuse and treating a child or a family that is the  
 119 subject of a report of child abuse and which:

120 (A) Has been created and supported through one or more intracommunity compacts  
 121 between such center and:

122 (i) One or more law enforcement agencies within this state; any other state; the  
 123 United States, including its territories, possessions, and dominions; or a foreign  
 124 nation;

125 (ii) The office of the district attorney, Attorney General, or United States Attorney  
 126 General;

127 (iii) A legally mandated public or private child protective agency within this state;  
 128 any other state; the United States, including its territories, possessions, and  
 129 dominions; or a foreign nation;

130 (iv) A mental health board within this state; any other state; the United States,  
 131 including its territories, possessions, and dominions; or a foreign nation; or

132 (v) A community health service board within this state; any other state; the United  
 133 States, including its territories, possessions, and dominions; or a foreign nation; and

134 (B) Has been approved by a protocol committee.

135 ~~(4)~~(5) 'Child protection professional' means any person who is employed by the state or  
 136 a political subdivision of the state as a law enforcement officer, school teacher, school  
 137 administrator, or school counselor or who is employed to render services to children by  
 138 the Department of Public Health, the Department of Behavioral Health and  
 139 Developmental Disabilities, or the Department of Human Services or any county board  
 140 of health, community service board, or county department of family and children  
 141 services.

142 ~~(5) Reserved.~~

143 (6) 'Investigation' in the context of child death includes all of the following:

144 (A) A post-mortem examination which may be limited to an external examination or  
 145 may include an autopsy;

146 (B) An inquiry by law enforcement agencies having jurisdiction into the circumstances  
 147 of the death, including a scene investigation and interview with the child's parents,  
 148 guardian, or caretaker and the person who reported the child's death; and

149 (C) A review of information regarding the child and family from relevant agencies,  
 150 professionals, and providers of medical care.

151 (7) 'Panel' means the Georgia Child Fatality Review Panel established pursuant to Code  
 152 Section 19-15-4.

153 (8) 'Protocol committee' means a multidisciplinary, multiagency committee established  
 154 ~~for a county~~ pursuant to Code Section 19-15-2.

155 (9) 'Report' means a standardized form designated by the panel which is required for  
 156 collecting data on child fatalities reviewed by local child fatality review committees.

157 (10) 'Review committee' means a multidisciplinary, multiagency child fatality review  
 158 committee established for a county or circuit pursuant to Code Section 19-15-3.

159 (11) 'Sexual abuse' means a person's employing, using, persuading, inducing, enticing,  
 160 or coercing any minor who is not ~~that~~ such person's spouse to engage in any act which  
 161 involves:

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

164 (B) Bestiality;

165 (C) Masturbation;

166 (D) Lewd exhibition of the genitals or pubic area of any person;

167 (E) Flagellation or torture by or upon a person who is nude;

168 (F) Condition of being fettered, bound, or otherwise physically restrained on the part  
 169 of a person who is nude;

170 (G) Physical contact in an act of apparent sexual stimulation or gratification with any  
 171 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed  
 172 or unclothed breasts;

173 (H) Defecation or urination for the purpose of sexual stimulation; or

174 (I) Penetration of the vagina or rectum by any object except when done as part of a  
 175 recognized medical procedure.

176 ~~'Sexual abuse'~~ Sexual abuse shall ~~not~~ include consensual sex acts ~~involving persons of the~~  
 177 ~~opposite sex~~ when the sex acts are between minors ~~or if any individual is less than 14~~  
 178 ~~years of age; provided, however, that it shall not include consensual sex acts when the sex~~  
 179 ~~acts are~~ between a minor and an adult who is not more than ~~three~~ four years older than  
 180 the minor. This provision shall not be deemed or construed to repeal any law concerning  
 181 the age or capacity to consent.

182 (12) 'Sexual exploitation' means conduct by any person who allows, permits, encourages,  
 183 or requires ~~that~~ a child to engage in:

184 (A) Prostitution, as defined in Code Section 16-6-9; or

185 (B) Sexually explicit conduct for the purpose of producing any visual or print medium  
 186 depicting such conduct, as defined in Code Section 16-12-100."

#### 187 **SECTION 4.**

188 Said title is further amended by revising Code Section 19-5-2, relating to protocol committee  
 189 on child abuse, as follows:

190 "19-15-2.

191 (a) ~~Each~~ Except as provided in paragraph (3) of subsection (b) of this Code section, each  
 192 county shall be required to establish a protocol for the investigation and prosecution of  
 193 alleged cases of child abuse as provided in this Code section.

194 (b)(1) The chief superior court judge of the circuit in which the county is located shall  
 195 establish a protocol committee as provided in subsection (c) of this Code section and shall  
 196 appoint an interim chairperson who shall preside over the first meeting, and the chief  
 197 superior court judge shall appoint persons to fill any vacancies on the protocol committee.

198 ~~(2) After the establishment of a~~ Thus established, the protocol committee shall thereafter,  
 199 the committee members shall elect a chairperson from ~~its~~ the protocol committee's  
 200 membership. The protocol committee shall be charged with developing local protocols  
 201 for the investigation and prosecution of alleged cases of child abuse.

202 (3) When a judicial circuit is composed of more than one county, the protocol committee  
 203 shall determine if it shall be established for each county in the judicial circuit or if it will  
 204 serve all of the counties within the judicial circuit.

205 (c)(1) Each of the following individuals, agencies, and entities shall designate a  
 206 representative to serve on ~~the~~ a protocol committee established pursuant to paragraph (1)  
 207 of subsection (b) of this Code section:

- 208 (A) The sheriff;
- 209 (B) The county department of family and children services;
- 210 (C) The district attorney for the judicial circuit;
- 211 (D) The presiding juvenile court judge;
- 212 (E) The chief magistrate;
- 213 (F) The county board of education;
- 214 (G) The county mental health organization;
- 215 (H) The chief of police of a county in counties which have a county police department;
- 216 (I) The chief of police of the largest municipality in the county;
- 217 (J) The county public health department, ~~which shall designate a physician to serve on~~  
 218 ~~the protocol committee;~~ and
- 219 (K) The coroner or county medical examiner.

220 (2) Each of the following individuals, agencies, and entities shall designate a  
 221 representative to serve on a protocol committee established pursuant to paragraph (3) of  
 222 subsection (b) of this Code section:

- 223 (A) The sheriff of each county in the judicial circuit;
- 224 (B) The county department of family and children services of each county in the  
 225 judicial circuit;
- 226 (C) The district attorney for the judicial circuit;
- 227 (D) The presiding juvenile court judge of each county in the judicial circuit;
- 228 (E) The chief magistrate of each county in the judicial circuit;
- 229 (F) The county board of education of each county in the judicial circuit;
- 230 (G) The county mental health organization of each county in the judicial circuit;
- 231 (H) The chief of police of each county in the judicial circuit, if any;
- 232 (I) The chief of police of the largest municipality in the judicial circuit;
- 233 (J) The county public health department of each county in the judicial circuit; and
- 234 (K) The coroner or county medical examiner of each county in the judicial circuit.

235 (3) A representative of a local child advocacy center shall serve on a protocol committee  
 236 established under paragraph (1) or (3) of subsection (b) of this Code section if one exists  
 237 in such location.

238 (4) A representative of a sexual assault center shall serve on a protocol committee  
 239 established under paragraph (1) or (3) of subsection (b) of this Code section if one exists  
 240 in such location.

241 ~~(2)~~(5) In addition to the representatives serving on the protocol committee as provided  
 242 for in ~~paragraph~~ paragraphs (1) through (4) of this subsection, the chief superior court  
 243 judge shall designate a representative from a local citizen or advocacy group which  
 244 focuses on child abuse awareness and prevention to serve on such protocol committee.

245 ~~(3)~~(6) If any designated agency fails to carry out its duties relating to participation on the  
 246 protocol committee, the chief superior court judge of the circuit may issue an order  
 247 requiring the participation of such agency. Failure to comply with such order shall be  
 248 cause for punishment as for contempt of court.

249 (d) Each protocol committee ~~shall elect or appoint~~ a chairperson ~~who~~ shall be responsible  
 250 for ensuring that written protocol procedures are followed by all agencies. Such person ~~can~~  
 251 may be independent of agencies listed in paragraph (1) of subsection (c) of this Code  
 252 section. The protocol committee may appoint such additional members as necessary and  
 253 proper to accomplish the purposes of the protocol committee.

254 (e) The protocol committee shall adopt a written protocol which shall be filed with the  
 255 Division of Family and Children Services of the Department of Human Services and the  
 256 ~~panel~~ Office of the Child Advocate for the Protection of Children, a copy of which shall  
 257 be furnished to each agency in the county handling the cases of abused children. The  
 258 protocol shall be a written document outlining in detail the procedures to be used in  
 259 investigating and prosecuting cases arising from alleged child abuse and the methods to be  
 260 used in coordinating treatment programs for the perpetrator, the family, and the child. The  
 261 protocol shall also outline procedures to be used when child abuse occurs in a household  
 262 where there is violence between past or present spouses, persons who are parents of the  
 263 same child, parents and children, stepparents and stepchildren, foster parents and foster  
 264 children, or other persons living or formerly living in the same household. The protocol  
 265 adopted shall not be inconsistent with the policies and procedures of the Division of Family  
 266 and Children Services of the Department of Human Services.

267 (f) The purpose of the protocol shall be to ensure coordination and cooperation between  
 268 all agencies involved in a child abuse case so as to increase the efficiency of all agencies  
 269 handling such cases, to minimize the stress created for the allegedly abused child by the  
 270 legal and investigatory process, and to ensure that more effective treatment is provided for  
 271 the perpetrator, the family, and the child, including counseling.

272 (g) Upon completion of the writing of the protocol, the protocol committee shall continue  
 273 in existence and shall meet at least semiannually for the purpose of evaluating the  
 274 effectiveness of the protocol and appropriately modifying and updating the same. The  
 275 protocol committee shall file the updated protocol with the Division of Family and  
 276 Children Services of the Department of Human Services and the Office of the Child  
 277 Advocate for the Protection of Children not later than the first day of September each year.



278 (h) Each protocol committee shall adopt or amend its written protocol to specify the  
 279 circumstances under which law enforcement officers shall and shall not be required to  
 280 accompany investigators from the county department of family and children services when  
 281 these investigators investigate reports of child abuse. In determining when law  
 282 enforcement officers shall and shall not accompany investigators, the protocol committee  
 283 shall consider the need to protect the alleged victim and the need to preserve the  
 284 confidentiality of the report. Each protocol committee shall establish joint work efforts  
 285 between the law enforcement and investigative agencies in child abuse investigations. The  
 286 adoption or amendment of the protocol shall also describe measures which can be taken  
 287 within the county or circuit, as the case may be, to prevent child abuse and shall be filed  
 288 with and furnished to the same entities with or to which an original protocol is required to  
 289 be filed or furnished. The protocol shall be further amended to specify procedures to be  
 290 adopted by the protocol committee to ensure that written protocol procedures are followed.

291 (i) The protocol committee shall issue a report no later than the first day of July each year.  
 292 Such report shall evaluate the extent to which investigations of child abuse during the 12  
 293 months prior to the report have complied with the protocols of the protocol committee,  
 294 recommend measures to improve compliance, and describe which measures taken within  
 295 the county or circuit, as the case may be, to prevent child abuse have been successful. The  
 296 report shall be transmitted to the county governing authority, the fall term grand jury of the  
 297 judicial circuit, the ~~panel~~ Office of the Child Advocate for the Protection of Children, and  
 298 the chief superior court judge of the circuit.

299 (j) Each member of each protocol committee shall receive appropriate training within 12  
 300 months after his or her appointment. The Office of the Child Advocate for the Protection  
 301 of Children shall provide such training.

302 (k) The protocol committee shall ~~adopt~~ include a written sexual abuse and sexual  
 303 exploitation section within its protocol which shall be filed with the Division of Family and  
 304 Children Services of the Department of Human Services and the Office of the Child  
 305 Advocate for the Protection of Children, a copy of which shall be furnished to each agency  
 306 in the county handling the cases of sexually abused or exploited children. The sexual abuse  
 307 and sexual exploitation section of the protocol shall ~~be a written document outlining~~ outline  
 308 in detail the procedures to be used in investigating and prosecuting cases arising from  
 309 alleged sexual abuse and sexual exploitation and the procedures to be followed concerning  
 310 the obtainment of and payment for sexual assault examinations. ~~Each protocol committee~~  
 311 ~~shall adopt or amend its written sexual abuse and sexual exploitation protocol.~~ The sexual  
 312 abuse and sexual exploitation section of the protocol ~~adopted~~ shall be consistent with the  
 313 policies and procedures of the Division of Family and Children Services of the Department  
 314 of Human Services. ~~A~~ The sexual abuse and sexual exploitation section of the protocol is

315 not intended to, does not, and may not be relied upon to create any rights, substantive or  
 316 procedural, enforceable at law by any party in any matter civil or criminal. Such section  
 317 of the protocol shall not limit or otherwise restrict a prosecuting attorney in the exercise of  
 318 his or her discretion nor in the exercise of any otherwise lawful litigative prerogatives."

319 **SECTION 5.**

320 Chapter 5 of Title 49 of the Official Code of Georgia Annotated, relating to programs and  
 321 protection for children and youth, is amended by revising Article 8, relating to the central  
 322 child abuse registry, as follows:

323 "ARTICLE 8

324 49-5-180.

325 As used in this article, the term:

326 (1) 'Abuse investigator' means the division, any county or district department of family  
 327 and children services, or any designee thereof.

328 (2) 'Alleged child abuser' means a ~~person~~ an individual named in an abuse investigator's  
 329 report as having committed a substantiated case.

330 (3) 'Child' means ~~any person~~ an individual under 18 years of age.

331 (4) 'Child abuse' ~~has~~ shall have the same meaning as in paragraph (4) of subsection (b)  
 332 of Code Section 19-7-5.

333 ~~(5) 'Child abuse crime' means:~~

334 ~~(A) A violation of Article 1 or Article 2 of Chapter 5 of Title 16 or subsections (b) or~~  
 335 ~~(c) of Code Section 16-5-70, in which physical injury or death is inflicted on a minor~~  
 336 ~~child by a parent or caretaker thereof by other than accidental means;~~

337 ~~(B) A violation of Code Section 16-12-1 regarding a minor child by a parent or~~  
 338 ~~caretaker thereof;~~

339 ~~(C) A violation of Chapter 6 of Title 16 in which the victim is a minor;~~

340 ~~(D) A violation of Part 2 of Article 3 of Chapter 12 of Title 16; or~~

341 ~~(E) Any other crime that, in the discretion of the prosecuting attorney, constitutes child~~  
 342 ~~abuse.~~

343 ~~(6)~~(5) 'Child abuse registry' means the Child Protective Services Information System.

344 ~~(7) 'Convicted' means a finding or verdict of guilty or a plea of guilty regardless of~~  
 345 ~~whether an appeal of the conviction has been sought. Such term also includes having~~  
 346 ~~been arrested, charged, and sentenced for the commission of a child abuse crime for~~  
 347 ~~which:~~

348 ~~(A) A plea of nolo contendere was entered to the charge; or~~

349 ~~(B) First offender treatment without adjudication of guilt pursuant to the charge was~~  
 350 ~~granted. The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title~~  
 351 ~~42, relating to probation of first offenders, or other first offender treatment shall be~~  
 352 ~~conclusive evidence of arrest and sentencing for such crime.~~

353 ~~(8) 'Convicted child abuser' means a person who is convicted.~~

354 ~~(9)~~(6) 'Division' means the Division of Family and Children Services of the department.

355 ~~(10)~~(7) 'Out-of-state abuse investigator' means a public child protective agency or law  
 356 enforcement agency of any other state bound by confidentiality requirements as to  
 357 information obtained under this article which are similar to those provided in this article.

358 ~~(11)~~(8) 'Sexual abuse' ~~has~~ shall have the same meaning as in paragraph (10) of  
 359 subsection (b) of Code Section 19-7-5.

360 ~~(12)~~(9) 'Sexual exploitation' ~~has~~ shall have the same meaning as in paragraph (11) of  
 361 subsection (b) of Code Section 19-7-5.

362 ~~(13)~~(10) 'Substantiated case' means an investigation of a child abuse report by an abuse  
 363 investigator which has been confirmed based upon a preponderance of the evidence that  
 364 child abuse has occurred.

365 49-5-181.

366 (a) The division shall establish and maintain a central child abuse registry which shall be  
 367 known as the 'Child Protective Services Information System.' The child abuse registry  
 368 shall receive notice regarding:

369 ~~(1) Substantiated~~ substantiated cases occurring on and after July 1, 2016, reported to the  
 370 division pursuant to ~~subsection (a) of Code Section 49-5-182;~~ and

371 ~~(2) Convicted child abusers on and after July 1, 2016, reported to the division pursuant~~  
 372 ~~to subsection (b) of Code Section 49-5-182.~~

373 (b) The child abuse registry shall be operated in such a manner as to enable abuse  
 374 investigators to:

375 (1) Immediately identify and locate substantiated cases ~~and convicted child abusers;~~ and

376 (2) Maintain and produce aggregate statistical data of substantiated cases ~~and cases of~~  
 377 ~~child abuse in which a person was convicted.~~

378 49-5-182.

379 ~~(a)~~ An abuse investigator who completes the investigation of a child abuse report made  
 380 pursuant to Code Section 19-7-5 or otherwise and determines that it is a substantiated case  
 381 if the alleged child abuser was at least 13 years of age at the time of the commission of the  
 382 act shall notify the division within 30 business days following such determination. Such  
 383 notice may be submitted electronically and shall include the following:

- 384 (1) Name, age, sex, race, social security number, if known, and birthdate of the child  
 385 alleged to have been abused;
- 386 (2) Name, age, sex, race, social security number, and birthdate of the parents, custodian,  
 387 or caretaker of the child alleged to have been abused, if known;
- 388 (3) Name, age, sex, race, social security number, and birthdate of the person who  
 389 committed the substantiated case; and
- 390 (4) A summary of the known details of the child abuse which at a minimum shall contain  
 391 the classification of the abuse as provided in paragraph (4) of subsection (b) of Code  
 392 Section 19-7-5 as either sexual abuse, physical abuse, child neglect, or a combination  
 393 thereof.
- 394 ~~(b) Upon receipt of a sentence for a convicted child abuser, the prosecuting attorney shall~~  
 395 ~~notify the division within 30 business days following such receipt. Such notice may be~~  
 396 ~~submitted electronically and shall include the following:~~
- 397 ~~(1) A certified copy of the sentence;~~
- 398 ~~(2) A complete history of the conviction, including a certified copy of the indictment,~~  
 399 ~~accusation, or both and such other information as the division may require;~~
- 400 ~~(3) Name, age, sex, race, social security number, and birthdate of the victim of child~~  
 401 ~~abuse by the convicted child abuser, if known, and~~
- 402 ~~(4) Name, age, sex, race, social security number, and birthdate of the parents, custodian,~~  
 403 ~~or caretaker of the victim of child abuse by the convicted child abuser, if known.~~

404 49-5-183.

- 405 (a) Upon receipt of an investigator's report of a substantiated case pursuant to subsection  
 406 ~~(a)~~ of Code Section 49-5-182 naming an alleged child abuser, the division:
- 407 (1) Shall include in the child abuse registry the name of the alleged child abuser, the  
 408 classification of the abuse as provided in paragraph (4) of subsection ~~(a)~~ of Code Section  
 409 49-5-182, and a copy of the investigator's report; and
- 410 (2) Shall mail to such alleged child abuser in such report a notice regarding the  
 411 substantiated case via certified mail, return receipt requested. It shall be a rebuttable  
 412 presumption that any such notice has been received if the return receipt has been received  
 413 by the division. The notice shall further inform such alleged child abuser of ~~such person's~~  
 414 his or her right to a hearing to appeal such determination. The notice shall further inform  
 415 such alleged child abuser of the procedures for obtaining the hearing and that an  
 416 opportunity shall be afforded all parties to be represented by legal counsel and to respond  
 417 and present evidence on all issues involved.
- 418 (b) Any alleged child abuser who has not attained the age of majority set forth by Code  
 419 Section 39-1-1 at the time of the hearing requested pursuant to subsection (d) of this Code

420 section shall be entitled to representation at the hearing either by the alleged child abuser's  
421 parent or other legal guardian or by an attorney employed by such parent or guardian. In  
422 the event the administrative law judge conducting the hearing determines that any such  
423 alleged minor child abuser will not be so represented at the hearing, or that the interests of  
424 any such alleged minor child abuser may conflict with the interests of the alleged minor  
425 child abuser's parent or other legal guardian, the administrative law judge shall order the  
426 division to apply to the superior court of the county in which the alleged act of child abuse  
427 was committed to have counsel appointed for the alleged minor child abuser. Payment for  
428 any such court appointed representation shall be made by such county.

429 (c) In order to exercise such right to a hearing, the alleged child abuser ~~must~~ shall file a  
430 written request for a hearing with the division within ten days after receipt of such notice.  
431 The written request shall contain the alleged child abuser's current residence address and,  
432 if ~~the person he or she~~ has a telephone, a telephone number at which ~~such person he or she~~  
433 may be notified of the hearing.

434 (d) If the division receives a timely written request for a hearing under subsection (c) of  
435 this Code section, it shall transmit that request to the Office of State Administrative  
436 Hearings within ten days after such receipt. Notwithstanding any other provision of law,  
437 the Office of State Administrative Hearings shall conduct a hearing upon that request in  
438 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and  
439 the rules of the Office of State Administrative Hearings adopted pursuant thereto, except  
440 as otherwise provided in this article. The hearing shall be for the purpose of an  
441 administrative determination regarding whether, based on a preponderance of evidence,  
442 there was child abuse committed by the alleged child abuser to justify the investigator's  
443 determination of a substantiated case. The Office of State Administrative Hearings shall  
444 give notice of the time and place of the hearing to the alleged child abuser by first-class  
445 mail to the address specified in the written request for a hearing and to the division by  
446 first-class mail at least ten days prior to the date of the hearing. It shall be a rebuttable  
447 presumption that any such notice is received five days after deposit in the United States  
448 mail with the correct address of the alleged child abuser and the division, respectively, and  
449 proper postage affixed. Unless postponed by mutual consent of the parties and the  
450 administrative law judge or for good cause shown, ~~that~~ such hearing shall be held within  
451 30 business days following receipt by the Office of State Administrative Hearings of the  
452 request for a hearing, and a decision shall be rendered within five business days following  
453 such hearing. A motion for an expedited hearing may be filed in accordance with rules and  
454 regulations promulgated by the Office of State Administrative Hearings. The hearing may  
455 be continued as necessary to allow the appointment of counsel. A telephone hearing may  
456 be conducted concerning this matter in accordance with standards prescribed in paragraph

457 (5) of Code Section 50-13-15. Upon the request of any party to the proceeding or the  
458 assigned administrative law judge, venue may be transferred to any location within ~~the~~ this  
459 state if all parties and the administrative law judge consent to such a change of venue.  
460 Otherwise, the hearing shall be conducted in the county in which the alleged act of child  
461 abuse was committed. The doctrines of collateral estoppel and res judicata as applied in  
462 judicial proceedings are applicable to the administrative hearings held pursuant to this  
463 article.

464 (e) At the conclusion of the hearing under subsection (d) of this Code section, upon a  
465 finding that there is not a preponderance of evidence to conclude that the alleged child  
466 abuser committed an act of child abuse, the administrative law judge shall order that the  
467 alleged child abuser's name be removed from the child abuse registry. The general public  
468 shall be excluded from hearings of the Office of State Administrative Hearings held  
469 pursuant to this article, and the files and records relating thereto shall be confidential and  
470 not subject to public inspection.

471 (f) Notwithstanding any other provision of law, the decision of the administrative law  
472 judge under subsection (e) of this Code section shall constitute the final administrative  
473 decision. Any party shall have the right of judicial review of such decision in accordance  
474 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the  
475 petition for review shall be filed within ten days after such decision and may only be filed  
476 with and the decision appealed to the superior court of the county where the hearing took  
477 place or, if the hearing was conducted by telephone, the Superior Court of Fulton County.  
478 The procedures for such appeal shall be substantially the same as those for judicial review  
479 of contested cases under Code Section 50-13-19 except that the filing of a petition for  
480 judicial review stays the listing of the petitioner's name upon the child abuse registry, and  
481 the superior court shall conduct the review and render its decision thereon within 30 days  
482 following the filing of the petition. The review and records thereof shall be closed to the  
483 public and not subject to public inspection.

484 (g) The administrative law judge shall transmit to the division his or her decision regarding  
485 the alleged child abuser and the investigator's report regarding such individual within ten  
486 days following that decision unless a petition for judicial review of that decision is filed  
487 within the permitted time period. If a timely petition for judicial review is filed within the  
488 permitted time period, the superior court shall transmit to the division its decision regarding  
489 the alleged child abuser and the investigator's report regarding such individual within ten  
490 days following that decision.

491 (h) With regard to a minor child alleged to have committed abuse, the division shall  
492 remove such individual's name from the registry if:

493 (1) He or she has reached 18 years of age;

494 (2) More than one year has passed from the date of the act or omission that resulted in  
 495 a substantiated case and there have been no subsequent acts or omissions resulting in a  
 496 substantiated case; and

497 (3) He or she can prove by a preponderance of the evidence that he or she has been  
 498 rehabilitated.

499 49-5-184.

500 ~~(a) Upon receipt of a notice from a prosecuting attorney pursuant to subsection (b) of Code~~  
 501 ~~Section 49-5-182, the division shall include in the child abuse registry the name of the~~  
 502 ~~convicted child abuser, the offense for which he or she was convicted, and whether the~~  
 503 ~~offense is considered physical abuse, neglect or exploitation, sexual abuse, or sexual~~  
 504 ~~exploitation.~~

505 ~~(b)~~(a) An individual Any person whose name appears in the child abuse registry as a  
 506 ~~convicted child abuser~~ having committed a substantiated case shall be entitled to a hearing  
 507 for an administrative determination of whether or not expungement of such ~~person's~~  
 508 individual's name should be ordered. In order to exercise such right, the ~~person must~~  
 509 individual shall file a written request for a hearing with the division. The provisions of this  
 510 subsection shall not apply to ~~persons~~ individuals who have waived ~~their a~~ hearing after  
 511 receipt of notice.

512 ~~(c)~~(b) Upon receipt by the division of a written request for a hearing pursuant to  
 513 subsection ~~(b)~~ (a) of this Code section, the division shall transmit such request to the Office  
 514 of State Administrative Hearings within ten days of receipt. The Office of State  
 515 Administrative Hearings shall conduct a hearing in accordance with Chapter 13 of Title 50,  
 516 the 'Georgia Administrative Procedure Act,' except as otherwise provided in this Code  
 517 section. A hearing shall be conducted within 60 days following receipt of the request by  
 518 the Office of State Administrative Hearings. Upon a finding that there is no credible  
 519 evidence that the ~~person~~ individual who requested the hearing ~~is a convicted child abuser~~  
 520 had a substantiated case, the Office of State Administrative Hearings shall order the  
 521 division to expunge that name from the registry. The general public shall be excluded from  
 522 such hearings and the files and records relating thereto shall be confidential and not subject  
 523 to public inspection.

524 ~~(d)~~(c) Notwithstanding any other provision of law, the decision of the Office of State  
 525 Administrative Hearings pursuant to subsection ~~(c)~~ (b) of this Code section shall constitute  
 526 the final agency decision. Any party shall have the right of judicial review of that decision  
 527 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'  
 528 except that the petition for review shall be filed within 30 days after such decision and may  
 529 only be filed with and the decision appealed to the superior court of the county where the

530 hearing took place or, if the hearing was conducted by telephone, the Superior Court of  
 531 Fulton County. The procedures for such appeal shall be the same as those for judicial  
 532 review of contested cases under Code Section 50-13-19. The review and records thereof  
 533 shall be closed to the public and not subject to public inspection.

534 49-5-185.

535 (a) Except as otherwise authorized in subsection (c) of this Code section and subsection  
 536 (b) of Code Section 49-5-186, the only persons or entities ~~who~~ that may access or be  
 537 provided any information from the child abuse registry are:

538 (1) An abuse investigator who has investigated or is investigating a case of possible child  
 539 abuse and who shall only be provided information relating to ~~that~~ such case for purposes  
 540 of using ~~that~~ such information in such investigation;

541 (2) State or other government agencies of this state or any other state which license  
 542 entities that have interactions with children or are responsible for providing care for  
 543 children or licensed entities in this state which interact with children or are responsible  
 544 for providing care for children and which shall only be provided information for purposes  
 545 of licensing or employment of a specific individual;

546 (3) A licensing entity, which may disclose information from the child abuse registry in  
 547 a written notice to an applicant or licensed entity whose license is denied or revoked as  
 548 a result of information found in the registry, to the extent that such information is  
 549 required in such notice by a federal or state law, regulation, or policy; or in a proceeding  
 550 arising from an adverse action taken against a licensed entity or individual as a result of  
 551 information found in the registry; ~~and~~

552 (4) The Department of Early Care and Learning, which is authorized to disclose all or  
 553 a portion of the information from the child abuse registry used to determine that a records  
 554 check is unsatisfactory or to rescind a determination that a records check is satisfactory  
 555 to an individual who has submitted a records check application or whose satisfactory  
 556 records check determination has been rescinded in accordance with Article 2 of  
 557 Chapter 1A of Title 20; and

558 (5) An affiliate court appointed special advocate program, as such term is defined in  
 559 Code Section 15-11-2, which information shall be provided and used solely for the  
 560 purpose of screening and selecting employees and volunteers of such affiliate court  
 561 appointed special advocate program and screening and selecting individuals to serve as  
 562 a CASA, as such term is defined in Code Section 15-11-2.

563 (b) The division shall provide the Governor's office, the General Assembly, district  
 564 attorneys, and law enforcement agencies with a statistical analysis of substantiated cases  
 565 of child abuse ~~and convicted child abusers~~ entered into the child abuse registry at the end



566 of each calendar year. This analysis shall not include the names of any children, parents,  
 567 or persons associated with the child abuse. This analysis shall not be protected by any laws  
 568 prohibiting the dissemination of confidential information.

569 (c) ~~A person~~ An individual may make a written request to the division to find out whether  
 570 ~~such person's~~ his or her name is included in the child abuse registry. Upon presentation of  
 571 a passport, military identification card, driver's license, or identification card authorized  
 572 under Code Sections 40-5-100 through 40-5-104, the office receiving such request shall  
 573 disclose to such ~~person~~ individual whether his or her name is included in the child abuse  
 574 registry and, if so, the date upon which his or her name was listed in the registry ~~and the~~  
 575 ~~substantiated case or child abuse crime for which such person was convicted.~~

576 (d) The division shall provide persons and entities authorized in subsection (a) of this Code  
 577 section with access to or information from the child abuse registry sufficient to meet the  
 578 requirements prescribed by Congress as conditions to federal funding for programs  
 579 administered by such ~~entities or persons~~ or entities.

580 49-5-186.

581 (a) Information in the child abuse registry shall be confidential and shall not be subject to  
 582 Article 4 of Chapter 18 of Title 50, and access thereto is prohibited except as provided in  
 583 this article. Such information shall not be deemed to be a record of child abuse for  
 584 purposes of Article 2 of this chapter.

585 (b)(1) Information obtained from the child abuse registry shall not be made a part of any  
 586 record which is open to the public except as provided in paragraph (2) of this subsection;  
 587 provided, however, that a district attorney may use such information in any court  
 588 proceeding in the course of any criminal prosecution, if such information is otherwise  
 589 admissible.

590 (2) Notwithstanding any other provisions of law, information in the child abuse registry  
 591 applicable to a child who at the time of his or her death was in the custody of a state  
 592 department or agency or foster parent, which information relates to the child while in the  
 593 custody of such state department or agency or foster parent, shall not be confidential and  
 594 shall be subject to Article 4 of Chapter 18 of Title 50.

595 (c) Any person who knowingly provides any information from the child abuse registry to  
 596 a person not authorized to be provided such information under this article shall be guilty  
 597 of a misdemeanor.

598 (d) Any person who knowingly and under false pretense obtains or attempts to obtain  
 599 information which was obtained from the child abuse registry, except as authorized in this  
 600 article, shall be guilty of a misdemeanor.

601 49-5-187.

602 The division and other authorized agencies, entities, and persons and the employees thereof  
603 providing information from the child abuse registry as authorized by this article and any  
604 person who uses such information shall have no civil liability or criminal responsibility  
605 therefor."

606 **SECTION 6.**

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