

1096 Said title is further amended by revising subsections (a) and (c) of Code Section 17-10-7,  
 1097 relating to punishment of repeat offenders, and by adding a new subsection (b.1) to read as  
 1098 follows:

1099 "(a) Except as otherwise provided in subsection (b) or (b.1) of this Code section, any  
 1100 person who, after having been convicted of a felony offense in this state or having been  
 1101 convicted under the laws of any other state or of the United States of a crime which if  
 1102 committed within this state would be a felony and sentenced to confinement in a penal  
 1103 institution, ~~who shall afterwards commit~~ commits a felony punishable by confinement in  
 1104 a penal institution; shall be sentenced to undergo the longest period of time prescribed for  
 1105 the punishment of the subsequent offense of which he or she stands convicted, provided  
 1106 that, unless otherwise provided by law, the trial judge may, in his or her discretion, probate  
 1107 or suspend the maximum sentence prescribed for the offense."

1108 "(b.1) Subsections (a) and (c) of this Code section shall not apply to a second or any  
 1109 subsequent conviction for any violation of subsection (a), paragraph (1) of subsection (i),  
 1110 or subsection (j) of Code Section 16-13-30.

1111 (c) Except as otherwise provided in subsection (b) or (b.1) of this Code section, any person  
 1112 who, after having been convicted under the laws of this state for three felonies or having  
 1113 been convicted under the laws of any other state or of the United States of three crimes  
 1114 which if committed within this state would be felonies, commits a felony within this state  
 1115 shall, upon conviction for such fourth offense or for subsequent offenses, serve the  
 1116 maximum time provided in the sentence of the judge based upon such conviction and shall  
 1117 not be eligible for parole until the maximum sentence has been served."

## 1118 PART V

### 1119 MANDATORY REPORTING OF CHILD ABUSE

#### 1120 SECTION 5-1.

1121 Code Section 19-7-5 of the Official Code of Georgia Annotated, relating to reporting of child  
 1122 abuse, is amended by revising subsections (b), (c), (e), and (g) as follows:

1123 "(b) As used in this Code section, the term:

1124 (1) 'Abortion' shall have the same meaning as set forth in Code Section 15-11-111.

1125 ~~(1)~~(2) 'Abused' means subjected to child abuse.

1126 ~~(2)~~(3) 'Child' means any person under 18 years of age.

1127 ~~(3)~~(4) 'Child abuse' means:

1128 (A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by  
 1129 other than accidental means; provided, however, that physical forms of discipline may  
 1130 be used as long as there is no physical injury to the child;

1131 (B) Neglect or exploitation of a child by a parent or caretaker thereof;

1132 (C) Sexual abuse of a child; or

1133 (D) Sexual exploitation of a child.

1134 However, no child who in good faith is being treated solely by spiritual means through  
1135 prayer in accordance with the tenets and practices of a recognized church or religious  
1136 denomination by a duly accredited practitioner thereof shall, for that reason alone, be  
1137 considered to be an 'abused' child.

1138 (5) 'Child service organization personnel' means persons employed by or volunteering  
1139 at a business or an organization, whether public, private, for profit, not for profit, or  
1140 voluntary, that provides care, treatment, education, training, supervision, coaching,  
1141 counseling, recreational programs, or shelter to children.

1142 (6) 'Clergy' means ministers, priests, rabbis, imams, or similar functionaries, by whatever  
1143 name called, of a bona fide religious organization.

1144 (7) 'Pregnancy resource center' means an organization or facility that:

1145 (A) Provides pregnancy counseling or information as its primary purpose, either for a  
1146 fee or as a free service;

1147 (B) Does not provide or refer for abortions;

1148 (C) Does not provide or refer for FDA approved contraceptive drugs or devices; and

1149 (D) Is not licensed or certified by the state or federal government to provide medical  
1150 or health care services and is not otherwise bound to follow federal Health Insurance  
1151 Portability and Accountability Act of 1996, P.L. 104-191, or other state or federal laws  
1152 relating to patient confidentiality.

1153 (8) 'Reproductive health care facility' means any office, clinic, or any other physical  
1154 location that provides abortions, abortion counseling, abortion referrals, or gynecological  
1155 care and services.

1156 (9) 'School' means any public or private pre-kindergarten, elementary school, secondary  
1157 school, technical school, vocational school, college, university, or institution of  
1158 postsecondary education.

1159 ~~(3.1)~~(10) 'Sexual abuse' means a person's employing, using, persuading, inducing,  
1160 enticing, or coercing any minor who is not that person's spouse to engage in any act  
1161 which involves:

1162 (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal,  
1163 whether between persons of the same or opposite sex;

1164 (B) Bestiality;

1165 (C) Masturbation;

1166 (D) Lewd exhibition of the genitals or pubic area of any person;

1167 (E) Flagellation or torture by or upon a person who is nude;

- 1168 (F) Condition of being fettered, bound, or otherwise physically restrained on the part  
 1169 of a person who is nude;
- 1170 (G) Physical contact in an act of apparent sexual stimulation or gratification with any  
 1171 person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed  
 1172 or unclothed breasts;
- 1173 (H) Defecation or urination for the purpose of sexual stimulation; or
- 1174 (I) Penetration of the vagina or rectum by any object except when done as part of a  
 1175 recognized medical procedure.
- 1176 'Sexual abuse' shall not include consensual sex acts involving persons of the opposite sex  
 1177 when the sex acts are between minors or between a minor and an adult who is not more  
 1178 than five years older than the minor. This provision shall not be deemed or construed to  
 1179 repeal any law concerning the age or capacity to consent.
- 1180 ~~(4)~~(11) 'Sexual exploitation' means conduct by any person who allows, permits,  
 1181 encourages, or requires that child to engage in:
- 1182 (A) Prostitution, as defined in Code Section 16-6-9; or
- 1183 (B) Sexually explicit conduct for the purpose of producing any visual or print medium  
 1184 depicting such conduct, as defined in Code Section 16-12-100.
- 1185 (c)(1) The following persons having reasonable cause to believe that a child has been  
 1186 abused shall report or cause reports of that abuse to be made as provided in this Code  
 1187 section:
- 1188 (A) Physicians licensed to practice medicine, interns, or residents;
- 1189 (B) Hospital or medical personnel;
- 1190 (C) Dentists;
- 1191 (D) Licensed psychologists and persons participating in internships to obtain licensing  
 1192 pursuant to Chapter 39 of Title 43;
- 1193 (E) Podiatrists;
- 1194 (F) Registered professional nurses or licensed practical nurses licensed pursuant to  
 1195 Chapter 24 of Title 43 or nurse's aides;
- 1196 (G) Professional counselors, social workers, or marriage and family therapists licensed  
 1197 pursuant to Chapter 10A of Title 43;
- 1198 (H) School teachers;
- 1199 (I) School administrators;
- 1200 (J) School guidance counselors, visiting teachers, school social workers, or school  
 1201 psychologists certified pursuant to Chapter 2 of Title 20;
- 1202 (K) Child welfare agency personnel, as that agency is defined pursuant to Code Section  
 1203 49-5-12;
- 1204 (L) Child-counseling personnel;

1205 (M) Child service organization personnel; ~~or~~  
 1206 (N) Law enforcement personnel; or  
 1207 (O) Reproductive health care facility or pregnancy resource center personnel and  
 1208 volunteers.

1209 (2) If a person is required to report child abuse pursuant to this subsection because that  
 1210 person attends to a child pursuant to such person's duties as ~~a member of the staff of an~~  
 1211 employee of or volunteer at a hospital, school, social agency, or similar facility, that  
 1212 person shall notify the person in charge of the facility, or the designated delegate thereof,  
 1213 and the person so notified shall report or cause a report to be made in accordance with this  
 1214 Code section. ~~A staff member~~ An employee or volunteer who makes a report to the  
 1215 person designated pursuant to this paragraph shall be deemed to have fully complied with  
 1216 this subsection. Under no circumstances shall any person in charge of such hospital,  
 1217 school, agency, or facility, or the designated delegate thereof, to whom such notification  
 1218 has been made exercise any control, restraint, modification, or make other change to the  
 1219 information provided by the reporter, although each of the aforementioned persons may  
 1220 be consulted prior to the making of a report and may provide any additional, relevant, and  
 1221 necessary information when making the report."

1222 "(e) An oral report shall be made immediately, but in no case later than 24 hours from the  
 1223 time there is reasonable cause to believe a child has been abused, by telephone or otherwise  
 1224 and followed by a report in writing, if requested, to a child welfare agency providing  
 1225 protective services, as designated by the Department of Human Services, or, in the absence  
 1226 of such agency, to an appropriate police authority or district attorney. If a report of child  
 1227 abuse is made to the child welfare agency or independently discovered by the agency, and  
 1228 the agency has reasonable cause to believe such report is true or the report contains any  
 1229 allegation or evidence of child abuse, then the agency shall immediately notify the  
 1230 appropriate police authority or district attorney. Such reports shall contain the names and  
 1231 addresses of the child and the child's parents or caretakers, if known, the child's age, the  
 1232 nature and extent of the child's injuries, including any evidence of previous injuries, and  
 1233 any other information that the reporting person believes might be helpful in establishing  
 1234 the cause of the injuries and the identity of the perpetrator. Photographs of the child's  
 1235 injuries to be used as documentation in support of allegations by hospital ~~staff~~ employees  
 1236 or volunteers, physicians, law enforcement personnel, school officials, or ~~staff~~ employees  
 1237 or volunteers of legally mandated public or private child protective agencies may be taken  
 1238 without the permission of the child's parent or guardian. Such ~~photograph~~ photographs  
 1239 shall be made available as soon as possible to the chief welfare agency providing protective  
 1240 services and to the appropriate police authority."

1241 "(g) Suspected child abuse which is required to be reported by any person pursuant to this  
 1242 Code section shall be reported notwithstanding that the reasonable cause to believe such  
 1243 abuse has occurred or is occurring is based in whole or in part upon any communication to  
 1244 that person which is otherwise made privileged or confidential by law; provided, however,  
 1245 that a member of the clergy shall not be required to report child abuse reported solely  
 1246 within the context of confession or other similar communication required to be kept  
 1247 confidential under church doctrine or practice. When a clergy member receives  
 1248 information about child abuse from any other source, the clergy member shall comply with  
 1249 the reporting requirements of this Code section, even though the clergy member may have  
 1250 also received a report of child abuse from the confession of the perpetrator."

## 1251 PART VI

### 1252 RESTRICTING RECORDS

#### 1253 SECTION 6-1.

1254 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
 1255 agencies, is amended by revising paragraph (1) of subsection (a) of Code Section 35-3-34,  
 1256 relating to disclosure and dissemination of criminal records to private persons and businesses,  
 1257 by deleting "and" at the end of subparagraph (B), by replacing "or" with "and" at the end of  
 1258 subparagraph (C), and by adding a new subparagraph to read as follows:

1259 "(D) The center shall not provide records of arrests, charges, or dispositions when  
 1260 access has been restricted pursuant to Code Section 35-3-37; or"

#### 1261 SECTION 6-2.

1262 Said title is further amended by repealing Code Section 35-3-37, relating to inspection,  
 1263 purging, modifying, or supplementing of criminal records, and enacting a new Code  
 1264 Section 35-3-37 to read as follows:

1265 "35-3-37.

1266 (a) As used in this Code section, the term:

1267 (1) 'Drug court treatment program' means a treatment program operated by a drug court  
 1268 division in accordance with the provisions of Code Section 15-1-15.

1269 (2) 'Entity' means the arresting law enforcement agency, including county and municipal  
 1270 jails and detention centers.

1271 (3) 'Mental health treatment program' means a treatment program operated by a mental  
 1272 health court division in accordance with the provisions of Code Section 15-1-16.

1273 (4) 'Nonserious traffic offense' means any offense in violation of Title 40 which is not  
 1274 prohibited by Article 15 of Chapter 6 of Title 40 and any similar such offense under the