

House Bill 72 (AS PASSED HOUSE AND SENATE)

By: Representatives Willard of the 51<sup>st</sup>, Jones of the 47<sup>th</sup>, Abrams of the 89<sup>th</sup>, Cooper of the 43<sup>rd</sup>, Hugley of the 136<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 16, Article 1 of Chapter 8 of Title 17, Chapter 5 of Title 30, and Title 31 of  
2 the Official Code of Georgia Annotated, relating to crimes and offenses, general provisions  
3 for trial, protection of disabled adults and elder persons, and health, respectively, so as to  
4 expand and clarify protection of disabled adults and elder persons; to provide for and revise  
5 definitions; to prohibit private causes of actions or civil remedies pursuant to provisions of  
6 the "Georgia RICO (Racketeer Influenced and Corrupt Organizations) Act"; to provide for  
7 venue; to provide for abuse, neglect, and exploitation of disabled adults, elder persons, and  
8 residents as a racketeering activity; to provide for priority scheduling of cases when the  
9 alleged victim is a disabled adult or elder person; to change provisions relating to reporting  
10 abuse, neglect, and exploitation of disabled adults and elder persons; to change provisions  
11 relating to inspection of premises pursuant to inspection warrants; to repeal provisions  
12 relating to exclusion of evidence obtained during the execution of an inspection warrant; to  
13 amend Code Section 24-12-21 of the Official Code of Georgia Annotated, relating to  
14 disclosure of AIDS confidential information, so as to change provisions relating to disclosure  
15 of such information under certain circumstances; to provide for procedure; to amend Chapter  
16 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions  
17 relative to torts, so as to revise the Good Samaritan law to provide for damaging property in  
18 emergency situations; to amend Code Section 16-3-20 of the Official Code of Georgia  
19 Annotated, relating to justification, so as to cross-reference the Good Samaritan law; to  
20 provide for related matters; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **PART I**  
23 **SECTION 1-1.**

24 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 25 amended in Code Section 16-5-100, relating to definitions for the protection of elder persons,  
 26 by adding a new paragraph to read as follows:

27 "(7.1) 'Mentally or physically incapacitated' means an impairment which substantially  
 28 affects an individual's ability to:  
 29 (A) Provide personal protection;  
 30 (B) Provide necessities, including but not limited to food, shelter, clothing, medical,  
 31 or other health care;  
 32 (C) Carry out the activities of daily living; or  
 33 (D) Manage his or her resources."

34 **SECTION 1-2.**

35 Said title is further amended by revising Code Section 16-5-103, relating to exceptions to  
 36 criminal liability, as follows:

37 "16-5-103.  
 38 (a) An owner, officer, administrator, board member, employee, or agent of a long-term  
 39 care facility shall not be held criminally liable for the actions of another person who is  
 40 convicted pursuant to this article unless such owner, officer, administrator, board member,  
 41 employee, or agent was a knowing and willful party to or conspirator to the abuse or  
 42 neglect, as defined in Code Section 30-5-3, or exploitation of a disabled adult, elder person,  
 43 or resident.  
 44 (b) A violation of this article shall not give rise to a private cause of action or civil  
 45 remedies under subsection (b) or (c) of Code Section 16-14-6 against a long-term care  
 46 facility or any owner, officer, employee, operator, or manager of such facility. Nothing in  
 47 this subsection shall limit the criminal or civil remedies available to the state pursuant to  
 48 state law."

49 **SECTION 1-3.**

50 Said title is further amended by revising Code Section 16-5-104, relating to applicability, and  
 51 by adding a new Code section to read as follows:

52 "16-5-104.  
 53 For the purpose of venue under this article, any violation of this article shall be considered  
 54 to have been committed:  
 55 (1) In any county in which any act was performed in furtherance of the violation; or  
 56 (2) In any county in which any alleged victim resides.

57 16-5-105.

58 This article shall be cumulative and supplemental to any other law of this state."

59 **SECTION 1-4.**

60 Said title is further amended in subparagraph (A) of paragraph (9) of Code Section 16-14-3,  
61 relating to definitions for the "Georgia RICO (Racketeer Influenced and Corrupt  
62 Organizations Act)," by deleting "or" at the end of division (xl), by replacing the period with  
63 "; or" at the end of division (xli), and by adding a new division to read as follows:

64 "(xlii) Article 8 of Chapter 5 of Title 16, relating to protection of elder persons."

65 **SECTION 1-5.**

66 Article 1 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to  
67 general provisions for trial, is amended by revising Code Section 17-8-1, relating to cases to  
68 be called in the order in which they stand on docket, as follows:

69 "17-8-1.

70 (a) The cases on the criminal docket shall be called in the order in which they stand on the  
71 docket unless the ~~defendant~~ accused is in jail or, otherwise, in the sound discretion of the  
72 court.

73 (b)(1) As used in this Code section, the terms 'disabled adult' and 'elder person' shall  
74 have the same meaning as set forth in Code Section 16-5-100.

75 (2) When the alleged victim is a disabled adult or elder person, the prosecuting attorney  
76 shall notify the accused if it intends to seek preferred scheduling. The notice shall be in  
77 writing and shall:

78 (A) Allege the specific factor or factors that will inhibit a disabled adult from attending  
79 or participating in court proceedings if he or she is a disabled adult; or

80 (B) State the age of the alleged victim if he or she is an elder person.

81 (3) When notice has been given pursuant to paragraph (2) of this subsection, the court  
82 shall set a date for a hearing on the issue within 14 days after the filing of such notice.  
83 The court shall consider the matter and if the court determines that preferred scheduling  
84 is necessary, the trial shall not be:

85 (A) Subject to subsection (a) of this Code section; and

86 (B) Earlier than 30 days from the date of the hearing."

87 **SECTION 1-6.**

88 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to protection of  
89 disabled adults and elder persons, is amended by revising Code Section 30-5-3, relating to  
90 definitions, as follows:

91 "30-5-3.

92 As used in this chapter, the term:

93 (1) 'Abuse' means the willful infliction of physical pain, physical injury, sexual abuse,  
94 mental anguish, unreasonable confinement, or the willful deprivation of essential services  
95 to a disabled adult or elder person.

96 (2) 'Caretaker' means a person who has the responsibility for the care of a disabled adult  
97 or elder person as a result of family relationship, contract, voluntary assumption of that  
98 responsibility, or by operation of law.

99 (3) 'Department' means the Department of Human Services.

100 (4) 'Director' means the director of the Division of Aging Services of the Department of  
101 Human Services, or the director's designee.

102 (5) 'Disabled adult' means a person 18 years of age or older who is not a resident of a  
103 long-term care facility, as defined in Article 4 of Chapter 8 of Title 31, but who is:

104 (A) Is mentally or physically incapacitated or has;

105 (B) Has Alzheimer's disease, as defined in Code Section 31-8-180, or dementia,; or

106 (C) Has dementia, as defined in Code Section 16-5-100.

107 (6) 'Elder person' means a person 65 years of age or older who is not a resident of a  
108 long-term care facility as defined in Article 4 of Chapter 8 of Title 31.

109 (7) 'Essential services' means social, medical, psychiatric, or legal services necessary to  
110 safeguard the disabled adult's or elder person's rights and resources and to maintain the  
111 physical and mental well-being of such person. These services shall include, but not be  
112 limited to, the provision of medical care for physical and mental health needs, assistance  
113 in personal hygiene, food, clothing, adequately heated and ventilated shelter, and  
114 protection from health and safety hazards but shall not include the taking into physical  
115 custody of a disabled adult or elder person without that person's consent.

116 (8) 'Exploitation' means the illegal or improper use of a disabled adult or elder person or  
117 that person's resources through undue influence, coercion, harassment, duress, deception,  
118 false representation, false pretense, or other similar means for one's own or another's  
119 profit or advantage.

120 (9) 'Fiduciary' shall have the same meaning as set forth in Code Section 7-1-4.

121 (10) 'Financial institution' shall have the same meaning as set forth in Code Section  
122 7-1-4.

123 (11) 'Investment company' means an individual or a corporation, a partnership, a limited  
124 liability corporation, a joint-stock company, a trust, a fund, or any organized group of  
125 persons whether incorporated that:

126 (A) Is engaged or proposes to engage in the business of effecting transactions in  
127 securities;

- 128 (B) Is engaged or proposes to engage in the business of issuing securities, or has been  
 129 engaged in such business and has any certificates outstanding; or
- 130 (C) Is engaged or holds itself out to be in the business of advising others, either directly  
 131 or through publications or writings, as to the value of securities or the advisability of  
 132 investing in, purchasing, or selling securities or that, for compensation and as a part of  
 133 a regular business, issues or promulgates analysis or reports concerning securities.
- 134 (12) 'Long-term care facility' shall have the same meaning as set forth in Code Section  
 135 31-8-81.
- 136 (13) 'Mentally or physically incapacitated' means an impairment which substantially  
 137 affects an individual's ability to:
- 138 (A) Provide personal protection;  
 139 (B) Provide necessities, including but not limited to food, shelter, clothing, medical,  
 140 or other health care;  
 141 (C) Carry out the activities of daily living; or  
 142 (D) Manage his or her resources.
- 143 ~~(9)~~(14) 'Neglect' means the absence or omission of essential services to the degree that  
 144 it harms or threatens with harm the physical or emotional health of a disabled adult or  
 145 elder person.
- 146 ~~(10)~~(15) 'Protective services' means services necessary to protect a disabled adult or elder  
 147 person from abuse, neglect, or exploitation. Such services shall include, but not be  
 148 limited to, evaluation of the need for services and mobilization of essential services on  
 149 behalf of a disabled adult or elder person.
- 150 (16) 'Resident' shall have the same meaning as set forth in Code Section 31-8-81.
- 151 (17) 'Security' shall have the same meaning as set forth in Code Section 10-5-2.
- 152 ~~(11)~~(18) 'Sexual abuse' means the coercion for the purpose of self-gratification by a  
 153 guardian or other person supervising the welfare or having immediate charge, control, or  
 154 custody of a disabled adult or elder person to engage in any of the following conduct:
- 155 (A) Lewd exhibition of the genitals or pubic area of any person;  
 156 (B) Flagellation or torture by or upon a person who is unclothed or partially unclothed;  
 157 (C) Condition of being fettered, bound, or otherwise physically restrained on the part  
 158 of a person who is unclothed or partially clothed unless physical restraint is medically  
 159 indicated;  
 160 (D) Physical contact in an act of sexual stimulation or gratification with any person's  
 161 unclothed genitals, pubic area, or buttocks or with a female's nude breasts;  
 162 (E) Defecation or urination for the purpose of sexual stimulation of the viewer; or  
 163 (F) Penetration of the vagina or rectum by any object except when done as part of a  
 164 recognized medical or nursing procedure."

**SECTION 1-7.**

165  
166 Said chapter is further amended by revising subparagraph (a)(1)(B) and subsections (b) and  
167 (c) of Code Section 30-5-4, relating to reporting of need for protective services, as follows:

168 "(B) Any employee of a financial institution, as defined in Code Section 7-1-4, or  
169 investment company having reasonable cause to believe that a disabled adult or elder  
170 person has been exploited shall report or cause reports to be made in accordance with  
171 the provisions of this Code section; provided, however, that this obligation shall not  
172 apply to any employee of a financial institution or investment company while that  
173 employee is acting as a fiduciary, ~~as defined in Code Section 7-1-4~~, but only for such  
174 assets that the employee is holding or managing in a fiduciary capacity."

175 "(b)(1)(A) A report that a disabled adult or elder person who is not a resident of a  
176 long-term care facility as defined in Code Section 31-8-81 is in need of protective  
177 services or has been the victim of abuse, neglect, or exploitation shall be made to an  
178 adult protection agency providing protective services as designated by the department  
179 and to an appropriate law enforcement agency or prosecuting attorney. If a report of  
180 a disabled adult or elder person abuse, neglect, or exploitation is made to an adult  
181 protection agency or independently discovered by the agency, then the agency shall  
182 immediately notify the appropriate law enforcement agency or prosecuting attorney  
183 make a reasonable determination based on available information as to whether the  
184 incident alleges actions by an individual, other than the disabled adult or elder person,  
185 that constitute a crime and include such information in their report. If a crime is  
186 suspected, the report shall immediately be forwarded to the appropriate law  
187 enforcement agency or prosecuting attorney. During an adult protective agency's  
188 investigation, it shall be under a continuing obligation to immediately report the  
189 discovery of any evidence that may constitute a crime.

190 (B) If the disabled adult or elder person is a resident of a long-term care facility as  
191 defined in Code Section 31-8-81 person is 65 years of age or older and is a resident, a  
192 report shall be made in accordance with Article 4 of Chapter 8 of Title 31. If a report  
193 made in accordance with the provisions of this Code section alleges that the abuse or  
194 exploitation occurred within a long-term care facility, such report shall be investigated  
195 in accordance with Articles 3 and 4 of Chapter 8 of Title 31.

196 (2) Reporting required by subparagraph (A)(1) of this subsection ~~The report~~ may be  
197 made by oral or written communication. Such ~~The~~ report shall include the name and  
198 address of the disabled adult or elder person and should include the name and address of  
199 the disabled adult's or elder person's caretaker, the age of the disabled adult or elder  
200 person, the nature and extent of the disabled adult's or elder person's injury or condition  
201 resulting from abuse, exploitation, or neglect, and other pertinent information.

202 (3) When a report of a disabled adult's or elder person's abuse, neglect, or exploitation  
 203 is originally reported to ~~All such reports prepared by a law enforcement agency,~~ it shall  
 204 be forwarded by such agency to the director or his or her designee within 24 hours of  
 205 receipt.

206 (c) Anyone who makes a report pursuant to this chapter, who testifies in any judicial  
 207 proceeding arising from the report, who provides protective services, or who participates  
 208 in a required investigation under the provisions of this chapter shall be immune from any  
 209 civil liability or criminal liability prosecution on account of such report or testimony or  
 210 participation, unless such person acted in bad faith, with a malicious purpose, or was a  
 211 party to such crime or fraud. Any financial institution, ~~as defined in Code Section 7-1-4~~  
 212 or investment company, including without limitation officers and directors thereof, that is  
 213 an employer of anyone who makes a report pursuant to this chapter in his or her capacity  
 214 as an employee, or who testifies in any judicial proceeding arising from a report made in  
 215 his or her capacity as an employee, or who participates in a required investigation under  
 216 the provisions of this chapter in his or her capacity as an employee, shall be immune from  
 217 any civil liability or criminal liability prosecution on account of such report or testimony  
 218 or participation of its employee, unless such financial institution or investment company  
 219 knew or should have known that the employee acted in bad faith or with a malicious  
 220 purpose and failed to take reasonable and available measures to prevent such employee  
 221 from acting in bad faith or with a malicious purpose. The immunity described in this  
 222 subsection shall apply not only with respect to the acts of making a report, testifying in a  
 223 judicial proceeding arising from a report, providing protective services, or participating in  
 224 a required investigation but also shall apply with respect to the content of the information  
 225 communicated in such acts."

#### 226 SECTION 1-8.

227 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
 228 paragraph (2) of subsection (a) of Code Section 31-2-9, relating to record check requirements  
 229 for certain facilities, as follows:

230 "(2) 'Crime' means commission of the following offenses:

- 231 (A) A violation of Code Section 16-5-1;
- 232 (B) A violation of Code Section 16-5-21, ~~relating to aggravated assault;~~
- 233 (C) A violation of Code Section 16-5-24, ~~relating to aggravated battery;~~
- 234 (D) A violation of Code Section 16-5-70, ~~relating to cruelty to children;~~
- 235 (E) A violation of Article 8 of Chapter 5 of Title 16;
- 236 (F) A violation of Code Section 16-6-1, ~~relating to rape;~~
- 237 (G) A violation of Code Section 16-6-2, ~~relating to aggravated sodomy;~~

- 238 (H) A violation of Code Section 16-6-4, ~~relating to child molestation;~~  
 239 (I) A violation of Code Section 16-6-5, ~~relating to enticing a child for indecent~~  
 240 ~~purposes;~~  
 241 (J) A violation of Code Section 16-6-5.1, ~~relating to sexual assault against persons in~~  
 242 ~~custody, detained persons, or patients in hospitals or other institutions;~~  
 243 (K) A violation of Code Section 16-6-22.2, ~~relating to aggravated sexual battery;~~  
 244 (L) A violation of Code Section 16-8-41;  
 245 (M) A felony violation of Code Section 31-7-12.1;  
 246 ~~(M)(N)~~ Any other offense committed in another jurisdiction that, if committed in this  
 247 state, would be deemed to be a crime listed in this paragraph without regard to its  
 248 designation elsewhere; or  
 249 ~~(N)(O)~~ Any other criminal offense as determined by the department and established  
 250 by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative  
 251 Procedure Act,' that would indicate the unfitness of an individual to provide care to or  
 252 be in contact with persons residing in a facility."

253 **SECTION 1-9.**

254 Said title is further amended by adding a new Code section to read as follows:

255 "31-2-13.

256 (a) As used in this Code section, the term 'commissioner' means the commissioner of  
 257 community health or his or her designee.

258 (b) Nothing in this Code section shall be construed to require an inspection warrant when  
 259 a warrantless inspection is authorized by law or pursuant to a rule or regulation enacted  
 260 pursuant to this title.

261 (c) An inspection warrant is an order, in writing, signed by a judicial officer, directed to  
 262 the commissioner or any person authorized to make inspections for such commissioner and  
 263 commanding him or her to conduct an inspection required or authorized by:

264 (1) This title;

265 (2) Any other law administered by the commissioner;

266 (3) Rules or regulations promulgated pursuant to this title; or

267 (4) Rules or regulations promulgated pursuant to any other law administered by the  
 268 commissioner.

269 (d) The commissioner or any person authorized to make inspections for such  
 270 commissioner shall make application for an inspection warrant to a person who is a judicial  
 271 officer within the meaning of Code Section 17-5-21.

272 (e)(1) An inspection warrant shall be issued only upon cause and when supported by an  
 273 affidavit which:

- 274 (A) Particularly describes the place, dwelling, structure, premises, or vehicle to be  
 275 inspected;
- 276 (B) Particularly describes the purpose for which the inspection is to be made; and  
 277 (C) Contains either a statement that consent to inspect has been sought and refused or  
 278 facts or circumstances reasonably justifying the failure to seek such consent.
- 279 (2) Cause to support the issuance of an inspection warrant shall be deemed to exist if:
- 280 (A) Reasonable legislative or administrative standards for conducting a routine or area  
 281 inspection are satisfied with respect to the particular place, dwelling, structure,  
 282 premises, or vehicle; or
- 283 (B) There is reason to believe that a condition of nonconformity exists with respect to  
 284 the particular place, dwelling, structure, premises, or vehicle.
- 285 (f) An inspection warrant shall be effective for the time specified therein, but not for a  
 286 period of more than 14 days, unless extended or renewed by the judicial officer who signed  
 287 and issued the original warrant, upon satisfaction that such extension or renewal is in the  
 288 public interest. Such inspection warrant shall be executed and returned to the judicial  
 289 officer by whom it was issued within the time specified in such warrant or within the  
 290 extended or renewed time. After the expiration of such time, the inspection warrant, unless  
 291 executed, shall be void.
- 292 (g) An inspection pursuant to an inspection warrant:
- 293 (1) May be executed at any time as deemed appropriate by the individual executing such  
 294 warrant but whenever possible shall be made at any time during operating or regular  
 295 business hours;
- 296 (2) Should not be performed in the absence of an owner or occupant of the particular  
 297 place, dwelling, structure, premises, or vehicle being inspected unless specifically  
 298 authorized by the judicial officer upon a showing that such authority is reasonably  
 299 necessary to effectuate the purpose of the law, rule, or regulation being enforced; and
- 300 (3) Shall not be made by means of forcible entry, except that the judicial officer may  
 301 expressly authorize a forcible entry when facts are shown:
- 302 (A) Which are sufficient to create a reasonable suspicion of a violation of this title or  
 303 any other law, rule, or regulation administered by the commissioner or the department,  
 304 which, if such violation existed, would be an immediate threat to health or safety; or  
 305 (B) Establishing that a reasonable attempt to serve a previous inspection warrant has  
 306 been unsuccessful.
- 307 (h) When prior consent for an inspection has been sought and refused and an investigation  
 308 warrant has been issued, an inspection warrant may be executed without further notice to  
 309 the owner or occupant of the particular place, dwelling, structure, premises, or vehicle  
 310 being inspected.

311 (i) It shall be unlawful for any owner, operator, or employee of the particular place,  
 312 dwelling, structure, premises, or vehicle being inspected to refuse to allow an inspection  
 313 pursuant to an inspection warrant issued as provided in this Code section. Any person  
 314 violating this Code section shall be guilty of a misdemeanor."

315 **SECTION 1-10.**

316 Chapter 5 of Title 31 of the Official Code of Georgia Annotated, relating to administration  
 317 and enforcement, is amended by revising subsection (b) of Code Section 31-5-10, relating  
 318 to notifying department or board of health of conditions on private property which are  
 319 injurious to the public and inspection warrants, as follows:

320 "(b) Any person who knows or suspects that a condition exists on private property, which  
 321 condition is injurious to the public health, safety, or comfort, shall immediately notify the  
 322 ~~department~~ Department of Public Health or the county board of health. Upon receiving  
 323 such notice, the department or the county board of health shall be authorized to obtain an  
 324 inspection warrant as provided in Code Section 31-5-21. If the department or the county  
 325 board of health determines that there exists a condition which is injurious to the public  
 326 health, safety, or comfort, the department or county board of health shall, by registered or  
 327 certified mail or statutory overnight delivery with return receipt requested, notify the  
 328 occupants of the property and, if different from the occupant, the person, firm, or  
 329 corporation which owns the property. Notice to the owner shall be sent to the address  
 330 shown on the county or municipal property tax records."

331 **SECTION 1-11.**

332 Said title is further amended by revising Code Section 31-5-20, relating to "inspection  
 333 warrant" defined, as follows:

334 "31-5-20.

335 As used in this ~~chapter~~ article, the term 'inspection warrant' means a warrant authorizing  
 336 a search or inspection of private property where such a search or inspection is one that is  
 337 necessary for the enforcement of any of the provisions of laws authorizing licensure,  
 338 inspection, or regulation by the Department of Public Health or a local agency thereof ~~or~~  
 339 ~~by the Department of Community Health."~~

340 **SECTION 1-12.**

341 Said title is further amended by revising Code Section 31-5-21, relating to persons who may  
 342 obtain inspection warrants, as follows:

343 "31-5-21.

344 The commissioner ~~or the commissioner of community~~ of public health or his or her  
 345 delegate or the director of any county board of health, in addition to other procedures now  
 346 or hereafter provided, may obtain an inspection warrant under the conditions specified in  
 347 this chapter. Such warrant shall authorize the commissioner ~~or the commissioner~~ of  
 348 ~~community~~ public health or the director of any county board of health, or the agents of any,  
 349 or the Department of Agriculture, as appropriate, to conduct a search or inspection of  
 350 property, either with or without the consent of the person whose property is to be searched  
 351 or inspected, if such search or inspection is one that is elsewhere authorized under the rules  
 352 and regulations duly promulgated under this title or any provision of law which authorizes  
 353 licensure, inspection, or regulation by the Department of Public Health or a local agency  
 354 thereof ~~or by the Department of Community Health.~~"

355 **SECTION 1-13.**

356 Said title is further amended by revising Code Section 31-5-24, relating to excluding  
 357 evidence, as follows:

358 "~~31-5-24.~~

359 ~~No facts discovered or evidence obtained in an inspection conducted under authority of an~~  
 360 ~~inspection warrant issued pursuant to this chapter shall be competent as evidence in any~~  
 361 ~~criminal proceeding against any party."~~

362 **PART IA**

363 **SECTION 1A-1.**

364 Code Section 24-12-21 of the Official Code of Georgia Annotated, relating to disclosure of  
 365 AIDS confidential information, is amended in paragraph (1) of subsection (s) by deleting  
 366 "or" at the end of subparagraph (A) and adding a new subparagraph (C) to read as follows:

367 "(C) Is suspected of being mentally ill and is the subject of an order issued pursuant to  
 368 Code Section 37-3-41 when the court issuing such order finds in an in camera hearing  
 369 by clear and convincing evidence a compelling need for the information which cannot  
 370 be accommodated by other means. In assessing compelling need, the court shall weigh  
 371 the public health, safety, or welfare needs or any other public or private need for the  
 372 disclosure against the privacy interest of the person identified by the information and  
 373 the public interest which may be disserved by disclosures which may deter voluntary  
 374 HIV tests. If the court determines that disclosure of that information is authorized  
 375 under this subparagraph, the court shall order that disclosure and impose appropriate

376 safeguards against any unauthorized disclosure. The records of that hearing otherwise  
 377 shall be under seal; or"

378

**PART II**

379

**SECTION 2-1.**

380 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general  
 381 provisions relative to torts, is amended by revising Code Section 51-1-29, relating to liability  
 382 of persons rendering emergency care, as follows:

383 "51-1-29.

384 (a) Any person, including any person licensed to practice medicine and surgery pursuant  
 385 to Article 2 of Chapter 34 of Title 43 and ~~including~~ any person licensed to render services  
 386 ancillary thereto, who in good faith renders emergency care at the scene of an accident or  
 387 emergency to the ~~victim~~ or victims thereof without making any charge therefor shall not  
 388 be liable for any civil damages as a result of any act or omission by such person in  
 389 rendering emergency care or as a result of any act or failure to act to provide or arrange for  
 390 further medical treatment or care for the injured person.

391 (b) As used in this Code section, the term 'emergency care' shall include, but shall not be  
 392 limited to, the rescue or attempted rescue of an incapacitated or endangered individual from  
 393 a locked motor vehicle."

394

**SECTION 2-2.**

395 Code Section 16-3-20 of the Official Code of Georgia Annotated, relating to justification,  
 396 is amended by revising paragraph (5) as follows:

397 "(5) When the person's conduct is justified for any other reason under the laws of this  
 398 state, including as provided in Code Section 51-1-29; or"

399

**PART III**

400

**SECTION 3-1.**

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