

**IN THE SUPERIOR COURT OF WARE COUNTY
STATE OF GEORGIA**

ORDER


WHEREAS, the Legislature of the State of the Georgia enacted O.C.G.A. § 15-24-2, requiring the establishment of a Sexual Assault Protocol; and

WHEREAS, the undersigned established a Sexual Assault Protocol Committee pursuant to O.C.G.A. § 15-24-2; and

WHEREAS, the Committee met on December 11, 2024, and discussed the Protocol, which was approved by a majority vote and which is attached hereto, as the protocol for cases of sexual assault in the Waycross Judicial Circuit of the State of Georgia.

NOW THEREFORE IT IS HEREBY ORDERED, this document is accepted by the Court as the protocol to be used in responding to, investigating and prosecuting cases arising from an alleged sexual assault and shall be spread upon the minutes and filed with the Clerk of the Superior Court of Ware County.

SO ORDERED, this the 27 day of December, 2024



DWAYNE H. GILLIS, CHIEF JUDGE
SUPERIOR COURT
WAYCROSS JUDICIAL CIRCUIT

Waycross Judicial Circuit Sexual Assault Protocol 2024

WAYCROSS JUDICIAL CIRCUIT SEXUAL ASSAULT PROTOCOL

This Waycross Judicial Circuit Sexual Assault Protocol (“Protocol”) is adopted pursuant to O.C.G.A. § 15-24-2, for the purpose of outlining the procedures to be used in responding to, investigating, and prosecuting cases of sexual assault.¹ The purpose of this Protocol shall be to ensure coordination and cooperation between all agencies involved in sexual assault cases so as to increase the efficiency of all agencies handling such cases and to minimize the stress created for the alleged sexual assault victim by the legal and investigatory process.² This protocol has been developed in cooperation with the following agencies: Alma Police Department, Bacon County Health Department, Bacon County Hospital, Bacon County Magistrate Court, Bacon County Sheriff’s Office, Blackshear Police Department, Brantley County Health Department, Brantley County Magistrate Court, Brantley County Sheriff’s Office, Charlton County Health Department, Charlton County Magistrate Court, Charlton County Sheriff’s Office, Coffee County Health Department, Coffee County Magistrate Court, Coffee Regional Medical Center, Coffee County Sheriff’s Office, District Attorney’s Office for the Waycross Judicial Circuit, Douglas Police Department, Folkston Police Department, Memorial Satilla Health, Nahunta Police Department, Pierce County Health Department, Pierce County Magistrate, Pierce County Sheriff’s Office, Ware County Health Department, Ware County Magistrate, Ware County Sheriff’s Office, Waycross Police Department, and appointees Cathy Cason, Alicia Alderman, and Terry Anderson.

The mission of the Waycross Judicial Circuit Sexual Assault Response Team (SART) is to:

- ***Facilitate the provision of consistent, comprehensive, sensitive, and nonjudgmental treatment of victims of sexual assault as they progress through medical, law enforcement, advocacy, and legal systems,***

¹ O.C.G.A. § 15-24-2 is attached hereto as Addendum 1.

² O.C.G.A. § 15-24-2; provided, however that a failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual assault, preclude the admissibility of evidence, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action.

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- ***Standardize the collective of evidence to aid in the prosecution of cases; and***
- ***Develop a coordinated effort among health care providers, law enforcement personnel, prosecutors, and victim advocates ensuring that victims receive efficient and comprehensive medical care, evidentiary examination, emotional support, and referral information.***

For purposes of this Protocol, the term ***victim*** shall refer to victims age 18 and older. Every sexual assault case involving victims under 18 shall refer to the circuit-wide Waycross Judicial Circuit Child Abuse Protocol in identifying appropriate services and resources. Per the state model Child Abuse Protocol, those services and resources should include Satilla Advocacy Services in providing services to adolescents in acute cases. In providing services to anyone under the age of 18, DFACS and/or law enforcement shall be notified pursuant to O.C.G.A. § 19-7-5.³

ADVOCACY

The role of the sexual assault victim advocate is to provide services to the victims of sexual assault regardless of whether or not the victim chooses to participate in the criminal justice process. They play a very important role in providing a response that keeps the victim central in the process, allowing the investigation and prosecution to be offender focused. Advocacy also has a critical role in promoting the healing process for the victim. Sexual assault advocates provide crisis intervention, support, family advocacy, information, and referral and other ancillary services to assist the victim through the criminal justice process. The support provided by the sexual assault victim advocate also benefits the criminal justice process, because supported, well-informed victims are more likely to continue through the process. Advocates will operate under the guidelines established by the Georgia Crime Victims' Bill of Rights (O.C.G.A. § 17-17-1) and will adhere to best practices as outlined in the

³ O.C.G.A. § 19-7-5 is attached hereto as Addendum 2.

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*Georgia Sexual Assault Response Team Guide and the Georgia Sexual Assault Certification Standards.*⁴

Responsibilities of the sexual assault victim advocate include:

- Being available to victims and families 24 hours a day, 7 days a week via a 24-hour crisis line staffed by trained community advocates;
- Providing services to victims and families that are sensitive to the unique barriers and special consideration that diverse victims encounter in reporting sexual assault crimes;
- Providing options to victims so they may make informed decisions;
- Supporting victims who choose to report to law enforcement by providing a link to eliminate barriers effecting the victim's participation in the criminal justice process;
- Maintain victim confidentiality; and
- Offering services to non-reporting victims and assisting if and when victims decide to report.

Victims may also work with systems-based victim advocates if the case progresses through the criminal justice system to the point of prosecution.

LAW ENFORCEMENT

The role of the investigating officer is to ensure the safety of the victim and the community and to ascertain if the report of sexual assault meets the elements of a crime under Georgia law. Within their jurisdictions, law enforcement will investigate sexual assault crimes. Investigative responsibilities include:

- Identification, apprehension, and interrogation of suspect(s)
- Interview of victim with a victim focused and trauma informed approach, which includes allowing an advocate to be present
- Interview of witnesses
- Collection and preservation of evidence
- Maintenance of chain of custody

⁴ O.C.G.A. § 17-17-1 is attached hereto as Addendum 3. The *Georgia Sexual Assault Response Team Guide* can be found online at: <https://svrga.org/sites/default/files/documents/2021sartguidev2-final.pdf>.

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- Timely submitted sexual assault evidence collection kits to GBI crime laboratory regardless of whether a suspect has been identified; per GBI recommendations
- Review of GBI crime lab reports as soon as possible after they are released to investigating agency; per GBI recommendations
- Determination of probable cause and arrest
- Preparation of case reports with investigative summaries
- Assistance to District Attorney's Office in prosecution of case
- Testimony and presentation of evidence in court

Investigating officers will work with victim advocates to ensure a victim centered response to the investigation and proper notification of case updates to victims. Additionally, law enforcement officer will operate under the guidelines established by the Georgia Crime Victims' Bill of Rights (O.C.G.A. §§ 17-17-1 through 17-17-16) and adhere to best practices as outlined in the *Georgia Sexual Assault Team Guide*.

MEDICAL FORENSIC EXAMINATION PROCEDURES

The role of the medical forensic personnel is to provide a timely, high-quality medical forensic examination that can potentially validate and address sexual assault patients' concerns, minimize that evidence collected will aid in criminal case investigation, resulting in perpetrators being held accountable and further sexual assault prevented.

Medical forensic examinations shall be performed at one of Satilla Advocacy Services locations. Medical forensic exams should be made available if the patient chooses to report, chooses not to report, or chooses to report anonymously.

Medical forensic examinations shall be performed by a Sexual Assault Nurse Examiner ("SANE"), physician, nurse practitioner, or physician assistant trained in performing such exams.

Medical forensic responsibilities include:

- Obtaining informed consent from the patient for the medical forensic examination, documentation, and evidence collection
- Gathering the medical forensic history
- Conducting a physical examination

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- Coordinating treatment of injuries
- Documentation of biological and physical findings
- Collection of evidence from the patient
- Documentation of findings
- Providing information, treatment, and referrals for sexually transmitted infections and/or pregnancy
- Follow-up as needed for additional treatment and/or collection of evidence
- Providing testimony at trial

BIOLOGIC EVIDENCE COLLECTION

The SANE, physician, nurse practitioner, or physician assistant will collect biologic samples at the request of a patient, in accordance with currently accepted protocol (defined as *A National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents*), to obtain timely biologic reference samples for possible analysis at the GBI Crime Lab. At the conclusion of the sexual assault medical forensic examination, any evidence collected will be packaged and protected in a manner to ensure the integrity of specimens and the appropriate chain of custody of the evidence.

All biologic evidence will be collected up to a minimum of 120 hours after assault. In addition, cases should be evaluated on an individual basis as the medical examination may be completed beyond 120 hours.

All biologic samples, fluids, hairs, and other evidence requiring GBI forensic analysis will be given directly to the case investigator for processing using a proper chain of evidence.

Pursuant to O.C.G.A. § 35-1-2, it shall be the duty of every law enforcement office who takes possession of the evidence collected during a sexual assault medical examination to ensure that such evidence is submitted to the division within 30 days of it being collected.⁵

Urine collected for analysis can be collected up to 120 hours and may be submitted to the GBI Crime Lab, the Federal Bureau of Investigations Crime Lab, or other private lab for toxicology drug screen.

⁵ See O.C.G.A. § 35-1-2 is attached hereto as Addendum 4.

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All biologic evidence collected at the request of a patient who chooses not to initiate and participate in and/or cooperate with a law enforcement investigation shall be held for a period of at least 12 months by the local law enforcement agency.⁶

REQUESTS FOR MEDICAL FORENSIC EXAMINATIONS

With the consent of the patient, medical forensic examinations can be performed at the request of (1) a law enforcement agency, (2) the District Attorney's Office, (3) the medical examiner or coroner's office, (4) a hospital, (5) pursuant to a court order, or (6) at the patient's request pursuant to O.C.G.A. § 17-5-72.

Medical forensic examinations may be requested 24 hours a day by using the following procedure:

**Examinations may be requested on a 24-hour basis,
via the SAS Hotline at 912-285-7355 or 912-283-0987.**

COSTS OF THE MEDICAL FORENSIC EXAMINATIONS

The costs of examinations shall be paid pursuant to O.C.G.A. §§ 16-6-1(c) and 17-5-72. Patients shall not be responsible for the payment of medical forensic examination costs.

CONDUCT OF THE MEDICAL FORENSIC EXAMINATION

A SANE, physician, nurse practitioner, or physician's assistant, who has specialized training in the collection of the forensic evidence, will perform the examination and assessment.

Medical forensic examinations and biologic evidence collection should be completed as quickly as possible after a report is received.

Medical forensic examinations and biologic evidence collection shall be conducted in accordance with GBI procedures using GBI Sexual Assault Evidence Kit. Medical forensic examinations will be conducted in accordance with *A National Protocol for Sexual Assault Medical Forensic Examinations*.

⁶ See O.C.G.A. § 17-5-71, which is attached hereto as Addendum 5.

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A trained victim advocate will be available to accompany the patient and offer emotional support during the examination. The advocate will at no time ask the patient questions related to the details of the assault.

The SANE, physician, nurse practitioner, or physician's assistant will complete appropriate authorizations relating to the examination.

The SANE, physician, nurse practitioner, or physician's assistant will photograph and document injuries and prepare a report.

The SANE, physician, nurse practitioner, or physician's assistant will maintain and document the chain of custody of any evidence collected during the examination and assessment.

The SANE, physician, nurse practitioner, or physician's assistant will adhere to the best practices as outlined in the *Georgia Sexual Assault Response Team Guide*.

PROCEDURES FOR HOSPITALS RECEIVING WALK-IN REPORTS OF SEXUAL ASSAULTS

Hospitals receiving patients reporting incidents of sexual assault shall immediately contact law enforcement in accordance with O.C.G.A. § 31-7-9, mandating all non-accidental injuries be reported. Patients will retain the right not to initiate, participate in, and/or cooperate with any law enforcement investigation of such assault.⁷

Hospital emergency department personnel will notify Satilla Advocacy Services of the incident including which law enforcement agency is responding. Satilla Advocacy Services will follow up per local Memorandum of Understanding.

PROSECUTION

The role of the District Attorney's Office, among other things, is to protect the rights of victims while holding the offender accountable. Prosecutors should

⁷ See O.C.G.A. § 31-7-9, attached hereto as Addendum 8.

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work in a collaborative fashion with law enforcement, medical forensic, and victim advocates. Prosecutors will operate under the guidelines established by the Georgia Crime Victims' Bill of Rights⁸ that state, for example, that victims have the right to:

- (1) Reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings;
- (2) Reasonable, accurate, and timely notice of the arrest, release, or escape of the accused;
- (3) Not to be excluded from any scheduled court proceedings, except as provided in this chapter or as otherwise required by law;
- (4) Be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused;
- (5) File a written objection in any parole proceedings involving the accused;
- (6) Confer with the prosecuting attorney in any criminal prosecution related to the victim;
- (7) Restitution as provided by law;
- (8) Proceedings free from unreasonable delay; and
- (9) Be Treated fairly and with dignity by all criminal justice agencies involved in the case;
- (10) A waiting area, during judicial proceedings, that is separate from the accused and his or her relatives, friends, and witnesses;
- (11) An opportunity to express his/her opinion on the disposition of the accused's case including views on plea or sentence negotiations and participation in pretrial or post-conviction diversion programs;⁹
- (12) Refuse to submit to an interview by the accused, accused's attorney, or agent of the accused; and
- (13) A requirement by the court that defense counsel not disclose the victim's information to the accused.¹⁰

If a victim attends any court proceeding, a victim advocate from the District Attorney's Office and/or Satilla Advocacy Services will accompany the victim. Communication between a victim, other than a peace officer, and victim assistance personnel appointed by a prosecuting attorney and any notes,

⁸ See O.C.G.A. § 17-17-1, entitled Declaration of Policy.

⁹ See O.C.G.A. § 17-10-11.

¹⁰ See O.C.G.A. § 17-17-10, attached as Addendum 9 hereto.

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memoranda, or other records made by such victim assistance personnel of such communication shall be considered attorney work product of the prosecuting attorney and not subject to disclosure except where such disclosure is required by law.¹¹

Prosecutors and prosecution-based advocates adhere to the best practices as outlined in the *Georgia Sexual Assault Response Team Guide*.

PRESS RELEASES

All agencies agree to make every effort possible to inform a victim of information to be released to the media before it is made public, so that the victim does not learn of case progress through media reports. This notification includes when information is released to a media outlet at their request under open records or other request for public data. Appropriate discretion is encouraged to be used regarding certain case details and/or in line with culturally specific concerns.¹²

SPECIAL REQUIREMENT FOR VICTIMS OF RAPE OR AGGRAVATED SODOMY

Under O.C.G.A. § 17-18-1, when any employee of the Department of Human Services (DHS), Department of Community Health, Department of Public Health (DPH), Department of Behavioral Health and Development Disabilities (DBHDD), a law enforcement agency, or a court has a reason to believe that he or she in the course of their official duties is speaking to a victim of rape, in violation of O.C.G.A. § 16-6-1, or aggravated sodomy, in violation of O.C.G.A. 16-6-2, relating to aggravated sodomy, such employee shall offer or provide such victim a written statement of information for victims of rape or aggravated sodomy, which complies with O.C.G.A. § 17-18-2, and may include additional information regarding resources available to victims of sexual assault. This written statement for victims may be provided in any language.

¹¹ See O.C.G.A. § 17-17-9.1, attached as Addendum 10 hereto.

¹² See Case-Centered vs. Victim-Centered Chart, page 171-172 of *The Georgia Sexual Assault Response Team Guide* and attached as Addendum 11 hereto.

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INFORMATION FOR VICTIMS OF RAPE OR FORCIBLE SODOMY

If you are the victim of rape or forcible sodomy, you have certain rights under the law.

Rape or forcible sodomy by a stranger or a person known to you, including rape or forcible sodomy by a person married to you, is a crime. You can ask the government's lawyer to prosecute a person who has committed a crime. The government pays the cost of prosecuting for crimes.

If you are the victim of rape or forcible sodomy, you should contact a local police department or other law enforcement agency immediately. A police officer will come to take a report and collect evidence. You should keep any clothing you were wearing at the time of the crime as well as any other evidence such as bed sheets. Officers will take you to the hospital for a medical examination. You should not shower or douche before the examination. The law requires that the Georgia Crime Victims Emergency Fund pay for the medical examination to the extent of the cost for the collection of evidence of the crime.¹³

COMBINED DNA INDEX SYSTEM (CODIS) HITS

GBI Crime Labs personnel routinely conduct a technical review of the results to determine which DNA profiles are eligible to upload into the Combined DNA Index System ("CODIS"). GBI Crime Lab will upload identified profiles in to CODIS, when eligible. GBI Crime Lab will notify the law enforcement agency or District Attorney's Office that submitted the sexual assault kit of any CODIS hit by report. The return of forensic testing results will be a starting point for law enforcement agencies within the Waycross Judicial Circuit to re-evaluate and potentially re-open these cold cases for investigation or re-investigation.

Victim Notification: This policy is to be used as a guide as it relates to CODIS hits, however; it is acknowledged that not every policy decision will

¹³ This notice is from O.C.G.A. § 17-18-2 (2023).

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apply to every case identified for review by the Waycross Judicial Circuit, and this policy should remain flexible.

Definitions:

1. **CODIS Hit:** Refers to the match of a submitted forensic DNA evidentiary sample to the DNA record already in the CODIS database.
2. **Offender Match:** Refers to a CODIS hit in which a previously unidentified forensic sample is matched to an offender sample.
3. **Forensic Match:** Also referred to as “case-to-case match”, refers to CODIS hits that identify a match between two unsolved cases, no suspect identified.
4. **Known Offender:** Refers to a suspect whom the victim named such that the full identity of the suspect is **not** in question.
5. **Unknown Offender:** Refers to a suspect whose identity is in question or not fully resolved. This includes suspect who are complete strangers, as well as suspects known by a first name or nickname.

The Waycross Judicial Circuit acknowledges that the case review of CODIS hits will result in one of three possible victim notification outcomes: (1) notify the victim; (2) do not notify the victim, or (3) consider notifying the victim. The Circuit recognizes that victim notification is a complex endeavor.

In the absence of victim input prior to notification decision, the Waycross Judicial Circuit recommends not notifying victims of testing that provided negative results. However, if the investigating law enforcement agency, or other team member, has been contacted directly by a victim who has expressed their preference in notification, the Circuit agrees to make every effort to honor that request.

(1) In the absence of victim input prior to notification decision, it is recommended victims not be notified in the following circumstances:

- Testing did not yield the presence of human male DNA **and** there is an unknown offender.
- Testing did not yield the presence of human male DNA **and** there is a known offender.

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(2) In the absence of victim input prior to notification decision, it is recommended to consider notifying victims in the following circumstances:

- Testing yielded a *positive* result for human male DNA *without* a CODIS hit, **but** is eligible for CODIS submission **and** there is an unknown offender.
- Testing yielded *positive* results for human male DNA *without* a CODIS hit **but** is eligible for CODIS submissions **and** there is a known offender.
- Testing yielded only a partial human male DNA profile that is considered ineligible for CODIS submission **and** there was a known offender.
- Testing yielded *positive* results for human male DNA **and** produced a CODIS Hit to identify an unknown offender.
- Testing yielded positive results for human male DNA **and** produced a CODIS case match to an unknown offender, **but** the offender in the case match is also unknown.

(3) In the absence of victim input prior to notification decision, it is recommended victims be notified in the following circumstances:

- Testing yielded *positive* results for human male DNA **and** produced a CODIS Hit confirm the identify of a known offender.
- Testing yielded *positive* results for human male DNA **and** produced a CODIS Case Match to an unknown offender, **and** the offender in the Case Match is known.

LOCAL SART COORDINATE RESPONSE

All members of the Waycross Judicial Circuit Sexual Assault Response Team will adhere to best practices as outlined in the *Georgia Sexual Assault Response Team Guide*.

Members of the Waycross Judicial Circuit SART agree to meet every other month (date and location to be determined) for case review, discussion and evaluation to assure the coordination and cooperation between all agencies and responding to sexual assault cases in the Waycross Judicial Circuit.

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Pursuant to O.C.G.A. § 15-24-4, members of the Waycross Judicial Circuit Sexual Assault Protocol Committee agree to meet annually to review, update, and evaluate this Sexual Assault Protocol.

The foregoing Waycross Judicial Sexual Assault Protocol is hereby adopted and replaces any previously adopted protocol and remains in effect until such time as the said protocol is amended or adopted.

The members of the protocol met on December 11, 2024, where the current protocol was discussed and changes were made in accordance with the state model, and the members voted by majority to adopt this protocol as the Waycross Judicial Circuit Sexual Assault Protocol, as of December 11, 2024.

Rebecca Williams Lt.
Alma Police Department Inv.

Anna Mykington
Megan Moore, RN
Brantley County Health Department

Edye Williams
Bacon County Health Department

Jeff A. [Signature]
Brantley County Magistrate Court

Deann Stander
Bacon County Hospital

[Signature]
Brantley County Sheriff's Office

[Signature]
Bacon County Magistrate Court

Heather Davis
Charlton County Health Department

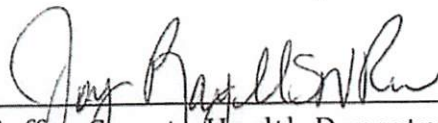
Rebecca Williams Lt.
Bacon County Sheriff's Office Inv.

[Signature]
Charlton County Magistrate Court

Chris Wright
Blackshear Police Department

[Signature]
Charlton County Sheriff's Office

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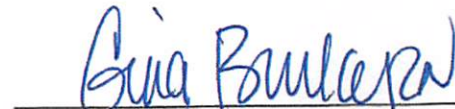

Coffee County Health Department



Pierce County Magistrate Court



Coffee County Magistrate Court



Pierce County Sheriff's Office

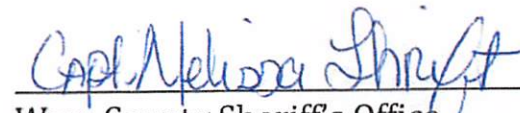

Coffee Regional Medical Center


Ware County Health Department


Coffee County Sheriff's Office


Ware County Magistrate Court


District Attorney
Waycross Judicial Circuit


Ware County Sheriff's Office

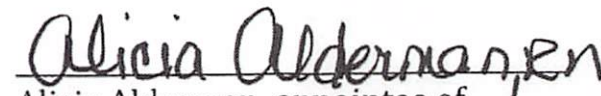

Douglas Police Department


Waycross Police Department


Folkston Police Department


Refused to sign
Cathy Cason, local citizen appointee


Memorial Satilla Health


Alicia Alderman, appointee of
Satilla Advocacy Services, a sexual
assault and rape crisis center


Nahunta Police Department

Refused to sign
Terry Anderson, appointee as a
healthcare professional performing
sexual assault examinations within
the Waycross Judicial Circuit


Pierce County Health Department

ADDENDUMS

Waycross Judicial Circuit Sexual Assault Protocol 2024

ADDENDUM 1**O.C.G.A. § 15-24-2**

Current through the 2023 Regular Session of the General Assembly.

15-24-2. Establishment of sexual assault protocol and committee; representatives to committee; annual meeting, review, and reporting.

(a) Each judicial circuit shall be required to establish a sexual assault protocol as provided in this Code section.

(b) The chief superior court judge of each judicial circuit shall establish a sexual assault protocol committee as provided in subsection (c) of this Code section and shall appoint an interim chairperson who shall preside over the first meeting. The chief superior court judge shall appoint persons to fill any vacancies on the committee. Thus established, the committee shall thereafter elect a chairperson from its membership.

(c)

(1) Each of the following agencies of the judicial circuit shall designate a representative to serve on the committee:

(A) The office of the sheriff of each sheriff's office in the judicial circuit;

(B) The office of the district attorney;

(C) The magistrate court;

(D) The office of the chief of police of a county of each county within the judicial circuit in counties which have a county police department;

(E) The office of the chief of police of the largest municipality in the county of each county within the judicial circuit; and

(F) The county board of health of each county within the judicial circuit.

(2) In addition to the representatives serving on the committee as provided for in paragraph (1) of this subsection, the chief superior court judge shall designate:

(A) A local citizen of the judicial circuit;

(B) A representative of a sexual assault or rape crisis center serving the judicial circuit or, if no such center exists, then a local citizen; and

(C) A health care professional who performs sexual assault examinations within the judicial circuit or, if no such person exists, then a local citizen.

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

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(d) The protocol committee shall adopt a written sexual assault protocol, a copy of which shall be furnished to each agency in the judicial circuit that handles cases of sexual assault. The protocol shall be a written document outlining in detail the procedures to be used in investigating, collecting evidence, paying for expenses related to evidence collection, and prosecuting cases arising from alleged sexual assault and shall take into consideration the provisions of Article 4 of Chapter 5 of Title 17. The protocol may provide for different procedures to be used within particular municipalities or counties within the judicial circuit. The protocol committee shall adopt a written sexual assault protocol no later than December 31, 2004. The protocol committee may incorporate sexual assault protocols used in the judicial circuit as they existed on or before July 1, 2004.

(e) The purpose of the protocol shall be to ensure coordination and cooperation between all agencies involved in sexual assault cases so as to increase the efficiency of all agencies handling such cases and to minimize the stress created for the alleged sexual assault victim by the legal and investigatory process; provided, however, that a failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual assault, preclude the admissibility of evidence, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action.

(f) Upon completion of the writing of the sexual assault protocol, the protocol committee shall continue in existence and shall meet at least annually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating same.

(g) The protocol committee shall submit a certification of annual compliance to the Criminal Justice Coordinating Council by December 31 of each year. The Criminal Justice Coordinating Council shall notify the Governor, Lieutenant Governor, Speaker of the House of Representatives, and Chief Justice of the Georgia Supreme Court of any noncompliant judicial circuits.

History

Code 1981, § 15-24-2, enacted by Ga. L. 2004, p. 466, § 3; [Ga. L. 2008, p. 486, § 1/HB 1297](#); [Ga. L. 2021, p. 567, § 2/HB 255](#).

Official Code of Georgia Annotated

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ADDENDUM 2**O.C.G.A. § 19-7-5**

Current through the 2023 Regular Session of the General Assembly.

19-7-5. Reporting of child abuse; when mandated or authorized; content of report; to whom made; immunity from liability; report based upon privileged communication; penalty for failure to report; spiritual treatment for illnesses.

(a) The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the situation in an effort to prevent abuses, to protect and enhance the welfare of children, and to preserve family life wherever possible. This Code section shall be liberally construed so as to carry out the purposes thereof.

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

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

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

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

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

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

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

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

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

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

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

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(H) Any other conduct indicating an intent to forgo parental duties or relinquish parental claims.

(2) "Abortion" shall have the same meaning as set forth in [Code Section 15-11-681](#).

(3) "Abused" means subjected to child abuse.

(4) "Child" means any person under 18 years of age.

(5) "Child abuse" means:

(A) Physical injury or death inflicted upon a child by a parent, guardian, legal custodian, or other person responsible for the care of such child by other than accidental means; provided, however, that physical forms of discipline may be used as long as there is no physical injury to the child;

(B) Neglect of a child by a parent, guardian, legal custodian, or other person responsible for the care of such child;

(C) Emotional abuse of a child;

(D) Sexual abuse or sexual exploitation of a child;

(E) Prenatal abuse of a child by a parent;

(F) An act or failure to act that presents an imminent risk of serious harm to the child's physical, mental, or emotional health; or

(G) Trafficking a child for labor servitude.

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

(7) "Clergy" means ministers, priests, rabbis, imams, or similar functionaries, by whatever name called, of a bona fide religious organization.

(8) "Emotional abuse" means acts or omissions by a parent, guardian, legal custodian, or other person responsible for the care of a child that cause any mental injury to such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment.

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

(10) "Legal custodian" means:

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

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

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(11) "Neglect" means:

- (A)** The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child's physical, mental, or emotional health or morals;
- (B)** The failure to provide a child with adequate supervision necessary for such child's well-being; or
- (C)** The abandonment of a child by his or her parent, guardian, or legal custodian.

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

- (A)** An adult member of a child's household;
- (B)** A person exercising supervision over a child for any part of the 24 hour day; or
- (C)** Any adult who, based on his or her relationship to the parent, guardian, or legal custodian or a member of a child's household, has access to such child.

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

- (A)** Provides pregnancy counseling or information as its primary purpose, either for a fee or as a free service;
- (B)** Does not provide or refer for abortions;
- (C)** Does not provide or refer for FDA approved contraceptive drugs or devices; and
- (D)** Is not licensed or certified by the state or federal government to provide medical or health care services and is not otherwise bound to follow the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or federal laws relating to patient confidentiality.

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

- (A)** Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the result of medical treatment; or
- (B)** Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.

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

(16) "School" means any public or private pre-kindergarten, elementary school, secondary school, technical school, vocational school, college, university, or institution of postsecondary education.

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

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- (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- (B) Bestiality;
- (C) Masturbation;
- (D) Lewd exhibition of the genitals or pubic area of any person;
- (E) Flagellation or torture by or upon a person who is nude;
- (F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;
- (G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;
- (H) Defecation or urination for the purpose of sexual stimulation;
- (I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure; or
- (J) Any act described by subsection (c) of [Code Section 16-5-46](#).

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

(18) "Sexual exploitation" means conduct by any person who allows, permits, encourages, or requires a child to engage in:

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

(c)

(1) The following persons having reasonable cause to believe that suspected child abuse has occurred shall report or cause reports of such abuse to be made as provided in this Code section:

- (A) Physicians licensed to practice medicine, physician assistants, interns, or residents;
- (B) Hospital or medical personnel;
- (C) Dentists;
- (D) Licensed psychologists and persons participating in internships to obtain licensing pursuant to Chapter 39 of Title 43;
- (E) Podiatrists;

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- (F) Registered professional nurses or licensed practical nurses licensed pursuant to Chapter 26 of Title 43 or nurse's aides;
- (G) Professional counselors, social workers, or marriage and family therapists licensed pursuant to Chapter 10A of Title 43;
- (H) School teachers;
- (I) School administrators;
- (J) School counselors, visiting teachers, school social workers, or school psychologists certified pursuant to Chapter 2 of Title 20;
- (K) Child welfare agency personnel, as such agency is defined in [Code Section 49-5-12](#);
- (L) Child-counseling personnel;
- (M) Child service organization personnel;
- (N) Law enforcement personnel; or
- (O) Reproductive health care facility or pregnancy resource center personnel and volunteers.

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

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

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

(e)

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

(A) "Active duty" means full-time duty status.

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

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

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

(2) With respect to reporting required by subsection (c) of this Code section, an oral report by telephone or other oral communication or a written report by electronic submission or facsimile shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe that suspected child abuse has occurred. When a report is being made by electronic submission or facsimile to the Division of Family and Children Services of the Department of Human Services, it shall be done in the manner specified by the division. Oral reports shall be followed by a later report in writing, if requested, to a child welfare agency providing protective services, as designated by the Division of Family and Children Services of the Department of Human Services, or, in the absence of such agency, to an appropriate police authority or district attorney. Such report shall be provided to military law enforcement, if applicable. If a report of child abuse is made to the child welfare agency or independently discovered by the agency, and the agency has reasonable cause to believe such report is true or the report contains any allegation or evidence of child abuse, then the agency shall immediately notify the appropriate police authority or district attorney and notify military law enforcement, if applicable. Such reports shall contain the names and addresses of the child and the child's parents or caretakers, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator. Photographs of the child's injuries to be used as documentation in support of allegations by hospital employees or volunteers, physicians, law enforcement personnel, school officials, or employees or volunteers of legally mandated public or private child protective agencies may be taken without the permission of the child's parent or guardian. Such photographs shall be made available as soon as possible to the chief welfare agency providing protective services, the appropriate police authority, and military law enforcement.

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(3) For each child who is the subject of child abuse allegations, the child welfare agency as provided for in paragraph (1) of this subsection shall make efforts as soon as practicable to determine whether a parent or guardian of such child is on active duty in the armed forces of the United States. If such agency determines that a parent or guardian of such child is on active duty in the armed forces of the United States, such agency shall notify the applicable military installation's family advocacy program of the allegation of child abuse that relates to the parent or guardian of such child.

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

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

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

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

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

(2) The superior court in the county in which is located the office of the law enforcement agency or district attorney which compiled the records containing such reports, after application for inspection and a hearing on the issue, shall permit inspection of such records by or release of information from such records to individuals or entities who are engaged in legitimate research for educational, scientific, or public purposes and who comply with the provisions of this paragraph. When those records are located in more than one county, the

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application may be made to the superior court of any one of such counties. A copy of any application authorized by this paragraph shall be served on the office of the law enforcement agency or district attorney which compiled the records containing such reports. In cases where the location of the records is unknown to the applicant, the application may be made to the Superior Court of Fulton County. The superior court to which an application is made shall not grant the application unless:

- (A) The application includes a description of the proposed research project, including a specific statement of the information required, the purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;
 - (B) The applicant carries the burden of showing the legitimacy of the research project; and
 - (C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.
- (j) The treatment of a child in good faith solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not in and of itself be considered child abuse.

History

Code 1933, § 74-111, enacted by Ga. L. 1965, p. 588, § 1; Ga. L. 1968, p. 1196, § 1; Ga. L. 1973, p. 309, § 1; Ga. L. 1974, p. 438, § 1; Ga. L. 1977, p. 242, §§ 1-3; Ga. L. 1978, p. 2059, §§ 1, 2; Ga. L. 1980, p. 921, § 1; Ga. L. 1981, p. 1034, §§ 1-3; Ga. L. 1988, p. 1624, § 1; Ga. L. 1990, p. 1761, § 1; Ga. L. 1993, p. 1695, §§ 1, 1.1; Ga. L. 1994, p. 97, § 19; Ga. L. 1999, p. 81, § 19; [Ga. L. 2006, p. 485, § 1/SB 442](#); [Ga. L. 2009, p. 453, § 2-2/HB 228](#); [Ga. L. 2009, p. 733, § 1/SB 69](#); [Ga. L. 2012, p. 899, § 5-1/HB 1176](#); [Ga. L. 2013, p. 141, § 19/HB 79](#); [Ga. L. 2013, p. 294, § 4-23/HB 242](#); [Ga. L. 2013, p. 524, § 2-1/HB 78](#); [Ga. L. 2015, p. 906, § 1/HB 268](#); [Ga. L. 2016, p. 773, § 2/HB 905](#); [Ga. L. 2017, p. 343, § 1/HB 86](#); [Ga. L. 2017, p. 774, § 19/HB 323](#); [Ga. L. 2019, p. 824, § 2/HB 64](#); [Ga. L. 2019, p. 893, § 9/SB 225](#); [Ga. L. 2021, p. 134, § 12/SB 28](#).

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ADDENDUM 3**O.C.G.A. § 17-17-1**

Current through the 2023 Regular Session of the General Assembly.

17-17-1. Declaration of policy.

The General Assembly hereby finds and declares it to be the policy of this state that victims of crimes should be accorded certain basic rights just as the accused are accorded certain basic rights. These rights include:

- (1) The right to reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings;
- (2) The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused;
- (3) The right not to be excluded from any scheduled court proceedings, except as provided in this chapter or as otherwise required by law;
- (4) The right to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused;
- (5) The right to file a written objection in any parole proceedings involving the accused;
- (6) The right to confer with the prosecuting attorney in any criminal prosecution related to the victim;
- (7) The right to restitution as provided by law;
- (8) The right to proceedings free from unreasonable delay; and
- (9) The right to be treated fairly and with dignity by all criminal justice agencies involved in the case.

History

Code 1981, § 17-17-1, enacted by Ga. L. 1995, p. 385, § 2; [Ga. L. 2010, p. 214, § 6/HB 567](#).

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ADDENDUM 4**O.C.G.A. § 35-1-2**

Current through the 2023 Regular Session of the General Assembly.

35-1-2. Examination of sexual assault victims; reports.

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

(1) "Division" means the Division of Forensic Sciences of the Georgia Bureau of Investigation.

(2) "Medical examination" means an examination pursuant to subsection (c) of [Code Section 16-6-1](#) or subsection (c) of [Code Section 16-6-2](#).

(b) When a forensic medical examination is performed, evidence is collected, and the alleged victim has requested that law enforcement officials be notified, the individual performing such exam, or his or her designee, shall notify the appropriate law enforcement agency of the collection of such evidence and provide a summary of all rights guaranteed to the alleged victim pursuant to the Crime Victims' Bill of Rights established pursuant to [Code Section 17-17-1](#), et seq., as provided by the Criminal Justice Coordinating Council. At the time of the examination, no alleged victim shall be required to assign or waive any rights afforded to him or her in the Crime Victims' Bill of Rights or that might prevent the alleged victim from seeking relief from the Crime Victims Compensation Board. Law enforcement officials shall take possession of such evidence no later than 96 hours of being notified.

(c) It shall be the duty of every law enforcement officer who takes possession of the evidence as provided in subsection (b) of this Code section to ensure that such evidence is submitted to the division within 30 days of it being collected, in accordance with the procedures established by the division.

(d) When a forensic medical examination was performed before July 1, 2016, evidence was collected, and the alleged victim requested that law enforcement officials be notified, the individual who performed such exam, or his or her designee, shall notify the appropriate law enforcement agency of the collection of such evidence on or before July 15, 2016, and law enforcement officials shall take possession of such evidence on or before July 31, 2016. It shall be the duty of every law enforcement officer who takes possession of the evidence as provided in this Code section to ensure that such evidence is submitted to the division by August 31, 2016, in accordance with the procedures established by the division.

(e) It shall be the duty of every law enforcement agency to create a list of evidence resulting from a forensic medical examination that is in such agency's possession on August 1, 2016, identifying such evidence as needing to be tested and submitting such listing of information to the division by August 15, 2016.

(f) A failure to comply with the provisions of this Code section shall not affect the admissibility of evidence collected from a forensic medical examination.

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(g) Beginning December 1, 2016, the division shall issue an annual report detailing the number of cases for which it has tested evidence pursuant to this Code section and the number of cases that are awaiting testing. Such report shall be provided to the executive counsel of the Governor, the Speaker of the House of Representatives, the Lieutenant Governor, the members of the House Committee on Judiciary, Non-civil, the members of the Senate Judiciary Committee, the House Committee on Health and Human Services, and the Senate Health and Human Services Committee and posted online at the Georgia Bureau of Investigation's website.

History

Code 1981, § 35-1-2, enacted by [Ga. L. 2016, p. 145, § 2/SB 304](#); [Ga. L. 2017, p. 774, § 35/HB 323](#).

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ADDENDUM 5

O.C.G.A. § 17-5-71

Current through the 2023 Regular Session of the General Assembly.

17-5-71. Preservation of evidence.

(a) In cases in which the victim reports an alleged sexual assault to law enforcement, the investigating law enforcement agency shall maintain any physical evidence collected as a result of an alleged sexual assault that contains biological material, including, but not limited to, stains, fluids, or hair samples that relate to the identity of the perpetrator of an alleged sexual assault, for 30 years from the date of arrest, or seven years from completion of sentence, whichever occurs last, and if no arrests, then for 50 years.

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

History

Code 1981, § 17-5-71, enacted by [Ga. L. 2008, p. 486, § 3/HB 1297](#); [Ga. L. 2019, p. 721, § 1/HB 282](#); [Ga. L. 2021, p. 567, § 3/HB 255](#).

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ADDENDUM 6

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O.C.G.A. § 17-5-72

Current through the 2023 Regular Session of the General Assembly.

17-5-72. Right to free forensic medical examination.

A victim shall have the right to have a forensic medical examination regardless of whether the victim participates in the criminal justice system or cooperates with law enforcement in pursuing prosecution of the underlying crime. A victim shall not be required to pay, directly or indirectly, for the cost of a forensic medical examination. The cost of a forensic medical examination shall be paid for by the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of this title.

History

Code 1981, § 17-5-72, enacted by [Ga. L. 2008, p. 486, § 3/HB 1297](#); [Ga. L. 2011, p. 214, § 3/HB 503](#).

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ADDENDUM 7**O.C.G.A. § 16-6-1**

Current through the 2023 Regular Session of the General Assembly.

16-6-1. Rape.

(a) A person commits the offense of rape when he has carnal knowledge of:

- (1) A female forcibly and against her will; or
- (2) A female who is less than ten years of age.

Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ. The fact that the person allegedly raped is the wife of the defendant shall not be a defense to a charge of rape.

(b) A person convicted of the offense of rape shall be punished by death, by imprisonment for life without parole, by imprisonment for life, or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life. Any person convicted under this Code section shall, in addition, be subject to the sentencing and punishment provisions of [Code Sections 17-10-6.1](#) and [17-10-7](#).

(c) When evidence relating to an allegation of rape is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

(d)

(1) As used in this subsection, the term "sexual felony" shall have the same meaning as set forth in paragraph (2) of subsection (j) of [Code Section 16-5-21](#).

(2) Any person having been previously convicted of a sexual felony who is convicted of the offense of rape shall be punished by imprisonment for life or a split sentence that is a term of imprisonment followed by probation for life. As a condition of probation, the court shall impose the requirement of electronic monitoring as set forth in paragraph (14) of subsection (a) of [Code Section 42-8-35](#).

History

Laws 1833, Cobb's 1851 Digest, p. 787.; Code 1863, §§ 4248, 4249; Ga. L. 1866, p. 151, § 1; Code 1868, §§ 4283, 4284; Code 1873, §§ 4349, 4350; Code 1882, §§ 4349, 4350; Penal Code 1895, §§ 93, 94; Penal Code 1910, §§ 93, 94; Code 1933, §§ 26-1301, 26-1302; Ga. L. 1960, p. 266, § 1; Code 1933, § 26-2001, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1978, p. 3, § 1; Ga. L. 1994, p. 1959, § 5; Ga. L. 1996, p. 1115,

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§ 1; Ga. L. 1997, p. 6, § 2; Ga. L. 1999, p. 666, § 1; [Ga. L. 2006, p. 379, § 8/HB 1059](#); [Ga. L. 2011, p. 214, § 1/HB 503](#); [Ga. L. 2023, p. 637, § 3-4/HB 188](#), effective May 4, 2023.

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ADDENDUM 8**O.C.G.A. § 31-7-9**

Current through the 2023 Regular Session of the General Assembly.

31-7-9. Reports by physicians and other personnel of nonaccidental injuries to patients; immunity from liability.

(a) As used in this Code section, the term “medical facility” includes, without being limited to, an ambulatory surgical treatment center defined in subparagraph (C) of paragraph (4) of [Code Section 31-7-1](#) and a freestanding imaging center defined in subparagraph (G) of paragraph (4) of [Code Section 31-7-1](#).

(b) Any:

(1) Physician, including any doctor of medicine licensed to practice under the laws of this state;

(2) Licensed registered nurse employed by a medical facility;

(3) Security personnel employed by a medical facility; or

(4) Other personnel employed by a medical facility whose employment duties involve the care and treatment of patients therein

having cause to believe that a patient has had physical injury or injuries inflicted upon him other than by accidental means shall report or cause reports to be made in accordance with this Code section.

(c) An oral report shall be made immediately by telephone or otherwise and shall be followed by a report in writing, if requested, to the person in charge of the medical facility or his designated delegate. The person in charge of the medical facility or his designated delegate shall then notify the local law enforcement agency having primary jurisdiction in the area in which the medical facility is located of the contents of the report. The report shall contain the name and address of the patient, the nature and extent of the patient’s injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

(d) Any person or persons participating in the making of a report or causing a report to be made to the appropriate police authority pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section shall be in good faith.

History

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Code 1933, § 88-1913, enacted by Ga. L. 1980, p. 1040, § 2; Ga. L. 1982, p. 1249, §§ 1, 2; Ga. L. 1985, p. 898, § 1; [Ga. L. 2008, p. 12, § 2-13/SB 433](#).

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ADDENDUM 9

O.C.G.A. § 17-17-10

Current through the 2023 Regular Session of the General Assembly.

17-17-10. Requirement by court that defense counsel not disclose victim information to accused.

As a condition of permitting a response to an inquiry as to the victim's current address, telephone number, or place of employment, the court may require counsel or any other officer of the court, including but not limited to counsel for the defendant, not to transmit or permit transmission to the defendant of the victim's current address, telephone number, or place of employment by the counsel or officer of the court or any employee, agent, or other representative of the counsel or officer of the court.

History

Code 1981, § 17-17-10, enacted by Ga. L. 1995, p. 385, § 2.

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ADDENDUM 10

O.C.G.A. § 17-17-9.1

Current through the 2023 Regular Session of the General Assembly.

17-17-9.1. Communications between victim assistance personnel and victims privileged.

Communications between a victim, other than a peace officer, and victim assistance personnel appointed by a prosecuting attorney and any notes, memoranda, or other records made by such victim assistance personnel of such communication shall be considered attorney work product of the prosecuting attorney and not subject to disclosure except where such disclosure is required by law. Such work product shall be subject to other exceptions that apply to attorney work product generally.

History

Code 1981, § 17-17-9.1, enacted by [Ga. L. 2010, p. 214, § 13/HB 567](#).

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ADDENDUM 11**B1: CASE-CENTERED VS VICTIM-CENTERED CHART**

The following chart explains the difference between a Victim-Centered response (recommended) and a Case-Centered response (not recommended) and is adapted from the Minnesota Model Sexual Assault Response Protocol Project:

| CASE-CENTERED (NOT RECOMMENDED) | VICTIM-CENTERED (RECOMMENDED) |
|---|--|
| <p>Law Enforcement Interview The interview with the victim seeks to:</p> <ul style="list-style-type: none"> • Identify elements of a crime; • Evaluate the victim as a potential witness; and • Determine the victim's credibility. | <p>Law Enforcement Interview The interview with the victim seeks to:</p> <ul style="list-style-type: none"> • Identify the nature of the harm done to the victim as well as the elements of any crime; • Acknowledge the violation; • Listen for concerns about the current and future well-being of the victim; • Evaluate the victim's wishes about the future of the case; • Address the case requirements; and • A by-product of the successful trauma-informed interview will be to give law enforcement the necessary information to evaluate the credibility of the victim as a witness. |
| <p>Press Releases A media or press release is timed according to case preferences and the media's request for public data. Typically, the victim learns of case progress through media reports.</p> | <p>Press Releases</p> <ul style="list-style-type: none"> • Every effort is made to inform the victim of information to be released to the media before it is made public. Appropriate discretion is used regarding certain case details and/or in line with culturally specific concerns. |
| <p>Plea Bargains</p> <ul style="list-style-type: none"> • A plea agreement is reached between prosecution and defense counsel minutes before a previously scheduled court hearing on the case. The plea is taken at the hearing, the offender simply answers yes or no to questions asked by his or her attorney to establish the elements of the crime. The victim finds out in court – or | <p>Plea Bargains</p> <ul style="list-style-type: none"> • Possible plea agreements have been discussed with the victim and her or his advocate prior to the hearing. If the purpose of the hearing changes, the prosecutor works with the advocate to make sure the victim is both notified and present to hear the change in plea. The hearing time is changed, if necessary, to accommodate the presence of the victim. |

Waycross Judicial Circuit Sexual Assault Protocol 2024

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| <p>afterwards – that the case has been pled and that it is all over.</p> | <p>Whenever possible, the offender is asked to tell, in his or her own words, what happened with questions from the attorneys to help establish the elements of the crime for the record.</p> |
| <p>Jury Decision</p> <ul style="list-style-type: none"> • A jury is ready to deliver their verdict at the end of a long deliberation. All parties are contacted to return to the court for the verdict, including the victim who wants to be present. The court declines to wait for the arrival of the victim before reading the verdict. She or he finds out about it after everyone has left the courtroom. | <p>Jury Decision</p> <ul style="list-style-type: none"> • A jury is ready to deliver their verdict at the end of a long deliberation. The advocate has left a cell phone number to call for immediate notification of the victim. The court awaits the arrival of the victim before allowing the reading of the verdict. |

Waycross Judicial Circuit Sexual Assault Protocol 2024

Certificate of Compliance

To: Director Jay Neal, Criminal Justice Coordinating Council
Chief Judge Dwayne H. Gillis, Waycross Judicial Circuit

From: Waycross Judicial Circuit Sexual Assault Protocol Committee

Date: December 12, 2024

Re: Certificate of Compliance

This undersigned as chairman of the Waycross Judicial Circuit Sexual Assault Protocol Committee hereby certifies that it has met at least once during the 2024 calendar year for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating same, as mandated under O.C.G.A. § 15-24-2 (f).

This certificate of compliance is being submitted to the Criminal Justice Coordinating Council before December 31, 2024, in compliance with O.C.G.A. § 15-24-2 (g).

So submitted this the 12th day of December, 2024.



Marilyn Bennett, Chairman
Waycross Judicial Circuit
Sexual Assault Protocol Committee