

Ga. Code Ann., § 19-7-5



West's Code of Georgia Annotated [Currentness](#)

Title 19. Domestic Relations

[Chapter 7](#). Parent and Child Relationship Generally ([Refs & Annos](#))

[Article 1](#). General Provisions

**→§ 19-7-5. Reports by physicians, treating personnel, institutions and others as to child abuse; failure to report suspected child abuse**

(a) The purpose of this Code section is to provide for the protection of children whose health and welfare are adversely affected and further threatened by the conduct of those responsible for their care and protection. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be brought to bear on the situation in an effort to prevent further abuses, to protect and enhance the welfare of these 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) "Abused" means subjected to child abuse.

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

(3) "Child abuse" means:

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

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

(C) Sexual abuse of a child; or

(D) Sexual exploitation of a child.

However, no child who in good faith is being treated 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, for that reason alone, be considered to be an "abused" child.

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

(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;

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

"Sexual abuse" shall not include consensual sex acts involving persons of the opposite sex when the sex acts are between minors or between a minor and an adult who is not more than five years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.

(4) "Sexual exploitation" means conduct by a child's parent or caretaker who allows, permits, encourages, or requires that child to engage in:

- (A) Prostitution, as defined [in Code Section 16-6-9](#); 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 a child has been abused shall report or cause reports of that abuse to be made as provided in this Code section:

- (A) Physicians licensed to practice medicine, 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;
- (F) Registered professional nurses or licensed practical nurses licensed pursuant to Chapter 24 of Title 43;
- (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 guidance counselors, visiting teachers, school social workers, or school psychologists certified pursuant to Chapter 2 of Title 20;
- (K) Child welfare agency personnel, as that agency is defined pursuant to [Code Section 49-5-12](#);
- (L) Child-counseling personnel;
- (M) Child service organization personnel; or

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(N) Law enforcement personnel.

(2) If a person is required to report abuse pursuant to this subsection because that person attends to a child pursuant to such person's duties as a member of the staff of a hospital, school, social agency, or similar facility, that person shall notify the person in charge of the 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. A staff member who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection.

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

(e) An oral report shall be made as soon as possible by telephone or otherwise and followed by a report in writing, if requested, to a child welfare agency providing protective services, as designated by the Department of Human Resources, or, in the absence of such agency, to an appropriate police authority or district attorney. 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. 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 staff, physicians, law enforcement personnel, school officials, or staff of legally mandated public or private child protective agencies may be taken without the permission of the child's parent or guardian; provided, however, that any photograph taken pursuant to this Code section shall, if reasonably possible, be taken in a manner which shall not reveal the identity of the subject. Such photograph shall be made available as soon as possible to the chief welfare agency providing protective services and to the appropriate police authority.

(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 to a child welfare agency providing protective services or to an appropriate police authority 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 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.

(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

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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 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.

Laws 1965, p. 588, § 1; Laws 1968, p. 1196, § 1; Laws 1973, p. 309, § 1; Laws 1974, p. 438, § 1; Laws 1977, p. 242, § § 1-3; Laws 1978, p. 2059, § § 1, 2; Laws 1980, p. 921, § 1; Laws 1981, p. 1034, § § 1-3; Laws 1988, p. 1624, § 1; Laws 1990, p. 1761, § 1; Laws 1993, p. 1695, § § 1, 1.1; Laws 1994, p. 97, § 19; Laws 1999, p. 81, § 19.

**Formerly** Code 1933, § 74-111.

#### CROSS REFERENCES

Crimes and offenses, bail jumping, see [§ 16-10-51](#).

Cruelty to children, see [§ 16-5-70](#).

Domestic relations, child abuse, county multiagency child fatality review committees, see [§ 19-15-3](#).

Education, teachers, jury duty and witness leaves of absence, see [§ 20-2- 870](#).

Family violence, generally, see [§ 19-13-1](#) et seq.

Health care, dead bodies, persons with infectious or communicable diseases, see [§ 31-21-3](#).

Juvenile proceedings, community based risk reduction programs, see [§ 15-11- 10](#).

Juvenile proceedings, temporary protective custody of children by physicians, see [§ 15-11-15](#).

Punishment of misdemeanors when not otherwise provided for by statute, see [§ 17-10-3](#).

Social services, child abuse records, disclosure, see [§ 49-5-41](#).

Social services, child abuse reports, unauthorized access to records, see [§ 49-5-44](#).

Social services, child abuser registry, reporting of abuse cases to Department of Family and Children Services

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office, see [§ 49-5-183](#).

Social services, Departments of Family and Children Services, annual reports, see [§ 49-3-3.1](#).

#### ADMINISTRATIVE CODE REFERENCES

Education department, program development and student support, see [Comp. R. & Regs. § § 160-4-8-.01, 160-4-8-.04](#).

Human resources department, family and children services, child caring institutions, see [Comp. R. & Regs. § 290-2-5-.16](#).

Human resources department, family and children services, day care centers, see [Comp. R. & Regs. § § 290-2-2-.04, 290-2-2-.10](#).

Human resources department, family and children services, family day care homes, see [Comp. R. & Regs. § 290-2-3-.14](#).

Human resources department, family and children services, group day care homes, see [Comp. R. & Regs. § § 290-2-1-.04, 290-2-1-.10](#).

Human resources department, mental health, mental retardation and substance abuse, clients' rights, see [Comp. R. & Regs. § 290-4-9-.03](#).

#### LAW REVIEW AND JOURNAL COMMENTARIES

Comment: The [Georgia Tort Claims Act: A License for Negligence in Child Deprivation Cases?](#) Mauricia Allen, 18 Ga. St. U. L. Rev. 795 (2002).

#### LIBRARY REFERENCES

Infants  13.5(1, 2), 20.

Westlaw Key Number Searches: 211k13.5(1); 211k13.5(2); 211k20.

[C.J.S. Infants § § 95, 100](#) to [107](#).

#### RESEARCH REFERENCES

##### **ALR Library**

[73 ALR 4th 782](#), Validity, Construction, and Application of State Statute Requiring Doctor or Other Person to Report Child Abuse.

##### **Encyclopedias**

[6 Am. Jur. Proof of Facts 2d 345](#), Failure to Report Suspected Case of Child Abuse.

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

[Ga. Jur. Criminal Law § 8:1](#), Generally.

[Ga. Jur. Criminal Law § 8:2](#), What Constitutes Cruelty.

Ga. Jur. Criminal Law CH 8 I Ref., Research References.

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[Ga. Jur. Family Law § 13:14](#), Generally; Definitions.

[Ga. Jur. Family Law § 13:15](#), Persons Who Must Report Abuse; Penalty for Failure to Report.

[Ga. Jur. Family Law § 13:16](#), Availability of Civil Cause of Action; Civil or Criminal Liability of Reporter.

[Ga. Jur. Family Law § 13:17](#), Notification and Report.

[Ga. Jur. Family Law § 13:18](#), Photographs of Child; Confidentiality of Child's Identity and Report.

[Ga. Jur. Family Law § 13:86](#), Procedure for Reporting Death of Child; Review and Investigation.

Ga. Jur. Family Law CH 13 II a Ref., Research References.

[Ga. Jur. Personal Injury and Torts § 34:7](#), **Reporting Child Abuse**.

[Ga. Jur. Personal Injury and Torts § 7:18](#), Immunity for **Reporting Child Abuse**.

[Ga. Jur. Personal Injury and Torts § 36:94](#), Reporting Abuse or Drug Use, Non-Accidental Injuries.

Ga. Jur. Personal Injury and Torts CH 7 II Ref., Research References.

Ga. Jur. Personal Injury and Torts CH 34 I a Ref., Research References.

Ga. Jur. Personal Injury and Torts CH 36 II F Ref., Research References.

## **Forms**

[5 Brown Georgia Pleading, Prac. & Legal Forms Anno. § 19-7-5 Form 1](#), Form 1 Child Abuse Report.

[5 Brown Georgia Pleading, Prac. & Legal Forms Anno. § 19-7-5 Form 2](#), Form 2 Allegation of Defense of Immunity from Liability.

## **Treatises and Practice Aids**

[Courtroom Handbook on Georgia Evidence P10](#), Psychotherapist/Patient Privilege.

[Georgia Divorce, Alimony, and Child Custody § 2-5.4](#), Crimes Against Family Members.

[Georgia Juvenile Practice and Procedure § 3-13](#), Potential Constitutional Limitations Upon Investigation of Deprivation.

[Georgia Juvenile Practice and Procedure § 4-9.2](#), Temporary Protective Custody of Child by a Physician.

[Georgia Law of Torts § 21-1](#), In General.

[Georgia Rules of Evidence § 23.6](#), Child Abuse and "Tarasoff" Situations.

[Kurtz Criminal Offenses and Defenses in Georgia P6](#), Parents and Children, Crimes Relating to.

[Kurtz Criminal Offenses and Defenses in Georgia C103](#), Cruelty to Children and Related Offenses.

UNITED STATES SUPREME COURT

## **Child abuse reporting,**

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Due process, state duty to protect child from parental abuse, see [DeShaney v. Winnebago County Dept. of Social Services, U.S.Wis.1989, 109 S.Ct. 998, 489 U.S. 189, 103 L.Ed.2d 249.](#)

## NOTES OF DECISIONS

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### [1](#). Immunity from liability

Statutory immunity from liability for reports of suspected child abuse made by specified persons may attach in two ways, either by showing that reasonable cause exists or by showing good faith. [O'Heron v. Blaney, 2003, 276 Ga. 871, 583 S.E.2d 834](#), reconsideration denied, on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Infants  13.5(2)

The issue of whether a defendant is entitled to qualified immunity for **reporting** suspected **child abuse** in good faith is usually for the jury, but in cases where important policy decisions underlie the grant of good faith immunity, greater scrutiny should be given to evidence of whether defendant acted in good faith to determine whether the issue can be resolved as a matter of law. [Blaney v. O'Heron, 2002, 256 Ga.App. 612, 568 S.E.2d 774](#), reconsideration denied, certiorari granted, reversed [276 Ga. 871, 583 S.E.2d 834](#), on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Infants  13.5(2)

In determining whether a defendant is entitled to qualified immunity for **reporting** suspected **child abuse** in good faith, the defendant generally has the burden of establishing such an affirmative defense. [Blaney v. O'Heron, 2002, 256 Ga.App. 612, 568 S.E.2d 774](#), reconsideration denied, certiorari granted, reversed [276 Ga. 871, 583 S.E.2d 834](#), on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Infants  13.5(2)

To establish that a physician **reporting** suspected **child abuse** has not acted with such objective good faith to be entitled to qualified immunity requires evidence of bad faith. [Blaney v. O'Heron, 2002, 256 Ga.App. 612, 568 S.E.2d 774](#), reconsideration denied, certiorari granted, reversed [276 Ga. 871, 583 S.E.2d 834](#), on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Health  768

The determination of whether a defendant acted in good faith in **reporting** suspected **child abuse** to be entitled to qualified immunity can depend on less direct evidence, for the state of mind accompanying the doing of an act is illustrated by other acts of a similar nature, done or proposed by the defendant in such a way as to indicate a general practice or course of conduct, or as to display motive, knowledge, intent, good faith, bad faith, and a variety of other such things. [Blaney v. O'Heron, 2002, 256 Ga.App. 612, 568 S.E.2d 774](#), reconsideration denied, certiorari granted, reversed [276 Ga. 871, 583 S.E.2d 834](#), on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Infants  13.5(2)

Genuine issue of material fact as to whether physician was entitled to good faith immunity for reporting that grandparents sexually molested their granddaughters precluded summary judgment for physician and medical center in action for malpractice and negligence brought by grandparents. [Blaney v. O'Heron, 2002, 256 Ga.App. 612, 568 S.E.2d 774](#), reconsideration denied, certiorari granted, reversed [276 Ga. 871, 583 S.E.2d 834](#), on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Judgment  181(6)

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Hospital personnel's failure to take into consideration the effect that four-year-old daughter's prescription medicine might have had on drug test constituted, at most, negligence or exercise of bad judgment in forming its professional opinion that daughter might be subject of child abuse and, thus, did not amount to "bad faith" depriving hospital of immunity for report of suspected abuse to Department of Family and Children Services, in mother's tort action against hospital. O.C.G.A. § 19-7-5(f). [Baldwin County Hosp. Authority v. Trawick, 1998, 233 Ga.App. 539, 504 S.E.2d 708](#), reconsideration denied. Infants  13

In determining whether hospital acts in bad faith when **reporting** suspected **child abuse** to county, such that it is not immune from potential civil or criminal liability arising therefrom, "bad faith" is the opposite of good faith, generally implying or involving actual or constructive fraud; or a design to mislead or deceive another; or a neglect or refusal to fulfill some duty, not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive. O.C.G.A. § 19-7-5(f). [Baldwin County Hosp. Authority v. Trawick, 1998, 233 Ga.App. 539, 504 S.E.2d 708](#), reconsideration denied. Infants  13

In determining whether hospital acts in bad faith when **reporting** suspected **child abuse** to county, such that it is not immune from potential civil or criminal liability arising therefrom, "bad faith" is not simply bad judgment or negligence, but it imports a dishonest purpose or some moral obliquity, and implies conscious doing of wrong, and means breach of known duty through some motive of interest or ill will. O.C.G.A. § 19-7-5(f). [Baldwin County Hosp. Authority v. Trawick, 1998, 233 Ga.App. 539, 504 S.E.2d 708](#), reconsideration denied. Infants  13

In determining whether hospital acts in "bad faith" when **reporting** suspected **child abuse** to county, such that it is not immune from potential civil or criminal liability arising therefrom, evidence of mere negligence or bad judgment is not equivalent to evidence of a refusal to fulfill a professional duty, out of some interested or sinister motive, nor is it equivalent to evidence of a conscious act based on some dishonest or improper purpose. O.C.G.A. § 19-7-5(f). [Baldwin County Hosp. Authority v. Trawick, 1998, 233 Ga.App. 539, 504 S.E.2d 708](#), reconsideration denied. Infants  13

Psychologist to whom child welfare agency referred suspected **child abuse** victim for evaluation was immune from liability under **child abuse reporting** statute, despite parents' contention that psychologist could not be considered reporter under statute since abuse had already been reported at time agency referred child for evaluation; qualified immunity afforded by statute protects any person participating in making of report to child welfare agency and any person participating in proceedings arising as a result of report of abuse, and is not limited to initial communication of abuse. O.C.G.A. § 19-7-5(f). [Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722](#), certiorari denied. Infants  13

**Child abuse reporting** statute's grant of immunity from liability is not absolute, since it is conditioned on good faith of participant in making of report or in any proceeding resulting from such report. O.C.G.A. § 19-7-5(f). [Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722](#), certiorari denied. Infants  13

**Child abuse reporting** statute's grant of immunity from liability covers every person who, in good faith, participates over time in making of report to child welfare agency. O.C.G.A. § 19-7-5(f). [Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722](#), certiorari denied. Infants  13

Acts which constitute "making" report within meaning of **child abuse reporting** statute's immunity provision include good faith clinical investigation of bases for suspecting **child abuse**, as well as any participation in subsequent judicial proceedings, and immunity extends to liability premised upon alleged medical malpractice by licensed psychologist arising out of psychological evaluation of child performed as part of child welfare agency's investigation of suspected **abuse** of **child**. O.C.G.A. § 19-7-5(f). [Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722](#), certiorari denied. Infants  13

Although evidence regarding conduct of psychologist in evaluating suspected **child abuse** victim might authorize finding that psychologist was negligent or exercised bad judgment, such evidence was not sufficient to establish that psychologist acted in bad faith such that she was deprived of immunity from liability granted by **child abuse**

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**reporting** statute; there was no evidence that psychologist refused to fulfill her professional duties out of some interest or sinister motive, or that she consciously acted for some dishonest or improper purpose. O.C.G.A. § 19-7-5(f). [Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722](#), certiorari denied. Infants  13

Statutory immunity applicable to such civil or criminal liability as might otherwise result from act of reporting suspected child molestation or abuse did not apply to criminal liability arising from commission of molestation or abuse itself. O.C.G.A. § 19-7-5(d). [Austin v. State, 1986, 179 Ga.App. 235, 345 S.E.2d 688](#). Criminal Law  42

### 1.5. Reasonable cause

Psychologist and clinic had reasonable cause to suspect sexual abuse of son by father, and acted in good faith in reporting alleged abuse to authorities, and thus, were immune from liability for reporting; although father alleged that entire story about abuse was fabricated by mother in order to gain advantage in custody and visitation battle, psychologist's first contact with child came about by means of normal and proper referral from psychiatric hospital who saw child on referral by child's regular doctor, and child made statements to several persons about possible sexual abuse by his father. [Ouellet v. Tillitski, 2004, 269 Ga.App. 585, 604 S.E.2d 559](#), reconsideration denied, certiorari denied. Infants  13.5(2)

Whether a reporter has reasonable cause to believe that a child has been abused, such as to trigger statutory duty to report suspected abuse, requires an objective analysis, with relevant question being whether the information available at the time would lead a reasonable person in the position of the reporter to suspect abuse. [O'Heron v. Blaney, 2003, 276 Ga. 871, 583 S.E.2d 834](#), reconsideration denied, on remand [263 Ga.App. 681, 588 S.E.2d 852](#). Infants  13.5(1)

### 2. Private cause of action

Statute requiring physicians with reasonable cause to believe that child has been abused to report such abuse to child welfare agency does not create private cause of action in favor of child whose abuse is not detected or reported. O.C.G.A. § 19-7-5. [Vance v. T.R.C., 1997, 229 Ga.App. 608, 494 S.E.2d 714](#), certiorari denied. Action  3

Physician would not be liable to minor for failing to report child abuse after diagnosing her with genital herpes, even assuming that there was private cause of action for violations of statute requiring physicians to report child abuse when they have reasonable cause to believe it has occurred; statute penalizes only physicians who knowingly and willfully fail to report suspected abuse, and physician in present case reasonably believed that minor's condition was caused by consensual sexual activity with peers. O.C.G.A. § 19-7-5. [Vance v. T.R.C., 1997, 229 Ga.App. 608, 494 S.E.2d 714](#), certiorari denied. Infants  13

Criminal statute requiring a licensed physician who has reasonable cause to believe that a child has been abused to report that abuse does not create private cause of action in tort in favor of an alleged victim of child abuse. O.C.G.A. § 19-7-5. [Cechman v. Travis, 1991, 202 Ga.App. 255, 414 S.E.2d 282](#), certiorari denied. Action  5

Even if criminal statute requiring physicians to make report of child abuse or suspected child abuse created private cause of action in tort, estate of a child who was killed by her abusive father had no cause of action against doctor who examined the child and discovered three marks on the child's chest one month prior to child's death; there was no evidence that the doctor had reasonable cause to believe that the child was a victim of child abuse and that she knowingly and willfully failed to report that suspicion, but, rather, only contention was that, if doctor had conducted examination of child differently, she would have had cause to suspect child abuse. O.C.G.A. § 19-7-5, [35-3-38](#). [Cechman v. Travis, 1991, 202 Ga.App. 255, 414 S.E.2d 282](#), certiorari denied. Infants  13

A doctor who treated a month-old child who had three red marks on her chest could not be held liable for any subsequent child abuse which might have occurred after the doctor's examination of the child and before the child was killed by her abusive father; doctor's alleged failure to discover and report that the child was a suspected victim

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of child abuse afforded no legal basis for recovery of damages for future injuries that the child may have suffered at the hands of her abusive father. O.C.G.A. § 19-7-5. [Cechman v. Travis, 1991, 202 Ga.App. 255, 414 S.E.2d 282](#), certiorari denied. Infants  13

### 3. Psychologists

Statutory definition of psychologist, together with common usage, provided adequate definition of term psychologist to render licensed psychologist liable for failure to report **child abuse**, despite licensed psychologist's void for vagueness challenge to **child abuse reporting** statute. O.C.G.A. § § 19-7-5, [43-39-7](#). [Gladson v. State, 1989, 258 Ga. 885, 376 S.E.2d 362](#). Infants  12(9)

Term "psychologist" in statute delineating persons required to report child abuse is limited to licensed psychologists. O.C.G.A. § § 19-7-5, [43-39-7](#). [Gladson v. State, 1989, 258 Ga. 885, 376 S.E.2d 362](#). Infants  13

Counselor, with doctoral degree in human development from accredited university, but who lacked psychologist license, could not be held liable for failure to report sexual abuse under statute delineating persons required to report such abuse. O.C.G.A. § § 19-7-5, [43-39-7](#). [Gladson v. State, 1989, 258 Ga. 885, 376 S.E.2d 362](#). Infants  13

### 4. Breach of duty

Premitting issue of whether hospital's failure to report child's burns as possible child abuse constituted violation of statute establishing duty to report child abuse, child's death was not proximate result of breach of any legal duty owed by hospital, and thus, hospital could not be held liable for medical negligence, where there was no allegation that child died as result of emergency treatment he received for burns on his feet or that treatment of burns was negligent, and instead, allegation was that child died following admission to emergency room approximately one year later for separate injuries, including multiple bruises, open puncture wounds, and large hematoma. [Fulton-DeKalb Hosp. Authority v. Reliance Trust Co., 2004, 270 Ga.App. 822, 608 S.E.2d 272](#), reconsideration denied, certiorari denied. Health  657

A doctor who treated a month-old daughter with three red marks on her chest was not liable on theory of common-law medical malpractice for subsequent death of the child, who was killed by her abusive father one month later, on basis that there was some special relationship between doctor and child under which child acquired right to be protected by doctor from future harm at hands of her abusive father; only relationship between doctor and child was that of physician-patient, and doctor breached no legal duty by failing to discover and report case of possible child abuse. O.C.G.A. § 19-7-5. [Cechman v. Travis, 1991, 202 Ga.App. 255, 414 S.E.2d 282](#), certiorari denied. Infants  13

The physician who has reasonable cause to believe that a child has been abused has legal duty to State to report that suspicion, but physician who merely fails to discover and report suspected child abuse has no legal liability to the child for future acts of child abuse. O.C.G.A. § 19-7-5. [Cechman v. Travis, 1991, 202 Ga.App. 255, 414 S.E.2d 282](#), certiorari denied. Infants  13

### 5. Retaliation

**Child abuse reporting** statutes did not create derivative cause of action in favor of teacher who claimed he was terminated by private school in retaliation for his efforts to get school to perform its duty to report incidents involving alleged abuse of three female students to outside authorities; teacher did not fall within class of persons intended to be protected by statute. O.C.G.A. § § 19-7-5(a), [51-1-6](#), [51-1-8](#). [Odem v. Pace Academy, 1998, 235 Ga.App. 648, 510 S.E.2d 326](#), certiorari denied. Schools  7

### 6. Caretaker

Personnel of public and private schools are "caretakers" as defined in O.C.G.A. § 19-7-5. Further, the Department

Ga. Code Ann., § 19-7-5

of Human Resources, pursuant to § 19-7-5, has authority and responsibility for investigating reports of suspected abuse where it is alleged or reasonably suspected that the abuse of the child was by a parent or caretaker. Op.Atty.Gen. No. 87-29, Oct. 30, 1987.

7. Admissibility of evidence

Testimony of physician who examined alleged victim of child molestation and aggravated child molestation regarding mandatory **child abuse reporting** law, and punishment for failing to report **child abuse**, was not relevant to defendant's case; no issue regarding physician's report was raised, and victim's mother called police. O.C.G.A. § 19-7-5. [Perguson v. State, 1996, 221 Ga.App. 212, 470 S.E.2d 909](#), reconsideration denied, certiorari denied. Infants  20

8. Jury instructions

In prosecution of defendant for aggravated sodomy and child molestation of his niece, trial court properly refused to charge jury on statute which classified as a misdemeanor the willful failure of certain officials to report a suspected case of child abuse; defendant was not charged with violation of that provision, and any effect that statutory requirement had on victim's teacher's decision to report abuse victim had described was wholly irrelevant. O.C.G.A. § 19-7-5(e). [Miles v. State, 1991, 201 Ga.App. 568, 411 S.E.2d 566](#). Criminal Law  814(1)

9. Decisions reviewable

Denial of plea in bar, asserting immunity from prosecution, on ground that events on which child molestation indictment was based were first reported to authorities by defendant in attempt to seek help for his family, was not final judgment and was not order otherwise directly appealable. [O.C.G.A. § § 5-6-34](#), 19-7-5(d). [Austin v. State, 1986, 179 Ga.App. 235, 345 S.E.2d 688](#). Criminal Law  1023(2)

Ga. Code Ann., § 19-7-5, GA ST § 19-7-5

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