

House Bill 218 (AS PASSED HOUSE AND SENATE)

By: Representatives Hilton of the 48th, Cooper of the 45th, Leverett of the 123rd, Silcox of the 53rd, and Reeves of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 24 of the Official Code of Georgia Annotated,
2 relating to admissions and confessions, so as to provide for sexual assault hearsay for
3 mentally incapacitated persons age 17 or older; to provide a definition; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 8 of Title 24 of the Official Code of Georgia Annotated, relating to
8 admissions and confessions, is amended by adding a new Code section to read as follows:
9 "24-8-827.

10 (a) As used in this Code section, the term 'mentally incapacitated' means a mental
11 impairment that substantially affects a person's ability to provide personal protection;
12 provide necessities, including, but not limited to, food, shelter, clothing, medical, or other
13 healthcare; carry out the activities of daily living; or manage his or her resources.

14 (b) A statement made by a person who is 17 years of age or older who is mentally
15 incapacitated that describes any act of nonconsensual sexual contact or any act of physical
16 abuse performed with or on such mentally incapacitated person by another, or with or on

17 another in the presence of such mentally incapacitated person, shall be admissible in
18 evidence by the testimony of the person to whom such statement was made if the proponent
19 of such statement provides pretrial notice to the adverse party of the intention to use such
20 out-of-court statement and if such mentally incapacitated person testifies at the trial, unless
21 the adverse party forfeits or waives such person's testimony as provided in this title, and,
22 at the time of the testimony regarding such out-of-court statement, the person to whom the
23 mentally incapacitated person made such statement is subject to cross-examination
24 regarding the out-of-court statement."

25 **SECTION 2.**

26 All laws and parts of laws in conflict with this Act are repealed.